



1 Final milestones before Brexit

On 22.01.2020, the British House of Lords formally approved the Withdrawal Agreement previously approved by the House of Commons. Although the Queen has no right to vote, in order for the agreement to come into force, she signed it on 23.01.2020 as well. In addition, the European Parliament must approve the agreement in its upcoming vote, which is scheduled for 29.01.2020. This process is also considered a mere formality. It can therefore be assumed that the so-called "hard Brexit" has been averted. Thus, the United Kingdom (hereinafter: UK) will finally leave the EU on 01.02.2020. The date of withdrawal has been postponed several times, but now the UK's departure from the EU is rapidly approaching, with only a few days left. The Withdrawal Agreement is intended to help avoid the possible chaos, which may eventuate if the legal and economic relations between the UK and the other EU member states, which have developed over many years, were to become disorganised. The EU and the UK have therefore put a great deal of work into negotiating this agreement in recent years. Previous agreements have repeatedly failed due to opposition from the British Parliament.

2 What will happen on 01.02.2020?

The UK will no longer be a member of the European Union as of 01.02.2020. However, the agreement means that nothing will change in the area of customs and VAT law, at least for the time being. All related regulations will continue to be applicable until the end of the transitional period, and in some cases even beyond. The EU and the UK now have until 31.12.2020 to conclude further agreements that will govern the legal relations after the end of the transition period.



Dr. Christian Salder
Lawyer, Certified Tax
Consultant

+49 (0) 89 217 50 12-85
christian.salder@kmlz.de

Should anything go wrong with the final steps towards the entry into force of the Withdrawal Agreement, the UK would leave the EU without a Withdrawal Agreement. This would lead to a hard Brexit. UK national laws would then apply, overnight, in the UK. EU law would no longer be applicable and the UK would no longer have access to common databases etc. This scenario would have a particularly significant impact on trade between the EU and the UK. Goods would no longer be free to cross the border between the EU and UK in the absence of the completion of customs formalities and the payment of import duties. The changeover from intra-Community supplies to export or import supplies would also have considerable effects on VAT. For companies that are not registered in the UK but claim input tax there, the application period would be considerably shorter.

3 Brexit – FAQ?

How long is the transitional period and can it be extended?

The transitional period is set to conclude on 31.12.2020. However, the Withdrawal Agreement provides for a one-off extension for up to one or two years. Any extension would have to be agreed by the EU and the UK prior to 01.07.2020. Although the UK has excluded any extension in its national ratification act for the Agreement, this does not definitively rule out an extension. The law could be subsequently amended.

Which rules will apply during the transitional period?

During the transitional period, EU law will continue to apply in the UK, including with respect to international agreements that the EU has concluded with third countries. This means there will be no changes as regards customs and VAT law compared to the previous situation. There will be free movement of goods between the Union and the UK. Deliveries from or to the UK will still be treated as intra-community supplies. During this period, the UK will be considered as a full Member State. According to the content of the Withdrawal Agreement, preferential regulations will also continue to apply in and for the UK.

As a precautionary measure, our company has already applied for a British EORI number. Can we use it as from 01.02.2020?

Unfortunately, there is no definite information from the UK as to whether the EORI numbers issued can already be put into use. This detail is also not regulated in the Withdrawal Agreement. In the EU, however, it is generally the case that each company should only have one EORI number. The EORI number issued by the UK is therefore basically only intended for the time from which EU law no longer applies in the UK. For this reason, we recommend that, until further notice, only the EORI number issued by the state of residence should be used.

As a precautionary measure, our company has already registered for VAT purposes in the UK. Do we have to submit VAT returns etc. during the transitional period?

No. The British tax authorities are postponing the effective date of the registrations until such time as the UK ceases to be part of the common VAT system. During the transitional period, there are no compliance requirements to be met in the UK (unless this is already necessary for other reasons).