RaynerEssex
chartered accountants
and business advisers

Brexit – The Day After Tomorrow

GROSVENOR
WEALTH MANAGEMENT

BREXIT

The UK and EU agreed a "deal" on Christmas Eve. The "deal" does not make trade any easier

All goods entering the UK from anywhere in the world are now Imports

Trading with the EU will involve changes to the way businesses do business with the EU

There are very few changes in relation to services

All goods leaving the UK to anywhere in the world will be exports

Business customers (B2B) have different rules to consumers (B2C)

Understanding freight and shipping terms is crucial to surviving in a post Brexit world.

Getting Incoterms right is now just as important as it is getting your VAT right

This can affect your business

The Rules of Origin are equally important – the "free trade" agreement does come with conditions.

Certain goods will require certification or licenses or labelling requirements to meet UK or EU legislation.

BREXIT – VAT & CUSTOMS

This presentation summarises the key points of Brexit.

Whilst you might be attending to understand the VAT implications of Brexit, there is a wider matter of customs procedures to understand first before the VAT implications become clear.

We will look at both business to business (B2B) and business to consumer (B2C).

This is a big topic, so will be split into separate presentations for imports, exports, customs duty, documentation and the future.

If there are any questions, then do please contact Jason Croke.

Jason Croke
Director VAT

direct dial: +44(0)20 7554 9567
e: jason.croke@rayneressex.com
www.linkedin.com/in/jasoncroke/

Importing (B2B) - What do you need to know?

- All goods entering the UK from anywhere in the world are now imports
- The seller will zero rate their sale, the seller invoice will be without VAT
- When goods enter UK, <u>someone</u> will have to pay import VAT to HMRC before goods move onward
- The freight agent will usually pay this import VAT and recharge it to the importer (either the seller or the customer), adding an administration fee of approx. £15-£35 depending on the freight agent.
- A VAT registered business can reclaim this recharged VAT from freight agent. The VAT can only be reclaimed when the business receives a C79 import certificate from HMRC which is usually received 45 days after the importation has occurred.
- Who pays this import VAT is determined by :-

  Incoterms

  Instructions given to freight agent

  The overall customer experience

Example 1 – B2B Transaction

B2B - From 01 January 2021

UK business orders a consignment of shoes from an Italian manufacturer/supplier

- Italian supplier will zero rate their sale as an export (goods going outside of the EU)
- HMRC calculates import VAT and someone has to pay this VAT before goods continue their journey
    - Freight agent usually pays this import VAT and recharges back to seller or customer
    - If seller/customer has a UK duty deferment account, the duty and VAT can be deferred and HMRC takes payment the following month
    - If seller/customer has signed up for Postponed Import VAT Accounting (PIVA) and accounts for the import VAT on their VAT return
- In reality, the seller is unlikely to be registered for UK VAT, so the importer will often be the customer. So, the three options above apply to the UK business buying goods from anywhere outside the UK.
- Whilst this section is about a UK business buying goods from the EU, the concepts we will learn apply in reverse, such as an EU business buying from the UK.

B2B - Incoterms - DAP

- These are instructions that tell the freight agent who the importer (who will pay the import VAT)
- Most overseas suppliers will ship on Incoterm "DAP" (Delivered at Place), this means the seller is responsible for delivering the goods to the UK but is not responsible for the import duty/VAT
- Freight agent must have the importers (customer) GB EORI number
- Freight agent must be instructed that importer (customer) wants to use Postponed VAT Accounting or if the importer (customer) is using their own deferment account or the freight agents deferment account.
- HMRC calculates import VAT and someone has to pay this VAT before goods continue their journey
  - Freight agent usually pays this import VAT and recharges back to the customer
  - Customer has a duty/VAT deferment account and pays the duty/VAT the following month
  - Customer has signed up for Postponed Import VAT Accounting (PIVA) and accounts for the import VAT on their VAT return

For small volumes of imports, it may be easier and cheaper to let the freight agent handle the paperwork and duty/import VAT and their admin fee for doing this is factored into your pricing.

For larger volumes/values, the freight agent admin fee may become cost prohibitive, this is where Postponed Import VAT Accounting can benefit the buyer/customer.

The freight agent needs to know you intend to use PIVA, so will need to give your GB EORI number to seller and also advise you are using PIVA so that freight agent doesn't pay the import VAT.

