Grant Thornton
An instinct for growth™

Brexit update – UK proposes the Internal Market Bill

On 9 September 2021, the UK Government presented its controversial Internal Market Bill to the Parliament. The proposed law would allow the government to override parts of the Withdrawal Agreement, in contravention of international law.

Background

According to the Brexit Withdrawal Agreement between EU and UK, a separation has to be made for customs/VAT purposes between Great Britain (GB), i.e. the UK with the exception of the Northern Ireland (NI) and NI. The Northern Ireland Protocol, which is part of the Withdrawal Agreement provides for different VAT/customs treatment to deliveries to GB (England, Scotland, Wales) and to NI after the end of the Brexit transition period on 1 January 2021. What concerns the movements of goods and VAT refunds related to sales of goods, EU VAT and customs rules will apply to Northern Ireland (NI) according to this Withdrawal Agreement. However, the details how this would work have to be agreed by the Joint Committee who apparently has not made much progress. Businesses have not been provided many details how the goods will move between GB and NI.

What is the Internal Market Bill?

The Internal Market Bill (IMB) sets out the rules for a UK internal market in order to ensure that there are no barriers to trade across the UK. The IMB waives export formalities on trade of goods between NI and GB and it furthermore plans to give the government the powers to pass regulations on trade and state aid even if they are contrary to the NI Protocol. UK Government say the legislation is needed to prevent "damaging" tariffs on goods moving from the rest of the UK to NI if negotiations with the EU on a free trade agreement fail.

US response

US Speaker of the House of Representatives Nancy Pelosi said there was "no chance" of a UK-US trade deal getting through the US Congress if the UK violated international agreements, undermining the Good Friday Agreement. Joe Biden tweeted "We can't allow the Good Friday Agreement that brought peace to Northern Ireland to become a casualty of Brexit. Any trade deal between the U.S. and U.K. must be contingent upon respect for the Agreement and preventing the return of a hard border." On 15 September, four senior congressmen also issued a similar warning, saying a UK-US trade deal would be blocked if the UK failed to preserve the gains of the Good Friday Agreement.

EU response

The bill has provoked a backlash from the EU, which has threatened legal action - and the possible suspension of trade talks. The EU opposes this bill entering into force because EU does not want an hard border between in Ireland and NI. EU is insisting that the clauses which override part of the NI Protocol of Withdrawal Agreement should be removed entirely.

Prospect of FTA

In case there will be no FTA signed before the end of the transition period, tariffs and quotas will play an important role and very good border controls will be necessary to prevent a leak in the EU borders. How EU and UK are going to establish border controls between Ireland and NI so quickly is a big question. Only possible solution seems to be that the UK and the EU get some kind of compromise deal / FTA before the end of 2020. Insiders expect a deal to be made, however, probably not until the end of October or the beginning of November. It now seems to depend on the rules regarding subsidies and state aid in the UK and fisheries. Once again, insiders expect that there will be a compromise in this and that there will be a FTA. FTA is generally always accompanied with an implementation period but insiders expect that this will not be the case this time.

Impact on business relationships and on internal business processes

How the goods will move between the GB and NI is not made clear yet and a free trade deal still needs to be made. Hopefully some practical solution will be at place which will work and chaos on borders will be avoided.
If you trade with the UK, then you should consider the major changes that will take place in 2021 and their effect for your business. Various aspects should be reviewed critically. For example, changes in your supply chain may be required because the deliveries to the UK face customs controls and procedures. Alternatively, use of the customs mitigation procedures could be considered. In addition, a major review of your transactions' VAT/customs mapping may be needed, e.g. because UK will change from EU to non-EU country. Possible other areas to consider may include changes to your accounting/ERP systems; notifying stakeholders of new VAT ID numbers; and engaging with VAT advisors and customs forwarders to understand the customs/VAT rules applicable to your goods.

Contact

Grant Thornton's international indirect tax team and digital advisory team can assist you during your VAT / customs mapping, compliance and update of your systems and processes. Please contact us if you would like to discuss.

Aiki Kuldkepp
Senior Manager VAT
T +31 (0)88 676 97 56
E aiki.kuldkepp@nl.gt.com

Bob van der Steen
Managing Director / Head Indirect Tax
T +31 (0)88 676 92 90
E bob.vander.steen@nl.gt.com

Grant Thornton
An instinct for growth™

www.gt.nl