

Brexit – Transition period & VAT and Customs consequences

The concerns about an upcoming “hard Brexit” on 1st February 2020 have disappeared. A transition period starts on 31st January at midnight, effective time of the Brexit. The **article 126 of the withdrawal agreement provides for a transition period that will last until 31st December 2020, during which EU VAT and customs regulations and environments remain in force** between the European Union (EU) and the United Kingdom (UK).

The transition period aims at allowing the EU and the UK to negotiate the legal framework of their future relationships. The article 132 of the withdrawal agreement provides for the possibility to extend the transition period by one or two year. Such extension shall be decided before the 1st July 2020.

This conclusion takes place after a difficult period of uncertainties. After the agreement of the UK Parliament and of the Queen on 22nd and 23rd January, the European Parliament ratified the withdrawal agreement on 29th January and the Council of Europe achieved the procedure on 30th January 2020.

We therefore recommend that any business that sales or purchases to or from the UK, closely monitors the negotiations and starts preparing for future relationships with the UK. In the case of trade in goods, the customs impact has 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, after the transition period ends.

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 :

	Situation during the transition period	Situation after the transition period
VAT treatment	Intra-community supplies VAT exemption art. 43.1.d LVATL	Exports VAT exemption art. 43.1.a. or b. LVATL
Luxembourg VAT returns	- Box 457 - EC sales list for intra-community supplies	Box 014
Customs obligations	None	Customs export declaration
INTRASTAT Obligations	Dispatch Intrastat if the annual threshold of € 150 000 is exceeded	None
Document requirements for VAT exemption	At least, keep the transport documents VAT number of the client	At least, keep the customs export declarations
Dispatch of goods	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.



VAT SOLUTIONS



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 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 during the transition period	Situation after the transition period
VAT treatment	Distance sales Application of Luxembourg VAT if the annual threshold of £ 85 000 is not exceeded Application of UK VAT if the annual threshold is exceeded or as an option	LU : Exports – Exemption of VAT art. 43.1.a LVATL UK : Please visit the website of HMRC administration for more information or contact us
Luxembourg VAT returns	- Box 701, 703, 705 or 031 depending on which Luxembourg VAT rate applies, - Or box 019 (periodic return) or 203 (annual return) if UK VAT applies	Box 014
Customs obligations	None	Export customs declaration
INTRASTAT obligations	Dispatch Intrastat if the annual threshold of € 150 000 is exceeded	None
Document requirements for VAT exemption	Monitoring of the distance sales thresholds	At least, keep the export customs declarations
Dispatch of goods	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 during the transition period	Situation after the transition period
TVA treatment	Intra-community acquisitions	Imports
Luxembourg VAT returns	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
VAT taxable basis and document requirements	Value of the invoice of the supplier 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 Keep the export customs declaration
Customs obligations	None	Import customs declaration
INTRASTAT obligations	Intrastat for incoming goods if the annual threshold of € 200 000 is exceeded	None
Receipt of goods	Free	Presentation to customs unless simplified clearance procedures are used Disposal of goods after customs release has been obtained



In the absence of any customs agreement for preferential origin in place with the UK on 31st January 2020, 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 31st January 2020, 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 during the transition period	Situation after the transition period
VAT treatment	Taxation in the country of the client	Taxation in the country of the client
Luxembourg VAT returns	VAT MOSS : Box 226 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.



VAT SOLUTIONS

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 LTVAl (so-called « financial » services), services of article 44.1.i. of LTVAl (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 during the transition period	Situation after the transition period
VAT treatment	Taxation at the place of establishment of the client Art. 17.1.b. LVATL	
Luxembourg VAT returns	- Box 423 and EC sales list for intracommunity services - or box 424 for services that are VAT exempt in the country of the client	Box 019
Document requirements	VAT number of the client whose validity has been checked on the VIES database	One or several of the proofs foreseen in the Circular 745 bis of the AEDT, commenting the EU Regulation 282/2011
Deduction right for « financial », insurance, and « fund management » services	No	Yes

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

Our services

- Regulatory alert on progress of negotiation
- 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



Karine Bellony, Managing Partner
Karine.bellony@vat-solutions.com
T +352 26 945 944 15



Michael Lambert, Director
Michael.lambert@vat-solutions.com
T +352 26 945 944 17

This note and its content are the property of VAT Solutions and cannot be reproduced unless the source is acknowledged (VAT Solutions).
This content is for information purposes only and does not engage the liability of VAT Solution in the absence of specific and individual advice given by VAT Solutions.
VAT Solutions S.à r.l. is an independent company specializing in indirect taxation (VAT, Customs, Excise). VAT Solutions is a registered trademark.