

BREXIT. Tax implications for international trade

The Trade and Cooperation Agreement between the EU and the UK entered into force in January 2021. In accordance with the provisions of the agreement, checks at the border between the EU and the UK are imposed as of 1 January 2021. This means changes in the way of accounting for the VAT and the excise duty. Businesses are required to complete standard customs formalities. This means that for some UK entrepreneurs it will be necessary to appoint a tax representative in Poland.

VAT

As a rule, as of January 1, 2021, the United Kingdom will not be subject to the EU VAT regulations. In relations between the EU and the UK, the intra-community supply/acquisition of goods (B2B) and distance selling (B2C) will be replaced by the export/import of goods.

The exception is the territory of Northern Ireland, where the EU VAT regulations will continue to apply by virtue of special provisions, but only with regard to trade in goods. Therefore, for the purposes of commodity transactions, Northern Ireland taxpayers will be identified by a separate EU VAT identification number preceded by "XI".

As regards the supply of services, the United Kingdom (including Northern Ireland) will be regarded as a third country for VAT purposes. For most services, however, the rules for determining the place of their provision (taxation) will not change. The exception applies, among others, to services provided to consumers as listed in Article 28I of the VAT Act (e.g. legal, accounting, translation, advertising) and some goods transport services.

Changes in the scope of VAT settlements resulting from the Brexit are as follows:

Legislation until 12/31/2020	Legislation as of 01/01/ 2021
Intra-Community supply of goods to the UK	Export of goods to the UK
Intra-Community acquisition of goods in Poland (delivery from the UK)	Import of goods in Poland
Intra-Community supply of goods to Northern Ireland	Intra-Community supply of goods to Northern Ireland (the EU VAT number of the Northern Ireland taxpayer should contain the prefix "XI")

Intra-Community acquisition of goods in Poland (delivery from Northern Ireland)	Intra-Community acquisition of goods in Poland (the EU VAT number of Northern Ireland taxpayer should contain the prefix "XI")
Intra-Community supply of goods to to UK (transport of goods started in 2020)	Intra-Community supply of goods to UK (transport of goods ended in 2021)
Intra-Community acquisition of goods in Poland (transport of goods started in 2020)	Intra-Community acquisition of goods in Poland (transport of goods ended in 2021)
Distance selling from the country to the UK	Exporting goods to the UK
Distance selling to the country (delivery from the UK)	Import of goods in Poland
Distance selling from the country to Northern Ireland	Distance selling from the country to Northern Ireland
Distance selling to the country (delivery from Northern Ireland)	Distance selling to the country (delivery from Northern Ireland)
Distance selling from the country to the UK (transport of goods started in 2020)	Distance selling from the country to the UK (transport of goods ended in 2021)
Distance selling to the country (transport of goods from the UK started in 2020)	Distance selling to the country (transport of goods ended in 2021)

CUSTOMS

On 31 December 2020, the transition period ended due to the UK's withdrawal from the EU. This means that as of 1 January 2021 the United Kingdom is formally a third country and EU law no longer applies there. As a result, customs procedures and formalities have been in force in the trade of goods between the United Kingdom and the EU since January 2021.

The importation of goods from the UK will require import customs declarations resulting in the goods being placed under the correct customs procedure.

EU goods exported from Poland to the UK must be declared for the export procedure. Confirmation of completion of the procedure of export and exit of goods from the customs territory of the Union is an electronic message IE599 signed by the office of export, which is also a proof for the tax authority in the application of 0% VAT rate.

According to the agreed Protocol on Ireland / Northern Ireland, EU customs rules and procedures generally continue to apply to goods entering and leaving Northern Ireland.



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<p>EXCISE DUTY</p>	<p>From January 1, 2021, excise duty on excise goods (alcoholic beverages, tobacco products, energy products, electricity, dried tobacco, liquid for electronic cigarettes, innovative products and passenger cars) will, in principle, be due on importation of these goods into the EU and collected on their release for circulation. However, with respect to some excise goods, there is a possibility to subject them to the excise duty suspension procedure on the territory of the country and move them from the place of import to e.g. a tax warehouse by a registered consignor (applies to excise goods to which the excise duty suspension procedure applies).</p> <p>The importation of excise goods from the UK into the EU and the exportation of excise goods from the EU to the UK will constitute imports and exports from/to a third country respectively (this does not apply to Northern Ireland, which will be treated as a Member State from 1 January 2021).</p>
<p>TAX REPRESENTATIVE</p>	<p>An entrepreneur based in the United Kingdom will, as a rule, be required to appoint a tax representative to carry out VAT settlement obligations in Poland if he is required to register as an active VAT taxpayer and does not have a permanent place of business in the EU.</p> <p>Importantly, the obligation to appoint a tax representative also covers entrepreneurs from the UK who were registered in Poland as active VAT taxpayers before the end of the transition period. A tax representative should be appointed within a period of time that will enable him/her to fulfill the obligations incumbent on the taxpayer (principal).</p>
<p>VAT REFUND UNDER THE VAT-REFUND PROCEDURE</p>	<p>As of January 2021, UK entrepreneurs, as a rule, cannot submit VAT refund applications under the VAT-Refund procedure in electronic form in accordance with Directive 2008/9/EC. For such taxable entities, the VAT will be refunded in accordance with the Thirteenth Directive 86/560/EEC.</p> <p>As a general rule, VAT refunds in Poland will be available to the UK taxpayers provided that the country complies with the principle of reciprocity in VAT refunds. The remaining rules concerning the VAT-Refund procedure (including deadlines for processing submitted VAT refund applications, minimum limits for the amount of VAT refund applied for) remain essentially unchanged.</p> <p>On the basis of the exit agreement, applications for reimbursement of the VAT paid in Poland or the United Kingdom prior to the end of the transitional period should only be submitted on the current basis until March 31, 2021.</p> <p>Due to the special status of Northern Ireland after January 1, 2021, the VAT refund under the VAT-Refund procedure remains valid. Subject to special provisions, it applies to purchases made in Northern Ireland and to Northern Ireland taxpayers holding the EU VAT number with the prefix "XI".</p>



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WITHHOLDING TAX (WHT)

Since January 1, 2021, Polish withholding tax payers (WHT) must apply exemptions and reduced rates resulting from the Double Tax Treaty between Poland and the United Kingdom. Preferences and tax exemptions (e.g. for interest, royalties and dividends) resulting from EU regulations are no longer valid.

The use of reduced rates or exemptions from withholding tax collection provided for in the double taxation convention requires meeting certain conditions, in particular obtaining a valid certificate of tax residency from the recipient of the payment and meeting the requirements of due diligence resulting from Polish tax regulations.

This document has been prepared for information purposes only and covers general nature. Before taking any action based on the above information, we recommend that you obtain a valid opinion of TPA experts.

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