



Welcome to:  
**2 months in – Brexit update and common issues**



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# Post Brexit trading

How is your business coping with EU trading? The heralded Free Trade Agreement and new dawn for UK businesses has proved to pose many challenges.

2 months in.....

Some businesses are coping well and with simple supply chains and the right Customs representation this is achievable.

However, life is not that simple and many businesses are experiencing great challenges and problems.

- Getting goods into the EU – goods stopped at the port due to paperwork or representation.
- EU VAT being charged due to oversight of EU VAT rules with little hope of recovery
- VAT registration requirements in the EU
- Other commercial issues relating to contractual obligations, labelling, health certificates, CE Marks and EU regulatory requirements.





## Post Brexit Trading



### Today we will be talking about

1. A refresher of some basics and identifying the common problems
2. Some do's and don't's
3. The rules of origin
4. VAT issues in and how to deal with these
5. An update of Northern Ireland
6. What to expect if you are going down the EU entity road.

# Post Brexit Trading



## Refresher of the basics

- Postponed import VAT accounting.
  - Do not pay import VAT to clear the goods through UK Customs. It is a VAT accounting entry on the VAT return
  - You do not need to apply to use it
  - You need to instruct your Customs agent/logistics to clear the goods using PVA
  - You download the monthly import VAT certificates via your Government gateway account
  - Import VAT goes in Boxes 1/4/7 on your VAT return.
  - Applies to any imports not just EU.
  - You need to be the owner of the goods to recover import VAT.



# Postponed VAT Accounting



HM Revenue  
& Customs

## Monthly postponed import VAT statement

Period ending 31 August 2018

Another Business

VAT registration number: xxxxxxxx

EORI number: xxxxxxxxxx

Date of import	Movement reference number (MRN)	Declarant	Declarant's EORI number	Declarant's reference number	Vat postponed
09/08/2018	18GB0000xxxxxxx	Declarant 1	GB98xxxxxxxxxx	AB3345MCMxxxxxxxx	£11,415.60
13/08/2018	18GB0000xxxxxxx	Declarant 2	GB98xxxxxxxxxx	AB3345MCMxxxxxxxx	£1,539.58
13/08/2018	18GB0000xxxxxxx	Declarant 2	GB98xxxxxxxxxx	AB3345MCMxxxxxxxx	£1,500.53
18/08/2018	18GB0000xxxxxxx	Declarant 2	GB98xxxxxxxxxx	AB3345MCMxxxxxxxx	£1,822.46
21/08/2018	18GB0000xxxxxxx	Declarant 2	GB98xxxxxxxxxx	AB3345MCMxxxxxxxx	£3,364.92
21/08/2018	18GB0000xxxxxxx	Declarant 2	GB98xxxxxxxxxx	AB3345MCMxxxxxxxx	£2,953.61
23/08/2018	18GB0000xxxxxxx	Declarant 3	GB98xxxxxxxxxx	AB3345MCMxxxxxxxx	£297.62
25/08/2018	18GB0000xxxxxxx	Declarant 1	GB98xxxxxxxxxx	AB3345MCMxxxxxxxx	£1,190.49
26/08/2018	18GB0000xxxxxxx	Declarant 3	GB98xxxxxxxxxx	AB3345MCMxxxxxxxx	£79.04

**Month total: £24,163.85**

### IMPORTANT DOCUMENT

Keep this statement as proof of input tax in your VAT return

Produced 4 September 2018

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# Commercial Invoice

## The Paperwork – Commercial Invoice



### Should include the following:

- Seller details
- Buyer details
- Date of issue
- Invoice number
- Description of the goods (name, Product Code, commodity code, etc.)
- Unit of measure
- Quantity of goods
- Unit value
- Total item value
- Total invoice value and currency of payment.
- The terms of payment (method and date of payment, discounts, etc.)
- The terms of delivery according to the appropriate Incoterm
- Means of transport





## The processes



### Customs Representation

EU customs legislation allows a customs agent to be appointed on either a Direct or Indirect basis. Either the importer or the Customs agents needs to be established in the EU.