B2B - Incoterms - DDP

- The second main Incoterm is "DDP" (Delivered, Duty Paid), this means the seller is responsible for delivering the goods to the UK and also responsible for paying import duty/import VAT.
- This creates a seamless experience for the customer, with nothing extra to pay, no need for deferment account or postponed import VAT accounting
- The seller does not have to register for VAT in the UK, but they cannot reclaim any import VAT unless they are registered for UK VAT. Larger suppliers may be willing to register for UK VAT but smaller traders not.
- If supplier registers for UK VAT the approach is :-
    - French seller (French VAT Number) ships goods to UK
    - French seller receives goods in UK as importer of record using their GB VAT number
    - Reclaims UK import VAT on UK VAT return
    - Onward sale to UK customer is via UK VAT return.

- In a DDP scenario, the seller would zero rate movement of goods from France to UK but the movement from UK to customer would be standard rated so a seller offering DDP would see their prices on their website or when quoted to customers, as UK VAT inclusive

B2B - Postponed Import VAT Accounting (PIVA)

- As we now know, the importer of record is the person who pays the import VAT, this VAT is either paid by freight agent or importer has a deferment account (which we will look at later)
- If the imports are not subject to import duty, just VAT, then Postponed Import VAT Accounting allows the goods to continue their journey without paying the import VAT, this is a huge cashflow benefit
- Importer needs a GB EORI number, freight agent uses this on their import paperwork. Freight agent also needs to know postponed VAT is in play, so ensure whoever instructs the freight agent knows this
- The importer must also register for the Customs Declaration Service (CDS) in order to access monthly import statements knows as MPIVS "Monthly Postponed Import VAT Statement"
- Just to recap, if the freight agent pays import VAT or you use a deferment account, the importer receives a C79 certificate to confirm VAT has been paid. When postponing the import VAT, a C79 is not issued, instead the equivalent is the MPIVS which is accessed via the CDS
- The MPIVS must be downloaded (.pdf) as they are only online for 6 months and if you don't download them then you will not have complete accounting records
- The MPIVS are available mid-month, for imports up to end of January, the MPIVS will be produced mid-February
- The MPIVS details what import VAT has been "postponed" and this is declared on your UK VAT return as a sale (output tax in Box12), as a purchase (input tax in Box 4) and in Box 7 (purchase excluding VAT)
- If the business is partially exempt, then it can only reclaim import VAT in Box 4 based on its usual partial exemption recovery calculation

B2B - Duty Deferment Account

- A traditional option for paying import duty and import VAT is a Duty Deferment Account (DDA)
- Import VAT is payable immediately before the goods can continue their journey, having a deferment account means the goods are released without VAT being paid and the importer of record pays HMRC the following month
- This creates a cashflow benefit, being able to receive your goods and maybe even sell them, before having to pay the import VAT
- A Duty Deferment Account covers both import duty and import VAT so its name "duty deferment account" is a bit confusing as it doesn't just cover duty
- Calculate the monthly amount of duty/VAT on your usual volume of imports, if that is less than £10,000 then you do not need a bank guarantee to support the deferment account.
- If the monthly duty/VAT exceeds £10,000 then you will need a bank guarantee to support the deferment account, this way, if goods are imported under the deferment account and the business fails to pay the following month, HMRC will draws down the funds from your bank
- Bank guarantees usually incur a fee from the bank for this facility and the amount "guaranteed" effectively reduces your borrowing profile at the bank, but deferment accounts are still very useful if you have imports that do attract import duty
- You can still postpone the import VAT using PIVA, which may reduce the guarantee value to below £10,000 which then covers any import duty. So, the schemes are here to be used and they have some flexibility but clearly different to pre-Brexit when none of this was required for businesses who just bought from the EU.

