

Brexit and Indirect Tax Update Webinar

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Presenters



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Presentation Outline - Brexit

- **EU-UK Trade and Cooperation Agreement – what does this mean for your business?**
- **Irish clients selling goods to NI and GB – indirect tax compliance and risks**
- **Issues for imports into GB from ROI**
- **Issues under the Northern Ireland Protocol (including NI/ROI trade and GB/NI trade)**
- **Key advice – what should businesses do now?**
- **Financial support for the provision of indirect tax advice**



Trade and Cooperation Agreement - Summary

- As of 1 January 2021, the UK left the EU Single Market and Customs Union. As a result, it will no longer benefit from the principle of free movement of goods.
- Even with the new agreement in place, businesses will face new trade barriers, leading to increased costs and requiring adjustments to integrated EU-UK supply chains.
- The provisions in the agreement do not govern trade in **goods** between the EU and Northern Ireland, where the Protocol on Ireland and Northern Ireland included in the Withdrawal Agreement will apply.
- Trade and Cooperation Agreement - zero tariffs and zero quotas on all EU and UK **origin goods** from day one.



FTA v. EU Customs Union and Single Market

- Trading under 'FTA' terms will inevitably be very different compared to the frictionless trade enabled by the EU's Customs Union and Single Market.
- In particular:
 - rules of origin will apply to goods in order to qualify for preferential trade terms under the agreement;
 - all imports will be subject to customs formalities and will need to comply with the rules of the importing party;
 - all imports into the EU must meet all EU standards and will be subject to regulatory checks and controls for safety, health and other public policy purposes.



Irish clients selling goods to Northern Ireland

- The current VAT treatment of sales of goods between Ireland and Northern Ireland will continue to apply i.e. intra community acquisitions and dispatches.
- Northern Ireland businesses will have an XI identification number which will enable them to be linked into the EU VAT system when filing INTRASTAT and VIES/EC Sales reports.
- This number should also be used by Irish businesses selling and dispatching goods to NI VAT registered customers.
- There will be no requirement to file customs declarations to record the movement of goods between Ireland and Northern Ireland.

Irish clients selling goods to Great Britain - VAT

- Sales of goods from Ireland to Great Britain should be treated as exports with no Irish VAT chargeable.
- The same rules should apply to the sale of goods from Great Britain to Ireland with no UK VAT chargeable.
- Import VAT will arise on the importation of goods into Ireland from Great Britain.
- Ireland has legislated for postponed VAT accounting on imports (“PIVA”) by persons who are registered for VAT and Customs and Excise in Ireland – it eliminates the VAT cash flow cost of imports resulting in a significant VAT cash flow benefit for traders.



Irish clients selling goods to Great Britain - C&E

- Like Ireland, the UK has introduced postponed VAT accounting in respect of all imports into the UK from both EU and non-EU countries from 1 January 2021. Businesses must be UK VAT registered.
- Export declarations will need to be filed for goods exported from Ireland to GB and import declarations and payment of tariffs will arise for goods imported into Ireland from GB.
- **Take care regardless of whether you are the supplier or the customer.**
- Irish clients may need a UK VAT registration and UK EORI if acting as importer of record in the UK. This is a commercial decision to be reached between the parties **or** the incoterms in a contract may already provide for same e.g. Delivery Duty Paid (maximum obligation on supplier) and Ex-Works (minimum obligation on supplier) etc.

VAT on services

- No requirement for EORI number if providing services only
- B2C supply of **certain** services to the UK no longer subject to VAT e.g. legal, advertising, accountancy etc.
- Issuing of professional fees to private individuals in the UK - no longer charge VAT.
- Details of fees issued to UK based clients should no longer be reported in the VIES returns or included in the Box ES1 in the VAT return.
- Fees issued from UK to ROI - must continue to self account for Irish VAT on a reverse charge basis on the value of fees received from GB and NI, but the value of such services should not be included in Box ES2 in the VAT return.

VAT on services

VAT is not due on the following services supplied to non-business customers established in NI and GB:

- The services of consultants, engineers, consultancy firms, lawyers, accountants and other similar services, as well as data processing and the provision of information.
- Transfers and assignments of copyrights, patents, licences, trademarks and similar rights.
- Advertising services.
- Obligations to refrain from pursuing or exercising, in whole or in part, a business activity or a right.
- Banking, financial and insurance transactions including reinsurance, except for the hire of safes.
- The supply of staff.
- The hiring out of movable tangible property, with the exception of all means of transport.
- The provision of access to, and of transport or transmission through, natural gas and electricity distribution systems. This includes the provision of other services directly linked thereto.
- Telecommunications services, Radio and television broadcasting services, Electronically supplied services.

