

Navigating Brexit

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Introduction



Peter Legge

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We have spent the last four years looking at the risks and opportunities surrounding the variable Brexit outcomes. We've combined the knowledge and experience of our global network so that we are best placed to advise our clients on Brexit best practice and mitigating issues before they happen.

Five priority areas in your response to Brexit



People and skills



Imports and exports



Tax and transactions



Cost and cashflow



Data protection

While there's still some uncertainty around key elements of the UK's relationship with Europe, the days of 'wait and see' are over. You need to quickly digest the new rules and respond accordingly.

People and skills

European Economic Area (EEA) citizens living and working in the UK will now have a right to remain and work in the UK after Brexit. They should apply for ‘settled status’ by 30 June 2021 to secure their legal right to remain.

More widely, employers expect a growing skills gap and a tighter labour market in a no-deal scenario. Movement of people on assignments between the UK and EU will also require new processes.

Employing European nationals

EEA nationals who arrived in the UK before 11pm on 31 December 2020 will have the right to remain under the Brexit transition rules.

Recruiting from the EU

Free movement of people for the UK has ended and the introduction of the new points-based immigration system means new barriers to recruiting EU nationals.

Working overseas

The rules governing UK workers’ rights to work in each EU member state will be specific to each country. There may be visa requirements and temporary work permits needed for UK workers to take up international secondments in the EU/EEA. Cross-border workers are referenced as “Frontier” workers in the legislation and they are defined as people who work in one country but live primarily in another. A frontier worker includes workers living in the Republic of Ireland and working in NI, and can be either employed or self-employed. Irish citizens do not need to do anything to continue working in UK/NI from 1 January 2021, but can apply for a frontier work permit if they wish and this may be advisable in the short to medium term.



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Cost and cashflow

Ongoing disruption from COVID-19 instability in supply chains and increased costs could put pressure on the financial performance of organisations.

Cumulative cost increases

The exit from the European Union may cause price and cost rises across the organisation. Margins may be eroded by non-tariff factors including the introduction of customs declarations, health certification and additional paperwork. While each may be small, taken together, the impact could reduce margins or create the need for difficult discussions with customers.

Supply chain cash disruption

Delays or distress in the supply chain may lead to problems in recovering cash from customers and suppliers, putting pressure on your cash flow position.

Working capital management

Some organisations are seeing extended payment terms from their customers and earlier payment terms by key suppliers, which is putting pressure on their cash positions.



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Tax and transactions

Compliance is key to any organisation, whether you are establishing new operations overseas or looking to maintain current activities.

Withholding taxes

The payment of dividends, interest or royalties from the EU to the UK may now carry a withholding tax burden. This could be a real cost where the applicable treaty rate is not zero, and the tax is not available for credit against UK taxes. The expectation is that the UK is unlikely to levy withholding taxes on outbound payments out of the UK, but the impact of inbound payments to the UK from entities in the EU should be considered.

Group structures

UK companies may now break EU tax grouping relationships or consolidations. This may lead to possible clawback of previously claimed reliefs, and an inability to claim reliefs in the future.

Transfer pricing and exit charges

Reorganisations to internal supply chain, financing flows, incorporation of new entities for regulatory, customs or other commercial reasons may change the location of significant people functions, risks and assets. If value has moved or will move out of the UK there is a risk of an immediate and potentially significant corporate tax charge.

Foreign exchange

As the full impacts of the deal on the economy and sterling work through, businesses should consider whether their tax teams are fully aware of positions treasury teams are taking and that UK corporation tax risks are being managed accordingly.



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Imports and exports

Even if you're not moving goods directly you may still be exposed to import and export problems via your supply chain.

Ensure you can navigate new rules, tariffs and VAT requirements and check with your suppliers to ensure readiness and manage your risk.

Customs and VAT

Trade between the UK and EU will be subject to new customs procedures and potentially tariffs and quotas where goods do not meet strict rules of origin requirements under the Trade and Co-operation Agreement between the UK and EU. A new customs border in the Irish Sea means that the movement of goods from Great Britain to Northern Ireland will also be subject to customs procedures and tariffs. The VAT treatment of many transactions will also change.

Businesses will need to consider the impact of these indirect tax changes on their supply chain.

Supply chain and distribution

The new trading relationship between the UK and the EU brings with it both opportunities and challenges. Delays to raw materials and finished goods, the requirement to comply with new customs procedures, and the necessity for all stakeholders within the supply chain to have the necessary preparations in place, are some of the key challenges that many businesses are working to overcome. Where challenges exist, so does opportunity. Analysing supply chain models and design, while examining internal supply chain processes, may identify new opportunities and efficiencies that can be implemented by businesses to respond to such challenges and ultimately maintain supply to customers.



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Data protection

Focus on what is known and prepare for what is not.

Personal data protections are high on the agenda for both the UK and the EU. Regardless of a UK “Adequacy” decision for personal data / GDPR, there are a number of immediate considerations to make:

EU GDPR Representation

If you are UK based and selling into the EU and don't have an establishment in the EU you probably need an EU GDPR representative. This can be a very low cost, easily implemented service.

Cross border personal data flows

You must know your EU and non EU suppliers / controllers / processors / contractors / third parties etc. (and any of their sub contracts) to understand if your current contracts are compliant for cross border personal data flows.



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