Brexit: indirect tax post transition period

Indirect Tax

28 August 2020

The government and HMRC have started publishing new guidance for indirect tax issues post the EU transition period from 1 January 2021. In this article, we round up the main publications so far and highlight points of interest for indirect tax.

The Border Operating Model

An important policy paper that sets out what post-transition period importing and exporting will look like is the 206 page: ‘The border with the European Union – importing and exporting goods’ (https://tinyurl.com/y37c7k7o). Northern Ireland Protocol matters are covered by separate guidance, highlighted below. It is important to note that for the post-transition period, when the guidance mentions Great Britain, it is referring to England, Scotland and Wales only; and it is only where it mentions the United Kingdom that Northern Ireland is also included. As the UK’s two letter country abbreviation for cross border transactions is ‘GB’, this could be an easy misunderstanding to make. Points of note include (where subjects are also published on GOV.UK, links are shown):

a. The processes for moving goods between GB and the EU (https://tinyurl.com/y362lfcl) and vice-versa (https://tinyurl.com/y4c7m2bm);
b. Important dates for importers: January, April and July 2020;
c. The six month customs declaration deferral scheme (https://tinyurl.com/yxhk7aj7);
d. The ‘controlled goods’ list that must have full import declarations from 1 January 2021 (https://tinyurl.com/y6yy336s);
e. Technical information about various cross-border supply chains; and
f. Intrastat: reporting obligations for arrivals will continue in 2021; it is silent on the position for dispatches.

Supplementary guidance to the Border Operating Model has subsequently been published. Some of the topics this guidance covers are set out below.

Postponed VAT accounting guidance for imports

The guidance sets out the postponed VAT accounting rules for imports into the UK from EU and non-EU countries (some NI transactions are excluded), setting out changes to the VAT return and the circumstances where this does and does not apply. Taxpayers do not need to apply for the scheme.

1. Completing the VAT return to account for import VAT (https://tinyurl.com/yx9hp6ov)

This introduces the new online monthly statement and where you add postponed accounting data to the boxes in the VAT return. You will also need to consider if changes are needed to the format of accounting software to capture this data in the VAT records after the transition period:

Box 1: VAT due in this period on imports accounted for through postponed VAT accounting.
Box 4: VAT reclaimed in this period on imports accounted for through postponed VAT accounting.
Box 7: Total value of all imports of goods included on the online monthly statement, excluding VAT.

2. Check when you can account for import VAT on your VAT return (https://tinyurl.com/y5xgdyqj)

This sets out the circumstances when you can and cannot account for import VAT on the VAT return, and when taxpayers must do so. It also touches on agents and low value consignments.

Low value imports of goods not exceeding £135

This guidance (https://tinyurl.com/yxvm9ew4) gives additional details on the responsibilities of online market places and overseas sellers, the change in VAT reporting timing from import to point of sale, how the £135 value is calculated, B2B transactions not exceeding £135, and the customs duty position.

Northern Ireland Protocol

The policy paper 'Moving goods under the Northern Ireland Protocol' (https://tinyurl.com/yy82lzka) sets out the different indirect tax administrative positions and processes (some anticipated due to ongoing negotiations) for different types of UK and cross-border transactions of goods. These include:

- **Section 1: moving goods from Northern Ireland to Great Britain**
  Though these transactions should benefit from 'unfettered access' status and hence no difference to the current procedures, there is guidance on extremely limited exceptions, and the availability of the Trader Support Service.

- **Section 2: moving goods from Great Britain to Northern Ireland**
  This introduces the new digital declarations required by GB taxpayers, the new Trader Support Service, processes for sanitary and phytosanitary goods (measures to protect from diseases/pests/contaminants), manufactured goods, and highly specialised goods.

- **Section 3: moving goods from Northern Ireland to the European Union**
  This provides more information on how NI businesses have unfettered access to the GB market whilst also having free circulation for EU markets.

- **Section 4: moving goods from Northern Ireland to the rest of the world**
  The rules for importing to and exporting from NI will continue broadly as they do today, though the Trader Support Service can be accessed.

Supplies of services are not impacted by the above rules, which cover goods only.

The Northern Ireland Affairs Committee published its report, 'Unfettered Access: Northern Ireland and customs arrangements after Brexit' (https://tinyurl.com/y45g8cw3) and the submissions from stakeholders with their concerns. The report's key recommendations are that the government must:

1. clarify the process and criteria by which Northern Ireland goods will be given qualifying status and so benefit from unfettered access;
2. ensure that Northern Ireland businesses do not face new upfront or ongoing costs in order to move goods from Northern Ireland to Great Britain;
3. set out, in a timely fashion, how it will facilitate unfettered access if it does not secure a waiver from export declarations and exit summary declarations in the Joint Committee;
4. commit to covering the costs to businesses of complying with the Protocol; and
5. publish terms of reference for the forum, so that its purpose can be properly understood, and it must clarify how it will engage small businesses and trade unions.

The government’s response is due by mid-September. The term 'unfettered access' was set out in ‘The UK’s Approach to the Northern Ireland Protocol’ (https://tinyurl.com/yy7czxzo) and refers to customs arrangements that do not impede UK businesses moving goods in both directions between NI and GB after transition.

The CIOT continues to work with HMRC’s Joint Customs Consultative Committee sub-groups (Northern Ireland Protocol/EU Transmission), and have engaged with HMRC on specific NI protocol issues.

Proposals for NI from the European Commission (EC)

The EC published its proposal to amend EU VAT rules (https://tinyurl.com/y3cz2qor) for NI businesses after the transition period, which includes a special identification number so that supplies from NI to the EU (and vice versa) will be reported in the same as cross-border supplies of goods within the EU. Supplies of services are not affected and will be subject to UK VAT rules. Proposals for updates to excise rules for NI businesses are also anticipated (not available at the time of writing).