#### Direct Representation

- The customs representative acts in the name of and on behalf of another party.
- In most cases, the importer is responsible for any customs debt.

#### Indirect Representation:

- The customs agent acts on behalf of another person, but acts in their own name.
- The customs agent and the importer shall be jointly and severally liable for any customs debt.

**The customs agent should confirm what type of representation is required.**





## Customs Do's and Don'ts

### Do:

1. Ensure you have confirmed Incoterms
2. If using DDP, ensure you confirm your agent can represent you on an indirect basis.
3. Check commodity codes for all goods.
4. Establish origin on goods exported.
5. Ensure all certifications/licences are in place before export.



## Customs Do's and Don't's

### Don't:

1. Use DDP terms unless no alternative.
2. Leave everything to your agent/haulier.
3. Promise something that cannot be delivered.





## Common issues

1. Goods delayed due to incorrect paperwork.
2. Goods held up by importing customs authority (DDP).
3. Import of certain goods are requiring additional physical checks causing significant delays.
4. Each Member State has different local rules.
5. Misconception on origin and movements to/from EU.



31<sup>st</sup> March 2021

## 31<sup>st</sup> March 2021

This is an important date for your diaries because temporary reliefs agreed with the EU will end:

### **Retail Agri-food products require Export Health Certs**

- EHC's will be required to export certain goods from GB.
- Shortage of NI vets could cause significant delays.
- Multiple EHC's will be required for each individual food product.
- EHC's and physical checks will be required in NI.
- Negotiations on 24th February 2021 stalled.
- Further meetings to be arranged to discuss and resolve issue.
- UK to announce new operational plan for supermarkets and their suppliers (TBA).





31<sup>st</sup> March 2021

## **31<sup>st</sup> March 2021**

This is an important date for your diaries because temporary reliefs agreed with the EU will end:

### **EU Chemical Registrations required**

- UK no longer has access to REACH (EU chemicals database).
- UK companies will need to transfer their registrations to EU companies before 31<sup>st</sup> March.
- Registrations not transferred will be cancelled by the EU.
- Those chemicals will no longer be able to be placed on the EU market.



31<sup>st</sup> March 2021

## **31<sup>st</sup> March 2021**

This is an important date for your diaries because temporary reliefs agreed with the EU will end:

### **Parcels to Northern Ireland**

- Customs entries and additional documentation (e.g. Export Health Certs) will be required (<£135).
- B2B Parcel shipments (>£135) will require a customs declaration, via TSS, within 3 months of receipt.





## Origin of Goods

### Rules of Origin

The FTA contains the technical details about when goods qualify as Tariff Free.

### Misconceptions

- FTA = goods can move freely across EU borders Duty (and VAT) free. Like they did pre Brexit.

### Reality

- One shot at claiming preferential rates.
- UK businesses cannot bring in goods under FTA as EU origin and then sell them back to EU as EU origin or UK origin as they do not meet the tests.
- Therefore, moving backwards and forwards will result in Customs Duty being charged on the subsequent movements.
- Customs warehousing and transit are the solution.



## Registered Exporter (REX)

### Registered Exporter (REX)

- REX authorisation required to ship goods of EU origin to certain countries.
- No REX (where required), no export allowed under preference.
- To obtain a REX Number a company **must** be established in the EU (EU Regulation 2447/2015).
- UK companies will need a REX number if they are the Exporter from the EU.
- REX Number stated as part of Statement on Origin on Commercial documents.
- NI companies can apply for a REX number via HMRC – only covers reconsignments to the EU.





## **EU Originating Goods sold back to EU**

### **Scenario**

1. UK company imports clothing of Italian origin into GB.
2. Valid Statement on Origin is shown on the commercial documents so 0% duty paid on importation.
3. The GB company sells goods to an EU retailer.
4. Full rate of customs duty applicable on import into EU (12%).