Commodity Codes

- Before we move onto summarising this section on B2B we need to mention commodity codes
- Every good has a commodity code which defines what it is and what it is made of.
- The freight agent must have a commodity code for them to process importation as the commodity code determine what import duty, if any, is applicable
- For example, the commodity code for an industrial dishwasher is different to a household dishwasher and may mean different import duty rates
- Commodity codes must be shown on the shipper's paperwork so that they can process the importation and calculate the correct amount of import duty (if any)
- If you rely upon the freight agent to get the commodity code right, they may get it wrong and you pay too much or not enough import duty
- The supplier may have a better knowledge of their product and accepting their commodity code choice is good, but the buyer/customer should not abdicate responsibility entirely and should check and be satisfied the correct commodity code is being used for each and every importation
- You can access the UK tariff (commodity code search engine) here :-
    - https://www.gov.uk/trade-tariff

Rules of Origin

- The final (generic) document the freight agent needs is a Rules of Origin certificate
- This proves the goods originated from the UK/EU – this is crucial because the "duty free" Brexit deal is on basis the goods originate from EU or UK and not rest of world
- If you import goods from China into UK and then ship those goods to Germany, the origin is still China
- To change origin, you have to "process" the goods significantly, for example, importing oranges from Africa but then squeezing them and selling orange juice to Italy changes the origin because you bought oranges but what you are selling is orange juice, an entirely different product.
- If the goods are not of UK/EU origin, then import duty may be significantly higher
- In addition, you could incur import duty twice :-
    - UK busines imports fine silks and materials from India
    - When goods arrive in UK, import duty is applied at 2% (Code 5007100010)
    - UK business simply ships material to a Spanish business
    - When goods enter Spain, import duty of 2% is due because the goods are not originating from UK
    - So there is a 4% additional duty either end of this transaction
    - If the UK business makes a dress out of this silk, importing the dress into Spain does not incur import duty as the goods (dress) originated from the UK

B2B - Summary

- Buying goods from anywhere in the world, these are imports from now on
- Be clear as to who is the Importer of record (IoR), it's usually the buyer/customer
- The Importer of Record is responsible for paying the import duty (if any) and import VAT
- The options are :-
    - Freight agent pays HMRC and recharges you, plus an admin fee
    - You have a deferment account, pay HMRC 45 days later/reclaim VAT on C79
    - Use Postponed Import VAT Accounting
- Who is instructing the freight agent?
    - If the seller, does the seller have your GB EORI number and what method of paying VAT
    - If the buyer, unusual, but above still applies, instruct the agent with your requirements
    - Has freight agent got the correct commodity codes for the goods, who decided these codes?
    - Has freight agent got the correct rules of origin paperwork?
    - Has freight agent been told how the import VAT is to be paid (deferred, postponed, etc)?
- Remember, these rules operate in reverse, so an EU business buying from UK, you need their EU EORI number, are they paying the import duty/VAT? commodity codes, rules of origin, etc.

B2C - Selling to EU Consumers

- Goods valued at **over £135**
- Seller zero rates as an export (do not charge UK VAT)
- Customer is Importer of Record and is responsible for paying import duty/import VAT locally (DAP)
- Freight agent will contact customer and request payment before delivering the goods
- All the concepts previously discussed are in play, Commodity Coeds, Rules of Origin, etc
- The £135 threshold is because under £135 and goods are not subject to import duty but are subject to VAT

Consider the Experience

- Is your customer expecting to get charged VAT by freight agent to receive their purchases>?
- Does your website make clear that customer is liable for import duties and taxes?
- We saw reports this week of people buying goods from EU and being charged £100 to get them delivered
    - Seems Brexit is confusing EU sellers as much as it is UK customers
- In essence, goods over £135 are treated same as import/export for businesses, customer pays

B2C - Selling to EU Consumers

- Goods valued at **<u>under £135</u>**
- Between now and 31^{st} June 2021 you operate exactly the same as for selling to EU consumers where the goods are valued at over £135 (previous slide)
- That is, zero rated, customer liable for import duty/VAT
- Then from **01^{st} July 2021**, new rules apply when UK sells goods to EU Consumers
- UK supplier is required to charge EU customer their local EU VAT rate
  - Spanish consumer buys UK goods, UK supplier charges Spanish VAT to Spanish consumer
- New EU VAT scheme called "Import One Stop Shop" (IOSS)
- Single VAT registration that covers all EU member states, you charge EU customers local VAT rate, you collect this VAT from consumer, you declare on a single VAT return, this return VAT collected for each member state, you make one single payment to tax office and tax office distributes the VAT onwards
- You cannot register for this in UK, you must register in an EU member state
- Consider how your website will show different prices for different customers. Average VAT rate in Eu is 21%, so maybe show all prices with 21% VAT and then if sale to France (20%) you make a small margin, if you sell to Sweden (25%) you make a slight loss but simpler website pricing
- If goods are OVER £135 then the UK seller does not have to charge VAT, they can ship DAP and customer pays the duty/VAT. The seller may sell both low and high value goods and so they will need to operate two different methods when making a sale
- We have seen EU businesses pull out of the UK consumer market, in July will UK sellers do the same for the EU?

