

UK VAT and Customs Duties: Trading with the EU from 1st January 2021

The UK's relationship with the EU will change fundamentally once the formal Transition Period ends on 31st December 2020. Politically it seems unlikely that the Transition Period will be extended and it remains to be seen if last-minute talks can result in a Free Trade Deal, which is the stated aim of both parties, by that date.

Even if a Free Trade Deal is achieved, the UK is leaving the EU VAT area on 31st December 2020. It remains to be seen if it will leave the EU Customs Union/common tariff area. It is therefore vital that all businesses trading with the EU (particularly in goods) are prepared for the major changes to import and export procedures for VAT and Customs Duties ("tariffs").

This article aims to give an overview of the main changes but the proposals are complicated in nature and we would recommend specific advice is taken in all cases.

This article is divided into the following sections:

| <i>Topic</i> | <i>Page</i> |
|---|-------------|
| 1. SUPPLY OF GOODS | 2 |
| 1.1. Purchasing goods from the EU | 2 |
| 1.2. Supply of goods to the EU | 5 |
| 2. SUPPLY OF SERVICES | 8 |
| 2.1. Supply of services to EU customers | 8 |
| 2.2. Supply of services to non-EU customers | 8 |
| 2.3. Services relating to land and buildings | 9 |
| 2.4. Receipt of services from non-UK businesses | 10 |

1. SUPPLY OF GOODS

1.1 Purchasing goods from the EU

What is the current VAT/Customs Duties treatment for goods brought into the UK from EU VAT registered suppliers?

Currently, goods brought into the UK (“acquired”) from EU VAT registered suppliers, by UK VAT registered businesses, are treated as Zero Rated EC Acquisitions. VAT is both chargeable and reclaimable by the recipient in the same VAT return period, with a NIL VAT affect. If the value of goods acquired exceeds £1,500,000 per annum, then details of these supplies must be included in monthly Intrastat Arrivals Declarations. There are no Customs Duties (“tariffs”) on intra-EU supplies.

What will be the VAT/Customs Duties treatment be for goods brought into the UK from EU suppliers from 1 January 2021?

From January 2021, all supplies of goods arriving in the UK, from EU and Non-EU businesses and individuals, will be treated as imports for VAT purposes, meaning that import VAT (and Customs Duties, where applicable) will be chargeable on any goods consignments exceeding £135.

In terms of Customs Duties, the UK Global Tariff will replace the EU’s Common External Tariff, which may mean that UK duties apply to the import of goods from the EU, depending on the nature of the goods. The proposed new UK tariff can be checked here: <https://www.gov.uk/check-tariffs-1-january-2021>. As mentioned above, last-minute talks are underway in an attempt to maintain a tariff-free trading zone between the UK and the EU but businesses should plan for the worst case scenario of a “no deal”.

How will imports from the EU be dealt with?

From 1st January 2021, new import procedures will be introduced in 3 stages, for the importation of “controlled” and “non-controlled” goods, which will include the requirement to submit Customs Declarations. GB EORI Numbers will also be required, in order to facilitate imports and exports.

What is a GB EORI Number and how do I obtain one?

We have ensured that all of our clients requiring a GB EORI number have now had one issued by HMRC. Otherwise, we would be happy to assist new clients in obtaining such a number.

What are the 3 stages of the new EU import procedures?

Stage 1 (from 1st Jan 2021):

- The importer will have 6 months (for “non-controlled” goods) in which to submit their Customs Declaration and pay any import VAT and Customs Duties due on the import.

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- For “controlled” goods, a Customs Declaration must be submitted upon arrival of the goods, unless placed in temporary storage, in which case a Custom Declaration must be submitted within 90 days.

Stage 2 (from 1st April 2021):

Importers of products of animal origin* (POAO) and regulated plants, will be required to:

- Pre-notify authorities using IPAFFS (Import of products, animals, food and feed system).
- Provide Health documentation.
- Provide phytosanitary certificates for all regulated plants and plant products.

*Products of Animal Origin includes **Honey, Milk, Eggs, Meat and Pet food etc.**

Stage 3 (from 1st July 2021):

- Extended deferment arrangements will end and Customs Declarations will be required at point of entry, when importing ANY goods into the UK.
- Goods subject to sanitary and phytosanitary requirements will be subject to a greater volume of physical checks. Sampling of plant and animal products will now take place at a series of UK border inspection posts.

What are “Controlled goods”?

