Looking ahead at indirect tax after the Brexit transition period

Indirect Tax

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The government has published its policy paper, 'The UK's approach to the Northern Ireland Protocol', which sets out commentary on issues including VAT, customs and excise. The approach will be taken in the event that the UK and the EU do not negotiate a free trade agreement prior to the end of the Brexit transition period on 31 December 2020. It is of note that the Protocol alignment provisions could be temporary, as they will be subject to a vote in Northern Ireland every four years. Should a free trade agreement be agreed, further revisions may be applicable.

VAT rates

After the end of the transition period, Northern Ireland remains bound by EU rules for VAT rates. However, as the UK's current VAT rates are all compliant with the EU rules, this means that existing UK VAT rates will continue in Northern Ireland as for the rest of the UK post-transition; they will not be changed to match VAT rates in the Irish Republic.

There is a provision in the Protocol which allows the UK government, at its discretion, to apply in Northern Ireland VAT exemptions and reductions, including zero rating, corresponding to those applicable in Ireland, so it is possible (but not mandatory) that the UK government could change a VAT rate that is only applicable to Northern Ireland, which could be for specific reasons such as competition or tax-avoidance.

An example of how the VAT rates may apply in the future can be demonstrated by the intended changes in the UK to the taxation of sanitary products from 1 January 2021. The UK will remove its 5% reduced VAT rate on specified products, which will become zero-rated thereafter. As these products are also zero-rated in the Irish

Republic, the UK zero-rate will still be applicable to Northern Ireland.

Customs and excise duties

Article 4 of the Protocol sets out that Great Britain and Northern Ireland are a single customs territory, including for excise. This means that, as set out in paragraph 17 of the policy paper, trading between Northern Ireland and the rest of the UK where the product remains within the UK customs territory will remain as it is now, though there are some limited additional rules for live animals and agri-food. Goods sourced from the rest of the UK that are transported to Northern Ireland for onward transport to the Irish Republic or the rest of the EU (or at 'clear and substantial risk') may be subject to tariffs. The policy paper sets out a four point plan on how the UK's customs union will be delivered in paragraphs 14 to 39, although it is clear that further guidance is still needed for the administrative procedures.

Further parliamentary actions for indirect tax involving transactions with Northern Ireland

There is a parliamentary inquiry being held by the Northern Ireland Affairs Committee called 'Unfettered Access: Northern Ireland and customs arrangements after Brexit' that is considering UK and Irish/EU customs issues. The oral hearing was held in April and the committee has published the 12 written submissions received. We will be monitoring the outcome and publishing further information as it becomes available.

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