

Effects of BREXIT on the VAT treatment on sales to the UK.

On December 31, the transition period for the United Kingdom's exit from the European Union ends, which means that from January 1, 2021, there will be several changes in the relationship between the European Union and the United Kingdom. We have already commented some of those in the [Client Alert N° 20/2020](#). In this Client Alert, we make a brief summary of the consequences that the BREXIT will have for those businesses that make deliveries of goods in the United Kingdom, specifically on the obligations related to VAT.

It should be borne in mind that Ireland, unlike Great Britain (United Kingdom), will continue to be a member of the EEC, and that between Ireland and Northern Ireland, which does form part of Great Britain, there is a special protocol whereby trade in goods with EEC member countries will be treated in the same way. This protocol is superimposed on the general regime of exchange of goods, so it is advisable to consult it if you want to make sales to that region of the United Kingdom.

The tax treatment of the operations of delivery of goods between the members of the EEC and the United Kingdom, varies according to whether they are B2B operations, or sales to the final consumer B2C.

Deliveries to consumers¹

Until 31 December 2020, distance sales to final consumers resident in the United Kingdom were considered deliveries of goods located in the country of origin, provided that the annual sales of the company in question did not exceed £70,000. This implied that the EU seller was not required to be registered in the UK, and obtain a UK VAT-ID for this type of transactions.

After the BREXIT, it will be necessary to classify the sales made to British consumers according to their amount, since there is a different tax treatment for VAT purposes depending on that amount.

a) Shipments with a value of more than £135², which are intended for a consumer.

¹ Customer without a valid VAT identification number

² This amount is calculated per shipment, taking into account the final price charged to the customer, excluding transport unless it is disaggregated, and excluding VAT and other applicable indirect taxes



From the point of view of Spain, the sale is considered an export, and therefore the invoice issued will be exempt from Spanish VAT.

In the United Kingdom, the operation will be considered an import, which will pay customs duties and VAT.

b) Shipment with a value of less than £135, whose recipient is a consumer.

As in the previous case, from the point of view of Spain the sale is considered an export, and therefore the invoice issued will be exempt from Spanish VAT.

However, when the import is made in the United Kingdom, although the value of the imported goods will be declared, the VAT will not be paid in customs, but the seller must register in the United Kingdom and obtain a British VAT number, and include these operations in its periodic VAT declaration in that territory.

In those cases in which this type of sales are made through an "Online Marketplace"³ (whose definition is included at the bottom of the page) this will be the one in charge of paying the VAT, so it will not be necessary for the seller to register in the United Kingdom, although he will have to include this VAT in the invoice if he is the one who issues it.

Sales to businessmen or professionals with a VAT registration number (B2B).

In relation to sales made to business people resident in the United Kingdom (B2B), we will also have to differentiate between transactions with a value higher than or less than £135. However, in this case the solution is much more practical.

a) Shipments with a value higher than £135, whose recipient is an entrepreneur.

From the point of view of Spain, the sale is considered an export, and therefore the invoice issued will be exempt from Spanish VAT.

In the United Kingdom, the operation will be considered an import, which will pay customs duties and VAT.

b) Shipment with a value of less than £135, the recipient of which is a businessman.

³ Online Marketplace is an electronic interface, platform or portal that provides goods to the customer, and that: determines the terms of making the goods available, authorizes or facilitates payment for the transaction, and participates in the order or delivery of the goods. For further information, please consult the applicable legislation.



From the point of view of Spain, the sale is considered an export, and therefore the invoice issued will be exempt from Spanish VAT.

Although the value of the imported goods will be declared, no VAT will be paid at customs.

Instead, the reverse charge rule will be applied to this type of transactions. The seller must include the mention "Reverse Charge Mechanism" on the invoice, and the buyer will be responsible for self-reporting, declaring and paying the VAT on the operation.

Conclusion:

With the end of the transition period established in the BREXIT, what were until now considered intra-community deliveries and distance sales, will now be considered exports, thus increases the formal obligations related to deliveries made in the United Kingdom, especially for those entrepreneurs who make low-volume sales to consumers without using an "Online Marketplace".

Daniel Zornoza
Accountant

FONT & YILDIZ www.fontyildiz.com is a boutique consulting firm that provides tax and legal services to both, local and international corporate groups, individuals and start-ups, with comprehensive advice in all manner of legal and economic affairs.

Our organization is structured in different areas of expertise:

- *International Investments*
- *Tax compliance*
- *Corporate/Commercial Law – M&A*
- *Private Client – Financial Management M & A*
- *Real Estate – Investment Opportunities*
- *Global Mobility*
- *Litigation*
- *Start Ups*
- *Accounting, tax and Labor compliance services.*

Our Firm counts with English, Turkish, French, Portuguese, Chinese, Spanish and Catalan speaking lawyers and economists, all of them professionals that would be happy to assist you. For more information, please contact us info@fy-legal.com

The information provided in this document is only for informative purposes and it must not be interpreted as legal assessment, legal opinion or any kind of advice regarding any specific fact or circumstance. In this sense, the hereby document is not binding and simply disseminates an opinion, and therefore, we advise to not act on the basis of the information provided without previous professional assessment. Thus, FONT & YILDIZ will not be responsible and does not offer any warranty of any kind regarding the use that any part might give to the information here provided.
