



Grant Thornton

An instinct for growth™

VAT Alert

HMRC confirms VAT rules for goods moving between Northern Ireland and the rest of the UK post Brexit

27 October 2020

Summary

Many businesses have been waiting for more detailed policy to emerge from HMRC in relation to the VAT accounting rules for supplies of goods between Northern Ireland (NI) and the rest of the UK (GB) when the transition period comes to an end on 31 December 2020. With only nine weeks to go before the new rules come into force, HMRC has finally issued a Policy Paper which sets out how VAT should be accounted for after the end of the transition period.

NI is part of the United Kingdom but it shares a land border with the Republic of Ireland which will remain a Member State of the European Union after the Brexit transition. Ordinarily, there would be a hard border between the Republic and NI. However, under the terms of a protocol negotiated with the EU as part of the withdrawal agreement, no such border is to exist so a different set of VAT rules were required for trade between GB and NI. Essentially, NI is to be treated as if it were still a Member State of the EU and EU VAT rules would apply.

When the EU Commission published its own Notice to Stakeholders in April 2020, it envisaged that trading in goods between GB and NI (and vice versa), would be treated as if they had been traded between a third country and a Member State. In other words, goods arriving in NI from GB would require importation into NI and goods arriving in GB from NI would require importation into GB. The guidance published by HMRC does not go that far. With a small number of exceptions, HMRC has stated that the current system of accounting for VAT (ie as domestic UK supplies) will continue.

HMRC considers that it has the necessary authority under the terms of the VAT Directive and the Protocol to make these changes but it remains to be seen whether the Commission will accept HMRC's interpretation. In the meantime, businesses involved in trading goods from GB to NI or from NI to GB will need to familiarise themselves with these new rules.

Trading Goods between GB and NI post Brexit Transition

With only nine weeks to go before the end of the Brexit transition period, HMRC has finally published its policy and guidance on how businesses will account for VAT on goods traded between Northern Ireland and GB (the UK excluding Northern Ireland). The problem arises as a consequence of the Protocol between NI and the Republic of Ireland which was negotiated as part of the Withdrawal Agreement. Whilst NI remains part of the United Kingdom, from a VAT and Customs perspective, it is to be treated as if it were still a part of the European Union after the Brexit transition period.

In normal circumstances, where goods are traded within the territory of a single country, the domestic VAT rules of that country will apply to the transaction. This should mean that goods supplied by a trader in Birmingham to another trader in Belfast would be regarded as a domestic UK supply for VAT purposes. However, as the territory of NI is to continue to be treated as part of the EU (because it shares an open land border with the Republic which, under the terms of the protocol is to remain open after Brexit), different rules need to apply. Following settlement of the Withdrawal Agreement, the European Commission published a Notice to Stakeholders in April 2020. That document clearly set out the Commission's view that, post-transition, the movement of goods between GB and NI (and vice versa) would be treated for VAT purposes as imports and exports. In other words, goods being shipped from Birmingham to Belfast would, despite being wholly within a single country (the UK), be treated as an export from GB and an import into NI. Goods being shipped in the opposite direction would be treated as an export from NI and an import into GB.

In light of the EU's Notice to Stakeholders, it was expected that HMRC would simply confirm that treatment. However, in a policy document issued by HMRC on 26 October 2020, it has confirmed that, with a small number of exceptions, VAT will continue to be accounted for on such transactions under the existing rules. To confirm, HMRC has announced that its interpretation of the Protocol means that it can continue to treat most GB to NI trade in goods as domestic UK supplies for VAT purposes. A business selling goods from Birmingham to Belfast will continue to apply UK VAT and issue a VAT invoice to his customer. The customer will be entitled to use the VAT invoice as evidence to reclaim the VAT charged by the supplier as input tax. The supplier will account for the VAT due on the supply as output VAT by making a declaration in Box 1 of his existing VAT return and there will be no requirement to have a separate VAT registration in NI. These new rules will not apply, however, to trade in goods that are declared to a special customs procedure, are currently subject to a domestic reverse charge or are subject to an Onward Supply procedure.

There will also be special rules for VAT accounting in cases where a business moves its own goods from GB to NI (and vice versa) or where the trading entities are members of the same UK VAT group. Business moving their own goods will be required to account for output VAT on the value of the goods but will be entitled to reclaim the VAT accounted for if the goods are to be used wholly for taxable purposes. Where goods are traded between members of a VAT group, the transactions are normally ignored for VAT purposes. However, where supplies of goods are made between group members and the goods are physically located in NI at the time they are supplied, the transactions will only be ignored if both entities are established in NI.

Comment – HMRC's policy document appears to contradict that of the Commission and it is possible that the Commission may challenge the approach taken. The paper provides a general overview of the new procedures but there remain a number of unanswered questions. From a VAT accounting perspective, the new rules seem reasonably straightforward but businesses that move their own goods or are members of a VAT group will need to pay attention to the special rules. Businesses should review their trade flows involving Northern Ireland and ensure systems and processes are updated to reflect any required changes relating to VAT and Customs.

Contact

Karen Robb

T +44 (0)20 7728 2556
E karen.robbs@uk.gt.com

Nick Warner

T +44 (0)20 7728 3085
E nick.warner@uk.gt.com

Alex Baulf

T +44 (0)20 7728 2863
E alex.baulf@uk.gt.com

Daniel Sherwood

T +44 (0)1223 225616
E daniel.sherwood@uk.gt.com

Nick Garside

T +44 (0)20 7865 2331
E nick.garside@uk.gt.com

Paul Wilson

T +44 (0)161 953 6462
E paul.m.wilson@uk.gt.com

Claire Hamlin

T +44 (0)161 953 6397
E claire.a.hamlin@uk.gt.com

Morgan Montgomery

T +44 (0)121 232 5126
E morgan.montgomery@uk.gt.com