

Welcome

Irish VAT, UK VAT & Customs Webinar





Ireland / UK

Cross Border VAT

Ronan McGivern

**International Tax &
Business Advisory Partner**

RBK

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We're by your side



Agenda

1. Overview and Useful Definitions
2. Irish businesses supplying to the EU
3. Irish businesses exporting to UK (excluding NI)
4. Irish businesses importing from the UK (excluding NI)
5. NI protocol
6. Cross border supply of services
7. Key Brexit takeaways
8. Key considerations

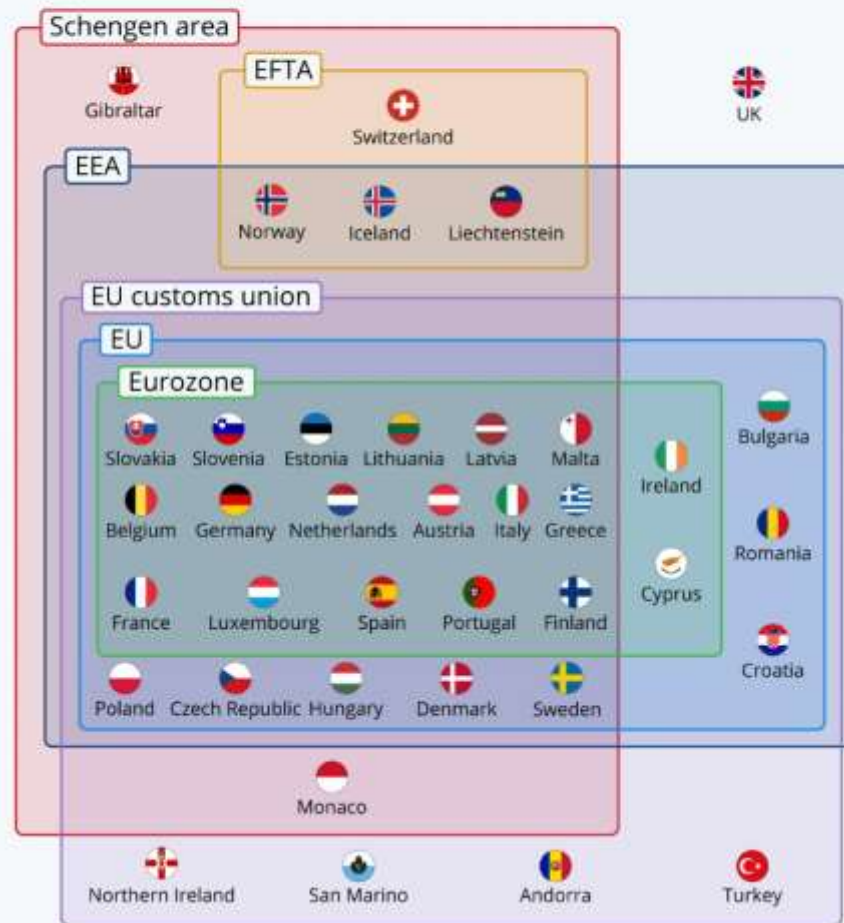
What has changed – In a nutshell

- › UK has left the EU – Brexit has happened!
- › WEF 1 January 2021 UK (excluding NI) is a third country for cross border supply of goods
- › NI remains part of the EU Customs Zone
- › “Imports” and “exports” are now a much greater feature of doing business
- › Distinction between “Intra community supplies” and “imports/exports”



The Consequences of The UK's Brexit Strategy

UK's status in European economic, trade and travel agreements



Source: Statista research

Useful Definitions

- › **B2B** – Business to Business
- › **B2C** – Business to Consumer
- › **Domestic supply** – supply takes place in one EU Member State
- › **Intra-Community Supply of goods** – B2B supply of goods as a result of which goods are transferred from one EU Member State to another
- › **Distance sale** - B2C supply of goods as a result of which goods are transferred from one EU Member State to a consumer in another EU Member State
- › **Import** – Receipt of goods from outside the EU into the EU zone
- › **Export** – Supply of goods from within the EU to outside the EU

