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Kreston UK virtual panel

Trading Internationally: a UK Business Perspective

Monday 23 November 2020

Question Time

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1. **Importing/exporting software from Eastern Europe – is this a product or a service? How does this affect the tax returns that need to be made?**

Alex Peal: The sale of software is a supply of services, not goods. The general rule for the VAT place of supply of b2b services that applies throughout the EU is where the customer belongs. This place of supply rule will continue to be adopted by the UK when the Brexit transitional period ends on 31 December 2020. Therefore, the sale of software from an EU seller to a UK customer in 2021 (both seller and buyer in business) has a VAT place of supply in the UK so the EU seller does not charge domestic VAT.

The UK buyer treats the purchase under the Reverse Charge procedure, as both the seller and the buyer of the services. If the UK buyer is fully taxable (no VAT exempt sales or non-business activities), the Reverse Charge output tax (on the deemed sale) and the Reverse Charge input tax (on the purchase) will be the same and there will be no net VAT due to HMRC. The UK buyer converts the purchase invoice to sterling, and adds 20% VAT to box 1 and to box 4 of their quarterly VAT return.

2. **Does a UK-settled company need an EU EORI number, or is a UK EORI number enough?**

Andrew Wallis: If you are responsible for the import of goods into the EU (DDP Incoterms) rather than the customer, for example, as you hold goods in store pending order, then you will need an EU EORI and VAT registration where the goods arrive – a UK EORI will not be sufficient.

3. **How do you claim Outward Processing relief?**

Andrew Wallis: If you are authorised to use Outward Processing to have your goods processed or repaired overseas, you will not need to pay customs duty and import VAT on re-import into the UK. Similarly, if you are processing or repairing goods for your EU customer, Inward Processing will allow you not to account for import VAT and duty when the goods are temporarily imported into the UK.

To apply for Inward or Outward processing, you will need:

– to be established in the UK
– a UK EORI number
– to check if you need a guarantee
– to check if you need an import licence

Want to apply for inward or outward processing authorisation? You can do this online.

4. **What are your views on the impact of free ports? Would it be beneficial for a UK manufacturer expanding exporting to move to a free port?**

Mark Taylor: Free ports are secure customs zones located at ports where business can be carried out inside a country's land border but where different customs rules apply. They can reduce administrative burdens and tariff controls, provide relief from duties and import taxes, and ease tax and planning regulations.

Free ports are designed to attract major domestic and international investment. Areas given free port status will benefit from a wide package of tax reliefs, simplified customs procedures, streamlined planning processes to boost redevelopment and government support to promote regeneration and innovation.

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The bidding process for free ports in the UK is now open and bids will be assessed in March 2021 with decisions made in the spring.

This is certainly an area to watch if your business could move to an area which successfully bids for free port status next year.

5. As a non-EU country, after 1 January 2021, the terms of trade for the UK with other non-EU countries may change. How can we find out the status of negotiations with individual countries to determine things like duty rates, documentary requirements, etc.?

Alex Peal: The UK has already published its own tariff, due for introduction on 1 January 2021. The UK tariff uses the same 97 chapters for tariff codes/commodity codes used by tariffs around the world so, for example, the tariff code for each product in the EU is identical to the tariff code in the UK tariff. If there is a positive duty rate at import, it applies to all imports but some goods have preferential rates (either nil or reduced) from a specific country or group of countries, for example, the EU or GSP (15 countries including India, Nigeria and Kenya) or ACP (14 countries including Fiji and Papua New Guinea).

The reduced or nil rates for specific countries or groups of countries are termed preferences, and often are limited to a certain number or value of imports each calendar year. If the UK were to agree a late free trade deal with the EU, all imports of goods into the UK from the EU will have nil rates of customs duty under this agreement. Documents to prove that the goods originated in the country are required to be available to UK customs at the time of import (for example, a GSP form A).