## Finished Goods and Onward Supplies

### Solutions:

- 1. Hold stock into EU** – Goods will not be subject to customs formalities. UK company will need to be VAT registered in the EU.
- 2. Customs Warehousing and use of Transit** – Import from EU using T2 transit document. Export to EU using new T2 transit document (referring to the initial T2). Goods retain their EU status and will not be subject to any EU Customs Duty (only VAT).  
Customs Warehouse facility and also Authorised Consignee/or will be required.





## Double Duty

### Scenario

1. Consignment of 5,000 pairs of men's leather shoes is imported from China into the UK.
2. 8% Customs duty paid at time of importation.
3. 1,000 pairs of shoes sold to an EU retailer.
4. Full rate of customs duty (8%) applicable on import into EU.
5. Customs duty paid twice on goods that previously only incurred duty once.



## Double Duty

### Solutions:

1. **Retain stock in the EU** – Directly import goods to customers or hold stock in an EU warehouse. Goods will not be subject to double duties. UK company will need to be VAT registered and possibly require an establishment in the EU.
2. **Customs Warehouse** – Import goods without payment of customs duty. On re-export the duty liability is discharged so duty only payable once (even though at full rate).





## Agri-food goods imported from EU (after 1<sup>st</sup> April 2021)

### Scenario

1. Lorry load of products of animal origin (POAO) and processed fish products from France into the UK.
2. Goods can only be imported from an authorised establishment in the EU.
3. **Prior to shipment an Export Health certificate will be required for each different POAO and fish products.**
4. **The EHC's will be completed by the seller and downloaded from the EU's Trade, Control and Expert System (TRACES).**
5. **The products require inspection by a Vet so the EHC's can be stamped.**



## Agri-food goods imported from EU (after 1<sup>st</sup> April 2021)

### Scenario

6. **The EHC's are sent to the French Authority who check against the UK's requirements. Once accepted the EHC's are sent to the seller.**
7. **EHC's provided to the haulier to be carried with the goods.**
8. **UK buyer needs to submit a pre-notification to the UK Authorities via the Import of Products, Animals, Food and Feed System (IPAFFS).**
6. Goods are declared at port of dispatch (Calais) and then again at port of Arrival (Dover).





## Goods imported for processing

### Scenario

1. Parts are imported into the UK from China, USA and Europe for use in manufacturing a skin treatment machine.
2. The finished product is then exported to its customer in the EU.
3. What are the issues for the exporter?





## Goods imported for processing

### Issues:

1. Is the finished product UK originating?
  - a. Check rules of origin and confirm if finished product is UK origin.
2. Are there any restrictions to importing this product into the EU?
  - a. Check with the local customs agent to confirm if any licencing or registrations are required.
3. What customs duties will be liable on import into the EU and what options can minimise this?
  - a. If UK origin, export the goods under Statement on Origin and 0% duty will apply.
  - b. If not UK origin the finished goods will be liable to full rate of duty (4.7%)





## Goods imported for processing

### Solution

- Inward Processing Relief – Import components into UK and not pay customs duties if they are subject to processing.
- IPR and Origin – TCA allows use of IPR and Preference so you can import components and export under preference to the EU so no customs duty is liable.
  - If origin rule cannot be met then IPR would still allow for the imported components to be relieved of the customs duties, minimising the duty impact. Duty would only be paid on import into the EU.







# VAT KEY ITEMS





## EU VAT key items

### In general

- **Export from EU**
  - Who is responsible?
  - Exporter of record for customs if goods exported by non-EU established business
  - Support zero VAT rate – if applied
  - Export and new e-commerce rules in UK
  
- **Import into the EU**
  - Who is responsible?
  - Indirect customs rep if non-EU established business is importer of record
  - Customs duties
  - Import VAT – import VAT deferment license
  - New e-commerce rules of July 1, 2021



## EU VAT key items

### In general

- **Trade within the EU**
  - Determine VAT consequences for supply chain
  - Verify whether any simplification can be applied (triangulation, installation work, etc.)
  - Invoice requirements
  - VAT reporting requirements
  - New e-commerce rules of July 1, 2021
- **Electronic services to consumers**
  - UK established business: register for MOSS in EU country



# EU VAT key items

## Examples

### Example 1

- UK business has B2B and B2C customers in the UK and the EU
- Goods are shipped from China to UK
- Goods are customs cleared into the UK
- Once the goods are sold to EU customers, the goods are shipped from the UK to the EU
- The incoterm DDP is agreed with all customers
- What are the issues and what could be a solution?



