

**Brexit – VAT and Customs consequences**

Even if there are still uncertainties concerning the conditions of the exit of the United Kingdom (UK) from the European Union (EU), the imminent deadline of 29<sup>th</sup> March 2019 should encourage businesses to prepare for the exit of the UK from the EU without any withdrawal agreement. Indeed, no agreement between the UK and the EU has been found so far, that would reduce or even delay some of the effects of the Brexit.

As a consequence, and unless an unlikely turnaround takes place, the UK will be considered as a third country, i.e. a non EU-member country, as from 29<sup>th</sup> March 2019 at midnight. Moreover, in the absence of any customs agreement with the EU at that time, the trades in goods will be particularly affected until a customs agreement is in place.

We therefore recommend that any business that sales or purchases to or from the UK, assesses the impact of the Brexit on their transactions with this country. In the case of trade in goods, the customs impact has also to be taken into account.

The following comments are intended to explain the most immediate consequences regarding customs and VAT, from the point of view of a Luxembourg VAT taxable person.

**I. You supply goods from Luxembourg to the UK (professional clients)**

**I.1. Supply of goods to UK VAT taxable persons**

The supply of goods to UK VAT taxable persons from Luxembourg to the UK, will no longer qualify as an intra-community supply, but as an export. The effective delivery date must be taken into account, regardless of the order date.

Consequences are detailed in the table below :

|  | <b>Situation before Brexit</b>                                      | <b>Situation after Brexit</b>                     |
|--|---|---|
| <b>VAT treatment</b>                           | Intra-community supplies<br>VAT exemption art. 43.1.d LVATL         | Exports<br>VAT exemption art. 43.1.a. or b. LVATL |
| <b>Luxembourg VAT returns</b>                  | - Box 457<br>- EC sales list for intra-community supplies           | Box 014   |
| <b>Customs obligations</b>                     | None  | Customs export declaration                        |
| <b>INTRASTAT Obligations</b>                   | Dispatch Intrastat if the annual threshold of € 150 000 is exceeded | None  |
| <b>Document requirements for VAT exemption</b> | At least, keep the transport documents<br>VAT number of the client  | At least, keep the customs export declarations    |
| <b>Dispatch of goods</b>                       | Free  | After customs release has been obtained           |

The customs' export declaration has to be filed with the Luxembourg customs at the time of the dispatch of the goods, that can be effectively dispatched once the customs declaration is accepted by the customs (once the customs release has been obtained). Businesses can opt for being represented by a recognized professional : a customs representative. This service is offered by most of the logistic companies established in Luxembourg, as well as by some independent agencies. Feel free to contact us to get contacts.

Particular attention should be paid to the delivery terms agreed with the UK client, most often using an Incoterm (please visit the website [Single Window for Logistics \(SWL\) for more details about Incoterms](#) or [contact us](#)) :

- If it is agreed to deliver the goods to the UK client, already cleared for import (Incoterm DDP UK), the Luxembourg supplier should most probably register for VAT in the UK in order to recover or declare the UK VAT paid upon import, and in order to declare his sale subject to UK VAT as per the regulations that



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will be newly applicable in this country (please visit the website of [HMRC administration for more information](#) or [contact us](#)).

- If it is agreed to deliver the goods to the UK client uncleared (all other Incoterms), the British client will have to organize the customs clearance upon arrival of the goods, and will have to settle and recover the import VAT himself.

In both cases, it is important to check the level of the customs duties that will be applicable in the UK (please visit the website of [HMRC administration for more information](#) or [contact us](#))

### I.2. Supply of goods to UK private individuals that are non VAT taxable persons

The supply of goods to private individuals, that will be transported from Luxembourg to the UK, will no longer be considered as distance sales, but as exports. The effective delivery date must be taken into account, regardless of the order date.

