

## Brexit

# Guide for e-commerce sellers



## **Contents**

<b>Executive Summary</b>	<b>1</b>
<b>The importance of imports</b>	<b>1</b>
<b>EORI numbers</b>	<b>2</b>
<b>VAT Registration Obligations when Exporting from UK to EU (or vice versa)</b>	<b>2</b>
<b>Fiscal Representation</b>	<b>2</b>
<b>Amazon fulfilment after Brexit</b>	<b>3</b>
<b>Avoid EU &amp; UK import VAT</b>	<b>3</b>
<b>Will intrastat still be required for the UK?</b>	<b>4</b>
<b>UK VAT post-Brexit</b>	<b>5</b>



## Executive Summary

The VAT implications of the UK leaving the EU are significant, especially since no deal has yet been agreed. Whilst from a VAT perspective, there is very little clarity from the tax offices, there is clear guidance for businesses based on the assumption that the UK will be treated exactly the same as other non-EU countries from 2021.

### **The key areas of consideration for e-commerce sellers are:**

- How does Brexit impact my business from a practical import and fulfilment perspective?
- What changes will occur to my VAT compliance obligations?
- Will my online marketplace experience remain the same?
- What “VAT hacks” can I consider to weather this storm?

This guide seeks to explain the practical and technical implications of the UK being considered a non-EU country for the purpose of trade, customs, import/export and VAT.

## The importance of imports...

When goods are imported into a country with a VAT regime, import VAT is charged as a percentage of the value of the imported goods. From a VAT perspective, when goods are moved between two EU member states, this is not technically an import – therefore, trade between two EU countries never results in import VAT being paid.

Once the UK is classified as non-EU, everything changes. The movement of goods from UK to the EU, or any goods coming into the UK (from the EU or otherwise) will be treated as imports and subject to VAT. Since all goods going from the UK into the EU will have VAT on them in the destination country, this creates a cash-flow impact which did not exist when the UK was part of the single market.

For example, if the UK company is the exporter only, they will not have to worry (since the EU importer will have to pay VAT on their side). However, if the UK company is also importing the goods into the EU country, then the UK company will have a foreign import VAT cost to consider. (Similar to above, it is likely that EU countries who have a high volume of imports from the UK will therefore start implementing import VAT deferment schemes – but this is a logical presumption, not an official opinion).

### **Determine the Importer of Record**

If the import includes two parties, and not just one business moving goods between the UK and EU, they need to agree which side will be responsible for the clearance requirements. This includes customs import declarations, import duties or tariffs and import VAT. The elected party is known as the importer of record.

# EORI numbers



As you may be aware, any business who imports goods into the EU requires an EORI number (a special import registration number used to clear customs). The EU law says that a company only requires one EORI, which can be issued by any of the member states, and the EORI can be used for imports into all EU countries

**However, with Brexit around the corner, the UK will no longer be in the EU and therefore:**

- An EORI issued by the UK will not be valid for imports to any of the other 27 EU countries
- An EORI issued by an EU country will not be valid for imports into the UK

If you import goods into both the UK and EU countries, you will therefore need 2 EORI numbers. We suggest that you sort this out ASAP since the authorities will be flooded with requests of this nature.

## VAT Registration Obligations when Exporting from UK to EU (or vice versa)

For the purpose of simplicity, this Guide we use the term “EU-UK Trade” to refer to any movement of goods from an EU country into the UK, or the movement of goods from the UK into an EU country.

The consequence of the new classification of imports means that all EU-UK trade needs to be evaluated from a VAT compliance perspective. Previously, EU-UK trade was subject to the standard EU rules – when the transactions are B2B, there is no need for the seller to register for VAT in the buyer’s country and for B2C transactions, a registration obligation in the destination country was threshold dependent. (The so-called Distance Selling thresholds).