“Controlled goods” refers to anything which requires stricter customs control, such as alcohol, tobacco, firearms, explosives, rough diamonds, controlled drugs, chemical pre-cursors, endangered species of flora and fauna, but also fish and fish produces.

What are “Non-controlled” goods?

“Non-controlled goods” encompass most goods that would be readily available in high street retail outlets, such as clothing, electrical goods, toys etc. If an item does not appear in the controlled goods list, then it is most likely a “Non-controlled” goods item.

What is a Customs Declaration?

Custom Declarations are completed upon import of goods into the UK and inform HM Revenue & Customs of all necessary information, in order for the goods to be cleared into the UK.

How are Customs Declarations submitted?

Customs Declarations are usually submitted electronically via the CHIEF system (Customs Handling of Import and Export Freight). Traders can appoint a person or business to help deal with their customs Declarations. This could be a Freight Forwarder, Customs Agents, or Parcel Operator etc. From 1st January 2021, anyone appointed to deal with your Customs Declarations must be established in Great Britain or Northern Ireland.

Can a trader submit their own Customs Declarations?

Traders can submit their own Customs Declarations, but in order to do so, they must do the following:

- Apply for access to use the CHIEF system
- Obtain 3rd Party software, in order to submit declarations via the CHIEF system.

Some traders may be eligible to submit a Simplified Declaration at point of entry into the UK.

What are Simplified Declarations?

At their initial stage, Simplified Declarations do not require as much information as a full Customs Declaration and instead, allows the trader to provide the additional information at a later date, using a Supplementary Declaration.

There are 2 types of Simplified Declaration, which are as follows:

1. “Simplified Declaration Procedure” entails:
 - Check if the goods can be entered onto a simplified frontier declaration.
 - Submit a simplified frontier declaration to Customs Handling of Import and Export Freight (CHIEF) system.
 - Submit a supplementary declaration.
 - Submit a final supplementary declaration
2. “Entry in the declarant’s records” entails:
 - Check if the goods can be entered into your own records.
 - Clear your goods into free circulation by entering their details in your own records.
 - Submit a supplementary declaration.
 - Submit a final supplementary declaration.

Who can use Simplified Declarations?

Again, these can be completed by the trader, or authorised 3rd parties, such as Freight Forwarders, Customs Agents etc, however persons wishing to submit Simplified Declarations are subject to the following conditions:

Those wishing to submit “**Simplified declaration procedures**” must:

- be established in the UK or EU
- have a good customs compliance record, including VAT returns and duty deferrals
- show how you’ll keep within your deferral account limit
- show how you’ll identify and report any errors found after you’ve submitted your final supplementary declaration to the simplified customs procedures National Assurance Team, where applicable
- carry out declaration procedures to a professional standard
- make sure the applicant, directors and senior employees are free of any criminal records that would prevent HMRC from giving authorisation

- have procedures in place to ensure you do not import prohibited goods
- have licences for any restricted goods
- have procedures in place to manage declarations

Those wishing to submit “**Entry in the declarant’s records**” must adhere to the conditions above, but also show that:

- you’ll record all declarations for no less than 4 years after their submission date
- you can meet licensing and other control requirements
- you manage your business in a way that allows customs to make effective compliance checks for example, how:
 - you keep the audit trail
 - your business records are backed up and kept secure
 - you identify and handle errors related to the flow of goods

Traders wishing to apply for authorisation to use Simplified Declarations, must complete form C&E48.

What is a Duty Deferment Account?

A Duty Deferment account allows traders to make monthly payments of import charges, such as import VAT, Customs Duty and Excise Duty, instead of paying lump sums by consignment.

1.2 Supply of goods to EU business customers

What is the current VAT treatment for goods sold from the UK directly to EU VAT registered customers?

Currently, goods sold directly from the UK, by UK VAT registered suppliers to EU VAT registered customers, are treated as Zero Rated Intra-Community supplies. No VAT is applicable, but the customer must account for EC Acquisition VAT in the country of arrival (NIL VAT affect). The UK supplier must include details of these sales on their EC Sales Lists and if the value of these supplies exceed £250,000 p/a, they must also be included in monthly Intrastat Dispatches declarations.

What is the current VAT treatment, for goods sold from the UK, directly to EU consumers (B2C)?

Currently, goods sold directly from the UK, by UK VAT registered suppliers to EU consumers, are treated as UK standard rated supplies, subject to distance sales thresholds in the country of receipt, at which point overseas VAT registration may be required.

What will be the VAT treatment, for goods sold from the UK, directly to EU customers, after January 2021?

