

Managing trade with the UK

VAT and customs

Albeit the third round of Brexit negotiations have come to an end, it is apparent that a satisfactory resolution in respect of separation from the EU is a long way off for the UK. As a result, the precise impact of Brexit on VAT and customs regulations is likely to remain unknown for some time.

For the many Irish businesses that currently trade with the UK and intend to continue to do so, it is timely to summarise the VAT and customs duty implications that may arise post Brexit. An overview of the current VAT rules on intra-community supplies to and from the UK will also be considered.

At present, if an Irish VAT registered business acquires goods from the UK or another EU member state, such transactions are regarded as **intra-community acquisitions**. Sale of goods by the Irish VAT registered business to the UK or another EU member state, are regarded as **intra-community dispatches**.

Intra-community acquisitions from the UK

Where goods are being sourced from VAT registered UK suppliers and transported to businesses in Ireland, the purchase by the VAT registered Irish business is deemed an intra-community acquisition for VAT purposes. The intra-community acquisition is deemed to occur where the intra-community dispatch or transportation of the goods end or in the EU member state which issued the VAT registration number of the acquirer, i.e Ireland in this case. VAT is payable on the acquisition of the goods at the same rate that would apply if the product was purchased in Ireland. Assuming the Irish business is entitled to full VAT recovery, the business can take a simultaneous input credit for the VAT incurred which renders the transaction VAT and cash flow neutral.

Intra-community dispatches to the UK

The sale of goods by an Irish VAT registered supplier to a VAT registered customer in the UK is regarded as an intra-community dispatch of goods. Where goods are being dispatched to a VAT registered customer in the UK, the sale of the goods can be zero rated. In order for the 0% rate of VAT to apply, a number of conditions must be satisfied as follows:

- the customer is registered for VAT in another EU member state;
- the customer's VAT registration number, including country prefix, is obtained and retained in the seller's records;
- this number, together with the seller's VAT registration number, is quoted on the sales invoice; and
- the goods are dispatched or transported to the UK within three months from the date of the supply. The seller must retain documentary evidence that the goods have been transported out of Ireland. If the goods are transported by or on behalf of the customer, the seller should obtain and retain documentary evidence from the customer that the goods were received in another member state such as a copy of a delivery docket. It would also be prudent for the seller to record details of the means of transport used by the customer (e.g. vehicle registration number, flight number, ship sailing).

All four conditions must be satisfied in order for the supply to be regarded as an intra-community supply qualifying for the zero rate of Irish VAT.

Post-Brexit

When the UK leaves the EU, trade with the UK will no longer fall within the sphere of intra-community transactions. Instead, trading with the UK as a non EU country will mean that the rules surrounding import VAT, export VAT and customs duty will become relevant.

Importation of goods

It is likely that import VAT will be payable on goods imported directly into Ireland from the UK post-Brexit. Import VAT is payable on all imports at the same rate that would apply if the product was purchased in Ireland.

Although the majority of Irish VAT registered businesses should be able to recover the import VAT paid on their Irish VAT return, there can be a delay between paying and recovering the import VAT. The Irish business, as importer, is also required to retain commercial and official evidence relating to the import. In order to ensure that Irish businesses do not face a further VAT cash flow burden, the Department of Finance should reintroduce a deferred VAT scheme whereby VAT which is required to be paid on importation can be recovered on the same VAT return.

Customs duty

It would appear that customs duty will also be payable upon importation of goods. Customs duty is an absolute cost to a business as it is not recoverable, unless this cost is passed onto the customer which is common in practice. The rate of customs duty payable will depend on the nature of the goods being imported.

The ambiguity over the potential rates of customs duty that may be applied following Brexit is currently causing immense uncertainty. In addition, the categories of potential goods that may be subject to customs duty is unknown and is causing similar concern.

Exportation of goods

The VAT rate applicable to exports from Ireland to non-EU countries is 0%, which will presumably apply to the UK post-Brexit. Similarly to the rules for imports, it will be necessary for the Irish business to keep commercial and official evidence of the exported goods.

Conclusion

Irish businesses are encouraged to consider the impact of Brexit where the free movement of goods and the cash flow benefits of the current arrangements may be lost. Understanding these rules can greatly benefit a business and assist it with operating more smoothly, improving cash flow and avoiding penalties. Irish businesses should also encourage their political representatives to use whatever influences they can to ensure that the UK remains in the customs union post-Brexit.

At Grant Thornton we have a team of indirect tax experts. Please contact a member of our dedicated Brexit indirect tax team for more information.



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