Following Brexit, EU-UK trade will no longer be subject to these rules, and therefore each such transaction must be examined on its own merit. In general, if the selling party is responsible for paying the import VAT in the destination country, it is probable a VAT registration will immediately be required. For example, if a UK business exports goods to customers in Sweden, and the UK exporter is responsible for clearing customs and paying the Swedish import VAT, then the UK company will probably need to register for VAT in Sweden and charge Swedish VAT on the sale.

It is therefore imperative than you understand your incoterms on all exports and get VAT advice if you decide to export to a new jurisdiction.

## Fiscal Representation

Many EU countries permit foreign companies to register directly with the tax office, without having to appoint a local representative – this is almost always the case when the ‘foreign’ company is also from the EU. For example, a German company can register for VAT in France without having to appoint any representation in France.

However, in most cases in the EU, the tax authorities will require a non-EU company to appoint a Fiscal Representative in order to get a VAT registration. The fiscal representative may be jointly liable for all VAT payments of the company.

Since UK sellers will now be considered non-EU, they will require fiscal representation for their EU VAT registrations. In terms of the common countries from an Amazon FBA perspective, this is applicable in France, Italy and Poland. Therefore, if you already have a VAT registration in one of these countries, you will probably need to “upgrade” the registration and appoint a fiscal rep. (The process for doing so will be different depending on the country). For new VAT registrations in the EU, you will need to take note of this requirement.

Most companies who offer VAT services for companies will not act as a fiscal representative. This means you might be forced to find 3rd party companies in addition to the VAT agent. In some cases, the company will only represent you if you establish an EU business (which comes with several other unnecessary complications).



## Amazon fulfilment after Brexit

Owing to the complexities of EU-UK trade explained above, Amazon will no longer be transferring goods between the UK and EU as part of their standard FBA model after Brexit. This move will obviously have major implications for merchants both sides of the border.

Amazon has confirmed that “pan-European FBA inventory transfers will stop between the UK and EU” on January 1 2021, when the UK formally separates from the rest of the EU.

This means that UK sellers hoping to access the 440 million EU customers will no longer be able to use Amazon’s UK logistics network to do so. They will instead be responsible for separating their own inventory and sending what they want to sell on the continent to Amazon fulfilment centres in the EU themselves. When these goods are sent from the UK to the Amazon FC in the EU, the complexities of EU-UK trade again kick in.

While this is set to have a major impact on UK sellers it also applies to those in the EU selling to UK consumers, meaning shoppers could face stock issues and increased delivery times and costs.

“To mitigate the impact of these changes, you should consider splitting your inventory and sending it to a fulfilment centre in the UK and the EU, so that you have sufficient stock either side of the new customs border,” Amazon told its sellers.

### **The European Fulfilment Network (EFN) will no longer operate between the UK and the EU**

If you have been using the EFN to reach customers around the EU, you will no longer be able to do so from the UK into to the EU or vice versa.

If you were sending goods into the EU from a UK fulfilment centre, this will no longer be covered by the EFN and you will instead be required to hold goods in, and therefore VAT register, in an EU country. The shipment of these goods from your local fulfilment centre were previously covered by the distance selling thresholds, allowing you to charge the local VAT rate until exceeding the thresholds in a calendar year.

Similarly, if you wish to continue selling to UK customers but have previously fulfilled from an EU fulfilment centre, you would now need to hold goods in an Amazon fulfilment centre in the UK and therefore, VAT register.

### **The Pan-EU Programme will no longer include the UK**

The exclusion of the UK from the listed countries in the Pan-EU model will create a range of new considerations for e-commerce sellers. As above, you will no longer be able to use the UK fulfilment centres to distribute your products into the EU. Amazon has informed merchants that they will be required to use any of the other 6 EU countries included in the network for EU distribution.

## Avoid EU & UK import VAT

As above, goods involved in EU-UK trade will become liable to import VAT payments after 31 December 2020. Whilst import VAT should never be an absolute cost to a seller, there is no doubt that the cash flow implications and potential costs of recovering the import VAT are significant.

