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News Flash

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**Brexit from the tax point of view in
Slovakia**

Brexit from the tax point of view in Slovakia

Regarding the end of the transition period on December 31, 2020 provided for in the Agreement on the leaving of the United Kingdom of Great Britain and Northern Ireland ("UK") from the European Union, below, we bring you an overview of the most significant changes in the tax and customs legislation which will apply from January 1, 2021 to the transactions with the UK.

The transition period February 1, 2020 – December 31, 2020

Based on the agreement between the UK and the EU, after the UK left the EU, so-called transition period was applied during which the UK continued to be considered as a member state of the EU in the area of taxes and customs. **This transition period ends on December 31, 2020** and it leads to several significant changes, in particular in the area of customs and customs duties, VAT regime of the transactions between the EU member states and the UK and related reporting obligations.

Brexit with or without a deal?

Until today, **no trade agreement has been concluded between the EU and the UK** representatives to regulate the trade relations. The most important point of this agreement in the terms of taxes and customs is that, once the agreement is concluded, the customs **on mutually supplied goods would not be a subject to the customs duties**, although, the trade in goods would be a subject to the customs regulation, but only in the area of the administrative obligations.

Considering the fact, that several days remain until the end of the transition period, it is unlikely that a trade agreement will be concluded by this date. Companies trading with counterparty from the UK (mainly with goods imported or exported to the UK) should be prepared for the fact, that **from January 1, 2021, such transactions will be subject to the same rules applied to the transactions with the third countries**, including customs controls and customs payments on exports and imports of goods.

In addition to other customs obligations, we would like to point out that the entities cooperating with

the counterparty from the **UK will have to be assigned so-called EORI, since every participant in the customs procedure must have it assigned**. Entrepreneurs who plan to trade from the new year with the UK must apply to the Financial Directorate of the Slovak republic for the EORI number.

The impact of Brexit on VAT returns and EC Sales List

Export of the goods to the UK after the end of the transition period will no longer be considered as a supply of goods to another EU member state, but the goods will be exempt from VAT if the standard conditions are met. Due to this reason, **the export of goods to the UK will not be included in the EC Sales List**, but only in the relevant line of the tax return.

Similarly, imports of goods from the UK will not be considered as acquisition of goods from another EU member state, **but it will be a subject to VAT within a customs procedure**.

In the case of services, the place of the supply will be determined in the same way as before, since whether the supplier or the customer of the service is a person from a member state or from the third country does not affect the determination of the place of the supply of the service. In the case of services received from the UK, if the place of the supply of the service is in the Slovak republic, the domestic taxable person will be obliged to apply the reverse-charge to the transaction and pay the VAT in the Slovak republic. The change occurs in the case of services delivered to the counterparty to the UK, if the place of the delivery of the service is determined according to the basic principle at the customer's seat. These services shall be included in the EC Sales List until December 31, 2020, however, from January 1, 2021, these

transactions will no longer be subject to the reporting in any of the VAT returns in the Slovak republic.

VAT refund from the UK

For the period of 2020, the VAT payers may apply for the VAT refund paid in the UK **in the standard electronic way no later than on March 31, 2021**. The deadline is relatively strict compared to the standard deadline of September 30 of the following calendar year, which applies to the application for VAT refund paid in other EU member state and until the end of the transition period was also applied to the VAT from the UK. The same deadline for submitting the application for VAT refund paid in the EU member state for the mentioned period will apply to VAT payers established in the UK.

It will no longer be possible to apply for the VAT refund paid in 2021 in the UK, as has been the case do far, but it will be necessary to validate the method and conditions under the UK legislation, which can cause significant complications for the entrepreneurs in the EU.

VAT and customs exception for the Northern Ireland

The application of condition to the counterparty from the UK, as well as to the third countries will not be applied to the supply of goods from and to the Northern Ireland area. Under a mutual agreement between the EU and the UK, the supply of goods and service to and from the Northern Ireland will be a subject to an exception over a period of at **least 4 years** from the end of the transition period, allowing the Northern Ireland to be treated as an EU member state during this period.

Please note that the exception only applies to the transactions of goods; in the case of services with the counterparty from the Northern Ireland, they will be subject to the same VAT rules as applies to the third countries. This means, that **the delivery of the service to the customer in the Northern Ireland will not be included in the EC Sales List**.

At the same time, the so far **unused country code "XI"** is being introduced, which will be used for deliveries of goods to the territory of Northern Ireland **in the EC Sales Lists and Intrastat declarations**.

Simplified mini one stop shop scheme (so-called MOSS)

The taxable persons established in the UK or in other third countries who will be interested in using the so-called mini one stop shop scheme ("MOSS") from January 1, 2021, for the provision of telecommunications services, TV and radio broadcasting services or electronically supplied services to the non-taxable person from the EU member states will have to register with the MOSS scheme in the EU member state; they will no longer be able to be registered in the UK.

The taxable persons currently registered in the MOSS scheme who will provide the telecommunications services, TV and radio broadcasting services or electronically supplies services after December 31, 2020 to the non-taxable persons in the UK, will no longer be able to use the MOSS scheme. They will have to comply in accordance with the legislation valid in the UK.

Direct taxes area

From January 1, 2021, the UK **will no longer be considered as a taxpayer of EU member state or as a taxpayer of a state who is a contracting party to the EEA Agreement**. The exclusion of the UK from this group will affect the application of certain provisions of the Income Tax Act, and transactions with the UK will no longer be eligible for certain benefits granted by the Income Tax Act to the transactions until the end of the transition period as EU member state.

- Exemption of royalties and interest from a source in the Slovak republic, which under other circumstances are subject to the withholding tax, in accordance with Section 13 par. 2 letter f) and h) of the Income Tax Act, can be applied only if the recipient of the income has its seat or a permanent establishment in an EU

member state. The above exemption will no longer be considered when assessing the taxation of royalties and interest which have their source in the Slovak republic and paid in the UK.

- In the case of some business combinations (contributions in-kind, merges, division), if one of the parties is a UK company, it will no longer be possible to perform this business combination at historical values (instead of fair values) even if the conditions are met. From the perspective of tax consequences of such a transaction, taxation may be less favourable for some parties of such a business combination than if the participants were EU member states.

- The tax bonus and other incomes specified in the provisions of Section 9 par. 2 letter b) and n) of the Income Tax Act (e.g. material need, state benefits, state social benefits) paid from the UK to the tax residents of the Slovak republic will no longer be exempt from tax, but will be included in the taxable income of natural persons.
- To secure the tax on the taxable income in the Slovak republic paid to taxpayers from the UK, the institute of tax security will be applied according to Section 44 of the Income Tax Act.

The assessment of tax obligations in the area of direct taxes will have to be based on the valid Income Tax Act and the valid Double Tax Treaty concluded between the UK and the Slovak republic.

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