# EU VAT key items

## Examples

### Example 2

- UK business provides online cloud solutions to consumers in the EU
- VAT due in EU countries of consumers
- UK business not registered for MOSS in EU, was registered for MOSS in UK
- What are the issues and what could be a solution?





# UK VAT key items

## Examples

### Example 1

- A UK food producer sells and delivers goods to EU businesses
- The goods are of UK origin, so it can provide a “Statement on Origin”
- Freight costs have increased substantially per consignment from 1 January
- The solution is as follows:
  - The business labels goods per individual consignment in the UK
  - Goods are shipped as one bulk consignment on DDP terms
  - The UK supplier is registered for French VAT with an EU EORI
  - The bulk consignment will be broken up into individual shipments in a French cold storage facility
  - Sold to either French or other EU buyers



# UK VAT key items

## Examples

### Example 2

- A UK business buys and sells goods to businesses within the EU
- The goods remain within the EU
- From 1 January, the triangulation simplification cannot be used by a UK supplier
- The UK business should register for VAT in the destination EU member state
- We were informed that there was a 12 week delay to receive a VAT number
- Unless we found an alternative solution, the business would lose the contract
- The solution was as follows:
  - We were able to secure a VAT registration from a third EU country in 48 hours
  - The UK business used triangulation with its EU VAT number
  - This provided breathing space during the 12 week processing delay





## UK VAT key items

### Examples

#### Example 3

- UK sub of Far East parent, EU distributor for goods manufactured in the Far East
- Goods do not benefit from a preferential trade agreement, duty is paid in the UK
- 90% of goods are sold to business and private buyers in the EU
- Goods are not UK origin, the UK business cannot provide a “Statement on Origin”
- The goods are sold for prices ranging from €50 - €500
- The goods are liable to duty and VAT on import into the EU
- The UK business will have an IOSS obligation for sales up to €150 from 1 July
- Potential solutions as follows:
  - UK duty warehouse to avoid UK import duty
  - Shipment from the Far East direct to the EU, only one duty hit
  - In the meantime, does the UK business sell DDP or DAP to its EU customers?



# UK VAT key items

## Examples

### Example 4

- UK clothing business
- Buys raw materials from UK, EU and non-EU suppliers
- Third party manufacturing plant in the EU
- The UK business owns both the raw materials and the finished garments
- Finished garments shipped from the EU to the UK
- Finished garments sold from the UK to UK and EU buyers
- Solutions as follows:
  - UK business registers for VAT in the same member state as the manufacturer
  - Raw materials acquired or imported through its local EU VAT number
  - Finished garments have EU origin as a result of the manufacturing process
  - The UK business may need a duty warehouse in the UK to retain EU origin





