Trading in goods post-Brexit

Indirect Tax OMB



01 December 2020

In his second article, *Neil Warren* considers practical VAT issues that will apply from 1 January 2021 when the UK's transitional deal ends with the EU, focusing on goods involving overseas sellers and online marketplaces

Key Points

What is the issue?

Major VAT changes will take place on 1 January 2021 when the UK’s transitional deal ends with the EU. The article considers new VAT procedures that will apply to goods imported from abroad that involve overseas sellers and online marketplaces.

What does it mean for me?

The procedures will differ according to whether the value of a shipment coming into GB exceeds £135. The treatment will also depend on whether the goods being sold by an overseas seller are in GB at the time of the order and also whether the GB buyer is VAT registered or not.

What can I take away?

The article focuses on issues for GB trading in goods. Businesses based in Northern Ireland must consider the Northern Ireland Protocol and any GB businesses that trade in goods with Northern Ireland should be aware of the new Trader Support Service, a free resource to help businesses deal with the changes taking place from 1 January 2021.

What will be the significance of a shipment of goods that arrives in GB from 1 January 2021 that has a value of less than £135? The answer is that the goods will be subject to ‘sales VAT’ from this date, rather than ‘import VAT', if they are being imported by an overseas seller. This is a major change in procedures, and there are some tricky twists and turns to consider. The VAT issues will also affect the buyers of the goods, as well as online marketplaces from which overseas sellers advertise their goods in many cases.

As explained in my previous article, the outcome of the post-Brexit trading in goods is that the same rules will apply for EU and non-EU imports and exports. Therefore, the examples I use in this article for an EU country such as France will extend to non-EU countries as well, e.g. China, and vice versa.

What does this mean in practice?

A private client I act for orders her print cartridges online and was surprised to be recently charged French VAT by a supplier. The answer to her query is easy: the goods came from France and she is not registered for UK VAT, so the sale could not be zero-rated as an intra-EU sale of goods between VAT registered businesses. Also,

the French supplier has obviously not exceeded the UK's distance selling threshold of £70,000 of sales to non-VAT registered customers in the UK on a calendar year basis. If the supplier had exceeded this limit, it would need to register for UK VAT and charge 20% UK VAT on future sales.

So, to cut to the chase, what will be different for this specific deal from 1 January 2021? The answer is that the French supplier will need to register for UK VAT. It will then charge UK VAT on all shipments into GB which are less than £135 in value; i.e. the final selling price charged to the GB customer.

However, in the next section of the article, we look at what happens if the GB buyer is registered for VAT. The French supplier must include a sales invoice with the shipment, so that any customs checks will confirm that VAT has been charged. There will be no customs duty to pay because £135 is the threshold for relief from customs duty but a customs declaration for the goods must still be made.

A VAT registered customer

Let's move the goalposts and consider the impact of the same deal if my client was registered for UK VAT. The outcome is that the French supplier will no longer charge 20% VAT on the shipment from 1 January if it is less than £135. Assuming that my client has provided her UK VAT number at the time of the order, she will account for the VAT on her own return by doing a reverse charge calculation. See *Accountant buying print cartridges after 31 December 2020.*

The impact of this change is that there will be more reverse charging carried out by GB businesses. Is there a problem if the buyer forgets to do this? There is no net VAT payable to HMRC with the reverse charge entries, as long as the buyer does not have any input tax restriction – for example, for exempt or non-business use.

Involvement of online marketplaces

If the French supplier in the previous example holds a stock of goods in GB, perhaps in a warehouse, then it will already be VAT registered here because it is making taxable supplies. This outcome has always applied – and don't forget that an overseas business is not entitled to the £85,000 registration threshold that applies in the UK. A zero threshold applies to non-UK entities.

Let’s move the story onward: the French supplier promotes the sale of its goods on an online marketplace. The first outcome is that the online marketplace must be registered for UK VAT, irrespective of where it belongs. In most cases, it will be obvious if a business is trading as an online marketplace. But to clarify any doubt, HMRC’s definition of an online marketplace is:

‘Any electronic interface (website or mobile application) such as a marketplace, platform, portal or similar that facilitates the sale of goods to customers.’

The VAT changes that will take effect for online marketplaces on 1 January 2021 will only apply to those goods that are being sold by overseas sellers. It is a case of business as usual for the online marketplace’s own goods sold in the UK or for those goods owned by UK based sellers.

