



VAT implications of leaving the European Union

With effect from 1 January 2021 there are several changes to the VAT rules for cross border sales and purchases of goods and services. Great Britain, comprising England, Wales and Scotland, has now withdrawn from the EU's VAT regime. Northern Ireland remains in the EU's VAT regime as far as goods are concerned, but not for services.

This means that cross border transactions now include, for goods, movements of goods between Great Britain and Northern Ireland, including potentially transfers of own goods, for example between a branch in Great Britain and a branch in Northern Ireland.

To facilitate the flow of goods and the collection of VAT, the government has introduced several changes to the UK's import VAT regime.

From 1 July 2021, the EU is to extend its Mini One Stop Shop (MOSS) service into a One Stop Shop (OSS) service to facilitate the reporting and paying of EU VAT on a wider range of services and, for the first time, for some supplies of goods.

Cross border services

For cross border sales and purchases of services, as far as the UK place of supply rules are concerned, there is no longer a distinction between 'the rest of the EU' and 'the rest of the World'. The relevant territorial distinction is now between 'the UK' and 'the rest of the World'.

There are three key changes for UK businesses:

- UK businesses can no longer use the UK Mini-One-Stop-Shop (MOSS) service to report and pay EU VAT due on supplies of B2C (business to consumer) supplies of broadcasting, telecoms and electronic services ('BTE services') to EU consumers, though it remains open until the end of January 2021 for supplies made before then. Instead UK suppliers of B2C BTE services are now required to register for VAT in the EU and charge EU VAT to its EU customers. A UK supplier can either register in each EU state where it has customers, or it can register for the EU's Non-Union MOSS scheme in an EU state of its choice and report and pay all EU VAT due via a single MOSS return in that state. However under the Non-Union MOSS scheme, there is no de-minimis threshold (£8,818 under the Union MOSS scheme) below which supplies of BTE services to EU consumers are treated as supplied in the UK
- For B2C supplies of intellectual property rights, advertising services, consultancy and professional services, data processing, information services, financial and insurance services and supplies of staff, the place of supply becomes outside the UK for all customers, previously it was the UK for EU customers. For example, for a B2C supply of consultancy services to a consumer in France, the place of supply switches from the UK to France.
- Under the UK's 'use and enjoyment overrides', certain services whose place of supply is the EU but which are effectively used and enjoyed in the UK switch to being taxable in the UK. For example a B2B (business to business) supply of a podcast (electronic services) to an EU business which is used and enjoyed in the UK switches from being taxable in the customer's state to being taxable in the UK

Cross border goods

For cross border sales and purchases of goods there are now two UK VAT regimes, one applicable to businesses in Great Britain and one for businesses in Northern Ireland, with a few complications for movements of goods between Great Britain and Northern Ireland:

- Businesses in Northern Ireland remain within the EU's VAT regime for goods and must carry on using VAT return boxes 2, 8 and 9 and completing EC sales lists as required. They must use an 'XI' prefix when providing their VAT registration details to EU businesses rather than the 'GB' prefix
- For businesses in Great Britain, all sales of goods to customers in EU states are now exports and all purchases of goods from EU suppliers are imports (subject to the UK import changes explained below). Businesses in Great Britain should

no longer use boxes 2, 8 and 9 on the UK VAT return and no longer need complete EC sales lists