However, with careful planning, EU/UK traders can avoid the cash payments required by taking advantage of import VAT deferment schemes available in the EU and UK. (The avoidance of import VAT can be done through the relevant countries’ postponed accounting or deferred VAT regimes.

If suppliers of goods switch to Delivered Duty Paid (DDP) INCOTERMS, they can take care of the customs processes and import VAT and ensure there is no interruption of goods movements after Brexit, and limit import taxes.



## Postponed Accounting – deferring import VAT payments through VAT return

Postponed Accounting allows any importer with a local VAT registration to defer the import VAT due when they import goods into the UK or EU. The importer simply reports the VAT due and recoverable in their next return, and therefore no cash need be paid.

### Which countries provide import Deferred VAT?

Many EU countries now allow Postponed Accounting. The UK Postponed Accounting will start from 1 January 2021. The below table summarises the other deferred import VAT schemes currently available to VAT registered businesses.

EU Country	Annual Fee - (EUR)
Belgium	There are 2 import schemes available to all VAT registered businesses.
France	A scheme is available to VAT registered companies with record of compliance and financial stability. Non-EU businesses must appoint a Fiscal Representative.
Germany	Very limited options, especially for non-German businesses. Delaying import VAT payments can be done via a bank guarantee to the tax authorities.
Ireland	Introducing a new import postponed accounting regime following Brexit.
Italy	No postponed accounting for Italian import.
Luxembourg	Postponed accounting on import VAT is permitted through a VAT registration.
Netherlands	A special “Article 23 Livense” is required for import VAT deferment. This will require a bank guarantee with the tax authorities. A non-EU businesses is required to appoint a Fiscal Representative.
Poland	Has recently extended its postponed accounting regime for importers, but very difficult to obtain approval as a non-Polish business.
Spain	Limited to large tax payers, taxpayers on refund regime or groups companies.
Sweden	Postponed accounting permitted.

## Will intrastat still be required for the UK?

### What is Intrastat?

Intrastat is monthly trade statistics reports covering the shipment of goods between countries in the EU. Companies engaged in EU trade may be required to complete statistical reports (intrastats) on the movement of goods across the national borders. This can include sales to other companies as well as the movement of their own goods.

These declaration were two-fold: the seller had obligations to declare both the dispatch and the arrival in many cases. Previously, EU/UK trade was obviously subject to intrastat rules, and after Brexit, businesses importing (arrivals) goods into Great Britain (UK minus Northern Ireland) from the EU will still be expected to prepare monthly Intrastat reports if over the £1.5m reporting threshold.

This will only apply for 2021. However, businesses exporting goods (dispatches) to the EU will no longer be obliged to prepare Intrastat. Goods shipped to and from Northern Ireland (and the EU) will be required until at least 2025. Intrastat does not apply if the goods are coming in from outside of Europe ('imports') or being sent out of the EU ('exports').



# UK VAT post-Brexit

HMRC has now provided guidance for non-UK established sellers who sell goods to UK consumers directly and using Online Market Places (OMPs) that “facilitate” sales of goods.

- The GBP15 Low Value Consignment Relief on imported goods will cease to apply. VAT will be due on all consignments arriving into the UK (unless the goods are eligible for VAT relief e.g. personal protective equipment).
- Most overseas sellers selling goods located outside the UK at the time of sale valued at GBP135 or less will now have UK VAT obligations.
- OMPs that “facilitate” sales of goods will broadly be responsible for the collection and payment of VAT.

## CASE 1: Sales of goods £135 and below where goods are outside the UK at the time of sale

The VAT treatment of sales by non-UK established sellers who sell goods located outside the UK at the time of sale, in consignments valued at GBP135 or less will be as follows:

### 1.1. Direct sales to UK consumers (B2C)

- From 1 January 2021, non-UK established sellers must be ready to charge UK VAT on their sales to UK customers at the point of sale and will have ongoing VAT compliance obligations
- There is no minimum VAT registration threshold for non-UK established sellers. VAT registration will be mandatory for non-UK established sellers from 1 January 2021 who make sales to UK customers.

