



VAT reclaim post Brexit

When the UK public voted in favour of a Brexit the wish to leave the EU sent shockwaves across political, economic and financial institutions worldwide. We look briefly at what this decision means in the short and medium term for VAT reclaim.

Value Added Tax (VAT) is a transactional tax designed to be neutral for business. UK VAT law is implemented in the Value Added Tax Act 1994, as amended by subsequent finance in line with the European Principal VAT Directive. Under the umbrella of EU law and European Court rulings the UK has benefitted from harmonisation across the 28 member states. Some examples of this are the simplification measures intended to remove the burden from business including use of the One-Stop Shop, the Tour Operators Margin Scheme, Triangulation and the VAT refund mechanism for non-established traders travelling cross border.

For the moment HMRC has said "everything is continuing as normal." The UK's tax authority is stressing that "no laws have changed" and that tax rules remain the same following the EU referendum.

HMRC have issued written guidance on the subject stating *"As the Prime Minister announced this morning, there will be no immediate change to the movement of goods and people in and out of the United Kingdom (UK) from the EU. We are still a member of the EU. Until Article 50 is invoked, we will continue to engage with EU business as normal and be engaged in EU decision-making in the usual way. Once it is invoked, we will remain bound by EU law until the terms of our exit have been determined but we will not be involved in decision-making. The period between invocation of Article 50 and our eventual exit from the EU is expected to last at least two years"*

Article 50 of the Treaty on European Union sets out the rules for a country to lawfully exit the European Union. The process is unprecedented and untested as no other country has ever left the EU. Negotiations will be complex as the process involves "unravelling all the rights and obligations".

The UK would have up to 2 years to exit the EU from a legal perspective meaning current VAT and duty legislation which has an EU framework will remain in place during this period. If all negotiations are not settled within this 2 year timeframe the UK can extend the transition period only if it has the majority approval of the Member States. If no extension is applied for or granted, the UK ceases to be an EU Member State at the end of the two year period.

Whilst the UK will not be obliged to align its laws with the EU Directives once it has completed its exit from the EU, we are unlikely to see significant changes to the legislation as the UK government currently raises in the region of £115 billion a year from VAT. More likely will be the changes to the mechanics of VAT.

It is important to remember that there is already a mechanism in place for non-EU businesses to recover VAT incurred within the EU. The UK currently refunds VAT to non-established taxable businesses, so there will be no change there. The rest of the EU typically allow for refunds of VAT to non-established taxable business based on a rule of reciprocity. Until the negotiations regarding a single market are thrashed out we will not have definite answers but it would seem likely this will become the new mechanism for UK business to recover their VAT on foreign travel and expenses.

When Brexit becomes effective, probably by January 2019, cross-border VAT reclaim will probably fall under the 13th Council Directive [86/560/EEC](#) of 17 November 1986. UK companies will be allowed to reclaim VAT from EU countries, and reciprocally. However, this will always require original documents. TAXEO provides tax-compliant original e-invoices. This should make it much more practical for EU companies to reclaim from the UK and for UK companies to reclaim from EU.