



VAT Implications of Brexit

February 25th, 2021



Trudy Perié

EU UK Free Trade Agreement

State of Affairs

- Trade and Cooperation Agreement brings some certainty
 - Basis of future relationship
- Underestimation of customs implications and obligations
 - Increased red tape for economic operators
- Uncertainty for service sectors

Devil is in the detail - Practicalities remain an issue (especially for Northern-Ireland)



New ICT systems



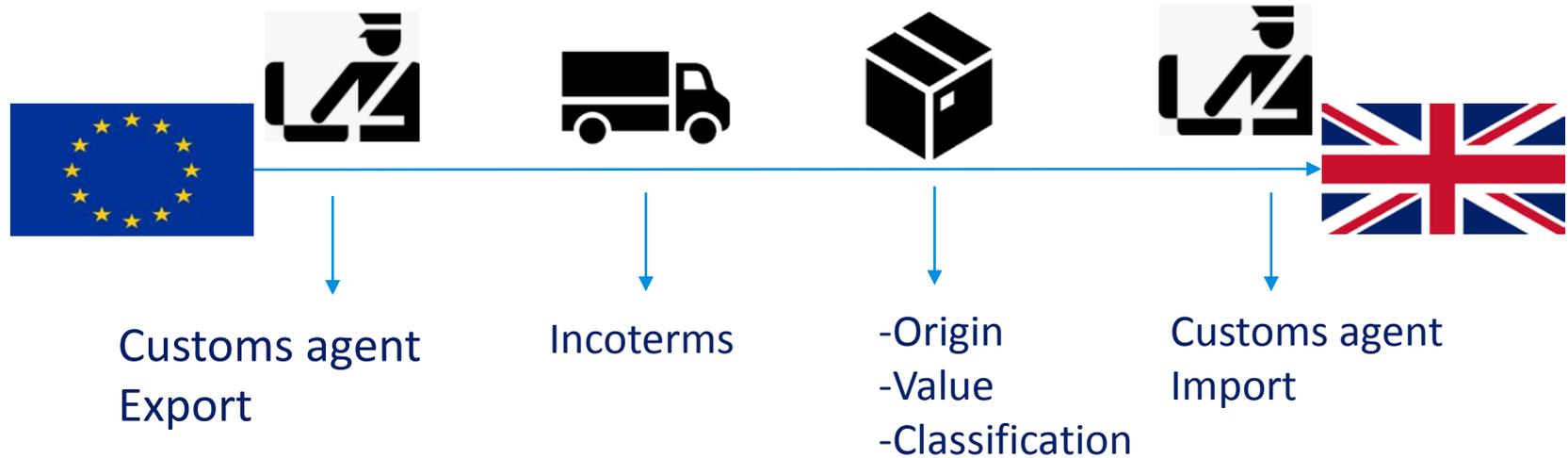
Supply chains



Documentation

EU UK Free Trade Agreement - Customs Awareness

Supply-chain considerations



Applicable tariff classification in EU and UK?
What is the customs value? Which transaction?
What is the origin of the product?



EU UK Free Trade Agreement - Customs Awareness

Double duties?



Customs warehousing EU – 1x duties?



Inward processing EU – 0x duties?



Thank you!

