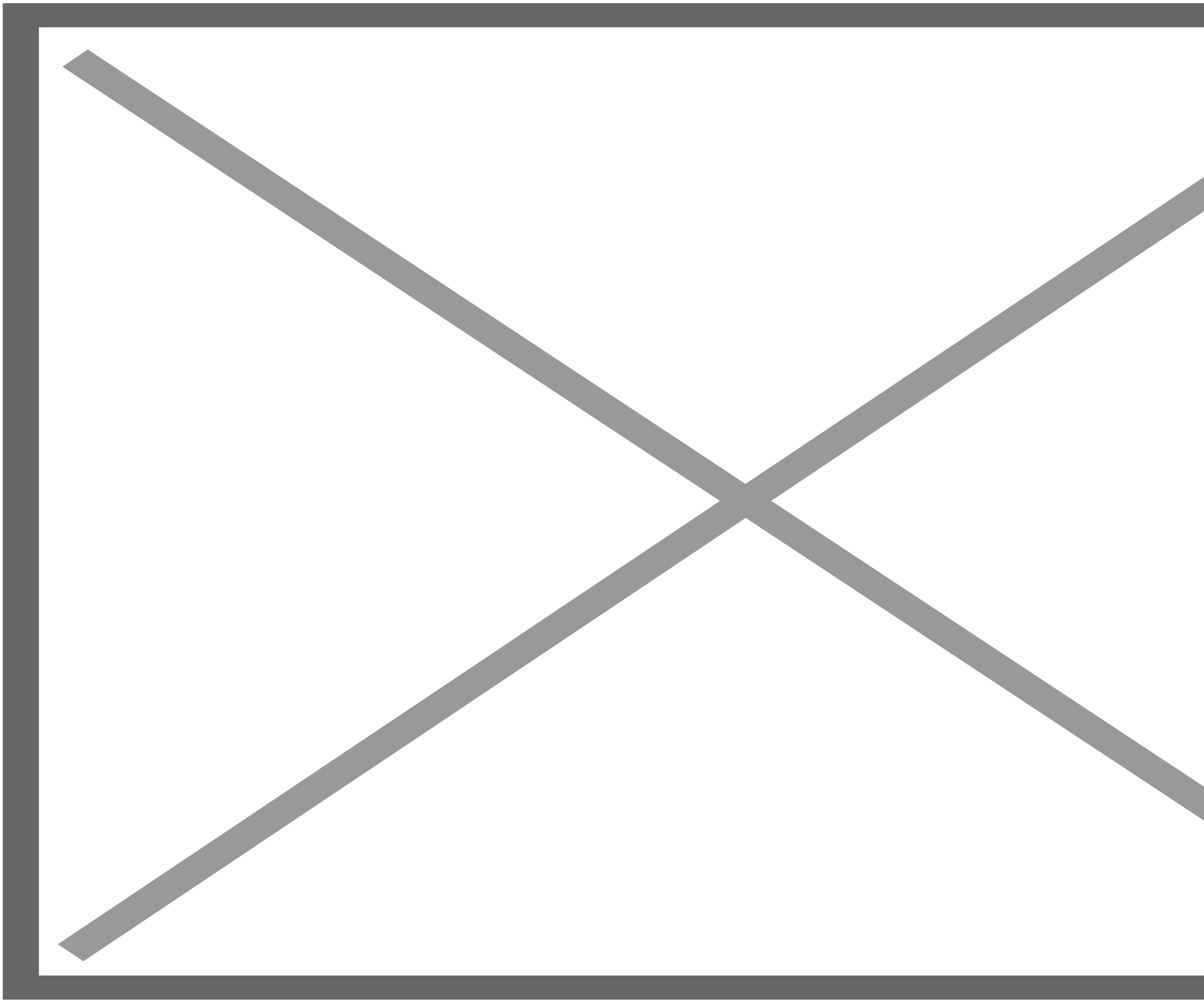
Ready for action

Indirect Tax International Tax Large Corporate



12 March 2019

Robert Marchant puts together a list of actions businesses can take in the event of a 'no deal' Brexit

Key Points

What is the issue?

With uncertainty surrounding the terms of the UK's departure from the EU, how should businesses prepare for a 'no deal'.

What does it mean to me?

Brexit is likely to create a new trading environment which will impact on every business in the UK.

What can I take away?

Ten practical actions that businesses can take immediately.

At the time of writing, the government has faced a number of defeats in the House of Commons on several versions of their proposed Brexit deal. For some people this means that the prospect of a 'no deal' Brexit is becoming increasingly likely. Given there is not much time until the UK leaves the EU on the evening of 29 March, the short timeframe increases the urgency for businesses to review the potential impact of a 'no deal' Brexit on their organisation and to take contingency steps where necessary. So what can businesses do to prepare for a 'no deal'?

In many ways their planning should be no different to other business decisions; it is essentially about managing risk and every owner of a business should be planning for the unknown. Brexit, and whatever form it takes, is certainly full of unknowns, but that is no reason why owners can't take steps to reduce the risk. This should be done with offsetting the biggest potential benefits for the lowest possible cost.

