



# Brexit alert

## EU and United Kingdom agree transitional deal

March 2018

### Summary

On 19 March 2018, with just over a year to go before the UK officially leaves the European Union, negotiators from both sides have reached a significant agreement on VAT & Customs issues.

There are still a number of areas where there is no agreement between the sides and these will be subject to further negotiations over the next few months. However, there are areas of the Brexit process – including areas affecting the VAT & Customs procedures - that have been agreed at negotiator level. These provisions have still to be finally agreed by the remaining Member States and the UK.

From an indirect tax perspective, the main point of interest to UK businesses is the fact that there will be a transitional period until 31 December 2020. Although the UK will 'leave the EU' in March 2019, businesses will be able to continue to benefit from the Single Market and Customs Union provisions until the end of the transitional period.

UK businesses will be able to treat the movement of goods to and from other EU Member States as intra-EU movements and, from a VAT perspective, the provisions of the VAT Directive will continue to have effect in the UK until the end of the transitional period.

### The UK and EU negotiate a transitional period

There has been a great deal of speculation over the last 18 months or so about what the economic and business world will look like after the UK has 'Brexit' from the European Union in March 2019. It has always been reasonably clear however that, by leaving the EU, the UK would be expected to exit from both the Single Market and the Customs Union and there were fears that, come March 2019, UK business would face a cliff edge. Following negotiations between the UK and the EU, a draft 'agreement in principle' has been reached. There are many areas where the parties have still to find common ground, but on 19 March 2018 – almost a year before the UK's exit, David Davies, the Minister responsible for negotiating the UK's exit and Michel Barnier, the Union's Chief negotiator published [the draft agreement](#). There are many areas of agreement – albeit at negotiator level but which will only be subject to technical legal revisions in the coming weeks – including areas relating to Customs procedures and VAT.

- Article 43 - Customs: A movement of goods which has started before and ends on or after the date of the end of the transition period shall be treated as an intra EU movement regarding importation and exportation licencing requirements in Union law. Business will be required to provide transport documents to prove that goods began their journey before the end of the transitional period.
- Article 45 - Customs: Goods held in temporary storage or other Customs procedures at the end of the transitional period will continue to benefit from that status until the expiry of a yet to be decided time limit or they are removed from those procedures or they enter into free circulation.
- Article 47(1) - VAT: Council Directive 2006/112 (The VAT Directive) shall apply in respect of goods dispatched or transported from the territory of the United Kingdom to the territory of a Member State, or vice versa, provided that the dispatch or transport started before the end of the transition period and ended thereafter.
- Article 47(2) - VAT: The taxable person's rights and obligations under the VAT Directive with regard to transactions that took place before the end of the transition period and with regard to transactions which span the end of that period, are maintained until 5 years after the end of the transition period.

**Comment – The announcement of the agreement will bring some certainty to UK businesses for the time being at least. In essence, the agreement – assuming that it is accepted by all Member States in its present form – means that UK businesses have until the end of 2020 to make preparations for leaving the Single Market and Customs Union. This will be welcome news for businesses as it gives them further time to plan and to put appropriate systems in place. The agreement on VAT and Customs arrangements buys more time and we now have much more certainty of the 'end date' and what will be required in the interim transitional period.**

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