Useful Definitions

- › **Reverse charge/self account** – purchaser is required to account for VAT as if they supplied the goods/services to themselves
- › **POS** – Place of Supply
- › **Incoterms** – International Commercial Terms
- › **DDP** – Delivered Duty Paid
 - Puts the onus on the supplier to clear goods (duty and import VAT)
- › **DAP** – Delivered at Place
 - Onus on the purchaser to clear goods

Cross Border Supply of Goods



POS Goods (General rule, subject to exceptions)

Shipped From:	Shipped To:	Business customer?	POS	EU VAT	Accountable for EU VAT
Ireland	Ireland	No/Yes	Ireland	Irish	Supplier
Ireland	Other EU MS	Yes	Other EU MS	Other EU MS	Customer
Ireland	Other EU MS	No	Other EU MS (subject to Distance selling threshold)	Other EU MS (if applicable threshold exceeded)	Supplier
Ireland	Ex EU	Yes/No	Outside EU	NA	NA (may be foreign VAT)
Other EU MS	Ireland	Yes	Ireland	Irish	Customer
Other EU MS	Ireland	No	Ireland (subject to Distance selling threshold)	Irish (if applicable threshold exceeded)	Supplier
Ex EU	Ireland	Yes	Ireland	Irish	Customer/Supplier (DAP v DDP)
Ex EU	Ireland	No	Ireland	Irish	Customer (subject to small goods exemption)

The above are the general POS rules. Be aware that there can be exceptions to the general rules for VAT purposes

Cross border EU supply of Goods

› Business to Business (B2B) – Intra community

- Supplier does not have to register for VAT in other EU jurisdiction
- Supplier obtains customer's VAT number and quotes it on the VAT invoice
- Supplier includes wording on their VAT invoice along the lines of "Recipient to account for VAT on the reverse charge basis"
- Customer to "self account" for local VAT on the reverse charge basis
- Entitlement of customer to recover VAT on deemed self supply depends on the supplies the recipient will make

Export of goods to the UK (excluding NI)

- › Whether the goods are exported to non EU business or non EU private person, the place of supply is the place where transport begins.
- › The Irish VAT rate applicable on exports is 0%
- › Exports are a “Qualifying Activity” – therefore no impact on VAT recoverability
- › **Key Questions:**
 - What are the terms of trade- DDP v DAP?
 - Who will clear goods into the UK?
 - What Customs declarations are required prior to and post export?
 - Is there a requirement to register for UK VAT?
 - Is Import VAT payable or is postponed accounting available in the UK?

Import of goods from UK (excluding NI)

- › Where the business purchases goods from outside the EU VAT is applied at point of importation.
- › The VAT rate that applies is the same rate as that applicable to the supply of similar goods within Ireland.
- › **Key Questions:**
 - Who is responsible for Import VAT? – Incoterms DDP v DAP?
 - Who is the importer of record?
 - What Customs declarations are required prior to and post export?
 - Is there a requirement to register for Irish VAT?
 - Are you a non-established trader making domestic supplies of goods?
 - Is Import VAT payable or is postponed accounting available? Assuming full VAT recoverability the company should be able to recover the VAT incurred on importation.

Northern Ireland Protocol

- › NI subject to the same VAT rules on goods as EU MS
- › The supply and movement of goods between NI and ROI in either direction unchanged
- › Movement of goods will continue to be accounted for as intra-Community supplies and acquisitions
- › Reporting obligations for these goods transactions will remain the same (VIES, Intrastat).
- › The Electronic VAT refund (EVR) system will be available for VAT expended in Northern Ireland in relation to goods.
- › EU simplifications, such as call off stock and triangulation continue to apply.
- › To be reviewed after 4 years

Foreign Traders with no establishment in Ireland

- › Foreign trader is a:
 - Taxable person
 - Not established in Ireland for VAT purposes
 - But making taxable supplies in Ireland
- › Need to carefully consider the POS. If POS is Ireland, no threshold for foreign traders with no establishment. What are the Incoterms!
- › Need to consider if registration requirement for the foreign trader or reverse charge applicable
- › Maintenance of stock of goods in Ireland – Supply from Irish goods, POS will be Ireland and Irish VAT will apply