### 1.2. Sales to UK consumers via an Online Market Place (B2C via OMP)

- The seller will be deemed to have made a B2B zero-rated supply to the OMP – there it will be eligible to register for VAT but will not be responsible for account for VAT in its VAT return.
- The OMP will also be deemed to have made a B2C supply to the customer and be responsible for collection and payment of VAT.

## Case 2: Sales of goods below £135 where goods are in the UK at the time of sale

The VAT treatment of sales by non-UK established sellers who sell goods located inside the UK at the time of sale, in consignments valued at GBP135 or less will be as follows:

### 2.1. Direct sales to UK consumers (B2C)

- There are no changes. The seller will be liable to account for VAT under existing rules

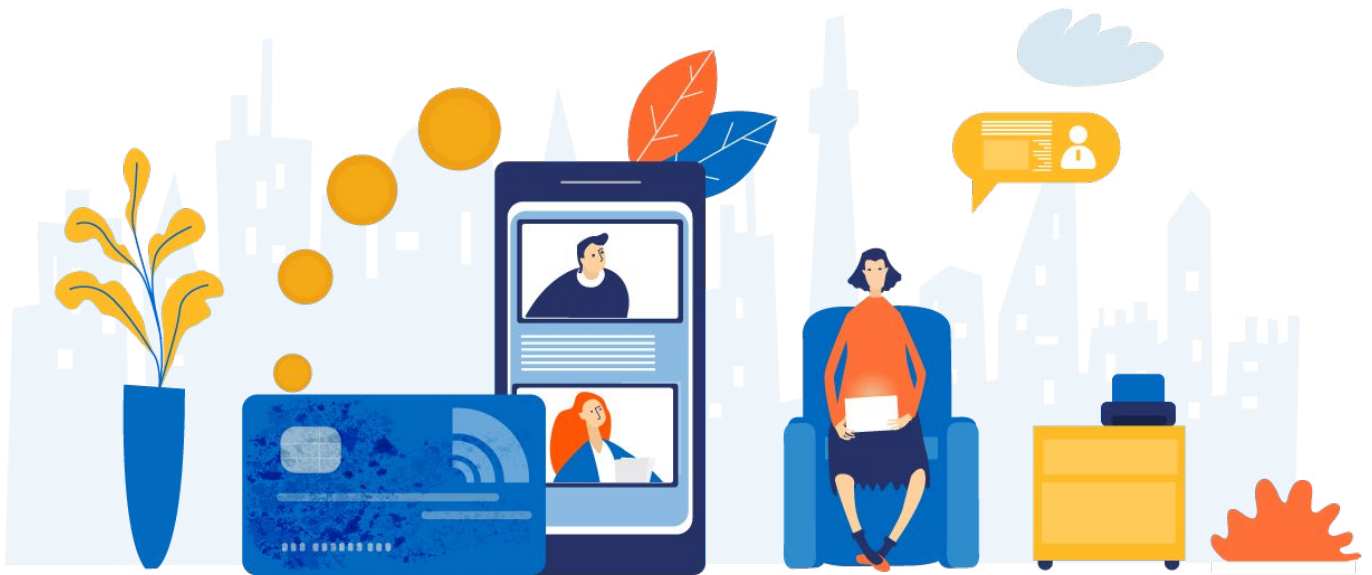
### 2.2. Sales to UK consumers via an Online Market Place (B2C via OMP)

- The seller will be deemed to have made a zero-rated supply to the OMP (B2B) which enables the seller to reclaim any import VAT incurred.
- The OMP will also be deemed to have made a taxable supply to the customer (B2C) and will be responsible for issuing a VAT invoice, and accounting for VAT.





Compliance Everywhere



Africa

Asia

Europe

Middle East

Oceania

USA

info@vat-int.com  
0207 378 7500

[vat-int.com](http://vat-int.com)

Disclaimer: Reproduced/Adapted from VATGlobal.