



## BREXIT – Distance Sellers ready?

### 1 Northern Ireland vs. Great Britain

Even though the United Kingdom (UK), as a whole, has left the EU, there is no intention to establish a customs border between the EU and Northern Ireland by 01.01.2021. The EU rules on distance sales will therefore continue to apply in Northern Ireland from 2021, however this will not be the case for the rest of the UK (i.e. England, Scotland, Wales, hereafter "*Great Britain*"). B2C supplies to Northern Ireland will continue to be treated as intra-Community distance sales. The EU Commission is planning to set up VAT-ID numbers specific to Northern Ireland (it is anticipated that a country code "XI" will be used, instead of "GB"). Although the British Government has communicated its objection to this, it has yet to propose any clear alternative, which will enable the tax authorities to handle this matter.

### 2 VAT registration, British EORI-Number and Customs Agent required

From the start of 2021, the distance sales threshold will no longer apply to Great Britain. B2C supplies will thereafter be subject to UK VAT from the very first penny. Distance sellers must therefore be registered for VAT in the UK. However, existing UK VAT registrations and VAT-ID numbers will continue to be valid. It remains to be seen whether there is still a need for action regarding Northern Ireland.

In order to comply with future customs formalities, distance sellers will need their own British EORI number, which will be linked to their British VAT-ID number. A British EORI number can be requested using this [link](#). The British Treasury HMRC will take approximately one week to issue this number. Existing EORI numbers issued by a distance seller's EU Member State of residence will only be valid in the EU.



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Distance sellers not resident in the UK will also need to appoint an indirect representative in the UK, e.g. a reliable customs agent, freight forwarder or parcel service provider to assist them in handling imports into the UK. This agent must be able to make customs declarations in the British customs IT system, "CHIEF", which corresponds to the German ATLAS system. HMRC has therefore published a [list](#) of customs service providers. Arrangements should be made in good time in order to be ready on 01.01.2021.

### 3 Import, customs declaration and VAT collection

For distance sellers not resident in the UK, 01.01.2021 is the key date, from which regular import clearances will become necessary for each and every delivery to *Great Britain*. Import relief measures will only be available for UK-resident companies. It is very likely that import declarations will not be able to be shifted to B2C customers. The tax and customs exemption for deliveries under GBP 15 will cease to apply on 01.01.2021. Instead, the limit of GBP 135 goods consignment value will be decisive, as well as whether goods are sold directly or via an online marketplace.

#### a. 135 GBP consignment value

Consignments valued at  $\leq$  135 GBP will be exempt from UK customs duty and UK import VAT. Nevertheless, they will be required to be cleared by a customs agent when crossing the border. The seller must then charge and account for normal UK VAT at the point of sale at the applicable UK rate. A valid UK VAT invoice must be issued, quoting the distance seller's UK VAT-ID number. As previously, these transactions must be declared in the distance seller's UK VAT return.

Consignments valued at  $>$  135 GBP must be declared for import with the assistance of an indirect representative under normal VAT and customs rules. These consignments will be subject to UK customs duties and UK import VAT. As a deferred customs account will not be available for traders not established in the UK, customs duties will be due immediately upon importation. Import VAT, on the other hand, will be levied later by means of so-called "deferred accounting". This means that it is only to be declared as tax liability in the seller's UK VAT return. Input VAT deduction of the import VAT should be possible under the normal rules, implying that the actual supply to the customer upon import will also be subject to UK VAT. The invoicing should therefore be the same as for consignments valued at up to 135 GBP.

The GBP 135 limit is not based on customs values but on the selling price excluding tax and any transport or insurance costs, unless they are included in the price and not separately shown on the invoice. Further, the 135 GBP limit applies to the value of a total consignment, not to the separate value of individual items forming part of a consignment. There is room for flexibility here. The limit does not apply to goods subject to excise duties (alcohol, coffee, etc.).

#### b. Distance sales via online marketplaces

With respect to distance sales via online marketplaces (OMP), including OMPs established outside the UK, as from 01.01.2021, UK VAT law implies that the OMP performs the B2C sales to the UK customers in *Great Britain* itself. The OMP must arrange for customs clearance of the import, issue the correct VAT invoice to the customer and account for the VAT or import VAT on these sales in its own UK VAT return. The OMP must further comply with the VAT accounting and archiving obligations for these sales.

The 135 GBP consignment value limit also applies to the transactions deemed to be carried out by the OMP. No explicit statement is yet available on the VAT relationship between distance sellers and OMPs for B2C supplies from abroad. The handling of these sales should be clarified with the respective OMP. Many OMPs have already sent information to their users in this context.