Brexit—impact on VAT

As the UK government continues to negotiate a Brexit deal for the UK, it is advisable for businesses to begin considering the potential impact of a 'no deal' Brexit, particularly in relation to their indirect tax matters (namely VAT and Customs Duty).

At the time of writing, the only thing that is certain is that the UK will leave the EU on 29 March 2019. Although there was talk of a transitional period, where current EU law will continue to apply to 31 December 2020, this is now not certain, as the prospect of a no deal Brexit is looking more likely.

Set out below are some of the things businesses should be considering in the event of no deal. With regards VAT in particular, the nature of what you are supplying drives the VAT liability, and in turn the impact of Brexit will depend upon what you supply, to whom, and where.

Goods

Businesses moving goods to the EU from the UK, and purchasing goods from the EU, to be brought to the UK, currently do not have to pay customs duty, as a result of the free movement of goods within the EU.

VAT also does not need to be accounted for upfront, instead VAT is accounted for by the customer in their VAT return, which is usually just an internal accounting entry resulting in a nil VAT liability.

World Trade Organisation (WTO) rules will prevail should there be no Brexit deal, which will mean customs duties will become payable as goods cross the UK/EU border, this being an additional irrecoverable cost.

With regards to VAT, looking firstly at goods entering the UK from the EU (for example, a UK company purchases goods from France) under current rules, in a no deal Brexit, VAT will need to be paid along with the customs duty. However, recent guidance from HMRC has indicated that import VAT will be self-accounted for in the UK VAT return, in the event of no deal. That relaxation would mean that no actual payment is required on imported goods.

When moving goods into the EU from the UK, to use France again as an example, EU duty will be payable, and in this example, French VAT will need to be paid as the goods move in to France. The UK supplier will then own goods in France and it is likely that they will be required to account for French VAT, when the goods are sold to the end customer, triggering a French VAT registration and French VAT accounting requirement. Alternatively, the French customer could act as the importer, however this may seem less attractive due to the increases in costs and administration, which could now be associated with doing business with a UK supplier.

Following on from the above, with a no deal Brexit there will be an increase in administration in any event, that comes with moving goods into and out of the EU. For example, there are various customs declarations and documents that need to be completed, border checks and potential quotas that need to be adhered to, adding to the potential administrative burden. However, one bit of good news is that HMRC have confirmed that, in a no deal scenario, there will be no requirement to file EC Sales Lists, as sellers to the EU from the UK currently now do.

The impact on UK businesses involved in the movement of goods in to and out of Ireland also requires particular consideration. Ireland is, and will continue to be, an EU Member State and often goods destined for an EU country from Ireland travel via the UK. This means an Irish seller of goods, to, say, a German customer, whose goods travel via the UK, will have their goods crossing the EU border into the UK and then leaving the UK and re-entering the EU. Although this is unlikely to mean UK duty and VAT becomes payable, as the goods will be in transit, the necessary declarations will still need to be made as goods cross the various borders.

Below we have set out some items that businesses buying and selling goods across, what will be the new UK/EU border, should start considering:

- Map out your supply chains, from start to end, following your purchases and sales of goods. Look at where your suppliers and customers are located and pinpoint where the potential issues could be.
- Assess the impact on your profit margins if customs duty becomes payable when trading with EU countries.
- Consider a VAT registration in another EU country. Once your goods are in that location, they are in 'free circulation' and can benefit from the current EU arrangements.
- Following on from the above, some form of presence in the EU may be needed, for example a storage area for goods in the EU country in question.
- Can your EU customer become the importer into the EU?
- Can supply chains be simplified or changed, for example if you currently purchase from an EU supplier can this be changed to a UK supplier?
- Analyse your processes and systems to see if they can cope with the potential new requirements.
- Can stock levels cope if goods take longer to move across borders, particularly those businesses that operate a 'Just-in-Time' model.
- Consider obtaining Authorised Economic Operator (AEO) status, this being a certified authorisation issued by customs administrations, that is internationally recognised and can speed up the process of moving goods across the new UK/EU border.
- Speak with your bank with regards any guarantee facilities they can offer. This can be useful as HMRC allow duty and VAT to be deferred on imports to the UK, if the appropriate bank guarantee is in place. This can assist with cash-flow.

Services

The cross-border treatment of services differs to the VAT treatment of goods, set out above.

Generally, business to business supplies of services from the UK will be outside the scope of UK VAT when supplied to EU and non-EU customers, as the place of supply for VAT is where the customer belongs.

The purchase of services from the EU and beyond should also generally continue to be unaffected, in that the UK customer will account for VAT via the reverse charge (which is a self-accounting mechanism) and if the UK customer is able to recover VAT in full on their costs, there is nil net VAT liability and no need to physically pay VAT and then claim it back.

There are however exceptions to this general rule. For example, the provision of land related services and electronically supplied services (services provided over the internet), and there are also others.

Depending on the nature of the services being provided, there may be a need to register for VAT in the country where your customer is located, particularly with regard to electronically supplied services. Current legislation means a local VAT registration is required in each EU country when these types of services are provided to private consumers. However, there is an EU-wide catch all system which simplifies this process of accounting for VAT in multiple EU jurisdictions, called the Mini One Stop Shop.

HMRC have confirmed that leaving the EU will mean UK VAT registered businesses will no longer have access to this type of administrative simplification. Although there is the Non-European Union scheme, which is available, however it will mean registering to some extent in another EU country.

Certain financial and insurance services are also likely to be impacted. Currently, certain financial services supplied to non-EU customers are eligible for VAT recovery. It is unlikely the UK government will allow this to continue as it would mean a potential significant boost in VAT recovery for providers of these services as the distinction between EU and non-EU disappears.

If you are a tour operator, the issue of being unable to continue to use the Tour Operators Margin Scheme, which is an EU VAT accounting simplification, also needs to be considered. Again, it is likely that an EU VAT registration will be required.

If you an international supplier of services, businesses should be considering the following:

- Supply chain mapping, looking at what you provide and to whom. Consider current rules and how a no deal Brexit will impact your business and VAT accounting.
- Does it makes sense to alter your supply chains in any way?
- Will you need a VAT registration in an EU country?

How we can help

At Lubbock Fine we are here to assist and walk with you through all of the above and assess the impact on your business. What's more, as members of the Russell Bedford International network we regularly work with partners in the EU so we can look at your transactions from all sides. If you would like to discuss any of these matters further please contact our VAT specialist, Jas Dhillon, jaspaldhillon@lubbockfine.co.uk

LubbockFine
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Advice that adds up

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