Services not included in the list above, supplied to a non-business customer in NI and GB are subject to Irish VAT at the appropriate rate.

VAT recovery and financial services

- Increased VAT recovery for entities supplying certain financial services to UK customers
- Example - Irish fund with investments in 20% UK assets – 80% non-EU assets based on NAV.
- **Pre Brexit** - No VAT recovery on costs associated with supplying VAT exempt financial services to UK established customers.
- **Post Brexit** - The supply of VAT exempt financial services to customers outside the EU is a “qualifying activity” giving rise to VAT recovery on associated costs. This is expected to apply to NI and GB based service providers.
- Funds should now review the position and seek to take additional VAT recovery.

UK VAT and customs issues

- Consider 4 scenarios for goods trade:
 - Great Britain/EU (inc ROI)
 - Northern Ireland/EU (inc ROI)
 - Northern Ireland/Great Britain
 - Northern Ireland/RoW

Goods trade: EU to GB

- Who will act as importer into GB?
 - Responsible for import declarations and duties
 - Need GB EORI number
 - Need customs agent willing to act on indirect representation basis if not established in UK
 - UK VAT registration required for DDP terms



Goods trade: EU to GB

Customs

- Customs controls initially introduced on a phased basis by UK
- From 1 January to 30 June 2021:
 - Record “standard” goods in commercial records
 - Submit supplementary declaration and pay duties six months later
 - No entry summary declaration
 - Importer/agent must have authorisation and duty deferment account in place by 1 July
 - “Controlled” goods will require declarations
- From 1 July 2021, full import controls apply
- UK import duties if goods don't have EU or UK origin



Goods trade: EU to GB

VAT

- Import VAT moves to postponed import VAT accounting
- Loss of EU VAT simplifications (chain transactions, call-off stock and installed goods)
- E-commerce
 - Distance selling rules no longer apply for sales to consumers
 - Customer will need to pay VAT and duty unless supplier acts as importer
 - New rules for packages not exceeding £135 in value

Trade & Co-operation Agreement

Rules of origin

- Only goods with EU or UK preferential origin benefit from zero tariffs and quotas
- Economic nationality of goods – not where shipped from
- Rules are complex and vary depending on commodity code:
 - Wholly produced
 - Last significant processing
 - Percentage value of non-originating material
- Bilateral cumulation with UK origin goods permitted
- But need some processing (other than simple operations) in EU

Trade & Co-operation Agreement

Rules of origin

- EU – UK – EU with no UK processing = EU tariffs on second leg
- Non-EU – EU – UK = Duties on entry to EU and UK
- Solutions
 - Transit procedure for full loads with no significant delay
 - Customs warehousing
 - Inward processing / outward processing relief
- Claiming preferential origin
 - Statement of origin on invoice from exporter – specific wording in TCA
 - Also claim based on ‘importer’s knowledge’

Impact on other EU free trade agreements

- UK origin goods no longer qualify as EU origin under EU FTAs
- Could impact origin of products manufactured in Ireland if use UK (including NI) components
- Only few FTAs provide for diagonal cumulation



Northern Ireland Protocol

NI Protocol applies even though UK and EU have agreed Trade and Co-operation Agreement (TCA)

