



VAT:alert

August 2016

Welcome to Blick Rothenberg's VAT:alert, August 2016. This briefing contains timely information on VAT issues that may affect your business.

Potential VAT implications following the UK's decision to leave the EU

No immediate changes to the UK's VAT system are likely until formal arrangements are in place for the UK to leave the EU. This process is likely to take some time and it is expected that HMRC will make announcements on the timing of any future changes well in advance. HMRC is also expected to issue detailed guidance on any changes to VAT and Customs procedures in order to allow businesses to be prepared for operating outside the EU.

However, some of the likely changes that will impact VAT are summarised as follows:

1. UK domestic VAT rules

- a) The EU only requires Member States to adopt a standard rate of VAT that is not less than 15%. There is currently no upper limit. Therefore, the UK government will continue to be able to set the standard rate of VAT.
- b) The scope of the reduced rate and zero rate of VAT is tightly controlled by the EU. Therefore, once the UK formally leaves the EU, the government will have greater flexibility to extend (or limit) the scope of these reliefs for social and fiscal purposes.
- c) Exemptions from VAT are also legislated for at EU level and leaving the EU will enable the UK government to consider extending the exemptions or potentially taxing supplies currently treated as exempt should it wish.

This increased flexibility will allow the UK to extend the scope of VAT reliefs to the charitable sector. It could also open up the possibility of removing the 5% rate of VAT from domestic supplies of gas and electricity. However, while there is every chance that the UK government will take this opportunity to implement some minor changes to the rates and scope of UK VAT, wholesale changes are considered to be unlikely.

2. VAT transactions with other EU countries

This is the area of VAT that could see the most significant changes to the way VAT is administered.

- a) Intra-EU transactions in goods will no longer be treated as despatches and arrivals but as exports and imports. This could mean sales of goods to customers in other EU countries being treated as zero rated exports (to both businesses and private consumers). There will be no requirement to comply with intra-EU invoicing requirements (for the reverse charge procedure) and no obligation to register for VAT in other EU countries under the existing distance selling regime. EC Sales Lists and Intrastats will no longer be required but additional paperwork at the point of import and export (as currently required for non-EU trade) is more likely.
- b) Most services to EU businesses will continue to be outside the scope of VAT. This will extend to certain services supplied to private consumers as it does now for those belonging outside the EU.
- c) It will still be necessary for UK suppliers of digital services to register for VAT in the EU country of the customer or to adopt the non-union Mini One-Stop-Shop ("MOSS") scheme (see below for more details on this point).
- d) The UK will no longer be required to apply the Tour Operators Margin Scheme ("TOMS"). The UK could decide to exempt all non-UK travel services, apply VAT to all travel services supplied by UK based tour operators, or come up with a UK version of the TOMS.
- e) Refund of VAT incurred in other EU countries will require UK businesses to submit 13th Directive claims, the procedure currently used by non-EU members, rather than claim under the online intra-EU process.



3. Import and exports (customs duty)

Subject to any trade agreements with the EU, we could see Customs Duty being payable on goods moved to and from EU countries. The details of any trade deal are likely to be subject to much political debate in the coming months. However, in principle, when the UK leaves the EU, Customs Duty that is currently revenue belonging to the EU will revert to the UK Exchequer. The UK could adopt some changes especially where it has had past disagreements with the EU on specific Customs Duty charges. However, most procedures and reliefs currently operated for non-EU trade (i.e. temporary importation, inward processing relief/suspensions, etc.) are likely to remain in place and could simply be extended to cover imports from EU countries.

No changes to VAT relief on energy saving material

This year's planned withdrawal of the 5% reduced rate of VAT relief for the installation of most energy saving materials (see VAT alert August 2015) has been cancelled. Despite an EU ruling that the UK's 5% rate was too generous and should not apply to residential buildings in general, it appears that the EU Commission has backed down and is now prepared to allow the UK's position to prevail.

Therefore, the provision of products such as solar panels and other energy saving products, when installed into residential buildings, will continue to benefit from the reduced 5% VAT rate and this will not be increased to 20% as proposed – at least for now!

Conversions to residential buildings carried out under Permitted Development Rights ("PDR")

HMRC has clarified its policy to enable developers to retain the existing VAT treatment of conversion works carried out to buildings that no longer require full Statutory Planning Consent ("SPC").

The sale of a newly converted residential dwelling (from a non-residential building) is a zero rated supply. The supply of services carried out in the course of undertaking such qualifying conversion also benefit from the 5% reduced rate of VAT. Both these reliefs have traditionally required the work to be carried out in accordance with SPC and to appropriate building standards. Changes in Local Planning Authority ("LPA") regulations now allow such works to be undertaken under PDR. Where this is the case, HMRC will still require evidence that the work has been carried out within the planning laws and will require at least one of the following to be obtained:

- a) Written notification from the LPA advising of the grant of prior approval; or,
- b) Written notification from the LPA advising that prior approval is not required; or,

- c) Evidence that the work is covered under a PDR and evidence of deemed consent (i.e. proof that you have written to the LPA and confirmation that you have not received a response within 56 days).

This is a welcome administrative easement but as with all property transactions the complexities of VAT need to be considered carefully to ensure the benefit of any reliefs are maximised.

Extension of the Mini One-Stop-Shop ("MOSS") regime being considered by the EU

The MOSS regime, introduced in January 2015, is a simplified registration that is currently available for cross border, business to consumer ("B2C") supplies of digital services, broadcasting and telecommunication services. These services are subject to VAT by reference to the EU country where the customer belongs. Suppliers who don't adopt the MOSS regime are required to register in every single EU country in which they have customers. There is currently no threshold to avoid such an obligation to register. Therefore, registration under the MOSS regime is often the more practical solution as it allows registration in a single EU country.

The EU Commission's latest proposal is to extend the MOSS regime to cover all cross border B2C services and eventually to all B2C supplies of goods (effectively ending the need for registration under the distance selling regime).

UK suppliers assuming that these provisions will be avoided when the UK exits the EU should remember that all non-EU suppliers are also caught by similar rules. Formally referred to as the VAT on Electronic Services ("VoES") scheme, this was replaced by the Non-Union MOSS regime. This allows any non-EU established B2C supplier of digital services to register in a single EU country of its choice rather than have to register in possibly all 28 countries. The current MOSS scheme and any proposals to extend its scope to cover other services and goods will hit all non-EU and EU suppliers alike.

The EU has promised legislative proposals by the end of 2016 as part of its Action Plan to modernise and simplify VAT for cross border trade. It is a case of watch this space for future developments.

Should you wish to discuss any of the above points or how leaving the EU will affect your VAT position, please contact [Alan Pearce](#) our VAT Partner.

If you wish to discuss anything in this article, please speak to your usual contact at Blick Rothenberg or:

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