

GUIDELINES ON VAT RELATED ISSUES IN VIEW OF THE WITHDRAWAL OF THE UNITED KINGDOM FROM THE EUROPEAN UNION WITHOUT AN AGREEMENT of 12 March 2019

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(1/3)

QUESTIONS CONCERNING THE APPLICATION OF EU VAT PROVISIONS IN CASE OF WITHDRAWAL OF THE UNITED KINGDOM FROM THE EUROPEAN UNION WITHOUT AN AGREEMENT

CONTEXT OF THIS SET OF GUIDELINES: the United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')¹ the United Kingdom will be a 'third country'².

- 1. Origin: Commission**
References: Articles 63, 68 and 70 of Directive 2006/112/EC
Subject: On-going movements of goods from the United Kingdom to the EU-27 Member States at the moment of its withdrawal

An intra-Community acquisition of goods is regarded as being made when the corresponding supply is effected. Such a supply may be effected at the time when dispatch or transport of the goods begins or during dispatch or transport. Given the principles of neutrality of VAT, legal certainty and the requirement to ensure a rational taxation that avoids double taxation, the VAT Committee therefore **almost unanimously** agrees that any intra-Community acquisition of goods of which the dispatch or transport from the United Kingdom to the EU-27 Member States started before its withdrawal from the EU shall be disregarded if the importation of these goods, as provided for in Article 30 of the VAT Directive, in a Member State of the EU-27 has taken place as from the withdrawal date.

- 2. Origin: Commission**
Reference: Article 143(1)(e) of Directive 2006/112/EC
Subject: Reimportation of goods after the withdrawal of the United Kingdom

The VAT Committee **almost unanimously** agrees that the notion of "reimportation", as referred to in Article 143(1)(e) of the VAT Directive, shall also cover situations of importation where goods have not been exported but were transported or dispatched from one of the EU-27 Member States to the United Kingdom before the withdrawal date and are returned from the United Kingdom as from the withdrawal date.

¹ In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

² A third country is a country not member of the EU.

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As there was no export declaration, the VAT Committee **almost unanimously** agrees that the person who exported the goods shall use alternative means to prove that the goods are reimported in unaltered state within the time limit referred to in Article 203(1) of Regulation (EU) No 952/2013 laying down the Union Customs Code³.

- 3. Origin: Commission**
Reference: Article 4 of Directive 2009/132/EC
Subject: Personal property imported after the withdrawal of the United Kingdom

The VAT Committee **almost unanimously** agrees that, where natural persons move their normal place of residence from the United Kingdom to an EU-27 Member State within 6 months as from the withdrawal date, the exemption laid down in Article 4 of Directive 2009/132/EC shall apply to personal property imported by these persons in the EU-27 as from the withdrawal date, insofar as the goods concerned have been in the possession of and, in the case of non-consumable goods, used by the person concerned at his or her former normal place of residence in the United Kingdom for a minimum of six months (except in special cases justified by circumstances) before the date on which he or she ceased to have his or her normal place of residence outside the EU-27.

The VAT Committee **almost unanimously** agrees, however, that the exemption of personal property shall be made conditional upon such property having borne the customs and/or fiscal charges to which it was normally liable in the United Kingdom or in one of the EU-27 Member States before the importation in the EU, in accordance with Article 4, paragraph 2, of Directive 2009/132/EC.

- 4. Origin: Commission**
References: Directives 86/560/EEC, 2006/112/EC and 2008/9/EC
Subject: Refund of VAT charged before the withdrawal date in the United Kingdom or in an EU-27 Member State to taxable persons not established in the State of refund but established respectively either in an EU-27 Member State or in the United Kingdom

Regarding VAT charged before the withdrawal date in the United Kingdom or in an EU-27 Member State to taxable persons not established in the State of refund but established respectively either in an EU-27 Member State or in the United Kingdom, the VAT Committee **almost unanimously** confirms the following:

³ OJ L 269, 10.10.2013, p. 1.

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- (1) As from the withdrawal date, Directive 2008/9/EC no longer applies for the United Kingdom, this entailing, *inter alia*, that a taxable person established in one of the EU-27 Member States or in the United Kingdom shall not be able as from the withdrawal date to use the electronic portal set up by his State of establishment for submitting an electronic refund application in accordance with Article 7 of Directive 2008/9/EC.
- (2) As from the withdrawal date the exchange of information between tax authorities relating to VAT refund applications provided for in Article 48(2) and (3) of Regulation (EU) No 904/2010 no longer applies in relation to the United Kingdom and any request for information by the State of refund with regard to a VAT refund application shall therefore be addressed directly to the taxable person concerned.
- (3) Those taxable persons who have not submitted a refund application before the withdrawal date, or in respect of which the refund application has not yet been forwarded by their State of establishment to the State of refund by that date, must submit their refund application directly to the State of refund. For the EU-27 Member States, this shall be according to the procedure by which Directive 86/560/EEC has been implemented.
- (4) The provisions on reciprocity (Article 2(2) of Directive 86/560/EEC), on the appointment of a tax representative (Article 2(3) of Directive 86/560/EEC) and on the exclusion of certain expenditure or possible additional conditions (Article 4(2) of Directive 86/560/EEC) shall not be applicable in respect of VAT charged before the withdrawal date. However, in accordance with Article 273 of Directive 2006/112/EC, Member States may require the applicant to provide evidence of his status as taxable person or the original or copy of the invoices.

Although, as from the withdrawal date, Directive 2008/9/EC ceases to apply for the United Kingdom, the VAT Committee **almost unanimously** acknowledges that in regard to VAT charged to a taxable person before the withdrawal date the rights and corresponding obligations of taxable persons derived from that Directive shall continue to apply, encompassing notably the right to a refund of VAT, the time limits to submit a refund application, the information to be provided, the time limits to be notified or to be requested to provide additional information, the time limits to provide the requested additional or further additional information, the time limits to be refunded and the right to receive interest in case of late payment. Further, the VAT Committee **almost unanimously** agrees that refund applications relating to VAT charged from 1 January 2019 until and including the day before the withdrawal date shall be treated as relating to the remainder of a calendar year.