

Who should read this Brexit Alert?

This Brexit Alert is relevant for businesses that currently distance sell goods through their own website or platform from the UK to EU consumer customers directly, i.e. not via an online marketplace.

Businesses that also sell goods via online marketplaces will be affected by major VAT rule changes that will come into effect for sales facilitated by marketplaces. Read our Brexit Alert on the ***New VAT rules for goods sold via online marketplaces*** for further information.

If you sell through both your own platform and an online marketplace you will need to consider how the changes in both areas affect you.

Introduction

The Brexit transition period expires on 31 December 2020. After that date UK businesses will no longer benefit from EU VAT simplification measures, including distance selling arrangements.

Under the current EU distance selling rules, a UK seller accounts for VAT either through a UK VAT registration, or through distance selling registrations in the EU Member State where the consumer customer is located, depending on whether the distance selling threshold (DST) has been exceeded in the destination country.

What is changing?

From 1 January 2021 sales of goods from the UK to EU consumers will be treated as zero rated exports from the UK, with import VAT payable by the party importing into the EU. In addition customs formalities will need to be completed for all goods imported into the EU.

(Note: the EU currently has an exemption from import VAT for low value imported goods (LVIGs) under €22.)

The rules change again from 1 July 2021 for sales up to €150 so this should also be taken into consideration.

What does this mean in practice?

UK businesses distance selling into the EU will no longer be required to charge VAT at the point of sale for the period 1 January 2021 to 1 July 2021. Typically the EU customer would become the importer of record when the goods enter the EU. The customer would need to make arrangements to pay the import VAT due before delivery of the goods can take place. This may not however be desirable from a customer service perspective.

What are the alternatives?

Alternative arrangements UK businesses could implement to avoid this situation arising are:

- *Collection of import VAT on behalf of the customer*
In this scenario the UK business would collect the import VAT and duty due from the EU customer at the point of sale and then pass it on to the carrier. This would require agreement with the carrier for them to pay the import VAT at the border on the customer's behalf. Delivery of the goods could be made once the import VAT has been paid.
- *Import stock into one EU Member State, e.g. Netherlands (NL), and distance sell from there*
In this scenario a distribution hub would be set up in, for example, NL. A NL VAT registration would be required in these circumstances. Intra-EU distance sales to customers could then take place from NL using the existing distance sales VAT

registrations for those EU countries where the threshold is exceeded, and charging NL VAT on sales to customers in EU countries where the DST has not been exceeded. If an Article 23 licence is obtained, import VAT could be dealt with via accounting entries on the NL return which would generate a cashflow benefit.

- *Importation of goods into the customer's country followed by a domestic sale*

This scenario involves the UK business acting as the importer of record into the EU. The business subsequently makes a domestic sale to the customer on which local VAT is charged. Where there are existing distance sales VAT registrations, these could be used to recover the import VAT incurred and account for the VAT on the domestic sales. This option would require additional VAT registrations in those countries where there is no current distance selling VAT registration.

New EU distance selling rules from July 2021

The EU is introducing a new e-commerce tax package in July 2021. The package includes new rules for distance sales of goods, including goods imported into the EU up to a value of € 150, as well as goods sold via online marketplaces. The existing intra-EU distance selling thresholds and LVIG exemption will be abolished under the new regime.

Dealing with the impact of Brexit is therefore not the end of the story and UK businesses face having to deal with three different sets of VAT rules in a six month period in respect of distance sales to EU consumers. For further information on these EU changes see our VAT Alert on the ***New EU VAT rules on e-commerce.***

What businesses need to do

The VAT rules affecting businesses that sell to consumer customers are becoming increasingly complex. Different VAT rules apply to different sales channels, e.g. in-store sales, sales via a business's own website and sales via online marketplaces. It is therefore essential that businesses understand the rules that apply to each of their sales channels in order to avoid costly VAT mistakes.

Businesses that distance sell to EU consumers need to consider what changes to implement to comply with :

- the VAT rules in place for the period 1 January 2021 to 1 July 2021
- the new EU rules for sales to EU customers above and below the €150 threshold from 1 July 2021
- the new UK and EU rules for sales made via online marketplaces.

The above information should be read in conjunction with the following Alerts:

- ***Brexit Alert: New VAT rules for goods sold via online marketplaces***
- ***VAT Alert: New EU VAT rules on e-commerce.***