
# Brexit – The Aftermath

**The Brexit transition phase ended on 31st December 2020 and there was a deal concluded on the 24th December 2020.**

## The changes - A VAT point of view

There were some simplifications to the fiscal rep requirements in some countries because of the mutual assistance protocol within the deal. Some Member States removed or relaxed their requirements in relation to fiscal representation.

Apart from this though the UK will, in general, still be treated as any other third country for VAT purposes.

## What are the main uncertainties faced by businesses in the immediate aftermath of Brexit?

### Fiscal representation requirements

Fiscal representation requirements were the main inconsistencies and uncertainties that businesses faced. Before the Brexit deal, a number of tax offices insisted on the implementation of fiscal representation by 31st December and then removed the requirement altogether after the Brexit deal.

| | EU Country | Fiscal Rep for UK businesses? | Comments |
|---|---|---|---|
| 1 | Austria | Yes | |
| 2 | Belgium | Yes | Extension to 31.3.21 |
| 3 | Bulgaria | Yes | Should be in place by 15 Jan 2021 for distance sellers; 31 Mar 2021 for other sellers |
| 4 | Croatia | No | |
| 5 | Cyprus | Yes | |
| 6 | Czech Republic | No | |
| 7 | Denmark | Yes | Requirement was removed for distant sellers selling into Denmark but still applied for companies importing product into Denmark for onward domestic sales. Still unclear and awaiting further update from the tax office |
| 8 | Estonia | Yes | |
| 9 | Finland | No | EU-UK Mutual Assistance Protocol removes requirement |
| 10 | France | No | |
| 11 | Germany | No | |
| 12 | Greece | Yes | |
| 13 | Hungary | Yes | Should be in place by 15 Jan 2021 |
| 14 | Ireland | No | |
| 15 | Italy | No | EU-UK Mutual Assistance Protocol removes requirement - no official announcement |
| 16 | Latvia | No | |
| 17 | Lithuania | No | EU-UK Mutual Assistance Protocol removes requirement |
| 18 | Luxembourg | No | |
| 19 | Malta | No | Some exceptions |
| 20 | Netherlands | No | Only for import VAT licenses |
| 21 | Poland | Yes | Deadline 15 Jan 2021 |
| 22 | Portugal | Yes | Deadline of 30 June 2021 |
| 23 | Romania | Yes | Deadline 31 Dec 2020 |
| 24 | Slovakia | No | |
| 25 | Slovenia | Yes | |
| 26 | Spain | No | EU-UK Mutual Assistance Protocol removes requirement - no official announcement |
| 27 | Sweden | No | Still unclear whether the EU-UK Mutual Assistance Protocol removes requirement. Awaiting further clarification from the tax office |


## Linking VAT numbers to EU EORI numbers

Other uncertainties surrounded the linking of VAT numbers to the EU EORI numbers.

For example, a business who was issued an XI EORI automatically by HMRC and tried to obtain a DE EORI number. The German Tax office couldn't issue a DE EORI because the EU EORI system considered the XI number to already be an EU EORI number. However, HMRC couldn't link the client's EU VAT numbers to the XI EORI. Following several calls with the EU Commission and HMRC in this regard, a work around was found.

## Administrative delays

There were issues for businesses awaiting new VAT registrations in EU Member States due to tax office backlogs.

For example, a business who had stock stuck at Customs in Germany who had a German VAT registration application in process, but because of the Brexit uncertainties and tax office backlogs, couldn't get VAT registered in time, could not import into Germany post Brexit. Some business that had already agreed DDP terms with their customers could not therefore fulfil their orders.

## Transit arrangements or customs procedures

Additionally, another significant inconsistency came from the different transit arrangements or customs procedures used by the couriers and other transport companies actually moving goods for UK established businesses into Europe. Many businesses use multiple providers, who use multiple transit arrangements that can all have different consequences from a VAT point of view. Clarification in this area created a huge workload for businesses and has produced many uncertainties.

Understanding what the transit arrangements are and what the incoterms are agreed is vital. Interaction between the customs arrangements and the VAT treatment is key.

# Post-Brexit:
## What are the ongoing issues facing businesses?

Unfortunately, uncertainties around fiscal representation still exist in some countries.

**Indirect customs representatives.**

Another issue that has raised its head, relates to indirect customs representation. This is a customs requirement so not directly related to VAT but still has created more uncertainty for businesses. Germany has begun to enforce the need for businesses from third countries to appoint a German customs representative or agent for imports. So, you will have obtained your German VAT number, and an EU EORI Number but you still can't import because you may also need to appoint a German customs representative.

We at Taxback International are in the process of checking this with the EU Commission as it is another administrative barrier for non-EU businesses, and it needs clarification. It seems to contradict the EU Commission guidance on the issuing and use of an EORI number. There was also rumour that the Netherlands would enforce the same, but we confirmed with Dutch customs that at the moment this is not the case.

And finally, there is still uncertainty regarding reciprocal agreements between the Member States and the UK in relation to foreign VAT reclaim. In Italy for example, if there is no reciprocal agreement, a UK established business will have to VAT register and appoint a fiscal rep to recover their foreign VAT. The Italian tax office has not yet provided official clarification on this point so we must continue to monitor this situation.

Business and tax offices are still finding their feet after Brexit. There are long backlogs for new VAT registrations with HMRC and with EU Tax Offices. Between Brexit and COVID the administrative impact for business is huge.

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# Significant changes for VAT coming in July 2021.

The rule changes coming on 1st July 2021 will significantly change the way VAT operates for cross-border business-to-consumer (B2C) e-commerce activities in the European Union (EU)

The main changes that will enter into force from 1 July 2021 are as follows:

- Extension of the VAT Mini One Stop Shop (MOSS) to a One-Stop-Shop (OSS).

  Businesses that operate in the consumer TBE industry, (telecommunications, broadcasting and E-services) can use one registration in their Member State of establishment, to report all of the VAT on sales they have to consumers around Europe.

  It's this simplified compliance reporting that will to be extended to a one-stop-shop to include other services and distance sales of goods.

- The treatment of Online Marketplaces and Platforms as deemed suppliers for certain transactions.

- Introduction of a new Import One Stop Shop (IOSS).

The introduction of the new Import One Stop Shop, which will have a significant impact for those UK businesses that are importing around Europe to sell onto consumers. They will be able to report those sales through the import one stop shop in certain circumstances and will be able to avoid the need for multiple registrations and fiscal representation in multiple countries.

These will bring welcomed simplifications to the compliance obligations for the affected business but will pose their own challenges initially in set up and implementation.