

Brexit Deal

What great news to end a very tough year – the UK finally has a Free Trade Deal with the EU. It is unlikely that the Deal will be ratified by the EU or UK parliaments by 31st December, although it is expected that trade can continue under the terms agreed whilst the legislative process is finalised. Businesses have craved this certainty and to have tariff and quota free trading conditions is the best possible outcome for businesses trading in and with the EU and UK.

Here are the key points to take-away from the announcement:

Under a Free Trade agreement Customs Duty tariffs will be reduced to 0% for goods originating in the UK and EU.

Origin status will be the hot topic in 2021. The rules of origin will be critical to the tariff free movement of goods. Unlike a Customs Union, a free trade deal is a bilateral agreement which only allows tariff free movement of goods which are produced in either the UK or EU. There are rules relating to status being determined by the % of UK or EU content. For goods manufactured in the UK/EU they must meet the rules of origin laid out in the FTA.

Exporters meeting the origin rules will need to obtain a preference certificate to ensure that 0% tariffs apply. See below about Approved Exporter Status and certificates.

Combining Inward Processing Relief and preferential origin treatment isn't allowed. Care must be taken to plan and understand the complexities surrounding these important regimes.

AEO (S) status will be mutually recognised by the EU and UK.

Import and Export procedures are still in place. This was always going to be the case and involves a big shift in paperwork and processes for those business who have previously only been involved with Intra-EU trade.

Deferment accounts – we have seen a big rush to set up Duty deferment accounts. HMRC has introduced bank guarantee waivers for UK businesses. Due to changes in import VAT accounting you may be able to reduce your bank guarantee. Where you are solely importing 0% Duty goods under the FTA and using PVA your deferment account may not be required going forwards.

Postponed import VAT accounting. "PVA" – see below for how this works.

Anti-dumping duty (ADD) measures that were initiated by the EU have been reviewed by a newly created UK Department (Trade Remedies Investigations Directorate (TRID)) to determine if ADD is still required from 2021. It is therefore important that, for those companies who are currently subjected to ADD on imports, the .Gov website (<https://www.gov.uk/guidance/trade-remedies-transition-policy>) should be checked to confirm if those measures will continue.

As part of the Withdrawal Agreement, goods currently in the EU can, under certain circumstances, be re-imported without payment of customs duties. Returned Goods Relief must be used for these movements. Quote the Customs Procedure Code 61 23 F01 on the import declaration. You must ensure you have the evidence of original supply, such as freight documents, contracts and invoices.

VAT registration requirements in the country of import, when you sell DDP, remain. This is one of the biggest issues that trips businesses up and must be reviewed urgently.

Trading in the EU requires UK businesses to appoint an Indirect Customs Representative. This is because the UK is a non-EU country.

VAT registrations for UK businesses in the EU require that a fiscal representative is appointed in the majority of EU countries.

E-commerce rules come in at the same time as Brexit. Low Value consignment relief is scrapped and any E-commerce seller or on-line platform previously importing under these rules is required to register for VAT and account for UK VAT at the time of supply. This applies when the supply is £135 or below.

Rules relating to Northern Ireland remain complex and it is unclear if movements of goods from GB to NI will still need to be declared via the Trader Support Service ("TSS").

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Approved exporter status

To ensure your EU customers can claim the reduced duty rate a certificate or declaration of origin will be required. This can be obtained from the Chamber of Commerce or HMRC. There is a cost involved in getting the certificates (currently EUR1 Forms) stamped by the Chamber. There is a time cost involved in getting HMRC to deal with the certification.

Application for Approved Exporter Status may be beneficial if large volumes of UK origin goods are exported from the UK as this will reduce administrative costs and burden. It results in either approval for use of pre-authenticated forms being issued by HMRC or an invoice declaration being made.



Postponed Import VAT accounting

Welcome measure which all VAT registered entities will be able to use for imports into the UK. It means that when you import goods into the UK you are not charged import VAT in order to clear your goods.

It is important that you instruct your customs agent to declare the goods to PVA, otherwise you will be charged import VAT and have to claim the VAT back on your VAT return a couple of months later. Therefore, PVA is a great cash flow saving procedure.

Once you have PVA in place you will be able to download your PVA monthly statements via your Government Gateway account.

Import VAT is declared in Boxes 1 & 4 on your VAT return and the net value of the import in Box 7.

EU VAT registration

A common misconception is that a business is obliged to set up a subsidiary or a new entity to be able to trade goods in the EU. This is generally not the case, unless there are reasons such as CE markings or REACH regulations to satisfy.

The starting point when selling goods is always:



Who will be the importer of record? This is usually dictated by the Incoterms, so if you are obliged to deliver the goods to the client premises then you will be the importer of record.



If you are the importer of record your business may need to register for VAT in that country and may also need to appoint a fiscal representative.



Post Brexit, a UK business cannot rely on its UK EORI number to clear goods through Customs in an EU country. It will need to be registered for VAT and get an EU EORI number.



If you trade in multiple jurisdictions, consider using the Netherlands as an EU hub and moving goods via there. By having a VAT registration in NL this will allow you to continue the seamless intra-EU trade from that jurisdiction.

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