The current documents required to be submitted for imports into the UK from countries outside the EU, will apply also to goods arriving from the EU from 1 January 2021 so a full import entry submitted to UK Customs.

Additional documents routinely required at the time of import into the UK from 1 January 2021 include a Safety & Security Certificate and purchase invoice but additional specific technical documents are also required for food, plants, medicines, firearms, etc..

In addition to customs duty at import into the UK, goods such as alcohol, tobacco and perfume will be subject to UK excise duty also. A new system for paying for import VAT called *postponed accounting* is to be introduced by the UK from 1 January, which, for VAT-registered businesses, will remove the need to pay import VAT at the time of import.

6. Are there any equivalents to EIS/SEIS in any EU countries that would recommend selection of that country for trading, e.g. in software development, electronic system assembly, etc.?

Andrew Wallis: Many countries across Europe have various incentives/tax benefits to encourage start-ups and associated financing, including Belgium, France, Germany, Ireland, Italy and Spain. Careful consideration should, however, be given to the commercial drivers for starting a business in a certain jurisdiction as well as both the short term and long term tax implications. Despite the UK leaving the EU, the EIS/SEIS schemes are very attractive, and the UK remains a great place to do business.

7. Do you think that coronavirus will have long term impacts for international trade?

Andrew Wallis: Yes. In many ways, Coronavirus has shone a light on some of the challenges associated with complicated international supply chains and have accelerated trends that already existed.

Even before Coronavirus we were seeing significant changes in international trade. Many companies were already critically assessing their supply chains and, in particular, shortening these and locating production closer to consumer markets. These trends were driven in part by consumer demand for quicker delivery of products, etc.. In addition, some of the economic efficiencies of the traditional model of locating production in South East Asia are not as obvious. Coronavirus will have set many of these changes in stone.

Of course, companies should consider the need to revisit their transfer pricing arrangements wherever there are significant changes to their supply chains and operating models.

8. Will the UK become less important when it comes to international trade as a result of Brexit? How will we maintain competitiveness?

Andrew Wallis: No, I do not believe that the UK will become less important when it comes to international trade as a result of Brexit. The UK has many natural attributes such as the English language, its geographic location and time zone. In addition, it is generally administratively simple to do business in the UK and we have a world-renowned legal system.

From a tax perspective, the UK has an unrivalled double tax treaty network, a low corporate tax rate, a dividend exemption, no dividend withholding tax and the generous substantial shareholding exemption. This all means that the UK is also a very attractive holding company location. Further, there are lots of strong UK businesses looking to trade overseas!

The UK government recognises the importance of having an internationally competitive tax system and, I believe, will seek to ensure that this not only remains the case but will also seek to expand targeted incentives such as R&D Tax Credits and the Patent Box. The UK government may also have more freedom outside the constraints of EU State Aid rules.

9. Over the past 12 months we have seen a significant increase in enquiries from the US, which has made us consider expansion. What is our first move?

Mark Taylor: Expansion into the US will have many similar considerations to expansion in any overseas country. Any expansion overseas needs to be undertaken following proper due diligence. Planning in advance and developing a strategy and business plan will reap rewards further down the line.

One of the first considerations is whether you will be doing business in or with that other country. This will likely have legal, regulatory and tax implications which may lead to consideration of the correct structure for your business overseas.

Development of a business plan as a first step could include (but not be limited to) the following:

Identify your partners and customers

Understand

– How the local government/system works
– Local industry specific regulations for compliance/certification
– The local culture
– Legal and regulatory environment