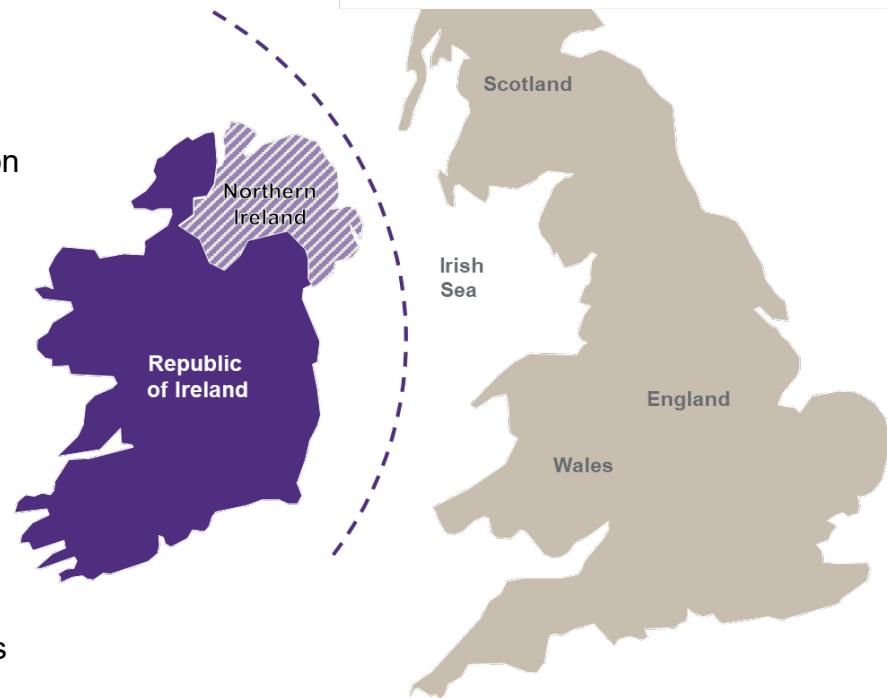
NI remains in EU Single Market for goods, so harmonisation on goods standards with ROI and no regulatory checks

But some regulatory checks, including SPS controls, for goods moving from GB to NI

NI part of UK customs territory, but imposes EU customs duties in some cases and follows EU customs rules

NI follows EU VAT rules in relation to goods (but not services)

Subject to democratic consent of NI Assembly after 4 years from end of transition period; if not, ends 2 years later



Goods trade: Northern Ireland/ROI

VAT

- Current VAT treatment should apply
- XI prefix used for VAT number when selling/buying goods to EU customer/supplier
- Note further changes from July 2021
- NI businesses may continue to use EU VAT refund system for VAT incurred on goods

Customs

- EU customs rules apply in NI, so no tariffs, customs controls or declarations required
- Frictionless border with ROI should be maintained



Goods trade: Northern Ireland/EU



VAT

- As above

Customs

- Transit declarations needed where goods from NI transit through GB and onto EU (or vice versa)

Goods trade: GB to NI

Customs

- Import declarations and entry summary declarations required
- XI EORI number needed if importing into NI from GB or importing/exporting RoW from NI
- Trader Support Service
 - Support GB-NI customs declarations for traders
- Different rules for postal packages – temporary regime until 31 March
- Duties payable if goods ‘at risk’ of onward movement into EU



Goods trade: GB to NI

Three gateways to zero tariffs:

UK/EU Trade
and
Cooperation
Agreement
(TCA)

- Claim zero duty if UK originating goods according to rules of origin in TCA

UK Trader
Scheme (UKTS)

- Importer is authorised under UKTS and declares goods not 'at risk' of subsequent movement into EU

Waivers

- Importer claims a waiver within their de minimis EU state aid allowance

Otherwise, customs special procedure – inward processing, customs warehouse?

Goods trade: GB to NI

UK Trader Scheme (UKTS)

In order to declare goods not 'at risk':

- Importer must be authorised under the UKTS
- Must hold evidence that the goods entered NI for the purpose of either:
 - Sale to or final use by end consumers located in the UK (e.g. sale in retail stores)
 - Use in their own business in the UK
- There must be no commercial processing in NI (unless exemption)
- Goods must not be subject to EU trade defence measures

Goods trade: GB to NI

Processing exemptions

Goods brought into NI for processing are always at risk unless:

- Importer has an annual turnover of less than £500K per year, or
- Processing in NI is for the sole purpose of:
 - Sale of food to end consumers in the UK
 - Construction in NI by the importer
 - Direct provision of health or care services in NI by the importer
 - Not-for-profit activities in NI where no subsequent sale of processed goods
 - Final use of animal feed in NI by the importer

Goods trade: GB to NI

Duty waivers

- Most businesses can claim up to a maximum of €200,000 of aid over 3 tax years, assessed on a rolling basis
- Maximum allowance includes all de minimis state aid claimed over period, including aid unrelated to duty waivers
- Lower allowances apply to businesses in some sectors
- Claim waiver on import declaration and by customs duty waivers form



