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**EUROPEAN COMMISSION NOTICE
ON EU VAT RULES POST BREXIT**

On 11 September 2018, the European Commission issued a notice in which it states that because of the great uncertainties about the content of an eventual withdrawal agreement between the European Union and the United Kingdom, companies must consider that the United Kingdom will, from 30 March 2019, become a third country to the EU with regards to VAT and customs rules and to prepare for the consequences.

1. Treatment of supplies of goods and services between the EU and the United Kingdom

1.1. Cross-border supplies of goods

After 29 March 2019 the EU rules for cross-border supplies and movements of goods between EU Member States will no longer apply to the United Kingdom. This includes the EU VAT regimes for intra-Community supplies and acquisitions and distance sales. Movements to and from the United Kingdom will become imports and exports.

Calculation of import VAT

Import VAT is due on goods imported to the EU. The taxable amount for the calculation of import VAT is based on the value for customs purposes, increased by

1. Taxes, duties, levies and other charges due outside the Member State of importation, and those due by reason of importation, excluding the VAT to be levied; and
2. Incidental expenses, such as commission, packaging, transport and insurance costs, incurred up to the first place of destination within the territory of the Member State of importation as well as those resulting from transport to another place of destination within the EU, if that other place is known when the chargeable event occurs

Customs export procedure

Goods exported from the EU to a third country are exempt from VAT, provided that the exporter of the goods can provide the certification of exit issued by the customs office of export.

1. The exporter will present the goods and a pre-departure declaration (customs declaration, re-export declaration, exit summary declaration) at the customs office responsible for the place where he is established or where the goods are packed or loaded for export shipment (customs office of export)
2. The goods will be presented at the customs office of exit which may examine the goods presented based on the information received from the customs office of export and will supervise their physical exit out of the EU customs territory.

How to prepare for Brexit

- **Taxable persons established in the EU-27**
Companies should make sure that they can provide all necessary evidence regarding their supplies of goods to and purchases from the UK up until 29 March 2019.
- **Taxable persons established in the EU-27 and in the UK**
Companies should familiarize themselves with import and export customs procedures and formalities to be applied after 30 March 2019.

1.2. Cross-border supplies of services

Different VAT regimes exist with regards to cross-border supplies of services.

The place of supply of services is determined by:

- The nature of the service
- The person receiving the service (taxable person or a non-taxable person, such as a private individual)
- The place where the service is carried out
- Etc.

The applicable VAT rules might change for:

- Taxable persons established in the United Kingdom who supply services in the EU-27
- Taxable persons established in the EU-27 who supply services in the United Kingdom

How to prepare for Brexit

➤ Taxable persons established in the EU-27

Companies should make sure that they can provide all necessary evidence regarding their supplies of services in and purchases from the UK up until 29 March 2019.

➤ Taxable persons established in the UK

Companies should verify if new liability rules apply to their supplies of services to the EU after 30 March 2019. The designation of a tax representative might be required in some EU Member States.

1.3. EU Mini One-Stop Shop scheme (MOSS) for B2C digital services

Business-to-Consumer supplies of telecom, broadcasting and electronic services are subject to VAT in the Member State of consumption. To facilitate VAT reporting on such services, the Mini-One-Stop Shop (MOSS) allows taxable persons that are not established in the Member State of consumption, to file a quarterly MOSS VAT return in the Member State in which they are VAT registered.

There are two MOSS schemes:

1. Union MOSS scheme: for taxable persons established in a Member State different from the Member State of consumption
2. Non-Union MOSS scheme: for taxable persons established in a third country (non-EU country)

How to prepare for Brexit

➤ Place of establishment of the service provider: EU-27 Member State or third country

MOSS identification: EU-27 Member State

Place of consumption: UK

Until and including 29 March 2019, the United Kingdom are still considered as a place of consumption according to the EU MOSS regime. Therefore, the MOSS VAT return for the first quarter 2019 (Jan-Feb-Mar) should still include electronic services provided in the UK.