For the French supplier, the VAT treatment now depends on a number of different scenarios. This is where things get a bit complicated.

Goods are stored in GB

Imagine the following situation. It is January 2021 and a GB customer orders goods via an online marketplace that are stored in GB and are owned by an overseas business. The VAT outcome will depend on whether or not the GB customer is VAT registered:

- **Customer is VAT registered:** The sale is being made by the overseas seller and not the online marketplace. The overseas seller will have a UK VAT number because it is making UK sales. So, the overseas seller invoices the VAT registered customer and charges the rate of VAT that applies for the goods in question; e.g. standard rated for adult clothing and zero-rated for children’s clothes.
- **Customer is not VAT registered:** The sale is deemed to have been made by the online marketplace; i.e. the online marketplace will invoice the customer and charge the correct rate of VAT. The online marketplace must be registered for VAT. The overseas seller will raise a zero-rated invoice to the online marketplace for the goods and record this sale in Box 6 of its UK VAT return. Zero-rating applies to all goods sold by the overseas seller to the online marketplace.

Goods are outside GB

If the shipment value is less than £135, like my print cartridge, the GB sale is deemed to have been made by the online marketplace; i.e. it will charge 20% VAT to the buyer.

However, if the buyer is VAT registered, it is back to a reverse charge declaration by the buyer again. The invoice from the online marketplace will confirm that the customer must apply the reverse charge. This means that 'sales tax' rather than 'import tax' is being declared on the supply.

If the shipment exceeds £135, import VAT is charged rather than sales tax, with payment being due when the goods enter GB, along with any duty, subject to postponed accounting. See *Online sale of table by Italian business.*

Final tips

As in my article in the November issue of *Tax Adviser*, I have again focused on issues involving goods rather than services. This is because most of the VAT changes and challenges from January 2021 affect goods rather than services. Here are three tips about VAT and goods:

- If your clients have any involvement with the movement of goods between GB and Northern Ireland, be aware of the new Trader Support Service, which is free to use and is there to help. It guides businesses through the challenges of the Northern Ireland Protocol.
- Don't forget that all exports of goods from GB will be zero-rated from 1 January but subject to duty and import VAT when they arrive in another EU or non-EU country.
- Always be clear about the intended outcome of the VAT changes involving overseas sellers. The new procedures are intended to ensure a level playing field for all traders; i.e. ending the situation where overseas sellers often shipped in VAT free goods, to the detriment of domestic businesses.

Accountant buying print cartridges after 31 December 2020

ABC Accountants is VAT registered and has ordered two print cartridges online for £100, each from French Cartridges Ltd. The goods will be delivered in separate

shipments from the French supplier; i.e. each shipment value is less than £135.

Assuming that ABC Accountants has supplied its VAT number at the time of the order, each delivery will be for £100 and not subject to VAT. ABC Accountants will account for the VAT on its own return by doing a reverse charge calculation; i.e. paying £20 VAT in Box 1 of its return and claiming the same amount as input tax in Box 4. The net value of the expense will be recorded in Box 7, the inputs box; i.e. £100 in each case.

Online sale of table by Italian business

Andre is based in Italy and imports a table worth £500 into GB in January 2021, which will be sold through an online marketplace. Andre is VAT registered in the UK and Italy. The table is stored at a warehouse until a customer is found. No VAT is payable at import (postponed accounting) but the goods are declared for customs purposes. The customs declaration can be deferred until 1 July 2021 to help the flow of goods into the country. Andre will account for postponed accounting VAT of £100 in Box 1 of his UK VAT return that includes January 2021 and claim input tax of the same amount in Box 4.

The table is sold for a higher price than expected – a B2C sale for £800 plus VAT. The online marketplace charges £160 of VAT to the buyer and issues a VAT invoice, accounting for output tax on its next VAT return. Andre invoices the online marketplace for a zero-rated sale of £800 from his UK VAT registration and records this amount in Box 6 of his next return.

The online marketplace charges a platform fee of £80 to Andre based in Italy, based on 10% of the selling price. Andre will account for the reverse charge on his Italian VAT return on the payment of £80, based on the Italian rate of VAT.

Note: Andre must be VAT registered in the UK because of the nil registration threshold that applies for a non-UK business. He needs a VAT number as soon as he intends to start trading here.