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POST-BREXIT TRADE DEAL – TEN WAYS IT MAY AFFECT YOUR BUSINESS

What does Brexit mean for your company now that the transition period has ended? Experts from TMF Group select some key things to look out for.

The UK left the EU with a last-minute trade deal last month. While this was good news for markets it also presents barriers to trade, ranging from customs paperwork to requirements around the loss of EEA residency for UK resident directors. There are also uncertainties regarding access to EU markets for UK service industries.

With new rules signposted well in advance, businesses should be prepared for most eventualities in areas such as HR. There are, however, plenty of challenges when considering changes to accounting, tax and entity management.

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Below are ten things to consider now that the UK has left the EU:

1. Implications for UK incorporated companies

UK incorporated companies are no longer automatically be recognised as EU companies and will be subject to national laws as a “third country-incorporated” company. The UK company’s legal position is now determined by each of the remaining 27 EU countries’ own national laws and, if applicable, any relevant international treaties. Its legal personality and limited liability may no longer be recognised by EU member states. UK companies and groups may need to consider establishing a subsidiary or branch within the EU depending on the status of UK incorporated entities in each jurisdiction.

2. Director appointments

Requirements for EU incorporated companies will need to be considered when reviewing current and future board appointments. While there are no statutory residency requirements for directorships in the UK, there may be implications for UK residents acting as directors for companies incorporated in the 27 EU member states. For example, Irish companies must have an EEA resident director or pay a bond.

3. Branches and UK Establishments

With the UK’s departure from the EEA the reduced filing requirements previously enjoyed are no longer available. UK incorporated companies with branches in the EU, and EU companies with UK establishments, will have to file additional details on registration. Additional information will be required to be filed for existing branches and establishments.

4. International Accounting Standards

All companies need to use UK adopted international accounting standards (IAS) instead of EU adopted IAS for financial years beginning on or after the 1 January 2021. Both sets of standards

were the same on 1st January but may diverge at a later stage. You can continue to use EU adopted IAS when preparing your accounts for financial years beginning before 1 January 2021.

For UK incorporated companies with securities admitted to trading on an EEA regulated market you need to check the reporting requirements in the relevant jurisdiction. For instance, you may need to state that your accounts comply with both UK adopted IAS and EU adopted IAS.

5. Dormant subsidiaries

For financial years that begin on or after 1 January 2021, preparation and filing exemptions will no longer be available for dormant subsidiaries of EEA parents. This means that dormant UK registered subsidiaries with an immediate EEA parent will need to prepare and file individual annual accounts with Companies House.

UK subsidiaries will no longer be routinely permitted to extend the period to align their accounting reference date with their EEA parent.

6. UK audit requirements

Prior to Brexit, UK companies which were part of an EU Group could take advantage of an audit exemption providing their financials were consolidated, audited and publicly available as part of an EU Group (the 'parent company exemption'). After 1 January 2021, this exemption is only available if the consolidating parent is UK-based.

All UK companies using the 'parent company exemption' should review their group structure to confirm that they can still use it. If not, in 2021 they will either be required to complete an audit for each UK-based company, or consolidated accounts will need to be prepared and audited for a UK-based parent and the parent company exemption claimed in respect of that UK-based parent. The previous year's financial information will also require an audit.

7. VAT fiscal representation

Any UK business with a foreign VAT registration in the EU may now be obliged to appoint a special VAT fiscal representative. This applies in 19 of the 27 EU member states. These fiscal representatives are jointly liable for any unpaid VAT, and therefore may, or will, be asking for a bank guarantee before carrying this risk.

Some of the 19 countries require UK businesses to have a fiscal representative appointed as soon as possible but generally, due to the late conclusion of the Withdrawal Agreement, periods of grace may be applicable in each country where a fiscal representative is required.

8. VAT implications for goods sold

The implications for the issuing of invoices for goods/services sold to the EU or UK are numerous, including:

- The end of zero-rated B2B intra-community supplies: all movements are now imports or exports, subject to UK or EU import VAT. Businesses moving goods need two EORI numbers to move goods between the UK and EU.
- Distance selling thresholds for UK e-commerce sellers of goods to EU consumers no longer apply. Goods are now subject to import VAT, and UK sellers will have to consider VAT registering in Europe immediately and EU e-commerce sellers may need to do the same for UK VAT.

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- UK sellers of digital services to EU consumers will no longer be able to take advantage of the EU Mini One Stop Shop single VAT return scheme. UK sellers of electronic, broadcast or telecoms services to consumers will need to VAT register in any other EU state, as a non-Union business, to continue to file their VAT declarations for EU e-service sales. EU sellers into the UK must register with the UK's HMRC for the same declaration.
- UK businesses incurring EU VAT on travel, hotel or other expenses can't use the 8th Directive online VAT reclaim system operated by HMRC. Instead, the 13th Directive reclaim process must be observed. This requires individual, paper-based claims to each country where there is a VAT claim.

Technology will also be affected, with the need to update ERPs to ensure transaction types, tax codes and tax rates are correct.

9. Tax on global insurance policies

Tax calculations associated with global insurance policies have traditionally been defined through a single tax schedule. The UK's departure from the EEA has driven a requirement for such tax calculations to be split into separate tax schedules – one for the EEA and one for the Rest of World. Functionality has been added to IPT Quote, TMF's global tax database and calculator, that allows system users to split (and recombine) tax schedules at the touch of a button and has in-built 'Dual Stamp' co-insurance capability for splitting schedules between UK and EEA domiciled insurance entities.

10. IPT registrations

Leaving the EEA has meant that UK insurers are no longer permitted to sell insurance in the European single market through the freedom of provisions of services and freedom of establishment. For those insurers who have not made alternative arrangements we can help close out their existing tax positions across Europe, supporting the IPT registration of new European entities, and providing fiscal representative services where this becomes a requirement for UK domiciled taxpayers.

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