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Introduction of Brexit Omnibus Bill

VAT and excise duty

On 20 February 2019, the 'Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019' was initiated by the government. This is a Brexit Omnibus Bill to prepare Ireland for a no deal withdrawal by the UK from the EU.

VAT postponed accounting for imports

If implemented, the Bill would introduce a measure which would allow traders to operate a postponed method of accounting for VAT on the importation of goods from the UK and also other third countries, ie outside the EU.

If this measure is introduced, Irish traders would have the opportunity to account for VAT on the import of goods from the UK in their next VAT return. Currently a trader is obliged to pay VAT immediately on the importation of the goods, at the same time as custom duties. This measure helps alleviate the potential negative cash-flow effect on traders as a result of Brexit.

It is important to note that postponed accounting would apply to the importation of goods from all countries outside the EU and not just those from the UK.

While this measure will apply to all traders initially, the Bill contains provisions to make its application conditional on the satisfaction of certain criteria.

Where a trader does not satisfy the criteria, Revenue may issue a notice of exclusion stating that the trader is excluded from operating the postponed accounting. The trader may appeal such a notice to the Appeal Commissioners.

Who will this impact?

All traders involved in the importation of goods from the UK and other countries outside the EU.

VAT 56 Authorisation

A qualifying trader who holds a VAT 56 Authorisation may purchase goods, including imports and intra-community acquisitions and services at the zero rate of VAT.

If implemented, the Bill will introduce a number of further conditions to ensure participation in the scheme. Currently a trader may qualify for a VAT 56 authorisation based on projected turnover, ie where turnover 'is likely to' exceed a relevant amount. The Bill provides that a trader may only qualify based on turnover in the 12 months prior to the application for the authorisation.

Revenue may refuse or cancel an authorisation where a trader does not satisfy all relevant conditions, for example if the trader is not tax compliant. The amendments proposed by the Bill provides for the publication of such cancellation by Revenue.

Who does this impact?

The implementation of the measures set out in the Bill will affect new businesses setting up in Ireland, as they will not be able to apply for a VAT 56B authorisation until they have been trading for at least 12 months. It will also affect existing businesses who do not derive at least 75% of their turnover from exports and intra-community supplies. This will give rise to cash flow costs for such businesses in terms of incurring VAT and seeking recovery from Revenue.

Traders who currently hold a VAT 56 authorisation should be informed of the additional conditions contained in the Bill and the powers of Revenue regarding cancellation.

VAT retail export scheme

The retail export scheme allows individuals who are resident outside the EU to reclaim VAT incurred on the purchase of goods within the EU. In order to receive the refund of VAT, the goods must be exported from the EU within three months of purchase.

The Bill would introduce the following amendments to the current legislation:

- for a traveller to avail of the scheme the total value of the supply of goods, including tax must be greater than €175;
- UK domiciled or habitually resident travellers seeking to avail of the scheme must provide proof that:
  - the goods have been imported into the UK by or on behalf of the traveller; and
  - VAT and duties have been paid on the importation of those goods by virtue of the law of the UK.

Duty-free purchases

Existing legislation provides for full relief from excise duty for the supply of excisable goods, eg alcohol and tobacco products, to passengers travelling to a destination outside of the EU.

The Bill includes a measure which, if implemented, will limit this relief to passengers travelling to countries outside the EU 'other than the UK'.

Contact

Jarlath O'Keefe
Partner
T +353 (0)1 6805 817
E jarlath.okeefe@ie.gt.com

Marian Lee
Director
T +353 (0)1 680 5939
E marian.lee@ie.gt.com

Kevin Devenney
Director
T +353 (0)1 433 2438
E kevin.devenney@ie.gt.com

Offices in Dublin, Belfast, Cork, Galway, Kildare, Limerick and Longford.

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