After January 2021, goods sold directly from the UK, by UK VAT registered suppliers to either EU VAT registered customers, or EU consumers, will be treated as Zero Rated Exports. Any such supplies will no longer be subject to Intrastat Dispatches declarations and will not be required for inclusion in quarterly or monthly EC Sales Lists.

How will Exports from the UK be dealt with?

From 1st January 2021, Customs Declarations will be required, for all supplies of goods made to EU businesses or EU individuals.

How are Customs Declarations for Exports submitted?

Customs Declarations for Exports are usually submitted electronically via the National Export System, before the goods arrive at the port of export.

Again, traders can appoint a person or business to help deal with their customs Declarations (Freight Forwarder, Customs Agents, or Parcel Operator etc.).

Can a trader submit their own Customs Declarations?

Traders can submit their own Customs Declarations, but in order to do so, they must do the following:

- Register for the National Export System
- Obtain 3rd Party software, in order to submit declarations via the National Export System.
- Be Authorised by HMRC

Some traders may be eligible to submit a Simplified Declarations.

What are Simplified Declarations for Exports?

As with Simplified Declarations for Imports, these do not require as much information as a full Customs Declaration at their initial stage, but instead, allows the trader to provide the additional information at a later date, using a Supplementary Declaration.

There are 2 types of Simplified Declaration, which are as follows:

1. "Simplified Declaration Procedure" entails:
 - The first part of this declaration is called 'pre-shipment advice' where you submit basic details of your export to customs.
 - In most cases, you submit this electronically to the Customs Handling of Import and Export Freight (CHIEF) system. You do this using the National Export System.
 - You will need to present your goods at a UK or EU port or airport, an inland clearance depot or a designated export place. A designated export place is an inland location approved by customs.
 - When your goods are cleared, you can usually then load and ship them without needing to present any supporting documents.
 - Supporting documents may be needed for some prohibited or restricted goods.
 - You'll still need to give customs more information, but you send it later in a supplementary declaration.

2. “Entry in the declarant’s records” entails:

- Your goods must be directly exported from the UK but you can clear your goods by entering information about your goods in your own records.
- You can do this when your goods are on your own premises or in an approved customs warehouse.
- This type of submission can only be used for goods that do not need a pre-departure declaration.
- You cannot clear excise goods or goods that need a licence by entering their details in your records.
- You’ll still need to give customs more information, but you send it later in a supplementary declaration. This lets customs work out the VAT and duty you’ll need to pay.

Who can use Simplified Declarations for Exports?

Again, these can be completed by the trader, or authorised 3rd parties, such as Freight Forwarders, Customs Agents etc, however persons wishing to submit Simplified Declarations are subject to the following conditions:

Those wishing to submit **“Simplified declaration procedures”** must:

- have a good customs compliance record, including VAT returns and duty deferments
- have a regular pattern of customs declarations against your Economic Operator Registration Identification (EORI) number
- show how you’ll record all declarations for no less than 4 years after their submission date

Those wishing to submit **“Entry in the declarant’s records”** must adhere to the conditions above, but also show that:

- you manage your business in a way that allows customs to make effective compliance checks – for example, how you maintain the audit trail, how your business records are backed up and kept secure and how you identify and handle errors related to the flow of goods and use of customs agents
- you can carry out declarations procedures to a professional standard
- the applicant, directors and senior employees are free of any criminal records that would prevent HMRC from granting authorisation
- you have procedures in place to ensure you do not export prohibited goods or goods subject to a licence

You’ll also need to allow customs to audit your system, providing staff with access to a suitable office, a toilet and car parking, free of charge, if requested. This is for either simplified declaration procedures or entry in your records applications.

2. SUPPLY OF SERVICES

In comparison to the position for goods, the changes to the VAT treatment of services are relatively minor and should have a minimal or zero impact on VAT cash-flows and liabilities for both businesses and consumers.

2.1 *Supply of UK services to EU and Non-EU business customers (B2B)*

What is the current VAT treatment for services provided to EU business customers (B2B) by UK VAT registered suppliers?

Currently, the default VAT position (“default rule”) for such supplies (B2B) is that the supply is deemed to be supplied where received, e.g. if the business customer is in Italy, then the supply is deemed to be made in Italy and consequently outside the scope of UK VAT.

The EU business customer accounts for reverse charge VAT in the country of receipt and a corresponding EC Sales List will be filed by the UK business, stating the value of the supply and the corresponding VAT number of the EU customer.

What will be the VAT treatment for services provided to EU business customers (B2B), after 1st January 2021?