Foreign Traders with no establishment in Ireland

Example

- › UK company (UKCO) imports goods into Ireland and holds stock in an Irish warehouse. UKCO will supply goods to Irish customers and will fulfil orders from its Irish stock
 - UKCO required to register for Irish VAT.
 - Irish VAT on importation of goods into Ireland
 - Supply of goods to Irish customers is a domestic Irish supply on which UKCO required to charge Irish VAT
 - UKCO entitled to recover Irish VAT charged to it (subject to normal rules)

Cross Border Supply of Services



Place of Supply Services and Accountable Person

Supplier Est'd in:	Customer Est'd in:	Business customer?	POS	VAT	Accountable for VAT
Ireland	Other EU MS (subject to use and enjoyment rule)	No	Ireland	Irish	Supplier
Ireland	Other EU MS	Yes	Other EU MS	Other EU MS	Customer
Ireland	Other EU MS (TBE)	No	Other EU MS	Other EU MS	Supplier (MOSS)
Ireland	Ex EU (subject to use and enjoyment rule)	No	Outside EU	NA (Possible foreign VAT)	NA (Consider foreign registration)
Ireland	Ex EU	Yes	Outside EU	NA	NA
Ex EU	Ireland	No	Outside EU	NA	NA
Ex EU	Ireland (Electronically supplied service)	No	Ireland	Irish	Supplier
Ex EU	Ireland	Yes	Ireland	Irish	Customer

Supply of service ex EU (e.g. UK, including NI)

› Business to Business / Consumer – General rule

- Supply of services by a person established in Ireland to a business person established outside the EU
- The POS is where the customer is located i.e. outside Ireland
- Deemed to be a “Qualifying Activity” for VAT purposes giving the supplier an entitlement to recover VAT on costs relating to the supply
- Be aware of exceptions such as the “use and enjoyment” rule.
- Consider if there is a requirement to register for foreign VAT (e.g. electronically supplied service)



Receipt of service ex EU (e.g. UK including NI)

› Business to Business (B2B) – General rule

- Supply of services by a person established outside the EU to a taxable person established in an EU State
- The POS is where the recipient is located
- Recipient required to account for VAT on the reverse charge basis
- Entitlement to recover VAT on deemed self supply depends on the supplies the recipient will make

Key Brexit Takeaways





- › Distinction of “import/export” v “intra community supply”
- › Particular rules re NI – note the distinction for goods and services
- › Remember importation can arise where a UK business transfer its own goods from the UK to a warehouse in ROI
- › Be mindful of Incoterms – critical for determining VAT treatment
- › Ensure EORI number and postponed accounting available.
- › New box on the VAT return for postponed accounting (as well as T1/T2)
- › Reliefs such as triangulation and call off stock no longer available where UK involved
- › Filings – VIES and Intrastat only apply to intra community supplies

Key Considerations

- › Review your supply chain. There is no one size fits all approach.
- › Commerciality – where is the balance of power. Whilst DAP may be optimal for supplier, if customer has power they will push for DDP.
- › Opportunities – obstacles you are facing are facing your competitors. Those who can circumvent and adapt can grow market share
- › Be aware of positive changes coming down the tracks in relation to Distance Sales wef 1 July 2021 and the extension of the Mini One Stop Shop (MOSS)



Thank you

 @RBK Chartered Accountants
 @RBKCA
 @RBK Chartered Accountants
 www.rbk.ie

Ronan McGivern

International Tax & Business
Advisory Partner

T: +353 1 6440100

E: rmcgivern@rbk.ie

Disclaimer:

The information provided is based on current tax legislation and practice as at the date of this presentation. Please note that the slides are high level in nature and are for information purposes only and should not be relied upon. Detailed VAT advice should be obtained.

