



# BREXIT Alert

## UK & EU agree historic trade and cooperation agreement

29 December 2020

### Summary

On Christmas Eve, the UK's Prime Minister Boris Johnson announced that the United Kingdom and the European Union had reached an historic trade and cooperation agreement which will govern the relationship between the two parties for the foreseeable future.

The agreement is subject to ratification by the Member States and by the European Parliament and Council and is also subject to a Parliamentary vote here in the UK.

The Member States gave the agreement their approval at a meeting of EU Ambassadors on 28 December and the UK Parliament is to debate the agreement and vote at an emergency Parliamentary session on 30 December 2020.

With the Conservatives holding a substantial majority in Parliament, it is unlikely that there will be any major obstacles to prevent the agreement coming into force. Accordingly, it seems 99.9% certain now that the Brexit deal will come into legal effect at 11pm (UK time) on Thursday 31 December 2020 with all that that entails.

From an indirect tax perspective, the main changes have been trailed well in advance. As far as Value Added Tax is concerned, the most significant changes relate to the movement of goods to and from the remaining EU. Historically, these have been treated as acquisitions and despatches with any VAT due in the Member State of arrival. From 1 January, these concepts will disappear and all goods traded between the UK and any other country will be regarded as imports or exports requiring customs formalities at the port of departure and arrival. The Brexit deal ensures that, whilst customs formalities will be necessary, there will be no additional tariffs (customs duties) to pay.

There are some complex rules surrounding the trade in goods between Great Britain (the UK excluding Northern Ireland) and Northern Ireland and there are some new VAT rules relating to supplies of services. In addition, UK businesses will no longer be able to use the Mini One Stop Shop in relation to supplies of digital / electronic services.

### UK / EU trade deal will have a major impact on businesses from a VAT and Customs perspective.

Well, it wasn't quite left until the last minute, but it was close. Having briefed beforehand that 'no-deal' was the expected outcome of the negotiations between the UK and the EU, Prime Minister Boris Johnson announced on Christmas eve that, subject to ratification by the Member States, the EU Parliament and the European Council a trade and cooperation agreement has been reached.

The agreement, consisting of 1,246 pages plus annexes and protocols confirms that the UK and the EU have agreed to "unprecedented 100% tariff liberalisation". This means that there will be no tariffs or quotas on the movement of goods between the UK and the EU. (To qualify for tariff-free access, organisations will need to meet Rules of Origin (RoO) requirements, proving that the goods originated in the UK). Although the agreement is subject to ratification and Parliamentary debate, it is not expected that any significant amendments will be made. The agreement therefore heralds a new relationship with Europe which will begin immediately (on 1 January 2021).

From an Indirect Tax perspective, the fact that the UK will trade as a sovereign state means that VAT and customs rules will need to change. The majority of these changes have been notified in advance and legislation is already in place. The new rules will come into force from 1 January 2021. The main changes affecting businesses are as follows:

- Goods arriving from EU Member States will no longer be regarded as acquisitions. The arrival of the goods will be classed as an import and Customs formalities will apply. A Customs declaration will be required (albeit no customs duty will be payable) and any VAT payable on importation will be reclaimable in most cases through the importer's VAT return.
- Goods arriving from other jurisdictions will continue to be treated as imports for customs and VAT purposes.
- Goods moving from the UK to EU Member States will no longer be classed as 'despatches' but will be full-blown exports requiring an export declaration in the UK and an import declaration at the destination.
- The movement of goods between GB and Northern Ireland will be subject to special rules arranged under the Northern Ireland Protocol. In essence, whilst Northern Ireland will remain part of the UK, the trade in goods between GB and NI will be treated as if NI remained as a Member State of the EU (these rules are particularly complex and require careful study).
- UK businesses supplying digital services to consumers in the EU will no longer be able to account for VAT by using the UK's MINI One Stop Shop (or MOSS). Affected businesses will need to either register for VAT in an EU Member State (and use that State's MOSS equivalent) or it will need to apply for the Non-Union MOSS scheme.
- Businesses supplying services will need to consider the place of supply rules for VAT purposes to determine whether registration for VAT will be required in an EU Member State.

**Comment – whilst an agreement has been reached, (which is infinitely better than 'no-deal'), the details are still very fresh and will need to be scrutinised in much greater detail. There will, undoubtedly, be hiccoughs along the way as the new system beds in but, for those businesses that have prepared for Brexit, trade should continue without major disruption.**

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