



Brexit: Import clearance in the UK for companies established in the EU from 1 January 2021

1 Background

The EU and the United Kingdom (UK) are still in negotiations concerning a free trade agreement. However, regardless of the outcome of these negotiations, customs formalities will be required to be carried out for the movement of all goods between the EU and the UK as from 1 January 2021. Both, the German customs authorities and the UK authorities have published detailed information, particularly on their respective websites, about customs clearance as from 1 January 2021. However, the information provided by the authorities is only addressed to companies established in the respective territory. In practice, even after 31 December 2020, companies established in the EU will continue to bring goods into the UK and taxable persons established in the UK will continue to bring goods into the EU. In the following, we explain what the new regulations on the importation of goods into the UK mean for companies established in the EU.

2 Simplified import procedure until 30 June 2021

Due to the Corona crisis, the UK has announced that it will introduce border controls in stages in order to compensate for lost time in preparing for the new import conditions (see KMLZ-Newsletter 04/2020). For the importation of goods of common origin without any special risks, neither an entry summary declaration nor a customs declaration will be required for the time being. The goods will merely be required to be entered in the "importer's" records, i.e. the future customs declarant. This entry must include all of the information relating to the goods in question, such as the commodity code, customs value, quantity, etc. Further, the recording of any existing import licences and the unique consignment reference of the declaration, which allows for an allocation to the entry summary declaration to be made, must be recorded.



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In our view, this is an editorial oversight and can only apply to the current (subject to authorisation) local clearance procedure. An entry summary declaration is not required under the simplified procedure, many goods subject to licences and import authorisations are not permitted to be declared using this procedure.

A supplementary declaration must be lodged no later than six months after importation. The declarant or his representative must then have available an authorisation for the use of simplified declarations and must also have available a CHIEF registration, compatible software and a deferment account. CHIEF stands for “Customs Handling of Import and Export Freight” and corresponds to the German ATLAS system. Import duties will only become due once the supplementary declaration has been lodged. Prior to this, even the provision of a guarantee to use this procedure will not be required. Thus, companies have six months more time to obtain the necessary authorisations and registrations or to appoint representatives. At the same time, all import duties will be deferred for six months. It is, however, unclear what the consequences will be if a required authorisation is not obtained prior to the expiration of this six month period.

3 Consequences for companies established in the EU

There is, however, one problem concerning the procedure described. It cannot be used by companies, which are not established in the UK. Only companies established in the UK can lodge customs declarations and obtain customs authorisations. If a company does not have a registered office or a permanent establishment in the UK, it is not considered to be established in the UK. These companies cannot obtain an authorisation for the (new) entry in the records procedure or for a deferment account. In order to lodge (import) customs declarations they will need an indirect representative who lodges the declaration in his own name on behalf of the company. It is, in principle, possible for companies established in the EU to use the authorisation of a representative and thus, for example, defer customs duties via his deferment account. However, an indirect representative may not lodge a simplified declaration (provision 31 para. 7 lit. c) of the Customs (Import Duty) (EU Exit) Regulations 2018).

Some sources advise companies established in the EU with regular shipments of goods to the UK to obtain a GB-EORI number and a deferment account in preparation for Brexit. However, a deferment account is a customs authorisation that only companies established in the UK can obtain. Companies established in the EU cannot obtain their own deferment account. The simplest way for companies established in the EU to proceed would be to agree on delivery terms pursuant to which the consignee in the UK releases the goods for free circulation. Otherwise, the supplier would need to find a good and reliable indirect representative. The UK authorities provide a list of customs agents at this [link](#).

4 Offsetting import VAT

From 1 January 2021, companies registered for VAT purposes in the UK will not be required to pay import VAT at the time of importation of goods, nor will they be required to defer it via a deferment account. The import VAT will be required to be declared in the VAT return to be submitted for the relevant period in which the import takes place. At that moment, the import VAT liability will be offset against the deductible input VAT amount. Companies must indicate their UK VAT-ID in the customs declaration. Liquidity will therefore not be burdened by the import VAT due. This procedure will apply, in principle, to all companies registered for VAT purposes in the UK. Here, it will be irrelevant whether the company has used an indirect representative for the customs declarations. The procedure is therefore also available to companies established in the EU and will continue to apply beyond 30 June 2021. However, the tax authorities may exclude individual companies from this procedure if they feel that tax revenue is at risk.