UK VAT and Customs

- Importing goods into GB
- B2C sales to UK/GB consumers
- GB/NI goods movements



Wendy Andrews
VAT Director

T: 01392 448862

E: wandrews@bishopfleming.co.uk



SWIFT FILE

YOUR CUSTOMS CLEARANCE PARTNER

Brian McNamara FCA

**Managing Director of
SWIFFILE, customs
clearance & advisory.**

Where we are- 2 months into Brexit

➡ Fundamental change in the trading environment

➡ Holding up well on a macro level

➡ Challenges facing companies:

Increased costs

Increased level of admin

Unfamiliar customs concepts

Delays & supply chain issues

➡ Businesses who adapt best will prosper

➡ To cover today:

Too broad to go into detail

Issues & risks I have identified since January 1

Practical solutions

Opportunities?

AGENDA



1. **Lack of focus on compliance**
2. **Difficulties keeping goods moving**
3. **Confusion over the Trade Agreement & Origin**
4. **How to rightfully claim 0% duty**
5. **Trading with NI**
6. **Knowing the simplifications that can save time & money**
7. **AEO – Authorised Economic Operator**

CHALLENGE

1

Lack of focus on customs compliance

MAIN FOCUS IN THE PAST 2 MONTHS HAS BEEN ON:

- i. Keeping goods moving
- ii. Minimising duty paid

E-DECLARATIONS: The right combination of characters in the right box, will get **GREEN** routing

Danger of prioritising **SPEED** over **ACCURACY**

But it is key for
businesses to
understand that

- Customs compliance is the **RESPONSIBILITY** of the **TRADER**, even if a declaration is filed by an agent/ freight co
- Non-compliance could lead to **FINES** and **PENALTIES**
- Wrong commodity codes
- Under declaration of duties
- Wrongly claiming duty free tariffs
- You are on the hook, not your agent or freight company
- Errors may not be picked up for months or years

SOLUTION

1



Attention needs to shift towards compliance, as it does in other parts of the business

A **change in mentality** is required, where customs compliance is viewed with the same level of seriousness as VAT or PAYE compliance.

Because the impact of non-compliance can be just as serious and expensive.

ERRORS & ISSUES WITH CUSTOMS WILL AFFECT THE RISK PROFILE OF A BUSINESS, AND MAY INCREASE THE LIKLIHOOD OF SHIPMENTS BEING STOPPED FOR INSPECTION

- ✓ Companies must take full ownership of their customs declarations
- ✓ Companies should look for visibility of what is being filed in their name
- ✓ Regular customs audits should be carried out
- ✓ A customs declaration is like a tax return, and should be treated with the same level of respect

CHALLENGE

2

Difficulty in keeping goods moving

1.8m

Per the Revenue Commissioners, there were 1.8m customs declarations in January.

75%

Of these, 75% moved freely through the ports

450,000

Which meant, 450,000 shipments were held up

- ➡ Routine checks can be released quickly, but **INCOMPLETE PAPERWORK** means shipments can get held up for longer
- ➡ There were also significant delays in **OFFICES & WAREHOUSES** across Ireland and the UK
 - Wrong commodity codes
 - Missing data e.g. weights & package details
 - No agreed Incoterms
- ➡ Delays in receiving relevant details & documents



➡ **SUPPLIER** ➡ **CUSTOMER** ➡ **CUSTOMS AGENT** ➡ **HAULIER** ➡ **FERRY COMPANY**

SOLUTION

2

Critical Factors to Minimise the Chance of Delays

DATA

If the data is not right, your goods won't move

- ✓ Have a full suite of product data
- ✓ Make sure your registration details are right- EORI #s, Tan a/cs etc
- ✓ Make sure the accurate data, gets to the person filing your declaration

DOCUMENTATION

Get your commercial invoices right at the front end. Request that all supplier invoices have the right data is on the documentation:

- ✓ Commodity code
- ✓ Origin Code
- ✓ Incoterms
- ✓ Net weight and gross weight
- ✓ Package numbers and types