- **Place of establishment of the service provider: Third country**
MOSS identification: UK (non-Union MOSS scheme)
Place of consumption: EU-27
 The MOSS-identification should be moved from the UK to another EU Member State. This can already be done.

- **Place of establishment of the service provider: Third country, with a fixed establishment in the United Kingdom and in at least one other EU Member State**
MOSS identification: UK (Union MOSS scheme)
Place of consumption: EU-27
 If those suppliers have decided to register for the Union-MOSS scheme in the UK, they are generally bound for the calendar year concerned and the two following calendar years. However, from 30 March 2019, they should move their MOSS-identification to another EU Member State.

- **Place of establishment of the service provider: UK**
MOSS identification: UK (Union MOSS scheme)
Place of consumption: EU-27
 If those suppliers want to continue to use the MOSS scheme, they must register for the non-Union MOSS scheme in another EU Member State from 30 March 2019. Taxable persons that must change their MOSS-identification from the UK to another EU Member State, can submit the VAT return for the first quarter 2019 (Jan-Feb-Mar) in the new Member State of MOSS identification.

2. VAT refunds for taxable persons not established in the country in which the VAT was incurred

Businesses that have incurred VAT in Member States in which they are not established and in which they are not liable to register for VAT can apply for VAT refund through the 9th and 13th directive VAT refund procedures.

Taxable persons established in the EU (9th directive VAT refund procedure)

- VAT refund requests must be submitted electronically to the Member State of establishment. In most Member States the deadline is 30 September of the year following the refund period.
- The Member State of establishment forwards the refund request to the Member State of refund.
- The Member State of refund must take a decision and refund the amount if approved. The Member State of refund might ask additional information before taking the decision.

Taxable persons established outside the EU (13th directive VAT refund procedure)

- VAT refund requests must be submitted to the Member State of refund.
- Member States of refund may require reciprocity, i.e. a VAT refund request is only possible if the country of establishment of the taxable person also allows VAT refund for taxable persons established in the relevant EU Member State.
- Member States of refund may require the appointment of a tax representative.

How to prepare for Brexit

- **Taxable persons established in the EU-27 and requesting a VAT refund from the UK**
EU companies should make sure to request their refund while the UK is still an EU Member State, as there is no certainty about the future UK VAT refund regime.

- **Taxable persons established in the UK and requesting a VAT refund in the EU-27**
UK companies must apply for VAT refund according to the VAT refund procedure for taxable persons established outside the EU. This might require the designation of a tax representative to obtain the refund.

HMRC - Partnership pack: preparing for a 'no deal' EU Exit

Following the European Commission's Brexit VAT notice (« Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of Value Added Tax », 11 September 2018), the UK tax administration has in turn published a guide on 22 October 2018. The guide titled "Partnership pack: preparing for a 'no deal' EU Exit" is addressed to several stakeholders, such as traders, customs agents, freight forwarders and businesses supplying services to the EU, and aims to support their preparation, in case the United Kingdom leaves the EU on 29 March 2019 without an agreement.

The notice contains information regarding changes of customs processes and procedures and measures to be taken by the different stakeholders.

1. Customs, excise and VAT changes in case of a Brexit without an agreement

Free circulation and movement of goods between the UK and the EU would end and the same customs and excise rules would apply to goods moving between the UK and the EU as are currently applied in cases where goods move between the UK and a country outside the EU. This means that trade with the EU would be done on non-preferential, World Trade Organisation (WTO) terms. The EU's Most Favoured Nation (MFN) tariffs and non-preferential rules of origin would apply to consignments between the UK and the EU.

➤ United Kingdom:

- Import and export declarations would have to be filed when goods enter and leave the UK.
- HMRC is introducing a new Customs Declaration Service (CDS), which replaces the current Customs Handling of Import and Export Freight (CHIEF) system.
- The Taxation (Cross-Border Trade) Bill will provide the necessary powers for the UK to set its own tariff for UK imports once it leaves the EU.
- The UK intends to continue offering unilateral preferences for imports from developing countries, and to ensure continuity of its existing EU Free Trade Agreements.