Goods trade: GB to NI

VAT

- Current VAT treatment continues for sales of goods between GB and NI
 - Subject to some exceptions
- Business must account for VAT when moves own goods from GB to NI
- Various special cases – VAT groups, margin schemes etc



- GB – NI – ROI movements involve extra complexity
- Charge UK VAT to ROI customer depending on where in movement transfer of title takes place
- May need to use Onward Supply Relief (OSR)

Goods trade: Rest of world to NI



VAT

- Postponed import VAT accounting available on import

Customs

- UK tariff payable on import where:
 - EU tariff is equal to or less than UK tariff (taking into account preferential tariffs under FTAs), or
 - Importer declares goods are not 'at risk' of subsequent movement to EU under UKTS
- No waivers of duty
- Goods cannot be declared not 'at risk' where EU tariff exceeds UK tariff by 3% or more

Goods trade: NI to GB

- UK export declarations not normally required
- Unfettered access for NI “qualifying goods” with no import declarations, tariffs or customs checks
- “Qualifying goods” – any goods not under customs supervision or control in NI
 - Anti-avoidance provisions apply where goods are moved through NI to avoid UK tariffs or import processes
 - Definition will be updated in 2021



What should businesses do now?

Businesses should consider:

- How they will submit customs declarations and deal with customs compliance
- Ensuring they have appropriate EORI numbers
- Commodity codes/tariffs on products under EU Tariff and UK Global Tariff
- Origin of products under UK-EU TCA, and whether they have evidence to show this
- If relying on bilateral cumulation, is any processing done on UK origin products sufficient to confer EU origin?
- Discussing with suppliers / customers which party is responsible for import formalities / duties in supply chains
- Whether any customs special procedures/reliefs could mitigate impacts
- Impact on origin of goods under EU FTAs with third countries
- VAT changes, and whether a new VAT registration is required

What should businesses do now?

In addition businesses trading in/with NI should consider:

- Whether goods imported from GB/RoW will be “at risk” of moving to EU and potential for waiver
- Applying for authorisation under the UK Trader Scheme
- Customs procedures when goods move through GB to EU countries (and vice versa) or through ROI to reach GB
- Whether goods are NI “qualifying goods”
- Impact of loss of EU free trade agreements
- VAT changes, particularly for GB/NI trade and goods moved through NI

Key Advice

1. Review contracts

- Contracts should be reviewed to determine which party is responsible for import formalities / duties in supply chains.
- This can create VAT registration obligations.
- **For example** – as above if your business has contracted to supply goods to the UK on DDP terms, this may create an obligation to register for UK VAT to enable import UK VAT to be paid.
- UK VAT will also need to be charged on the sale of the product to the end consumer.
- If Irish VAT is charged and paid in error, HMRC will still seek UK VAT!



Key Advice

2. Consider if any reliefs are available

- Very often needless multiple VAT registration obligations and the administrative burden this creates can be avoided by availing of the range of measures available.
- Depending on the nature of your business, duty mitigation strategies may be available e.g. temporary admission, inward processing and outward processing relief.
- Consider if your business is suitable for Authorised Economic Operator (AEO) status - reduced frequency of physical customs checks and potential fast-tracking of consignments through customs controls.



Key advice

3. Review supply chains

- It may be possible to simplify or improve supply chains from a VAT perspective.
- One example of this is the loss of the triangulation simplification with a UK VAT number in the chain.

4. Stay alert to change

- Monitor the situation on an ongoing basis - the FTA is evolving and not all areas are encompassed.

Financial support

- InterTrade Ireland offers 100% financial support up to £2,000/€2,250 (inclusive of VAT) towards professional advice in relation to Brexit matters e.g. VAT and customs advice.

To qualify for financial support, your business must:

- Be located on the island of Ireland (North or South)
- Trade across the border (NI/ROI)
- Employ less than 250 employees
- Have an annual turnover of less than €50m (sterling equivalent)
- Have a satisfactory trading history



Financial support

- **Online application form:**
- <https://intertradeireland.com/brexit/funding/voucher>
- **What happens next?**
 1. InterTrade will inform you of the assessment panel decision within ten working days.
 2. If approved for the support you will have one month to submit a completed Terms of Reference.
 3. Once approved, we can commence your tailored indirect tax advice and InterTrade are billed directly

Q&A

Thank you



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