COMMUNICATION

- ✓ Ensure all parties involved know their roles & responsibilities
- ✓ Put processes in place to cover the addition of customs
- ✓ Make room in the supply chain for customs

CHALLENGE

3

Confusion over the Trade Agreement & Origin

- ➔ **ORIGIN** is the economic nationality of a product, **NOT** where it is shipped from.
- ➔ Only goods of **UK or EU origin** are entitled to **preferential tariffs** under the TCA

- Origin is as important as commodity codes in determining duty payable.
- This is a hugely **complex** area, with a whole series of general & product specific rules
- A product can attain EU or UK origin, provided it has been **sufficiently worked or substantially transformed**.

- **Example #1:** If a Chinese origin product is being brought into Ireland from the UK, it remains Chinese origin, and will be subject to duties
- **Example #2:** If a Chinese origin product is sufficiently worked, it may be able to acquire UK origin. In which case, it could be brought in to Ireland duty free.
 - provided it satisfies the rules of origin
- **Example #3:** German goods moved to the UK, not processed, and moved on to Ireland:
 - Duties may apply, as the goods are not UK origin
 - May seem surprising
 - Standard trade agreement provision

SOLUTION

3

Get comfortable with the concepts & rules of origin, and how they affect your business

KNOW YOUR PRODUCTS & SUPPLY CHAIN

- ✓ Have a **clear picture** of the origin of your products
- ✓ If you are claiming preferential rates, you must be able to **prove origin**
- ✓ For **processed goods**, know the rules of origin that apply
- ✓ Map out supply chains to **identify the duty hits**
- ✓ **Identify alternatives**
 - ✓ Alternative means of travel
 - ✓ Alternative products with preferential origin
- ✓ **Know your margins** - maybe on some products duties can be absorbed?

Example #3: EU to UK and then on to IRELAND

- ✓ Investigate whether you can avail of Returned Goods Relief
- ✓ Claim back any duty paid

CHALLENGE

4

Confusion over the Entitlement to Claim 0% Duty



“My supplier said I should be OK”

“My agent said he could get it through”

“I believe we have a trade agreement with Indonesia” (We don’t)



Duty rate being claimed 0%

One €20k shipment per week

Correct duty rate

5%

Duty under declared in 1 year

€52k

**BUSINESSES
MUST
UNDERSTAND**

Claiming preferential rates increases the risk of non compliance

Don’t claim preferential rates unless you can prove the origin of your product

- Not an automatic entitlement
- An importer must make a claim for pref duty rates
- Must retain records that prove origin for 4 years
- Should be a business case for claiming

SOLUTION

4

Know how you can rightfully claim 0% tariff rates

TO RIGHTFULLY
CLAIM 0%
RATES

- ✓ Make a claim in your import declaration
- ✓ Make sure you have **proof of origin** at the time of shipment
 - ✓ The most straight forward way is by getting a Statement on Origin (SoN) from your supplier
 - ✓ There is a specific wording for the SoN under the Trade Agreement
- ✓ Proof of origin records must be kept for **4 years**
- ✓ Preferential rates can be claimed retrospectively - so **if in doubt, don't claim**

SUPPLIER STATEMENTS ON ORIGIN SHOULDN'T BE GIVEN LIGHTLY

- ✓ Must also be able to prove origin, and keep records for 4 years
- ✓ Irish suppliers providing SoNs must register with REX (shipment > €6k)

Trading with NI

THIS IS A VERY COMPLEX ARRANGEMENT, WITH THE PRACTICALITIES STILL BEING WORKED OUT

- ➔ **NI remains subject to the rules of the EU Customs Union for Goods**
- ➔ **Separate set of declarations for NI** ➔
 - ✓ IE EORI number - ROI
 - ✓ XI EORI number - NI
- ➔ **Good moving from GB to NI** ➔
 - ✓ TSS set up to assist traders, still bedding in
 - ✓ Movement requires completion of
 - ✓ Monthly Supplementary Declarations from 4 March
 - ✓ Beefed up checks from April
- ➔ **Duty will be payable if goods are “at risk” of moving into ROI/EU** ➔
 - ✓ If companies can prove consumption/ end use in NI, they can claim for duty free access (Trusted Trader Program)

It's critical to understand the individual requirements for trading with NI

POTENTIAL OPPORTUNITIES





Availing of Customs Special Procedures

WHAT ARE THEY?



