

# VAT and no-deal Brexit - October 2019

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## Current position

- VAT rules derived from PVD
- PVD has direct effect on all EU member states
- Some variations allowed
- Once UK leaves, no longer bound by PVD
- Withdrawal agreement contains transition period – at least until 31 Dec 2020
- In event of 'No deal Brexit' all current VAT rules will potentially change

## Current position- Goods

- Domestic supplies subject to current VAT rules – Taxable, exempt or non-business
- Intra EU supplies to businesses – dispatches
- Customer accounts for acquisition VAT
- Rest of the World supplies – exports (Z/R)
- Sales to consumers, subject to VAT until distance selling threshold exceeded £35k-£100k , resulting in EU registration
- If UK business acquires goods from EU - acquisition VAT is due
- Purchases from Rest of the World - imports
- Statistical documents - in respect of acquisitions & dispatches

## Current position- Services

- Domestic supplies subject to current VAT rules – Taxable, exempt or non-business
- Intra EU supplies to businesses – OTS
- Customer accounts for VAT under reverse charge mechanism
- Rest of the World supplies – zero rated
- Sales to consumers in EU, subject to UK VAT unless exempt or non-business
- Where UK tax payer receives supply of services - reverse charge applies regardless of whether supply from other EU countries or Rest of the World
- Some exceptions, land, admission to events\*, catering

## No deal Brexit - Supply of goods

- Supplies to EU27 will become exports (Z/R)
- Import VAT & customs duty will become due in country of destination of goods
- Evidence of export\* required to support zero rating
- No Intrastat (arrivals / dispatches) forms
- No ECSL but need to retain evidence that goods have left the UK.
- Export declarations
- Customs checks – delays?
- EORI number - register for a UK Economic Operator Registration and Identification number

## No deal Brexit - Purchase of goods

- Supplies from EU27 will become imports – import VAT & customs duty prior to goods being released into free circulation
- Postponed accounting to resolve VAT cash flow and minimise delays. Customs duty still payable
- Duty deferment - 90 day deferment with no guarantee for customs duty
- Tariff quota and Trade Classification to determine rate of Duty (Zero customs duty tariff on 82% of goods arriving the UK from EU27 in first 12 months)
- Greater requirements for inspections of food and pharmaceuticals entering UK/EU
- Other regulatory issues – issue of licences, Certificate of Origin, etc.

## No deal Brexit - Purchase of goods

- Low Value Consignment Relief to be abolished. All goods entering the UK as parcels from overseas businesses (not just the imports from the EU27) will become liable for VAT\*

## No deal Brexit – Services

### Place of Supply of Services

- supplied where the recipient belongs when supplied B2B in the EU;
- supplied where the supplier belongs when supplied B2C to a person who belongs in the EU; and
- supplied where the recipient belongs when supplied B2C to a person who belongs outside the EU.
- So what does this mean?



## No deal Brexit – Services

- Educational supplies by **educators** are exempt if they are of a specified type\* and are provided by eligible bodies\*\*
- HMRC accepts that this includes supplies which ordinarily might have fallen under TOMS (i.e. travel, accommodation, catering and even excursion) when they are supplied by an educator who is commercially providing TEFL (*VATEDU39600*).
- These are excluded from TOMS and are VAT exempt as being necessary for, or *‘closely related to the supply of education’*. In any event, being an EU simplification measure, TOMS as currently applied will be *‘abolished’*.
- Foreign VAT incurred in the EU27 will no longer be recoverable via the EU refund mechanism. This will instead be recoverable via the 13th Directive VAT claim mechanism.

## No deal Brexit – Services

- Being an EU simplification measure, TOMS will be 'abolished'.
- TOMS in its current form would no longer be available to UK businesses subject to it - As it stands, for UK businesses the margin on their EU supplies is taxed at SR and that on the rest of the world supplies at the ZR.
- When we Brexit the intention is that a version of TOMS that might be applicable would make the margin on all TOMS supplies enjoyed outside the UK (including the EU) taxable at the ZR.
- *This new law will affect UK businesses who supply TOMS services enjoyed in the EU27 Member States.*
- It is possible that some EU countries will require UK based suppliers to register for VAT in their respective countries.

## No deal Brexit – Services

- Supplies of services by **agents** to UK based recipients would be taxable in the UK and will continue to be treated as subject to the reverse charge (regardless of whether the agent is based in the EU27, or in a non-EU country).
- In B2B transactions, the UK based recipients would be liable to account for the VAT due on the agents' services under the **reverse charge regime**. The main implication of this being that the value of the reverse charge services will count towards determining whether the recipient should be registered for VAT.
- Where the supplies are made B2C, the overseas based agents (including those in the EU27) will be liable to register for VAT in the UK regardless of the value involved.