- For movements of goods between Great Britain and Northern Ireland, the transfers are in principle imports and exports, however for most commercial sales VAT will be accounted for as previously, with UK output VAT charged by the seller and reported in box 1 of the seller's UK VAT return and any VAT recoverable claimed by the purchaser in box 4 of the purchaser's UK VAT return
- When a VAT registered business moves its own goods from Great Britain into Northern Ireland, VAT will be due. This should be included as output VAT on the VAT return and this VAT can be reclaimed subject to the normal VAT recovery rules. However a business will not be required to account for VAT when it moves its own goods from Northern Ireland to Great Britain unless these goods have been subject to a sale or supply.
- These 'own goods' rules for transfers between Great Britain and Northern Ireland will also apply to intra VAT group transfers of goods, though if the goods are located in Northern Ireland at the time that they are supplied, they will only be disregarded if both members are established, or have a fixed establishment, in Northern Ireland. Where one or both members only have establishments in Great Britain, the disregard will not apply and VAT must be accounted for by the representative member. This VAT may be reclaimed subject to the normal rules.
- Where a business moves goods from Great Britain to Northern Ireland, after not having reclaimed the associated input VAT in full, then there is a possibility that there will be irrecoverable input VAT incurred again on the same goods. To prevent this, businesses will be able to reattribute the previously unrecovered input VAT on the original purchase in Great Britain as if the goods had been used for a taxable purchase. This may be taken into account by businesses when making their annual adjustment.

UK import VAT changes

To facilitate the flow of imports into the UK, the UK government has introduced several changes to the UK's VAT regime for imports:

- most VAT registered businesses can now report and pay import VAT in their UK VAT return, as opposed to having to pay it at the point of import. The import VAT should be included in box 1 of the UK VAT return and any recoverable import VAT in box 4. The net value of imports should be included in box 7
- Imports of goods into Great Britain in small value consignments (worth upto £135 excluding shipping, insurance and taxes) are deemed to be sold by the seller in the UK with UK output VAT due at the point of sale, though if the sale

is made via an online marketplace, the online market place is deemed to sell the goods to the customer in the UK. The seller or online marketplace is required to register for VAT in the UK if not already registered, charge the customer UK output VAT at the appropriate UK rate and collect and pay this VAT to HMRC, though if a UK customer is registered for VAT and provides its UK VAT number to the seller or online marketplace, a UK reverse charge applies

- There is a similar though different regime for imports of goods in small value consignments into Northern Ireland

EU VAT refund claims

VAT registered businesses in Great Britain incurring EU VAT after the end of the transition period can no longer use the HMRC EU VAT refunds portal to claim this VAT from the EU states concerned, instead they have to make '13th Directive' refund claims to each EU state individually. The HMRC portal will remain open for EU VAT incurred upto 31 December 2020 though claims via the portal must be submitted by 31 March 2021.

Northern Ireland business can carry on making claims for EU VAT incurred on purchases of goods via the portal but not for purchases of services. For EU VAT incurred on purchases of services, Northern Ireland businesses must make 13th Directive refund claims.

The EU's One Stop Shop

With effect from 1 July 2021, the EU is to extend its Mini One Stop Shop (MOSS) service into a One Stop Shop (OSS). There will be three versions of the OSS:

- **The Non-Union OSS.** This will be for use by non-EU businesses to report and pay any EU VAT due on all supplies of B2C services to EU consumers, including BTE services, services supplied where performed (e.g. admission to events held in the EU) and land related services
- **The Union OSS.** This will be for EU businesses to report and pay EU VAT on intra EU B2C supplies of services and intra-EU distance sales of goods (where the goods are sent from the seller's state to the customer's state by the seller). The EU's distance selling thresholds will be abolished
- **The Import OSS.** This will be for use by non-EU businesses to report and pay EU VAT due on distance sales of goods to EU consumers in small value consignments worth upto 150 euros (excluding transport, insurance and taxes), though if the sale is made via an online marketplace, the online marketplace will

be deemed to make the sale and have to charge and account for any EU VAT due. The EU's import VAT exemption for goods with a shipment value of less than 22 Euros will be abolished from 1 July 2021

If a UK business wishes to register for the non-union OSS and import OSS it will have to register for each separately in an EU member state. There will be no obligation on UK businesses supplying goods directly to EU consumers to register for the Import OSS. If a UK business does not do this, the EU customer will be responsible for paying any EU import VAT due and this is likely to be collected from the customer by the postal service, courier service or customs agent.