- The UK does not plan any immediate deviation from the current commodity list published in the UK Trade Tariff, except where necessary.
- **Import VAT deferment regime:** Introduction of postponed accounting for import VAT on goods brought into the UK from the EU and non-EU countries. UK VAT registered businesses importing goods to the UK will be able to account for import VAT on their VAT return.
- **Excise goods:** The Excise Movement and Control System (EMCS) will no longer be used for the movement of duty-suspended excise goods between the EU and the UK. However, the EMCS continues to apply to record the movement of duty-suspended excise goods internally within the UK.
- **VAT on parcels imported into the UK:**
 - o Low Value Consignment Relief (LVCR) will no longer apply to any parcels arriving in the UK. This means that all goods entering the UK as parcels sent by overseas businesses will be liable for VAT.

Exception: if they are already relieved from VAT under UK domestic rules (e.g. zero-rated children's clothing).
 - o For parcels valued up to and including 135 GBP, which are non-excise goods, overseas companies must charge VAT at the point of purchase and register with an HMRC digital service to account for VAT due. This online service will be available in early 2019.
- **VAT on vehicles imported to the UK:**
 - o Companies should continue to notify HMRC about vehicles brought into the UK from abroad, using the online Notification of Vehicle Arrival Procedures (NOVA) system. However, without an exit agreement, vehicles brought into the UK from EU member states will be subject to import VAT according to the same rules as imports of vehicles from non-EU countries.

➤ **European Union:**

- The EU would require customs declarations on goods coming from or going to the UK.
- Payment of customs duty according to the EU's Common Customs Tariff (CCT) for UK exports arriving at the EU border.

2. Changes regarding EU VAT IT systems in case of a Brexit without an agreement

If the UK leaves the EU without an agreement, the UK will no longer be part of the following EU VAT IT systems:

➤ **Mini One Stop Shop (MOSS) for B2C digital services**

To continue to use the MOSS system, UK companies must register for the VAT MOSS non-union scheme in an EU member state, from 30 March 2019.

➤ **EU VAT Refund System**

UK companies can continue to claim VAT refunds from EU member states through the existing processes for non-EU businesses (13th directive VAT refund procedure).

➤ **EU VAT Registration Number Validation (VIES):**

It will no longer be possible to validate UK VAT registration numbers on the VIES system. Instead, HMRC is developing a system through which UK VAT numbers can be validated.

3. Changes for traders importing from and exporting to the EU and for UK businesses supplying services to the EU

➤ **Traders importing goods from the EU into the UK**

- Register for a UK Economic Operator Registration and Identification (EORI) number.
- Ensure their contracts and INCOTERMS show that they are an importer.
- Prepare for customs controls.
- Safety and security declaration: must be submitted by the carrier (haulage company, ferry or train operator).
- Import declaration: must be submitted either by the company itself (in this case the company would require the right software and the necessary authorization from HMRC) or through a customs broker, freight forwarder or logistics provider.
- Decide on the correct classification and value of their goods and enter the correct commodity code on the customs declaration.

- Payment of VAT and duties:
 - o Import VAT;
 - o Import duties according to a new UK Trade Tariff (that replaces the EU Common Customs Tariff (CCT)) and which contains the commodity codes and import duty rates);
 - o Excise duty

OR

- o Enter the goods into duty suspension (e.g. a customs or excise warehouse), in which case a financial security will be required.
- An import license or supporting documentation might be required to import specific types of products

➤ **Traders exporting goods from the UK to the EU**

- Register for a UK Economic Operator Registration and Identification (EORI) number.
- Ensure their contracts and INCOTERMS show that they are an exporter.
- Export declaration (also counts as a safety and security declaration): must be submitted either by the company itself (in this case the company would require the right software and the necessary authorization from HMRC) or through a customs broker, freight forwarder or logistics provider.
- An export license or supporting documentation might be required to export specific types of products.
- Keep evidence to prove that goods have left the UK, to support the zero rating of the supply (as currently required for exports to non-EU countries)
- **B2C sales of goods:** The EU distance selling arrangements will no longer apply.
- Import VAT and customs duties are due upon import of the goods in the EU. Companies should check the relevant import VAT rules in the EU member state concerned.
- **Sale of goods stocked in an EU member state:** EU rules for storing non-union goods in a member state before selling or exporting as well as VAT registration rules should be consulted.