B2C - Buying from EU Suppliers

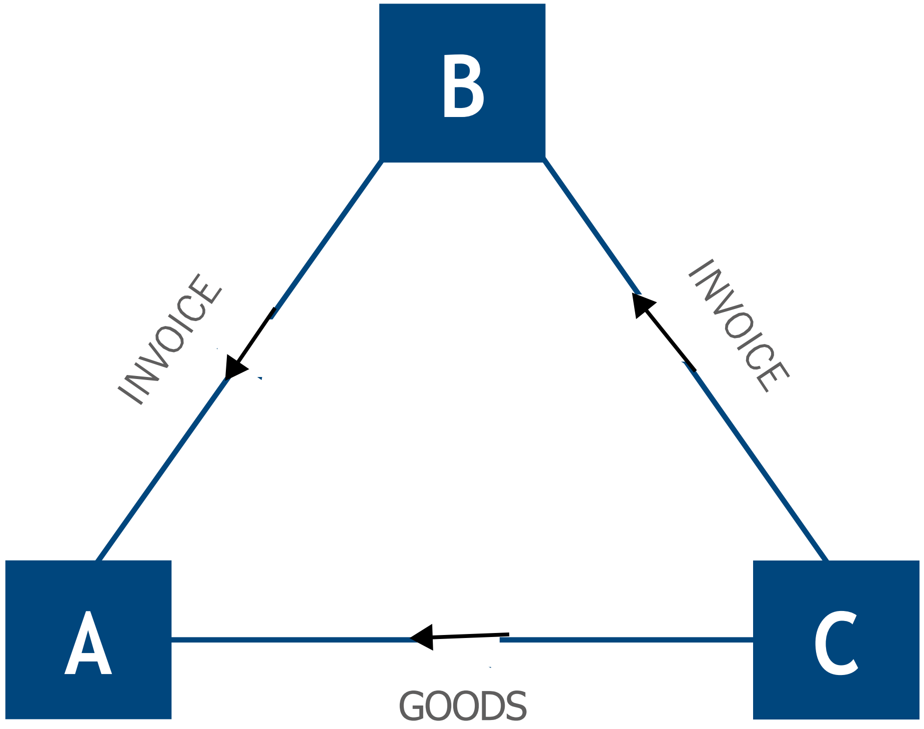
- The rules for EU businesses selling into the UK changed 01 January 2021
- If under £135 value, sellers must register for UK VAT and charge UK VAT/submit UK VAT returns
- Seller cannot zero rate the goods, nor can they charge their local VAT.
- Freight agent will ship as DDP (Delivered Duty Paid) as seller has charged VAT at point of sale
- These rules apply to ALL sellers from anywhere in the world
- News stories about woman buying a £200 coat from Germany and being charged £80 by freight agent
    - Coat = £200 (not clear if seller included German VAT in this or if it was correctly zero rated)
    - Import duty (over £135) is 12% = £24 import duty (coat was of non-EU origin)
    - Import VAT is 20% of £224 (VAT is calculated on the duty inclusive price) = £224 x 20% = £44.80
    - Freight agent fee (£10) = £24 + £44.80 + £10 = £78.80 (so I'm a few pounds out, I excluded original shipping cost)
- So you can see how not knowing what you are doing as a consumer or as a seller can lead to large and unexpected costs
- The seller should not be charging their local VAT because any goods entering the UK will be subject to UK import VAT unless the VAT has already been paid (showing the sellers GB EORI number on the freight paperwork), so an EU seller who doesn't register for UK VAT will not have a GB EORI number
- If goods are OVER £135 then the seller does not have to charge VAT, they can ship DAP and customer pays the duty/VAT. The seller may sell both low and high value goods and so they will need to operate two different methods when making a sale.