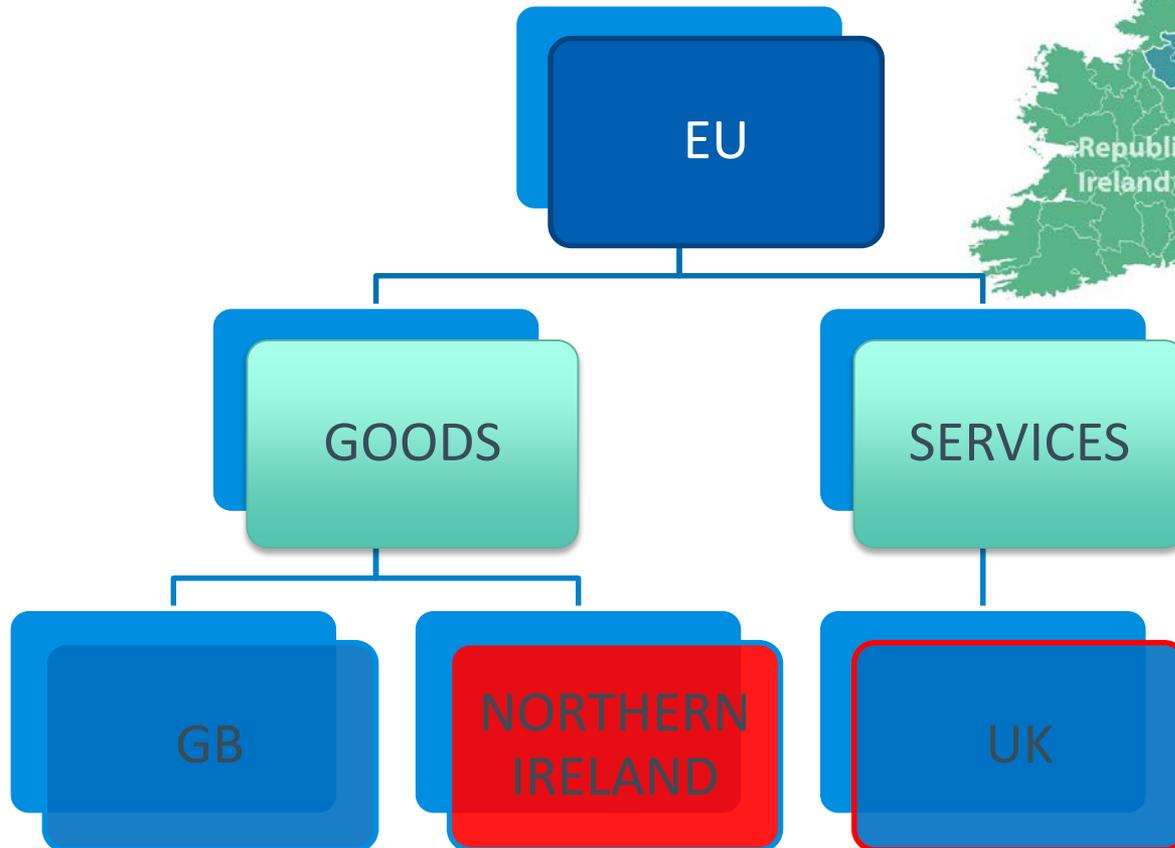
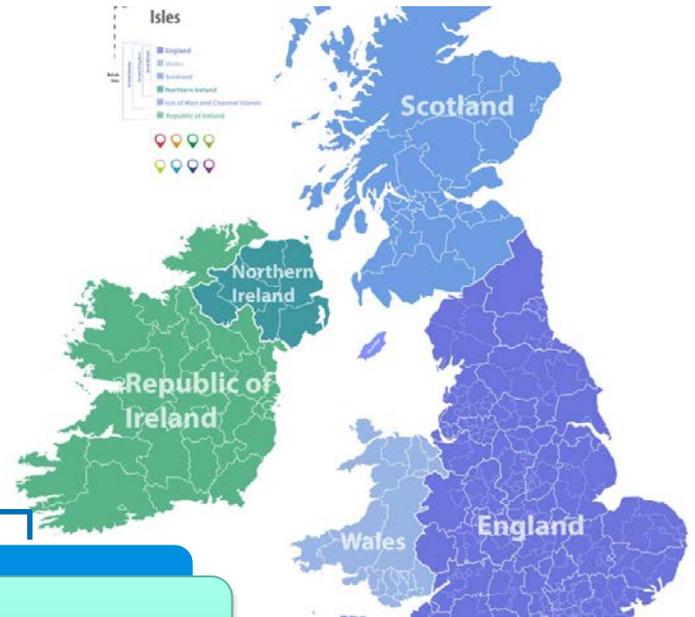


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Transactions with UK



Supplies of goods to GB

Before January 1 st 2021		After January 1 st 2021	
B2B	B2C	B2B	B2C
exempt IC supply	distance sales of goods	exportation	exportation

