



Brexit finally arrived. It is time to monitor the VAT consequences!

From 1st January 2021, the United Kingdom definitively left the European Union and its VAT system : it became a “third country”

The beginning of the year marks the end of the transition period that started the 1st February 2020. The new qualification of third country now designating the United Kingdom (UK) in its relations with a Member State (MS) of the European Union (EU) entails some changes for VAT reporting obligations and treatments applicable.

In this respect, you will find below comparative tables of the VAT treatment applicable before and after Brexit to transactions between the UK and Luxembourg with the related key attention points. This note deals mainly with standard transactions that do not benefit from derogatory VAT rules in terms of location (i.e., supplies of general services and supplies of goods with transport between the supplier's country of establishment and the customer's country of establishment). For all other types of transactions, a case-by-case analysis will have to be made.

1) Supply of services between VAT-taxable persons (B2B)

Luxembourg supplier to UK recipient		UK supplier to Luxembourg recipient	
During the transition period	After the transition period	During the transition period	After the transition period
Supply of services to a VAT-taxable person identified for VAT purposes in another MS	Supply of services to a VAT-taxable person established outside EU	Services received from a VAT-taxable person established within EU	Services received from a VAT-taxable person established outside EU
Taxable in the UK	Taxable in the UK	Taxable in Luxembourg	Taxable in Luxembourg

Attention points:

- Before the end of the transition period, a supply of services performed to a UK entity was considered as an intra-Community supply of services and needed to be reported in European Sales Listing. As from 1st January 2021, such supply will no longer need to be reported in European Sales Listing (ESL) and will only have to be declared as transaction carried out abroad. The Luxembourg supplier will not have anymore to determine if the services are taxable or exempted in the country of establishment of the recipient.
- The fact that UK will be no more regarded as an EU MS might have a positive impact as regards the input VAT recovery right for Luxembourg entities performing financial activities and insurance activities. Such activities performed with UK entities should entitle Luxembourg VAT-taxable persons to an input VAT recovery right. In such a case (and if these entities are registered for the time being under the simplified VAT regime), a change of regime (to the normal regime) will have to be requested as from 1 January 2021.
- Furthermore, Luxembourg entities which had such financial and insurance activities with only UK entities and which until now had no obligation to register for VAT in Luxembourg VAT as they had no expenses with foreign suppliers subject to the reverse charge mechanism will now have to register for VAT as from 1 January 2021 under the normal regime.

2) Supply of services rendered by a VAT-taxable person to a non-VAT-taxable person (B2C)

Luxembourg supplier to UK recipient		UK supplier to Luxembourg recipient	
During the transition period	After the transition period	During the transition period	After the transition period
Taxable in Luxembourg	Taxable in Luxembourg	Taxable in the UK	Taxable in the UK

Attention points:

- After the transition period, in case of supply of electronic services by a Luxembourg supplier notably to a private person established in the UK, the Mini One Stop Shop will no longer be applicable even if the services will be still taxable at the place of establishment of the recipient. In such a case, the Luxembourg supplier will have to make sure that he fulfils his VAT requirements in the UK.
- In addition, for certain immaterial services such as consultancy or law services (among others) provided by a Luxembourg supplier to a non-VAT-taxable person established in the UK the described rule will not apply and these services should as from the end of the transition period deemed to be supplied at the place of establishment of the recipient. This means that no Luxembourg VAT will have to be applied in such a situation.

3) Supply of goods between VAT-taxable persons (B2B)

Goods moving from Luxembourg to UK		Goods moving from UK to Luxembourg	
During the transition period	After the transition period	During the transition period	After the transition period
Intra-Community supply of goods (exempted in Luxembourg)	Exportation of goods (exempted in Luxembourg)	Intra-Community acquisition of goods in Luxembourg	Importation of goods in Luxembourg
Taxable in the UK	Taxable in the UK	Taxable in Luxembourg	Taxable in Luxembourg

Attention points:

- Same as for the B2B services, a supply of goods performed from Luxembourg to the UK (place of arrival) will not constitute anymore an intra-Community supply of goods but an exportation of goods and will no longer need to be reported in an ESL.
- End of some EU VAT regime implying UK entities such as Triangular intra-Community transactions scheme which enable the businesses to not have a VAT registration in multiple countries.

4) Supply of goods rendered by a VAT-taxable person to a non-VAT-taxable person (B2C)

Goods moving from Luxembourg to UK		Goods moving from UK to Luxembourg	
During the transition period	After the transition period	During the transition period	After the transition period
Taxable in Luxembourg or in the UK	Taxable in the UK	Taxable in Luxembourg or in the UK	Taxable in Luxembourg

Attention points:

- According to the distance sales regime, when a supplier established in a MS sales goods to non-VAT-taxable customers residing in another MS, the supplier can apply its local VAT provided that his annual sales in the sending MS do not exceed a certain threshold set by each MS (for example EUR 100'000 in Luxembourg). From 1st January 2021, as the UK left the EU, the distance selling scheme is not anymore applicable between the UK and Luxembourg and the place of supply is now always at the place of establishment of the recipient in such case inducing the seller to comply with VAT requirements of the related state of establishment.

5) Other attention points

- Northern Ireland has a specific status has from 1st January 2021:
 - Transactions in services between Luxembourg and Northern Ireland will be treated as transactions with a third country; but
 - Transaction involving movement of goods between Northern Ireland and Luxembourg will be considered as an intra-Community supply of goods.

- As UK is from now on not part of the EU, the references to be indicated on the invoices for the application of a VAT exemption might be different from the past.
- Even in the case where the place of supply does not change, a specific attention must be paid to the boxes in which transactions have to be reported as well as the configuration of VAT codes used in accounting in relation to UK customers/providers.
- Before the end of the transition period, VAT refunds between the UK and Luxembourg were subject to the 8th VAT Directive. As from 1st January 2021, UK VAT-taxable person will be subject to the 13th VAT Directive to obtain the refund of Luxembourg VAT. In the reverse situation, a Luxembourg VAT-taxable person that would have incurred expenses with UK VAT as of 1st January 2021 will have to approach the tax authorities in the UK to obtain a refund.

Our Luxembourg VAT team with the help of our network in the UK remains at your entire disposal should you have any question or query related to the above. We can notably go through your structures and determine, if necessary, the formalities to be carried out. Do not hesitate to contact us!

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