- Simplifications to streamline operating in a customs environment
- Tax authorities want compliant businesses to take advantage of them
- Over 20 simplifications that could be of benefit to businesses

SOME EXAMPLES OF SPECIAL PROCEDURES AVAILABLE

1 TEMPORARY ADMISSION

Relief from duties for goods brought in on a temporary basis

Example: race horses, music equipment

Goods must not be altered

Max admission period of 2 years

2 INWARD PROCESSING

Suspension of duties for goods brought in for specific purpose

Example: goods returned for repair, specific part of production process

Can be for re-export or later release for free circulation

3 CUSTOMS WAREHOUSING

3rd party or in house warehousing arrangement. Can designate part of a companies warehouse as being a customs warehouse

Example: UK company availing of warehousing to suspend duties on goods for onward shipment to Ireland

In conjunction with transit (another special procedure)



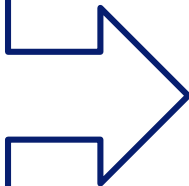
How to avail of Special Procedures

THE BENEFITS



- Suspension of duties – cashflow
- Relief from duties - P&L
- Less complexity - less admin required
- Less paperwork- increased speed

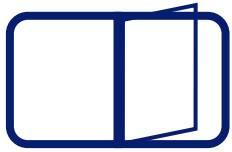
HOW DO I AVAIL?



- ✓ Apply & be authorised
- ✓ Demonstrate compliance
- ✓ Prove there is a need/benefit for it
- ✓ A financial guarantee may be required (usually provided by a bank)
- ✓ Having AEO status makes it a lot easier to avail of simplifications

ROI government grants are available to fund guarantees. Dept of An Taoiseach fund transit guarantees to facilitate the use of the UK landbridge.

REGARDLESS OF THE NATURE OF YOUR BUSINESS, THERE SHOULD BE A SPECIAL PROCEDURE THAT WOULD BE OF BENEFIT



AEO: Authorised Economic Operator

WHAT IS AEO?

- **The EU Trusted Trader Programme**
 - Can help eliminate the impact of customs on a business
 - For some business models, it may be a necessity

MISCONCEPTIONS OF AEO

- It does **not** guarantee green routings
- You can't enjoy the benefits of it just because your freight company has AEO status

BENEFITS OF AEO

- Access to all simplifications
- Mutual UK/EU recognition
- Reduction in guarantees of up to 70%
- Lower risk score, increasing the chance of green routings
- **EIDR**- massive benefits, new under the UCC, no upfront declarations
- Some multinationals are starting to request their partners are trusted trader approve

TO QUALIFY

- Your company must apply for AEO
- Show a track record of customs compliance
- Demonstrate financial solvency
- Have robust systems & processes in place

Conclusion: The companies that adapt will survive

CHALLENGES

- Uncertainty from the lack of knowledge of customs
- Risk of compliance issues
- Increased level of administration required
- Shipments being held up
- Increased costs due to:
 - Duties
 - Customs filings
- Concerns over profitability/viability in the new customs environment

SOLUTIONS

- Drive awareness of the need for customs compliance in your business
- Take ownership of your declarations
- Be fully informed of origin, and your entitlement to claim 0% duty rates
- Put processes in place to keep shipments moving
- Avail of customs special procedures that will save you time and money

END GOAL

- You've weathered the customs storm
- You have the same level of comfort with your customs compliance, as your VAT and PAYE compliance.
- You are reducing duty costs by rightfully claiming preferential rates
- You are minimizing admin costs by having clear processes in place around customs clearance.
- You are taking full advantage of the benefits of customs simplifications

Brian McNamara



087 242 9985



Brian@SwiftFile.ie

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www.SwiftFile.ie

Q & A