Consequences are detailed in the table below :

|  | Situation before Brexit  | Situation after Brexit   |
|--|--|--|
| <b>VAT treatment</b>                           | Distance sales<br>Application of Luxembourg VAT if the annual threshold of £ 85 000 is not exceeded<br>Application of UK VAT if the annual threshold is exceeded or as an option | LU : Exports – Exemption of VAT art. 43.1.a LVATL<br>UK : Please visit the website of <a href="#">HMRC administration for more information</a> or <a href="#">contact us</a> |
| <b>Luxembourg VAT returns</b>                  | - Box 701, 703, 705 or 031 depending on which Luxembourg VAT rate applies,<br>- Or box 019 (periodic return) or 203 (annual return) if UK VAT applies                            | Box 014  |
| <b>Customs obligations</b>                     | None   | Export customs declaration   |
| <b>INTRASTAT obligations</b>                   | Dispatch Intrastat if the annual threshold of € 150 000 is exceeded  | None   |
| <b>Document requirements for VAT exemption</b> | Monitoring of the distance sales thresholds  | At least, keep the export customs declarations   |
| <b>Dispatch of goods</b>                       | Free   | After customs release has been obtained  |

As mentioned above, delivery terms agreed with the client will have a significant impact ; explanations above (I.1.) apply *stricto sensu* to distance sales to UK private individuals.

### II. You purchase goods from the UK, that are delivered in Luxembourg

The acquisition of goods coming from the UK and that are delivered in Luxembourg, will no longer be considered as intra-community acquisitions but as imports.

Consequences are detailed in the table below :

|  | Situation before Brexit   | Situation after Brexit   |
|--|---|--|
| <b>TVA treatment</b>                               | Intra-community acquisitions  | Imports  |
| <b>Luxembourg VAT returns</b>                      | Box 711, 713, 715 or 049 depending on which Luxembourg VAT rate applies       | Box 721, 723, 725 or 059 depending on which Luxembourg VAT rate applies  |
| <b>VAT taxable basis and document requirements</b> | Value of the invoice of the supplier<br>Keep the invoice of the supplier      | Customs value increased by customs duties and extra costs incurred until the first point of destination in the EU<br>Keep the export customs declaration |
| <b>Customs obligations</b>                         | None  | Import customs declaration   |
| <b>INTRASTAT obligations</b>                       | Intrastat for incoming goods if the annual threshold of € 200 000 is exceeded | None   |
| <b>Receipt of goods</b>                            | Free  | Presentation to customs unless simplified clearance procedures are used<br>Disposal of goods after customs release has been obtained                     |



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In the absence of any customs agreement for preferential origin in place with the UK on 29<sup>th</sup> March 2019, customs duties will be due in Luxembourg upon importation of goods, depending on the customs nomenclature of the imported goods, no matter **whether the buyer is a professional or a private individual**.

- For more information concerning the determination of customs nomenclature, please [consult the practical guide for tariff classification](#) available on the SWL website or [contact us](#).
- Once the customs nomenclature is determined, please consult the website [TARLUX from the Luxembourg customs authorities](#) to determine the amount of the customs duties that are applicable on products imported from the UK or [contact us](#).

The use of customs suspensive arrangements, that would suspend customs duties and import VAT, would henceforth be possible for goods coming from the UK. For more information about customs suspensive arrangements, please visit [the SWL website](#) or [contact us](#).

### III. You provide services to clients that are established or resident in the UK

#### III.1. Telecommunication, broadcasting and electronically supplied services supplied to non VAT taxable persons

Telecommunication, broadcasting and electronically supplied services that are supplied to non VAT taxable UK persons after 29<sup>th</sup> March 2019, can no longer be reported in the VAT MOSS declarations. However you'll have to check the locally applicable rules in the UK, as UK VAT will most probably be due, and as you should register for UK VAT to settle the VAT there.