After 1st January 2021, all such supplies will still be outside the scope of UK VAT (i.e. UK VAT will continue not to be charged). The EU customer will still be required to account for reverse charge in the country of receipt.

EC Sales lists will no longer need to be submitted by the UK business when making such supplies,

What is the current UK VAT treatment for services provided to Non-EU business customers?

Again, the default VAT position for such B2B supplies is that the supply is deemed to be supplied where received and therefore outside the scope of UK VAT. There is no requirement for an EU Sales List.

What will be the UK VAT treatment for services provided to Non EU-business customers after 1st January 2021?

There will be no change.

2.2 *Supply of UK services to EU and Non-EU end consumers (B2C)*

What is the current VAT treatment for services provided to EU end consumers (B2C) by UK VAT registered suppliers?

Currently, the default VAT position for such B2C supplies is that UK VAT must be applied and paid to HMRC by the

UK VAT registered business.

B2C supplies of digital services (online supplies of magazines, music, games, web hosting, advertising, software, telephone services, internet access, live streaming etc.) are dealt with under the UK/EU MOSS system (Mini One Stop Shop). The UK trader must register for the MOSS system with HMRC and submit one calendar quarterly MOSS return each quarter. This allows the trader to calculate and make payment of VAT in each member state in which such supplies are being made.

No EC Sales List is required to be submitted as the supply has not been made to an EU VAT registered business.

[What will be the VAT treatment for services provided to EU end consumers \(B2C\), after 1st January 2021?](#)

There will be no immediate changes to the UK VAT legislation concerning B2C supplies of services to EU consumers (aside from those of a digital nature). As it stands, UK VAT would still be chargeable and payable in the UK after 1st January 2021.

It is felt likely, but not yet confirmed, that the B2C general rule governing supplies of certain services to EU end consumers will follow the current treatment of such supplies made to Non-EU consumers, i.e. outside the scope of VAT. This would include consultancy, accountancy, trademarks & licenses etc. (which are commonly known as “Schedule 5 services”).

Furthermore, from 1st January 2021, the UK MOSS system will come to an end, so UK traders continuing to make B2C supplies of digital services to EU consumers will be required to register for the MOSS system as a Non-EU trader in another EU member state, in order to account for EU VAT on these supplies.

It is assumed that most UK traders would opt to register for this system in Ireland in order to avoid a language barrier.

[What is the current VAT treatment for services provided to non-EU end consumers \(B2C\) by UK VAT registered suppliers?](#)

Currently, all such supplies are entirely outside the scope of VAT.

[What will be the UK VAT treatment for services provided to Non-EU end consumers after 1st January 2021?](#)

There will be no change.

2.3 Services relating to land and buildings

The supply of services relating to land and buildings is not subject to the default “place of supply” rule and this will continue as outlined below.

[What is the current VAT treatment for services relating to land and buildings supplied by UK VAT registered businesses?](#)

Currently, supplies of land-related services to both EU and non-EU businesses and EU consumers are deemed to

be supplied where the land itself is situated. If the land is in the UK, the service is subject to UK VAT regardless of the location of the recipient of the service.

There is limited exception to this in the form of an extension to the “reverse charge” rules (which states that if an EU VAT registered business makes a supply of land-related services in connection with UK land or property, to a UK VAT registered business, then this should be accounted for as reverse charge by the UK business on their UK VAT return).

What will be the VAT treatment for services relating to land and buildings supplied by UK VAT registered businesses after 1st January 2021?

The current legislation will continue to apply, such that UK land-related will continue to be chargeable to UK VAT regardless of the location of the recipient. It is not clear yet whether the limited reverse-charge treatment will continue but at present it must be assumed that it will.

2.4 Receipt of B2B “default rule” services from EU and Non-EU suppliers after 1st January 2021

What is the current VAT treatment for the receipt of B2B “default rule” services from EU and Non-EU suppliers?

Currently, all such services received from outside the UK are deemed to be supplied in the UK and are subject to reverse charge VAT accounting on the UK trader’s VAT return.

What will be the VAT treatment for the receipt of B2B “default rule” services from EU and Non-EU suppliers after 1st January 2021?

The VAT treatment will not change after 1st January 2021, as all such services are treated as reverse charge supplies already, irrespective of whether they are received from an EU business or Non-EU business.

Verfides will continue to keep you updated with any developments. In the meantime, please do not hesitate to speak to your usual Verfides advisor for further assistance, or email or call the Tax Team: tax_team@verfides.com; call +44 20 7930 7111.

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