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BREXIT 12 MONTHS ON – WHERE ARE WE NOW?

Following a 12-month transition period, the UK fully left the EU on 31 December 2020. Since 1 January 2021 several changes have come into effect and businesses who trade with the EU have had to adapt accordingly. Some resultant changes have also affected UK businesses that only trade with countries outside the UK. Here we have provided reminders of some of the changes to VAT and Customs procedures as a result of Brexit, and reviewed how they are actually affecting businesses in practice, 12 months later.

Financial Services

Financial services (including insurance) are generally exempt from VAT, which means that no VAT is charged by businesses supplying financial services, and VAT on the costs relating to those supplies cannot be deducted as input tax.

Extension of Specified Supplies Order (SSO) – Scope to Recover UK VAT Widened

The SSO allows businesses that ‘export’ certain financial services, known as specified supplies, to deduct input tax on costs associated with making those supplies. Prior to the end of the EU transitional period, the SSO only provided a right to deduct input tax in relation to specified supplies made to customers belonging outside the EU. However, since 1 January 2021, the SSO has been extended to include specified supplies made to customers belonging inside the EU.

The SSO now provides a right to deduct input tax for specified supplies made to EU customers, as well as those belonging outside the EU. Businesses making supplies of relevant financial services and insurance services to clients in the EU have seen an increase in their recovery of UK VAT incurred on related costs.

New EU VAT Rules for E-Commerce

On 1 July 2021 the EU revised the VAT treatment for supplies of goods and some services to EU-based consumers, working on the principle that all such supplies should be subject to VAT in the country where the consumer is located. The goal appears to be to put EU and non-EU businesses supplying EU consumers on an equal footing, and reduce the costs to businesses of complying with EU cross-border VAT rules. In addition, more supplies are brought within the scope of EU VAT, increasing EU tax revenues.

The effect of these changes is that the supplier is obliged to register for VAT in the country where the consumer is based and charge VAT in that country. However, in order to lessen

Rawlinson & Hunter LLP

Eighth Floor
6 New Street Square
New Fetter Lane
London EC4A 3AQ
And at

Q3, The Square
Randalls Way
Leatherhead
Surrey KT22 7TW

T +44 (0)20 7842 2000
F +44 (0)20 7842 2080

hello@rawlinson-hunter.com
www.rawlinson-hunter.com

Partners

Mark Harris FCA
Kulwam Nagra FCA
Andrew Shilling FCA
Craig Davies FCA
Graeme Privett CTA
Chris Hawley ACA
Phil Collington CTA
Toby Crooks ACA
Michael Foster CTA
Paul Huggins ACA
Trevor Warmington CTA
James Randall FCA
Kristina Volodeva CTA
David Kilshaw
Alan Ive CTA
Catherine Thompson FCA

Directors

Karen Doe
Sarah Fernando CTA
Sharon Gillies
Katharine Haggie FCA
Lynne Hunt FCA
Hiral Kanzaria ACA
Gillian Lawrence ACA
Al Nawrocki CTA
Mark Shaw
Tracy Underwood CTA
William Watson FCA
Yueling Wei FCCA
Steve Williams
Stephen Yates FCA

Consultants

Paul Baker ACA
Chris Bliss FCA
Philip Prettejohn FCA

the burden for businesses of potentially having to register in many EU jurisdictions, new One Stop Shop (OSS) schemes have been introduced. These allow eligible businesses to register with just one EU tax authority in order to manage their VAT obligations across the EU.

The three new schemes that have been introduced are:

Non-Union Scheme

This applies to any business that is not established in the EU (now including UK suppliers) but charges EU VAT on supplies to consumers.

Union Scheme

This applies to EU businesses making intra EU supplies for most services, and distance sales of goods to consumers.

Import Scheme (Import One Stop Shop)

This applies to businesses selling goods to EU consumers in consignments of less than EUR 150 (£135 GBP) in value. The supplier must register for VAT in the EU and charge the VAT due in the consumer's country at the point of sale. VAT is accounted for in the EU under the IOSS scheme registration. This means that for these relatively low value consignments there is no VAT to be paid at the point of import into the EU, with the aim of facilitating faster Customs clearances. UK businesses who make supplies of goods directly to EU consumers should be considering whether they have a liability to register for VAT in their customer's country.