At the end of 2018, Crowe (National Audit, Tax, Advisory and Risk firm) conducted research among 130 small businesses about their plans for Brexit, in light of the parliamentary wranglings. According to our research, only a tiny minority (4%) had introduced any sort of change ahead of Brexit, while 80% had taken no active steps to prepare. A policy of 'wait and see' may be a valid approach for some, but, as expected, we have seen a significant increase in businesses taking steps to proactively manage the position.

Like in any time of uncertainty, there are some straightforward things that business owners can do immediately. Firstly, it is important to reassure your customers, suppliers and workforce. Business will carry on, there may be some changes, perhaps some delays but all companies will be working as much as possible to ensure their business runs as normal.

Planning for change

The key questions and risks concerning businesses are:

- Will I still be able to sell my goods/services to EU customers?
- Can I move goods in and out of the country?
- Will there be delays at the border?
- Will I have to pay duty?
- How easy will it be to pay and receive money?
- Will EU citizens still be able to work for UK companies?
- Who will regulate UK products and services?

In developing a plan, a key first step is to assess the parts of a business' activities which may be impacted by Brexit, as this will be the foundation of contingency planning. From an international trade perspective, it can be difficult to understand all the types of purchases and sales a business makes and the physical and legal flows, but these will all need reviewing to pinpoint the areas that could be impacted. For businesses who primarily trade in goods, the possible creation of a customs border between the UK and elsewhere will result in a change to the import/export process and possibly an increase in customs duty and VAT costs.

For services businesses the issues are likely to be more about the regulatory position and access to the right labour.

Businesses should consider carrying out workforce planning to understand existing and future employee needs to assess the impact of changes to the freedom of movement. Those considering corporate relocations should understand the tax implications for both the organisation and its employees for all of the candidate locations being considered.

Top 10 practical actions to take

Against this background, the top 10 actions that could have the biggest impact, no matter what type of Brexit takes place are:

1. **Understand the impact of regulatory changes.** Can you still sell your goods and services into the EU? Are the goods and services you buy from the EU still acceptable in the UK and vice versa? If not, what can you do about it? Do you need an EU presence in order to be able to satisfy EU regulatory requirements?
2. **Consider incorporating an EU company.** It's relatively quick and not that expensive and can be done in English. Ireland will be the biggest English-speaking country in the EU. Having an EU-based subsidiary will ensure a legal presence within the bloc that can be used to fall within the EU regulatory requirements. If you choose this route, think through what this means for your company infrastructure – where will the bookkeeping be done, will management need to devote time to it, what about VAT and tax registrations?
3. **Open an overseas bank account.** Opening bank accounts anywhere is not as easy as it used to be. If banking becomes complicated post-Brexit, having a bank account in the EU will allow customers to pay you and debts to suppliers to be satisfied. Having a ready to use bank account ahead of the rush could pay dividends in the short run.
4. **Apply for an EORI number.** Currently, as the UK is part of the EU Customs Union, businesses do not need to 'import' goods bought to the UK from the EU. Businesses would also be required to make full import declarations and pay duties before the goods are released from customs. However, taxpayers importing from the EU can register to use the transitional simplified procedures (TSP), which have been introduced. TSP allows for the full declaration and payment of duties to be deferred.
5. **Apply for Authorised Economic Operator (AEO/trusted trader status).** If a UK/EU free trade area, or something similar, is not agreed, one possible solution to the extra checks and likely delays that could arise at the border, is AEO status. This is an EU wide concept that has existed for many years and is internationally recognised. AEO status indicates that qualifying businesses' roles in international supply chains are secure, and that they have efficient and compliant customs controls and procedures. AEO registration is voluntary, but it already brings certain procedural and financial benefits for businesses engaged in international trade. One of the government's proposals at the moment is that AEO status, or a UK equivalent, would reduce the documentary requirements when importing goods into the UK and the clearance process would be quicker as fewer physical inspections would be needed.
6. **Consider use of customs warehouses.** A customs warehouse allows traders to store goods with duty or import VAT payments suspended, thus negating the risk of double customs duty noted above. We are working with a number of businesses to explore the feasibility of using customs warehouses for their operations. They could be particularly beneficial for those who bring goods into the UK before they are

subsequently shipped out of the UK.

7. **Increase inventory held in key EU locations.** If it becomes clear that there may be border delays, having increased amounts of stock in the EU available to your customers can give much needed flexibility – both to ensure that delivery times are maintained, but also allowing invoicing and cash flow cycles to continue unimpeded.
8. **Consider support to EU nationals in your workforce.** Have you identified all the EU nationals you employ and reviewed whether or not they will qualify for settled status? If they will, will your business help them and their family with their applications?
9. **Review the workforce requirements to support your business plan.** If you have previously had a high number of EU workers and are predicting a drop in their numbers what actions can you take to address the deficit? For example, what role could apprenticeship schemes play? If your business plan involved new overseas locations, where will you find employees, how will you pay them, what skills will they need? Will they relocate from the UK? Will they be new hires?
10. **Review whether withholding taxes on interest, dividends and royalties could be an issue post Brexit.** Is there any scope to prepay prior to Brexit?

To help make the right decisions at each step of the above and beyond, it is also worth seeking specialist advice to look at your business operations more generally. Specialist advisors are adept in spotting and addressing issues that you may have overlooked, or not had the chance to think about.