Consequences are detailed in the table below :

|                               | Situation before Brexit                                | Situation after Brexit                |
|-------------------------------|--|---------------------------------------|
| <b>VAT treatment</b>          | Taxation in the country of the client                  | Taxation in the country of the client |
| <b>Luxembourg VAT returns</b> | VAT MOSS : Box 226<br>OR UK VAT registration : Box 019 | Box 019                               |

#### III.2. Services supplied to VAT taxable persons established in the UK

Services supplied to VAT taxable persons established in the UK, that are subject to the general rule provided for by the Article 17.1.b. of the Luxembourg VAT law, will remain taxable at the place of establishment of the recipient of the services, i.e. in the UK.

Please note that the following services rendered to recipients established in the UK, will henceforth give rise to VAT deduction: Services of article 44.1.c. of LTVL (so-called « financial » services), services of article 44.1.i. of LTVL (insurance services) and some of the services of the article 44.1.d. of LVATL (so called “fund management” services, however only for certain categories of funds)

Consequences are detailed in the table below :

|   | Situation before Brexit   | Situation after Brexit   |
|---|---|--|
| <b>VAT treatment</b>  | Taxation at the place of establishment of the client<br>Art. 17.1.b. LVATL  |  |
| <b>Luxembourg VAT returns</b>   | - Box 423 and EC sales list for intracommunity services<br>- or box 424 for services that are VAT exempt in the country of the client | Box 019  |
| <b>Document requirements</b>  | VAT number of the client whose validity has been checked on the VIES database   | One or several of the proofs foreseen in the <a href="#">Circular 745 bis</a> of the AEDT, commenting the EU Regulation 282/2011 |
| <b>Deduction right for « financial », insurance, and « fund management » services</b> | No  | Yes  |



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### IV. You receive services from suppliers established in the UK

Services supplied to VAT taxable persons established in Luxembourg, that are subject to the general rule provided for by the Article 17.1.b. of LVATL, will remain taxable at the place of establishment of the recipient of the services, i.e. in Luxembourg. The place of taxation remaining Luxembourg, possible benefit of exemptions won't change.

Consequences are detailed in the table below :

|                       | Situation before Brexit   | Situation after Brexit   |
|-----------------------|---|--|
| <b>VAT treatment</b>  | Taxation at the place of establishment of the client<br>Art. 17.1.b. LVATL  |  |
| <b>VAT exemptions</b> | No change   |  |
| <b>VAT returns</b>    | - Taxable services: Box 741, 743, 745 or 431 depending on which Luxembourg VAT rate applies<br>- Exempt services: Box 435 | - Taxable services : Box 751, 753, 755 or 441 depending on which Luxembourg VAT rate applies<br>- Exempt services: Box 445 |

### V. You want to recover UK VAT paid on your business expenses

After the Brexit, it will no longer be possible to recover the VAT paid on your expenses in the UK using the online portal « VAT Refund ». The Luxembourg VAT taxable person will have to use the procedure that will be implemented by the UK, most probably equivalent to the one provided for by the EU 13<sup>th</sup> Directive (85/560/CEE). The request will have to be directly addressed to the British VAT Administration - HMRC - and no longer to the AEDT, following the formal requirements to be worked out by the UK.

It is still possible to file the VAT refund request of UK VAT for the year 2018 using the portal « VAT refund », but [according to the recommendations of the AEDT](#), the request should be filed at the beginning of March 2019 at the latest, in order to enable Luxembourg to transmit the request to the UK before 29<sup>th</sup> March 2019.

The refund request of the UK VAT paid between 1<sup>st</sup> January 2019 and 29<sup>th</sup> March 2019 will have to be directly presented to HMRC in the UK, following the formal requirements to be worked out by the UK.

#### Our services

- Review of your activities with the UK, analysis and confirmation of VAT and customs impacts
  - Customs assistance in Luxembourg and in the UK
  - Coaching/trainings
- Management of VAT obligations in Luxembourg and in the UK : assistance, preparation and filing of the VAT registration form and of VAT returns

#### Contact



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