Supplies of Services - B2B and B2C

- The place of supply of services rules have not changed
- B2B, default rule is where customer is based, so a UK sale would be outside the scope of VAT
- Exceptions remains such as land related supplies, live events/exhibitions and use/enjoyment rules
- B2C, default rule is where the supplier is (UK VAT) except for certain professional services which are now outside the scope of VAT, same as it is for B2B
- No requirement to obtain EU VAT number but you do need to hold evidence the customer is a business or a consumer – in order to apply the correct default rules – so VAT number is still useful but not essential, if customer is a business it is often clear by their trading name, but what of sole traders?
- If you sell digital services (apps, streaming, downloads) then you may already have been registered for MOSS (Mini One Stop Shop)
- The MOSS rules are still applicable but Brexit brought two changes :-
    - Threshold for registering was previously £8,818 now it is Nil
    - You could use UK to register/submit your MOSS returns, now you must register and submit MOSS returns in an EU member state (and deregister from UK MOSS if you are already registered)

No More EU Simplifications

- Triangulation ends 31st December 2020
- It was an EU simplification where there was a seller, an intermediary and a customer – each in a different EU member state
- Removed need for seller or intermediary to register for VAT in final destination



Triangulation

- A UK supplier (B) takes an order for a machine from a customer in France (A)
- A doesn't actually make or stock the machine, they place an order with the manufacturer in Germany (C)
- France places order with UK, UK places order with Germany and Germany ships direct to France
- Technically, UK takes possession/legal title to those goods in Germany and would have to register for VAT in Germany for the onward sale to France but Triangulation negates that by allowing UK supplier to zero rate their sale to France and Germany zero rates their sale to UK
- Post Brexit will see the UK supplier having to register for VAT in Germany to make the onward sale to France, with additional accounting costs – this is just a suggestion, obtain formal advice.

Drop Shipping

- Drop shipping needs a rethink.

  A UK distributor takes order from UK customer, places order with German supplier and asks German supplier to shop direct to UK customer

  With Eu reverse, German supplier ships to UK, German invoice goes to UK distributor, UK distributor invoices customer (with their mark-up)

  Now, as the goods enter the UK someone has to be the Importer of Record. It's not Germany, so it could be UK distributor (using their GB EORI number) or it could be the end customer (using their GB EORI number)

  Problem is, customer will receive their package and it will contain German suppliers shipping paperwork, so the customer will see how much the goods actually cost and not the higher price charged by the UK distributor

  You can instruct the freight agent to use the UK distributors invoice for UK import purposes and to not forward on the German invoice, so that customer gets the UK distributor invoice. Of course, this means the UK distributor becomes the importer of record

  That means the UK distributor pays any import duty, import VAT (reclaimable on VAT return), onward sale to UK customer, so there is some more admin here but protects the margins of the UK distributor

SUMMARY

- Brexit makes things more difficult, but not impossible once you understand the basics
- Buying and Selling you need to know :-
    - Incoterms. Who pays the duty/VAT? Can I defer or postpone the import VAT?
    - Commodity Codes. Will there be extra duty on these goods?*
    - What experience do I want my customers to have?
    - What additional costs will I incur in admin/compliance fees?
    - Does my business model still work (drop shipping, triangulation, etc)?
    - Does my business have compliance obligations in the EU
        - Cosmetics sold to EU must have an EU "responsible person" address, likewise EU cosmetics sold into UK must have a UK "responsible person" so this may involve obtaining virtual office address or setting up a company in the Country
        - Foods and meats and plants require phytosanitary certification that meet EU or UK standards so make sure your products aren't held at the dock because they are not compliant with the UK and EU rules

- I discovered last week that although the Brexit deal is "tariff and quota free", that is not exactly the case. Steel is duty free but still subject to EU quotas, that means the UK can only sell so much steel products into the EU at the duty free rate, once the quota threshold is met, then the EU applies a "safeguarding" rate of 25%
- Whilst steel has always been a sensitive sector (like fish), business owners need to engage with their trade bodies and do their research to make sure that their products are not caught by any obscure rules or quotas.

RaynerEssex
chartered accountants
and business advisers

LONDON OFFICE	ST. ALBANS OFFICE
Tavistock House South	Faulkner House
Tavistock Square	Victoria Street
London WC1H 9LG	St. Albans
t: 020 7388 2641	Herts AL1 3SE
f: 020 7387 8969	**t:** 01727 833222
e: th@rayneressex.com	**f:** 01727 864752
	e: fh@rayneressex.com

www.rayneressex.com

GROSVENOR
WEALTH MANAGEMENT