



Brussels, 30 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF CUSTOMS AND INDIRECT TAXATION

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement¹ establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').² The United Kingdom will then become a 'third country'.³

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, economic operators are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.⁴

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of customs (see below, 1)

¹ Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

² Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

³ A third country is a country not member of the EU.

⁴ For a movement of goods that has started before and ends on or after the withdrawal date, the EU undertakes to agree solutions with the United Kingdom in the withdrawal agreement on the basis of the EU's position on Customs related matters needed for an orderly withdrawal of the United Kingdom from the Union (https://ec.europa.eu/commission/publications/position-paper-customs-related-matters-needed-orderly-withdrawal-uk-union_en). The position paper also addresses administrative cooperation procedures on or after the withdrawal date between the EU-27 and the United Kingdom related to facts that have occurred prior to the withdrawal date (for example, mutual assistance related to the verification of proofs of origin).

and indirect taxation (VAT and excise duties – see below, 2) no longer apply to the United Kingdom.⁵

This has in particular the following consequences as of the withdrawal date⁶:

1. CUSTOMS

- Goods which are brought into the customs territory of the EU from the United Kingdom or are to be taken out of that territory for transport to the United Kingdom, are subject to customs supervision and may be subject to customs controls in accordance with Regulation (EU) No 952/2013 of 9 October 2013 laying down the Union Customs Code.⁷ This implies inter alia that customs formalities apply, declarations have to be lodged and customs authorities may require guarantees for potential or existing customs debts.
- Goods which are brought into the customs territory of the EU from the United Kingdom are subject to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff.⁸ This implies the application of the relevant customs duties.
- Certain goods which enter the EU from the United Kingdom or are leaving the EU to the United Kingdom are subject to prohibitions or restrictions on grounds of public policy or public security, the protection of health and life of humans, animals or plants, or the protection of national treasures.⁹
- Authorisations granting the status of Authorised Economic Operator (AEO) and other authorisations for customs simplifications, issued by the customs authorities of the United Kingdom will no longer be valid in the customs territory of the Union.
- Goods originating in the United Kingdom that are incorporated in goods exported from the EU to third countries will no longer qualify as "EU content" for the purpose of the EU's Common Commercial Policy. This affects the ability of EU exporters to cumulate with goods originating in the United Kingdom and may affect the applicability of preferential tariffs agreed by the Union with third countries.

⁵ This note does not address the general customs and tax free allowances applicable to goods in the personal luggage of travelers entering the EU.

⁶ The listing illustrates some important consequences in the field of customs and indirect taxation of the withdrawal of the United Kingdom from the Union but is not meant to be exhaustive.

⁷ OJ L 269, 10.10.2013, p. 1.

⁸ OJ L 256, 7.9.1987, p. 1.

⁹ A list with such prohibitions and restrictions is published on the website of DG TAXUD and can be accessed here:

https://ec.europa.eu/taxation_customs/sites/taxation/files/prohibition_restriction_list_customs_en.pdf

2. INDIRECT TAXATION (VAT AND EXCISE DUTIES)

- Goods which enter the VAT territory of the EU from the United Kingdom or are dispatched or transported from the VAT territory of the EU to the United Kingdom will respectively be treated as importation or exportation of goods in accordance with Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (the 'VAT Directive').¹⁰ This implies charging VAT at importation, while exports are exempt from VAT.
- Taxable persons wishing to use one of the special schemes of Chapter 6 of Title XII of the VAT Directive (the so-called Mini One-Stop Shop or MOSS), who supply telecommunications services, broadcasting services or electronic services to non-taxable persons in the EU, will have to be registered for the MOSS in a Member State of the EU.
- Taxable persons established in the United Kingdom purchasing goods and services or importing goods subject to VAT in a Member State of the EU who wish to claim a refund of that VAT may no longer file electronically in accordance with Council Directive 2008/9/EC¹¹ but have to claim in accordance with Council Directive 86/560/EEC¹². Member States may make refunds under the latter Directive subject to reciprocity.
- A company established in the United Kingdom carrying out taxable transactions in a Member State of the EU may be required by that Member State to designate a tax representative as the person liable for payment of the VAT in accordance with the VAT Directive.
- The movement of goods which enter the excise territory of the EU from the United Kingdom or are dispatched or transported from the excise territory of the EU to the United Kingdom will respectively be treated as importation or exportation of excise goods in accordance with Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty¹³. This implies, inter alia, that the Excise Movement and Control System (EMCS) on its own will no longer be applicable to excise duty suspended movements of excise goods from the EU into the United Kingdom, but those movements will be treated as exports, where excise supervision ends at the place of exit from the EU. Movements of excise goods to the United Kingdom will therefore require an export declaration as well as an electronic administrative document (e-AD). Movements of excise goods from the United Kingdom to the EU will have to be released from customs formalities before a movement under EMCS can begin.

¹⁰ OJ L 347, 11.12.2006, p. 1.

¹¹ Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State (OJ L 44, 20.2.2008, p. 23).

¹² Thirteenth Council Directive 86/560/EEC of 17 November 1986 on the harmonisation of the laws of the Member States relating to turnover taxes – Arrangements for the refund of value added tax to taxable persons not established in Community territory (OJ L 326, 21.11.1986, p. 40).

¹³ OJ L 9, 14.1.2009, p. 12.

The websites of the Commission on taxation and customs union (https://ec.europa.eu/taxation_customs/index_en) and external trade (<http://ec.europa.eu/trade/import-and-export-rules/>) provides for general information on the rules as they apply currently to the importation and exportation of goods. The relevant pages will be updated with further information, whenever available.

European Commission
Directorate-General Taxation and Customs Union
Directorate-General for Trade