



January 2021

Following the end of the Brexit transition period on 31 December 2020, the way in which UK art galleries and dealers transact with the EU has changed. Galleries that already transact with non-EU clients and suppliers will be familiar with the processes of imports and exports, however we have highlighted below the key considerations going forward:

- Purchases of artworks from the EU:** These will become imports, in the same way as purchases of goods from outside the EU have been previously dealt with. The supplier will therefore not charge VAT on the export sale to the UK, however, import VAT at the reduced rate of 5% (applicable to art) will become due on entry into the UK (unless imported under a Customs suspension regime, such as into a Temporary Admission). If the importer (or the shipping agent on the importer's behalf) has opted for "postponed VAT accounting" ("PVA"), then import VAT will not be payable at the point of entry into the UK but will be accounted for on the importer's VAT return. Generally, for galleries and dealers, PVA requires the import VAT to be declared in boxes 1 & 4 of the VAT return with the value of the imports entered in box 7. PVA provides the importer with the convenience of not having to pay import VAT upfront. Imports from the rest of the world will be treated in the same way and also have the benefit of operating PVA. For the time being, Intrastat "Arrivals" declarations will still be required, where purchases of goods from the EU exceed £1.5 million per annum.
- Sales of artworks to the EU:** These will become exports in the same way as sales of goods to customers outside the EU had previously been dealt with. The sale will become a zero-rated export, irrelevant of whether the customer is VAT registered or not, and the usual criteria for zero-rating applies (such as obtaining evidence of export within 3 months). Dependent on the terms of trade, if the customer is to act as importer they will be responsible for the import VAT due in the EU country of import at the reduced rate applicable to artworks. EC Sales lists and Intrastat Dispatches declarations will no longer be applicable for sales of goods to the EU. For galleries and dealers that normally deliver works to EU buyers, consideration should be given to continuing to deliver direct to the buyer as this could result in the requirement to register for VAT in the particular EU member state.
- Margin Scheme:** Dealers and some art galleries will have been used to purchasing works under the margin scheme from sellers located in EU member states. As from 1 January 2021 this will no longer be possible. All works purchased from the EU will now be imports in to the UK (as described above). For the importer to divert an import of a work of art into margin scheme stock, the importer will have to opt to not recover the import VAT payable on the import. This option is a formal notification to HMRC which would remain in place for a period of at least 2 years and would require all imported works to be treated in this way. Before taking this option, serious consideration should be given to how this would affect the importer's VAT position and we would therefore recommend seeking professional advice.

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- **Margin Scheme & Northern Ireland:** As part of the agreement, the "Northern Ireland Protocol" has been implemented which aligns Northern Ireland with EU VAT rules for goods but with Northern Ireland remaining part of the UK's VAT system. This has introduced complications for galleries and dealers selling works to Northern Ireland which are currently accounted for in a gallery's or dealer's margin scheme stock. To simplify the complex rules, a gallery or dealer established in GB (England, Scotland or Wales) selling a margin scheme work to a buyer in Northern Ireland will have to charge VAT on the full selling price, not the margin. Effectively, this sale would be an import in to Northern Ireland with the VAT charged by the GB seller effectively the import VAT into Northern Ireland. This has caused considerable grievance with businesses operating the margin scheme in Northern Ireland, particularly the second-hand car market.
- **Temporary Admission (TA):** Those galleries and dealers having a TA account will, from the 1 January 2021, have to consider imports from the EU and how these will affect their TA. Certainly, those operating TA with a guarantee will have to consider the adequacy of the guarantee if imported EU works are to be entered in to TA.
- **Customs reliefs:** Reliefs of import VAT (and duty where applicable) previously reserved for transactions with countries outside the EU are now opened up for EU trade. For example works that originated in the UK which are temporarily in the EU could now qualify for Returned Goods Relief (RGR) when returned to the UK where certain conditions are met, including transactions which span the end of the transition period.
- **Other considerations:** In addition to the VAT consequences of transacting with the EU after the end of the transition period, there are other non VAT considerations arising out of the recent publication of the Free Trade Agreement aside from the increased administration of the customs formalities and paperwork. It has been confirmed there is no change to the administration and requirements of Artist's Resale Rights (ARR) and Anti Money Laundering regulations (AML), something the sector will already be familiar with. Movement of people, data sharing and license requirements however have all been impacted and this is likely to have an effect on the industry.

Undoubtedly, Brexit has introduced more bureaucracy and red tape and although HMRC are, initially, taking a reasonably soft approach to imports and exports, in time a firmer approach will develop. It is important that importers and exporters understand the challenges at an early stage as a lot of emphasis will be placed on ensuring accurate import and export declarations are submitted. Therefore, unless galleries or dealers have sufficient in-house expertise to deal with customs declarations, professional help should be sought from a customs agent or freight forwarding company.

Please contact your usual Rawlinson & Hunter LLP contact should you require further information or assistance with the above, or any of those listed below.

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