– Structure, tax and financial environment
– Supply chain management

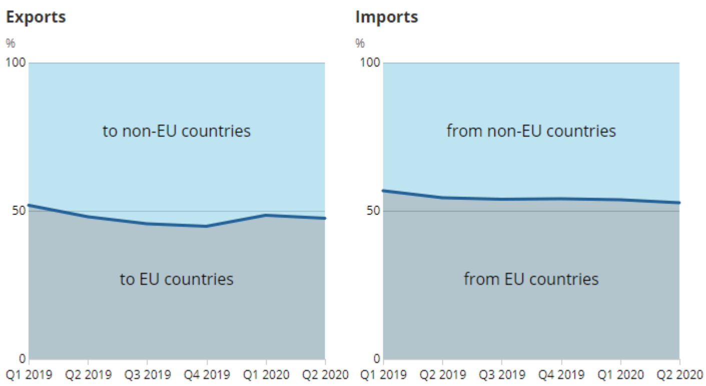
Take input from:

– Local advisers
– Government offices/embassies
– UK Department for International Trade

This is where an international network like Kreston can be such a great help in assisting businesses in making local connections, and finding the correct advisers to help them with their overseas plans.

10. The government has been very keen to strike trade deals with the US, Japan, Canada, Australia, etc.. Will these trade deals ever generate the degree of trade that the UK enjoys with the EU?

Mark Taylor: UK import and export trading is broadly equal between EU countries and the Rest of the World. The ONS has recently published the most up-to-date figures:



The top five UK trading partners by total trade in goods, excluding unspecified goods, in the first half (January to June) of 2020 were the United States (US), Germany, China, the Netherlands and France. They accounted for 46% of UK total trade in goods, excluding unspecified goods, in this period.

It is for this reason that trading deals with non-EU countries remain a high priority for the UK government.

11. What structure should we consider for our overseas operations?

Mark Taylor: If UK businesses are trading with an overseas country they can consider whether to ring fence this part of their business through a new UK subsidiary.

If a *permanent establishment* is to be created in an overseas country, then structuring can be argued to become of even more importance.

The responses below deal with the main aspects to consider in these circumstances.

12. What are the top international tax considerations for businesses considering trading overseas? What should businesses do to prepare?

Andrew Wallis: There are many considerations for businesses looking to trade overseas. Companies should not overlook the broader commercial considerations such as the importance of existing business relationships and networks but tax is also a consideration. There are a few key aspects to consider.

Operating structure

There are often significant differences between operating as a subsidiary or a branch, and the pros and cons of each should be carefully considered.

Double taxation

Care should always be taken to ensure that double taxation is avoided. Whilst double taxation is often mitigated through double taxation relief and double tax treaties, this is not always the case. The devil is always in the detail.

Withholding taxes / Branch repatriation taxes

Whilst the UK has the most extensive network of double tax treaties in the world, withholding taxes on the payment of interest, dividends or royalties can have a significant impact on the cost of doing business in or with a certain jurisdiction. Such taxes are overlooked at your peril!

Understanding taxing thresholds

From experience, the most common scenarios where businesses encounter significant tax issues are where businesses have slowly and gradually morphed into overseas trade, and new markets and taxing thresholds are breached. Often this can give rise to unanticipated permanent establishment, employee tax or VAT risks.

13. Targeted tax incentives are a terrific way to both protect and build key industry sectors – the video games tax credit is one good example. In what sectors would the panel like to see specific tax incentives introduced?

Mark Taylor: This is a difficult question as the UK already has a substantial array of tax incentives and taking the full benefit of these is an important part of any tax planning exercise.

As the world becomes far more digitally enhanced, software development is an area where additional tax incentives such as R&D tax credits are extremely useful, particularly as many of these businesses are start-ups. This in area where we would welcome increased incentives to benefit the UK in attracting the best talent in this area.

14. As a summary, what should businesses who trade internationally generally be doing now, to prepare for Brexit? What are your top five pieces of advice?

Andrew Wallis:

– Build the right team, including advisers.
– Map out your supply chain and distribution channels.
– Check if you are the importer in the EU, if you need an EU establishment and need to appoint a Customs agent.
– Consider if you need an EU EORI number and EU VAT registration.
– Walk through your expected processes, agree shipping terms with customers and suppliers, standardise documentation and ensure record keeping controls are in place.

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Further questions?

Reach out to our panellists

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