## Northern Ireland



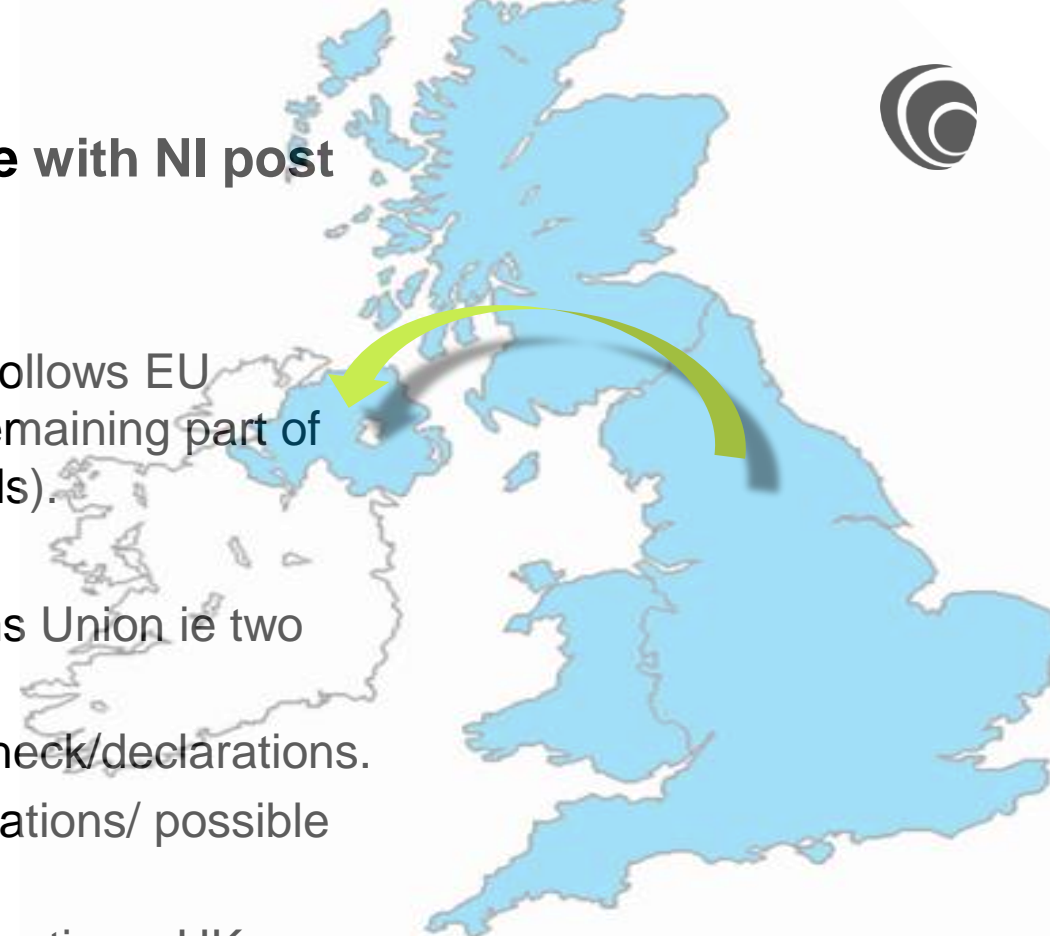
### NI Protocol applies to trade with NI post 31 Dec.

NI is part of EU Single Market follows EU regulations on goods - whilst remaining part of UK (benefits from UK trade deals).

NI is part of EU and UK Customs Union ie two Customs Systems:

- Goods from EU – no tariffs/ check/declarations.
- Goods from GB – TSS Declarations/ possible tariffs for “at risk “ goods
- Goods ROW –Customs Declarations, UK Global Tariff or EU Common Tariff if “at risk goods”

Unfettered access for NI qualifying goods going into GB- No Exit Declarations required on qualifying goods.





Northern  
Ireland



## Great Britain to Northern Ireland - Declarations

- New process for traders, notably new electronic import declaration requirements, and safety and security information.
- Trader Support Service (TSS) will undertake digital processes on behalf of traders – complete declarations on your behalf – but significant amount of work required to provide the info.
- GB Businesses need an XI EORI number to trade with NI





Northern  
Ireland



## Great Britain to Northern Ireland - Tariffs

- UK Trader Scheme-Eligible businesses can register to declare goods as not “at risk”,
- No Tariff’s on goods sold to or provided for final use by end consumers in NI/ UK
- Tariff only due on “at risk “ goods
- Claim a Waiver for duty on goods (“at risk”) - de minimis aid - €200K over 3 years.
- Sending Parcels GB to NI





# Northern Ireland



## Great Britain to Northern Ireland - VAT

- Continue to account for all sales across the UK through your UK single VAT return.
- VAT accounted for as is now on sales to GB continue to charge VAT and show on invoice etc.
- Moving own goods GB to NI only – account for VAT on movement.
- UK VAT group – goods moving GB to NI will have to be accounted for re movement of goods.
- Margin Scheme – reinstated from 01 January 2021.

