



Briefing on VAT and Import Duties clauses in Taxation (Cross-border Trade) Bill

The UK implemented VAT on the road to joining the EEC in 1973. As the UK goes through the process of leaving the EU, the issue of what changes in the **regulatory, accounting and cashflow framework around VAT is a vital one for business.**

VAT is a complex tax. Membership of the **EU VAT Area has provided a common framework for EU businesses** in terms of the application of the VAT Directives. There is no EU-wide rate of VAT, with significant national variations, but there are common rules on those goods and services which can be subject to a zero-rate, or reduced rate. **For intra-EU trade this has meant that businesses have not faced an upfront charge to import VAT – instead it has been dealt with as VAT-free acquisitions under the reverse charge mechanism.** Within the EU VAT area, goods are not treated as imported or exported, so there are **no cash-flow effects at all for business to business transactions within the EU VAT Area.** If the UK leaves the Area, UK companies could have to register in each EU member state where supplies are made, as triangulation will no longer be available.

For consumer purchases, there are similar common rules but a different approach in terms of the charge to tax from business transactions.

It is not essential for states to be EU member states to be members of the EU VAT area. Territories which are not EU member states, such as the Isle of Man, and Monaco, are part of the common VAT area. There are also parts of the EU which are not in the common VAT area such as the Canary Islands and Gibraltar, which are exempt from the tax. **Being a member of the EU VAT area does require harmonisation with the EU VAT Directive as well as accepting the jurisdiction of the CJEU.** These cross two of the Prime Minister's red lines from her Lancaster House speech in early 2017.

The **Taxation (Cross-border Trade) Bill** contains provisions (clauses 41-43 & Schedule 8) which would **alter the point whereby VAT becomes payable for business transactions from the UK to the EU and vice versa**, viz. it converts the point of the charge to tax from acquisition (zero at the moment) to import. Therefore, **import VAT would have to be paid upfront at border entry points for goods imported from the EU to be released into free circulation.** The position would become similar to that faced by goods from third countries.

If the Bill becomes law without any commitment to inclusion within the EU VAT area, UK businesses will become liable to pay upfront import VAT on goods being imported from the EU-27 for the first time.



Depending upon the purpose of the goods, the **import VAT may be reclaimable** at a later stage of the sourcing or supply chain, but such a system would involve the **company having paperwork to account for the charge, HMRC creating capacity to receive the payments, and companies and businesses having administrative processes for the whole or partial repayment of import VAT**. There is no impact assessment from the UK Government about the costs which these measures would mean in terms of additional compliance burdens for business, nor what the costs of HMRC collecting, and refunding these upfront payments at a later stage would be.

Liability for upfront import VAT will create additional cashflow burdens for companies, as well as additional processing time at ports and border entry points attached to the customs process. Mitigation measures could include companies instituting a **revolving credit facility, or utilising import VAT deferment reliefs**. Both measures require involve companies having to take out costly **bank or insurance backed guarantees** so would increase the costs of importing goods from the EU. **HMRC could create a system of self-assessment or self-accounting for import VAT which would obviate the need for upfront cash payments by businesses**, but there is no evidence of such a profound policy change being envisaged by HMRC, or what the costs or impacts of such a profound change in VAT policy would be for business or the Exchequer.

There are also implications from the **UK falling out of the bilateral preferential trade and trade-related deals negotiated by the EU covering 73 countries and territories on 29 March 2019**. Losing access to these agreements will also see the UK lose access to the trade facilitation measures contained within. This would have the effect of raising liability to import VAT payable through raising the inclusive value of the goods.

In its Future Customs Arrangements paper from summer 2017, the UK Government alluded to the possibility of not switching UK-EU trade in goods and services to non-EU status, but no proposals have been put forward as to how that would be achieved – either by full membership of the EU VAT area, or seeking an associate member relationship. **This Bill could be amended to keep the UK within the EU VAT area permanently or until such time as policy changes or connected impact assessments that would relieve the burdens on business had been conducted and made available by HMRC.**