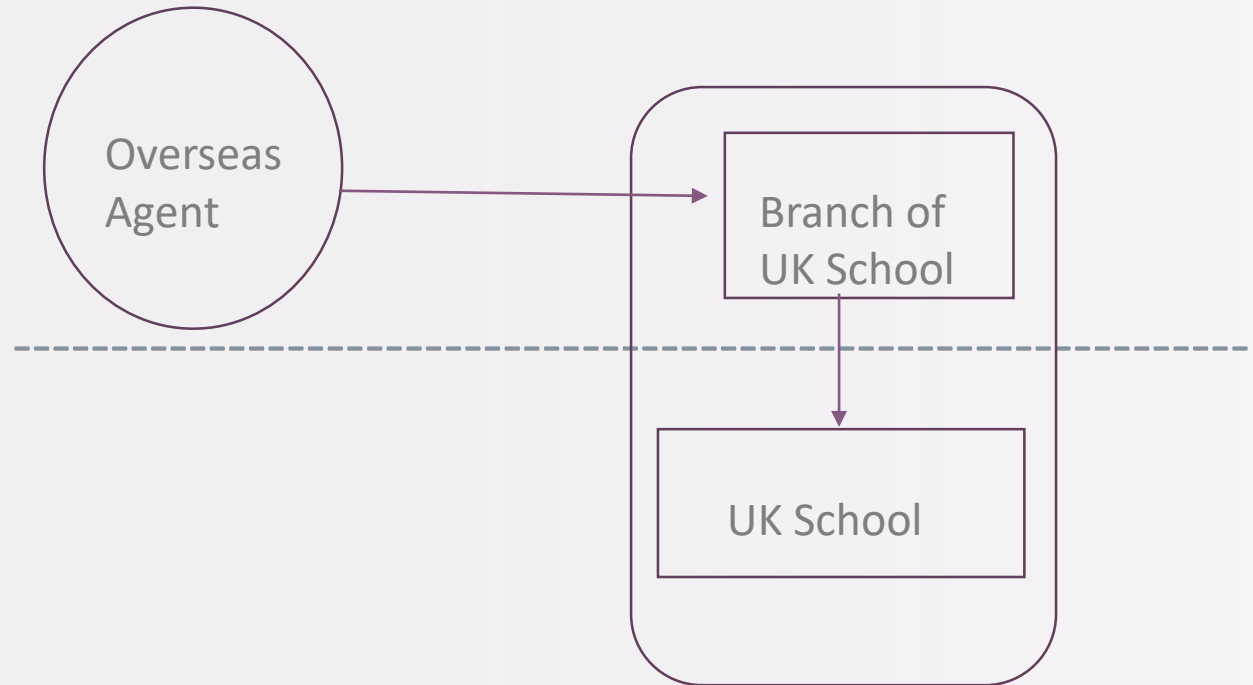
## No deal Brexit – Services

- Contractual changes to effect a split to the agreement with the agent?
- How does the agent present itself – Educational Tour Operator/ Introducer /both?
- The local taxes may dictate, of course!
- ETO – The UK school ‘sells’ its education services to the ETO (a B2B supply) who then delivers it locally
- Introducer – Sources students for the UK school and receives a payment for that service. Introducer receives a payment that is subject to the reverse charge in the UK.
- Both?

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## No deal Brexit – Services

- Setting up a branch of the school locally
- Overseas agents make their supplies to the school's overseas branch
- The overseas branch then recharges some of its costs to the UK based parent.



## Current position - Electronic Services & MOSS

- Place of supply of electronic services to consumers is where the customer belongs
- Cross-border supplies of services including digital services to non-business recipients established in EU27 (e.g. website hosting, supply of software, access to databases, downloading apps or music, online gaming and distance teaching via digital medium)
- Tax payers are potentially required to register for VAT across all EU countries where their customers are located.
- Mini-One Stop Shop (MOSS) simplification allows tax payers to register in one EU country and account for VAT across the EU

## No-deal Brexit - Electronic Services & MOSS

- In event of no-deal Brexit this EU VAT simplification will no longer exist in the UK
- Tax payer (including UK based suppliers) would need to register for Non-EU VAT Moss in one of the EU27 countries post-Brexit.
- Quarterly VAT MOSS returns will subsequently be submitted in that EU27 country of registration, with the VAT due in the other EU27 countries being accounted for in the country where the tax payer is registered for MOSS
- Alternative will be to register for VAT in each of the EU27 countries where it has customers.

## No deal Brexit – VAT Return changes

- Box 2 will include VAT due on imports accounted for through postponed accounting.
- Box 4 will include VAT reclaimable on all purchases (including any on imports including postponed accounting)
- Box 8 will include net value of supplies of goods to EU27
- Box 9 will include net value of purchase of goods from EU27



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Questions, Questions, Questions?

## WHAT ARE THE ALTERNATIVE ARRANGEMENT PROPOSALS?

- Creation of an all Ireland regulatory zone – NI goods subject to the same regulations as the rest of the EU
- UK to maintain its own Customs territory including NI (Art 4)
- UK free to negotiate free trade agreements and include NI in them (Art 4)
- Northern Ireland to remain part of the UK Customs territory - No duty on goods brought into NI from the rest of the UK by direct transport, unless the goods are at risk of being moved into EU27 as they are, or as part of other goods following processing.

## WHAT ARE THE ALTERNATIVE ARRANGEMENT PROPOSALS?

- Goods being moved by direct transport to NI other than from EU27 or rest of the UK will be subject to UK duty, unless they are at risk of being moved into EU27 as they are or as part of other goods following processing.
- UK residents will not be charged duty on personal possessions of Council Regulation 1186/2009) brought into NI (as defined under Art 2(1)(c).
- No duty payable on consignments of negligible value, sent from one individual to another or on goods contained in a traveller's personal baggage.

## WHAT ARE THE ALTERNATIVE ARRANGEMENT PROPOSALS?

- Products originating from NI can be deemed to be originating from the UK
- The provisions of Union Law at Annex 3 concerning goods shall apply to and in the UK in respect of NI
- By derogation, the UK may apply the ROI exemptions and reduced rates to supplies of goods taxable in NI
- UK and EU will continue to apply their own legislation regarding VAT and excise in their own territories

## RECENT UK GOVERNMENT INITIATIVES

- Every VAT registered taxpayer in the UK has automatically been issued with a UK EORI number
- HMRC is accepting speculative registrations effective from 1 November 2019
- All businesses that have been identified as moving goods to/from the UK/EU have been sent a letter informing them of changes
- HMRC has now automatically registered 95,000 taxpayers for the simplified procedures, waiving the requirement for a deferment guarantee and allowing up to 6 months to submit the declarations and pay any duty due.

# Questions, Questions, Questions?

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