- **Transit of non-EU goods within the EU according to the Common Transit Convention (CTC):** According to the CTC any charges due on non-EU goods are to be paid only in their country of destination. After 29 March 2019 it will only be possible to begin or complete transit movements in the UK using the CTC process, if the UK and the EU agree for the UK to stay member of the CTC.

➤ **Businesses supplying services to the EU**

- The main VAT place of supply rules for services will remain the same for UK businesses, even if the UK leaves the EU without an agreement.

Further information is available on the HMRC website:

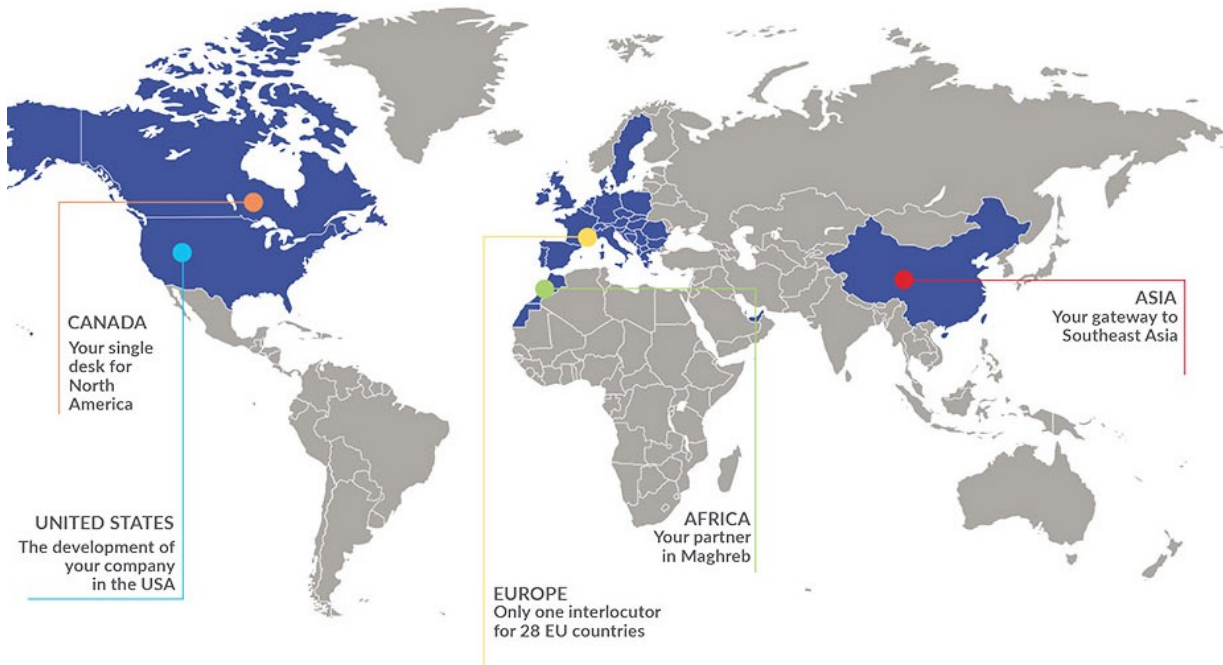
- Information on how to trade with countries outside of the EU (import and export customs procedures, excise rules, VAT), the same rules will apply to trade between the UK and EU countries after 29 March 2019 if no exit agreement is found.
- Technical notices published by HMRC regarding customs, tariffs and VAT if no exit agreement is found.






 25 <hr style="width: 20px; margin: 0 auto;"/> HOST COUNTRIES	 30 <hr style="width: 20px; margin: 0 auto;"/> AGENCIES IN EUROPE & WORLDWIDE	 6 000 <hr style="width: 20px; margin: 0 auto;"/> CLIENTS	 600 000 000 <hr style="width: 20px; margin: 0 auto;"/> MILLIONS EUROS IN VAT HANDLED PER YEAR
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