The rules also apply to online marketplaces when sales are facilitated via those marketplaces. The aim is to ensure that VAT is almost always accounted for in the country where the consumer is based. It should also be noted that under the Northern Ireland (NI) Protocol in the Brexit agreement, NI is treated as though it were still a member of the EU for supplies of goods only between NI and the EU. Therefore, it should be borne in mind that the reference above to the UK strictly means GB (England, Scotland & Wales).

Import VAT – Postponed Accounting Scheme (PAS)

As a result of Brexit a new arrangement for paying import VAT on goods imported into the UK was introduced. Instead of businesses having to pay the VAT at the point of import to HMRC and recover it later on their VAT Return, the new Postponed Accounting Scheme (PAS) allows for the import VAT to be accounted for on the VAT Return and recovered at the same time (subject to normal input VAT recovery rules). This scheme applies to businesses who are registered for VAT in the UK and import goods into Great Britain (England, Scotland and Wales) from anywhere outside the UK or Northern Ireland. It is not compulsory for businesses to use the PAS, however there can be significant cashflow benefits for those who opt to do so.

Businesses who regularly import goods and are not using PAS should consider the advantages of doing so and alert their freight forwarder or Customs agent if they wish to use the scheme. There is no formal application to be submitted to HMRC, the intention to use PAS is documented with HMRC on the Customs import declaration.

Submission of EC Sales Lists / Intrastat

There is no longer any requirement for UK businesses to submit EC Sales lists for supplies of goods and services or Intrastat declarations for Dispatches of goods from the UK. However, owing to special rules for delaying full Customs entries for imports into the UK by up to six months, there is still the requirement to continue to submit Intrastat Dispatches declarations up to and including December 2021. Businesses who export goods to EU countries, and are required to submit Intrastat Dispatches declarations, should continue to do so for supplies made until December to remain compliant; thereafter, there will be no requirement to do so.

Removal of VAT Retail Export Scheme

The VAT Retail Export Scheme (VAT RES) allows non-EU visitors to the EU to recover the VAT on purchases they make on the high street, which they take home with them in their luggage. This scheme was withdrawn in Great Britain with effect from 1 January 2021. Retailers in Northern Ireland, including those at ports and airports, will continue to be able to offer VAT RES to non-EU visitors to Northern Ireland, under the terms of the Northern Ireland Protocol.

Retailers in GB should no longer be using this scheme, however, goods bought by overseas customers may be eligible for other VAT reliefs under the rules for direct or indirect exports.

Refunds of UK VAT for Non-UK Businesses or EU VAT for UK Businesses

UK businesses seeking to claim a refund of EU VAT no longer have access to the EU electronic portal. Businesses can still claim refunds of VAT from the EU, but they will have to use the existing processes for non-EU businesses. These processes vary across the EU, so businesses will need to follow the procedure set out by the country from which the claim is being made.

UK businesses may need to provide a Certificate of Status (VAT 66) with their claim and this can be obtained from HMRC. Similarly, EU businesses seeking to recover VAT claimed in the UK will have to make a claim directly to HMRC, rather than using the EU electronic portal via their home country.

Transfer of Residence Relief

The effects of both Brexit and Covid have seen individuals re-evaluate their lifestyles and their place of residence. Individuals returning to the UK may be able to take advantage of the Transfer or Residence Relief (TOR). Subject to certain conditions, this allows for relief from import VAT and Customs duties on personal effects brought into the UK by persons who have been resident outside the UK for at least 12 months.

Summary

The above summarises some rather complex VAT changes and is intended as a reminder of these changes, however, businesses should seek further specific advice as appropriate on any aspects of these changes that directly affect them.

Our VAT team would be pleased to discuss your business and provide a view on your VAT efficiency. For an initial consultation to see whether there is a need to consider your VAT affairs in more detail, please contact your usual Rawlinson & Hunter LLP Partner or one of the following:

Catherine Thompson, Partner

Email: catherine.thompson@rawlinson-hunter.com

Direct Dial: +44 (0) 20 7842 2028

Sharon Gillies, Director

Email: Sharon.Gillies@rawlinson-hunter.com

Direct Dial: +44 (0) 20 7842 2161

The Rawlinson & Hunter VAT & Customs consultancy advises on domestic and international transactions. We regard VAT as a key tax for many of our clients, which is why our service in this area is led by highly experienced and senior members of the tax team with a proven track record of negotiation success on a range of VAT and customs matters. Our aim is to provide commercially realistic advice and practical solutions to your VAT and customs problems. We believe that VAT and customs duty should be an important part of the wider tax planning for most businesses.

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