Do not forget:

- for supplies of goods in consignments not exceeding £135 in value, the buyer shall be checked: [Check a UK VAT number](#)
- where goods had been transported or dispatched from EU to UK before January 1st 2021 and are returned after that date, these movements are considered as reimportations
- ~~call-off stock arrangements~~
- ~~supply of goods with installation~~
- ~~triangular transactions~~

Purchasing goods from GB

Value of imported goods	Before July 1 st 2021		After July 1 st 2021	
	VAT	CUSTOM DUTIES	VAT	CUSTOM DUTIES*
≤ 22	NO	NO	YES	NO
> 22 < 150	YES	NO	YES	NO
> 150	YES	YES	YES	YES

* The EU-UK Trade and Cooperation Agreement

Trading with Northern Ireland

- Protocol on Ireland and Northern Ireland
- B2B: exempt IC supply of goods: from January 1st, 2021 until December 31st, 2024 taxable persons from Northern Ireland are using EU VAT number with prefix IX
- If the buyer does not provide its value VAT number: distance sales of goods – threshold for UK: 78 022 EUR
- call-off stock arrangements
- supply of goods with installation

Member State / Northern Ireland

VAT Number

Requester Member State / Northern Ireland:

VAT number

Vies On-The-

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ES-Spain

FI-Finland

FR-France

HR-Croatia

HU-Hungary

IE-Ireland

IT-Italy

LT-Lithuania

LU-Luxembourg

LV-Latvia

MT-Malta

NL-The Netherlands

PL-Poland

PT-Portugal

RO-Romania

SE-Sweden

SI-Slovenia

SK-Slovakia

XI-Northern Ireland

Providing and receiving services - UK

- GB + Northern Ireland are treated as third country
- check the status of the receiver of the services: Art 18(3) of Council Implementing Regulation (EU) No 282/2011
- services from provided to non-taxable persons from UK:
 - supply of telecommunications, broadcasting and electronic services to non-taxable persons
 - Article 59 of VAT Directive (copyrights, patents, licenses, trademarks and similar rights, advertising services, services of consultants, engineers, consultancy firms, lawyers, accountants etc

Other consequences

- VAT returns:
 - VAT incurred on expenses on or before 31 December 2020 must be submitted by 31 March 2021,
 - VAT incurred on expenses after 31 March 2021:
 - [Thirteenth Council Directive 86/560/EEC](#) and
 - [Council Directive 2008/9/EC](#) (XI – for goods)
- Tax representatives

Thank you!



PUMP COURT
TAX CHAMBERS

CHANGES TO INDIRECT TAXES POST-BREXIT

Speaker: Jeremy Woolf

February 2021

EUROPEAN UNION (WITHDRAWAL ACT) 2018

With indirect taxes primarily relevant to VAT in the domestic context:

- (i) Enacts a half-hearted snapshot of EU law, subject to changes by UK legislation (see later);
- (ii) Rights under directives must “be of a kind recognised by the European Court or any court or tribunal in the United Kingdom” on 31 December 2020”.
- (iii) Supreme Court and other prescribed courts such as the Court of Appeal can depart from past CJEU decisions it considers wrong and future decisions are just persuasive.
- (iv) Also states that no court or tribunal or other public authority may
 - (a) disapply or quash any enactment or other rule of law, or
 - (b) quash any conduct or otherwise decide that it is unlawful,because it is incompatible with any of the general principles of EU law: para 3 of Schedule 1.

TAXATION (CROSS-BORDER TRADE) ACT 2018

The snapshot has to be viewed in the light of the changes made by the Taxation (Cross-border Trade) Act:

- **Customs duties:** Creates a new UK code of import duties. Paragraph 1 of Schedule 7 states that no EU Regulations are to continue to have any effect.
- **Excise duties:** S 47(1) provides that any EU Regulations cease to have effect on 31 December 2020. Confers powers to make new UK regulations.
- **VAT:**
 1. S 41 and Schedule 8 contain provisions that treat EU States as third countries and make some adjustments to the previous legislation;

TAXATION (CROSS-BORDER TRADE) ACT 2018 (2)

2. The Implementation Regulation generally ceases to have effect. However, it remains relevant when the VAT Directive remains part of retained EU law and is to be read in the light of the implementing Regulation but ignoring such of its provisions as are excluded by Regulations made by the Treasury: s 42(5);
3. Other VAT Regulations cease to be of any effect: 42(1).

