Brexit: indirect tax update

Indirect Tax

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In our September edition, our article 'Brexit: indirect tax post transition period' (tinyurl.com/yyc363zd) highlighted newly published post-transition government policy and HMRC guidance for indirect tax. This article looks at what has been updated since September, and rounds up other new publications of interest for the post-transition indirect tax position.

The Northern Ireland Protocol: VAT

On 26 October, HMRC published guidance titled 'Accounting for VAT on goods moving between Great Britain and Northern Ireland from 1 January 2021'. The guidance states that for most transactions between GB and NI, VAT will continue to be accounted for in the same manner as at present. There are a number of exceptions highlighted for special customs procedure goods, goods subject to the domestic reverse charge rules, and goods subject to an 'Onward Supply' procedure, so businesses that have supplies falling into these exceptions should take steps to update procedures ready for 1 January 2021.

A number of other changes were highlighted, some of which may have a significant impact to business models and should be considered promptly:

1. **Margin scheme change in NI for GB purchases:** In the guidance, there is a major change for margin scheme goods sold in NI (for example, the second hand margin scheme), where such goods were purchased and shipped from GB, as they will become subject to VAT on the full value when sold. Please note that at the time of writing there are still discussions taking place on this matter so it is possible there could be an update. Margin scheme sales in NI where the goods were purchased in NI or the EU will still be subject to the margin scheme rules.
2. **Movement of own goods from GB to NI:** self accounted VAT due: When there is a movement of own goods from GB to NI, a new self-assessed VAT will

be due in the VAT return. Where these goods are being used to make onward taxable supplies, this VAT can be recovered (subject to the usual input tax rules) so it will operate like a reverse charge with no overall VAT cost. Costs may arise for partially exempt businesses (see also item 4 below).

3. **UK VAT group sales of goods from GB to NI, and within Northern Ireland, by members of a UK VAT group:** Where intra-VAT group supplies of goods move from GB to NI, a self-accounted VAT declaration will become due in the same way as above; these intra-group transactions are not disregarded as they are currently. For fully taxable groups, these VAT accounting entries (and equivalent input VAT recovery) should result in no overall VAT cost. Self-assessed VAT is also applicable to intra-group supplies of goods that are located in NI, where one or both members only have establishments in GB. Costs may arise for partially exempt businesses (see also item 4 below).
4. **VAT adjustments for items 2 and 3:** Where goods are moved from GB to NI in items 2 and 3 above, and where the input VAT is not able to be fully recovered, it is possible that irrecoverable input VAT could be incurred twice (on the initial purchase and then again on the self-assessed VAT entry). To prevent double taxation, HMRC will allow businesses to treat the initial purchase as fully taxable and the restriction on VAT recovery will be applied at the time of the self-assessed VAT return entry. Note that there will be new anti-avoidance rules released in due course.

The Northern Ireland Protocol: excise goods

The new guidance covers various scenarios for movements of excise goods from 1 January 2021.

Financial Services

From 1 January 2021, taxpayers will be able to reclaim input VAT related to the exports of certain financial services products to the EU (on par with current rules for sales to non-EU countries). The government will legislate this by using a Commencement Order to bring into force the VAT (Input Tax) (Specified Supplies) (EU Exit) (No. 2) Regulations 2019.

The Border Operating Model

A second version of this policy document, titled ‘The Border with the European Union – Importing and Exporting Goods’, was issued on 8 October. In pages 8-13, it has a comprehensive navigation guide highlighting new sections and where updates have been completed. Although the document has a broader scope than indirect tax issues, there is more information on postponed VAT accounting, customs declarations and excise duty.

HMRC continues to write to GB taxpayers to encourage compliance

HMRC has written to GB taxpayers (excludes NI) for the third time to encourage them to take any necessary actions for customs/imports/exports from 1 January 2021. The letters for September to November are published on GOV.UK. If you have GB clients that are not registered for VAT but have some EU trade of goods, they will not have received these communications so it would be worth informing them. Also note that even for VAT registered businesses, the receipt of these letters may be impacted by COVID-19 working from home restrictions, so it is worth double checking with clients that they have been received.

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