

Brexit, import duties and VAT on goods: Formalities

As of 1 January 2021, customs formalities, like those applied on the movement of goods between the EU and a third country, apply to all goods being exported from an EU Member State into the UK or imported into an EU Member state from the UK.

1. Export from EU Member state into the UK.

There is no transition period for imports into the EU. Formalities and relevant controls may lead to longer delays at customs.

EU companies can mitigate these delays by taking a number of formalities:

1. One should obtain an **EORI number** if one does not have one already.
2. One should also register **in REX** in order to be able to complete a statement on the origin of your goods, if one wants the exports to benefit from duty free treatment.
3. One needs to file **customs declarations** when exporting any goods into the UK or when moving your goods through UK.
4. In general, goods being moved from the EU into the UK must now also be covered by an **exit summary declaration (EXS)**.

1.1. EORI (EU Economic Operators Registration and Identification) number.

EORI numbers previously issued in the UK are no longer recognised in the EU.

EORI numbers are distributed by national authorities.

Businesses should complete this step as soon as possible. If your company is not established in an EU Member State, you can still get an EORI number from the EU Member State where you will first perform customs formalities.

1.2. REX (EU Registered Exporter System)

Under the EU-UK Agreement, goods of EU origin will benefit from tariff-free and quota-free access to the UK market. To benefit from this preferential treatment, you need to comply with the requirements established in the ‘Rules of Origin’ chapter of the EU-UK Agreement.

This means that the product that one is exporting needs to be originating in the EU, i.e. the production process has to satisfy a list of requirements:

- The product has to be sent directly to the UK, i.e. it has to respect the ‘nonalteration’ rule.
- The importer may require that you provide him with a statement on origin, proving that the product originates in the EU.
- The statement on origin should contain the information required under the EU-UK Agreement. This statement should appear on an invoice or on any other document that describes the product well enough for it to be identified.

In order to make out a valid statement to import to the UK, one needs to be registered in the EU Registered Exporter System (REX). To do this, one needs to fill in an application form and return it to the competent national authorities, who will give you a registered exporter number and enter it into the REX system.

1.3. EXS (exit summary declaration)

This is required for security and safety purposes. The EXS declaration must be lodged within certain time limits, ahead of export, with the customs authority of the country where the export starts (or where the exporting company is established), depending on how the goods are transported.

National authorities can help one access and complete export and EXS declarations and can advise on other procedures that one may need to fulfil.

2. Import into a EU Member state from the UK.

If one wishes to import from the UK into a EU member state, one should take the following formalities into account:

1. One must have an **EORI Number** (= Economic Operators' Registration and Identification number) when importing into the EU. EORI Numbers can be obtained from the national customs authorities.
2. One must submit an **electronic declaration to customs** in the Member State into which one is importing, or appoint a customs broker.
3. Goods entering into the EU from UK must also be covered by an entry **summary declaration** (ENS), which includes safety and security information.
4. In principle, if one wants to import into the EU, one will be subject to import duties. Therefore, in order to avoid import duties, it's important to ensure one uses the **correct commodity codes**.
5. Some goods require **export licences**, and there are additional rules specific to alcohol, tobacco and certain oils, and for controlled goods.

The EU-UK Trade and Cooperation Agreement provides for zero tariffs and zero quotas on all trade in goods originating in the EU or the UK, from 1 January 2021. The zero tariff and zero quota provisions apply to all goods that comply with the appropriate rules of origin. If one wants to benefit from this duty-free treatment, one must make a claim for preferential treatment. The claim has to be based on a statement of origin, made out by the exporter, stating that the product qualifies for preferential treatment. It is up to the exporter to make sure that the conditions are met to issue a statement of origin and that the information provided is correct.

Please take in mind that it is very important in the case of the 'rules of origin', the above-mentioned formalities are respected. If not, 'import duties and on top VAT' will still apply.

3. What Brexit means for VAT

3.1. VAT on import into the EU from the UK

As of 1 January 2021, when it comes to importing goods into EU countries, the VAT situation also changes. Imports to EU countries are treated like those from non-EU countries.

This will apply regardless of whether one is importing goods for a consumer (B2C), or for a business (B2B). There's no longer any need to observe distance selling regulations, or to verify the VAT status of the recipient business.

This could mean that businesses selling B2C to the EU, need to register for EU VAT and appoint fiscal representatives depending on the requirements of the countries in which they sell.

It's important to understand what Brexit means to zero-rate goods for VAT. It doesn't mean one can simply forget about VAT. It means one will have to apply a 0% VAT rate. No VAT is payable but one will still have to include the exports as part of its VAT accounting.

3.2. VAT on import in the UK from the EU

Prior to Brexit, VAT-registered businesses in the UK applied VAT through the EU reverse charge on intra-community acquisitions. For goods imported from anywhere in the world, they had to account for import VAT.

As of 1 January 2021 this requirement now includes the countries within the EU.

The above applies only if the value exceeds £135. For imports beneath this amount, there's still a need to account for VAT but one must use the new e-commerce rules (even if the goods were not traded via e-commerce)..

VAT is applied at the point the goods are to enter free circulation, which is to say, this should be considered the VAT tax point. This might be at the port of entry but it could also be once the goods are released from customs warehousing, if customs special procedures are used. However, one will need to collect evidence from HMRC regarding the point the goods entered free circulation for your VAT records.

The VAT can be paid at the tax point if one wishes, in which case monthly C79 reports should be obtained from HMRC, as if importing from outside the EU. But most businesses are likely to make use of the postponed VAT accounting system. This is similar to the existing reverse charge mechanism, whereby import VAT is not physically paid upfront and then reclaimed on the subsequent VAT return. Instead, it's accounted for as input and output VAT on the same VAT Return. Although postponed VAT accounting is optional, it's mandatory if you defer the submission of customs declarations

Always at your disposal for further information.

Brussels, 29th of January 2021.