TAXATION (POST TRANSITION PERIOD) ACT 2020

- 1 Special provisions relating to Northern Ireland as a result of the Northern Ireland Protocol to the Withdrawal Agreement so Northern Ireland remains subject to EU law for the purposes of customs and VAT rules on supplies of goods but not services.
- 2 Makes online marketplaces liable for VAT when they have facilitated:
 - (1) imports of non-excise goods in a consignment with an intrinsic value of less than £135;
 - (2) a non-established trader makes a sale of goods in the UK without importing them (this applies no matter what the value of the goods): see new s 5A VATA 1994.

TAXATION (POST-TRANSITION PERIOD) ACT (2)

Note

- (1) The charge on importation does not apply if the customer is VAT registered and has provided the marketplace with its VAT registration number and the marketplace within 7 days has provided the trader with the number and details of the supply: see new s 5A(1A) VATA 1994.
- (2) When the goods are imported, the deemed supply to the marketplace is treated as made outside the UK: see new 7(5A) VATA 1994 (so it is not subject to UK VAT).
- (3) When the goods are in the UK, the supply to the marketplace is deemed to be zero-rated so the trader can recover input tax: see new Group 20 to Sched 8 VATA 1994.
- (4) The marketplace's liability can be limited if it has taken all reasonable steps to be compliant: new s 77F VATA 1994.

TAXATION (POST-TRANSITION PERIOD) ACT 2020(3)

- 4 Where supplies of goods (apart from excise goods or goods where a postal service is responsible for paying the VAT) are made in the course or furtherance of a business and the supply involves the importation of the goods and the consignment has an intrinsic value of less than £135, then the place of supply is the UK but no import VAT is due on the supply: new s 7(5B) and s 37(1A) VATA 1994. So the non-established seller will (subject to para (5) below) be liable to account for UK tax.

TAXATION (POST TRANSITION PERIOD) ACT 2020(2)

- 5 Creates a reverse charge for import VAT on consignments of goods to UK VAT-registered businesses with an intrinsic value of less than £135 (but does not apply to goods subject to excise duties or where a postal service outside the UK has agreed to pay the VAT): new s 7AA VATA 1994.
- 6 Note guidance at: [Changes to VAT treatment of overseas goods sold to customers from 1 January 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/changes-to-vat-treatment-of-overseas-goods-sold-to-customers-from-1-january-2021).

VAT (ACCOUNTING PROCEDURES FOR IMPORT VAT FOR VAT REGISTERED PERSONS AND AMENDMENTS) (EU EXIT) REGULATIONS 2019/60

- 1 Regulations give UK registered traders (both traders established in the UK and non-established traders) the option to account for import VAT in their VAT returns with the ability to recover the import VAT as input tax when recoverable.
- 2 In order to take advantage of the procedure the registered person's VAT registration number must be shown on a declaration for the free circulation that that person makes on the importation of goods. The taxpayer must also comply with any conditions of special customs procedures when applicable: see Regs 4-5.
- 3 HMRC also have power to make directions preventing taxpayers using this procedure: see Reg 9.

OTHER FACILITATION

From 1 January to 30 June 2021 special simplified EIDR procedures for authorised businesses to apply for the purposes of import duties on goods from the EU (other than excise goods or other proscribed goods) where a simplified declaration is submitted but the period for supplementary declarations has been extended upto 1 July 2021: Regulation 29C(4) of the Customs (Import Duty) (EU Exit) Regulations 2018 and guidance at [UK Transition: The Customs \(Transitional Arrangements\) \(EU Exit\) Regulations 2020 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/uk-transition-the-customs-transitional-arrangements)

THANK YOU!

Questions?



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