## VAT – NI/ EU -Goods

- NI Businesses – B2B, Need to be identified as operating under the NI Protocol to avail of reverse charge with EU ( and tell HMRC that is the case) – XI prefix at start of VAT Number. Intrastat returns required.
- NI Business - B2C, UK Vat/ Distance Selling Rules.







# Checklist



**ANALYZE YOUR SUPPLY CHAIN AND PRICING – STILL UP TO DATE POST BREXIT?**



**CHECK YOUR PARTNERS IN CUSTOMS, LOGISTICS AND TAX REPS – ALL SET? ANY CHANGES REQUIRED?**



**CHECK THE CONTRACTS CLOSED WITH ALL PARTIES RELEVANT FOR YOUR BUSINESS**



**ARRANGE ALL FORMALITIES – ADJUST FORMALITIES IF REQUIRED**

**... KEEP CHECKING WHETHER ANY IMPROVEMENTS ARE REQUIRED OR DESIRABLE FOR YOUR BUSINESS!!**

# Brexit Headlines



## UK firms told 'set up in EU to avoid trade disruption'

By Daniel Thomas  
Business reporter, BBC News

8 hours ago | Business  
**UK firms that export to the EU say they are being encouraged by the government to set up subsidiaries in the bloc to avoid disruption under new trade rules.**

Firms have been hit by extra charges, taxes and paperwork, leading some to stop exporting to the EU altogether.



Karel van Oosterom  
@KvanOosterom

Internationally, we the Dutch are seen to be direct and blunt. Our checklist for travel to the Netherlands lives up to that reputation.



Home > Topics > Coronavirus COVID-19 > Travelling to the Netherlands from abroad >

### Checklist for travel to the Netherlands

Do not travel to the Netherlands.

Lord Frost calls for "different spirit" from Brussels

## Brexit: EU relationship 'more than bumpy' since trade deal, says Lord Frost

3 hours ago | UK Politics

The UK's chief Brexit negotiator has criticised the EU for its actions since the trade deal agreed by the two sides came into force six weeks ago.

Lord David Frost said the relationship had been "more than bumpy" and more "problematic" than he had hoped.

He told a committee the EU's **threat to increase controls on vaccine exports to Northern Ireland**, as well as "niggling border issues", were two examples.



# Decided to Set up in Europe

## Going Global | Netherlands

### Netherlands

Once the conditions of having a Permanent Establishment in a particular territory have been met, the following key points should usually be considered:

Key requirements	Response
Main types of entity	Companies: - Private Limited Liability Company (besloten vennootschap or BV) (most common)



Key requirements	Response
Once the company or branch has been set up, what other main registrations are typically required?	Companies and branches must be registered with the Trade Register of the Dutch Chamber of Commerce (Kamer van Koophandel) through which it will receive its tax registration number.  Other registrations may include: - wage tax and social security registration - VAT registration
What information must typically be provided to set up a company or branch?	- Information about: - Ownership / UBO's - Directorship - Corporate details of the company / branch

### Now what?

- ✓ Set Up the Entity - Incorporate the Company / Establish the Branch (Budget / Timeframe)?
- ✓ VAT Registration(s)?
- ✓ Other Tax Registrations?
- ✓ Other Legal Registrations?
- ✓ Local Banking?
- ✓ Local Employees?
- ✓ Local Substance Requirements?
- ✓ Management and Control of New Entity?
- ✓ Which Entity Invoices Clients?
- ✓ Which Entity Makes Which Purchases?
- ✓ Which Entity Holds Stock?
- ✓ Intercompany Charges?
- ✓ Which Entity Bears Which Risks? (FX, Bad Debt, Stock etc. etc.)
- ✓ Intercompany Agreement(s)?
- ✓ Transfer Pricing Requirements?
- ✓ Any disposals from UK to New Entity?
- ✓ Withholding Tax Costs / Requirements?
- ✓ Local Accounting Requirements?
- ✓ Local Tax Compliance Requirements?
- ✓ Impact on Effective Tax Rate of the Group?

**Key is Paperwork, Paperwork, Paperwork**

