

BREXIT AND VAT

SUPPLYING GOODS AND PROVIDING SERVICES TO THE UNITED KINGDOM AFTER DECEMBER 31, 2020

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(Information on the impact of the exit of the United Kingdom from the EU in the area of VAT
(BREXIT) as of January 1, 2021)

The United Kingdom withdrew from the European Union on February 1, 2020, and after the end of the transition period on January 1, 2021 changes to VAT will now apply in transactions between the United Kingdom and EU member states.

From a VAT perspective, as of January 1, 2021 the United Kingdom (“UK”) is a **third country**. This means that the UK will be subject to the same rules as countries like the USA, China or Russia.

As of January 1, 2021, **sales or movement of goods** between the Czech Republic and UK will be subject to the **rules for applying VAT in the import and export of goods**. The rules for supplying goods between EU member states will no longer apply. The VAT rules between Northern Ireland and the EU remains unchanged for the supply of goods.

With regard to the **provision of services**, Northern Ireland will be subject to the same rules as the rest of the UK, meaning the same rules will apply to the entire United Kingdom, because the Protocol on Ireland and Northern Ireland does not apply to performance including services. For the purposes of taxing services, Northern Ireland will be considered a third country, not an EU member state as it will for transactions involving goods.

Goods

Goods transported to or from the UK will be subject to customs oversight and customs checks may be performed in accordance with Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code. The entry of goods from the UK to the EU will be subject to the standard rules pursuant to Act No. 235/2004, on value added tax, as amended (hereinafter the “VAT Act”), **for the import of goods**. The exit of goods from the EU and entry to the UK will be considered **export of goods (Section 66(1) of the VAT Act)**. Provided that the conditions in the law are met (in particular Section 66(2) and (4) of the VAT Act), i.e. the goods are supplied and sent or transported from this country to the UK and the payer can prove that the goods left the EU, the export will be exempt from VAT.

This means that as of January 1, 2021 it will no longer be possible to apply the specific procedures, rules and special regimes in the area of trade in goods that apply only between EU member states in relation to the UK, namely:

- Sending goods (Section 8 of the VAT Act). Please also note in this regard the major changes in EU legislation on remote sales of goods, which are to be reflected in the VAT Act with effect as of July 1, 2021.
- Simplified procedure for the supply of goods within the EU in the form of triangular trade (Section 17 of the VAT Act).

BREXIT AND VAT

SUPPLYING GOODS AND PROVIDING SERVICES TO THE UNITED KINGDOM AFTER DECEMBER 31, 2020

- Supply and acquisition of goods using the transfer of goods in the warehouse regime within the territory of the European Union (Section 18 of the VAT Act).
- Supply and acquisition of new vehicles within the territory of the European Union (Section 19 of the VAT Act).
- Special regime for traders in used goods, works of art, collectors' items and antiques (Section 90 of the VAT Act).

Services

The rules for applying VAT to the provision of services will be the same for Northern Ireland as those for the rest of the UK.

The place of taxable supply and obligation to pay VAT will still be determined according to **Section 9(1) (B2B)** or **Section 9(2) (B2C)** of the VAT Act or the specific rules stipulated in **Section 9a through 10i of the VAT Act**.

As of January 1, 2021, the provision of B2B services from the UK to the Czech Republic (a service falling under Section 9(1) of the VAT Act) will have the place of supply as the Czech Republic, as the place where the recipient of that service has its headquarters or branch office. The Czech recipient of the service (VAT payer or identified person) becomes obliged to report the tax pursuant to Section 108(3)(a) of the VAT Act (the "reverse charge").

However, in providing this type of service (B2B from the Czech Republic to the UK) the place of performance will be outside the Czech Republic and it will be necessary to proceed according to the legal regulations valid in the UK, under which the recipient of the service operates in a reverse charge regime, where the recipient is required to report the tax in the UK. (<https://www.gov.uk/guidance/vat-imports-acquisitions-and-purchases-from-abroad>)

The service provider (VAT payer or identified person) becomes obliged to report the provision of services to the UK in the summary report for the last time if the service was provided in 2020, i.e. under the conditions in the Czech Republic the summary report is filed by the deadline (January 25, 2021). Filing a summary report will no longer be required for services provided to the UK on or after January 1, 2021.

For the provision of **telecommunications services, radio and television broadcasting services and electronically provided services to a non-taxable person, the place of performance is that of the recipient of the service (Section 10i(1) of the VAT Act)**.

A taxable person from the EU or outside the EU who provides these services on a cross-border basis to an end consumer in the EU (a non-taxable person located in the EU) can voluntarily register for the Mini-One Stop Shop¹¹ (Section 110a et seq. of the VAT Act) - hereinafter MOSS.

As of January 1, 2021 **it will not be possible to use MOSS to meet tax obligations when supplying these selected services to customers (non-taxable persons) in the UK**. This means that the last tax return can be filed through MOSS (in relation to performance for

BREXIT AND VAT

SUPPLYING GOODS AND PROVIDING SERVICES TO THE UNITED KINGDOM AFTER DECEMBER 31, 2020

customers in the UK) for Q4 2020. Businesses providing these selected services to customers in the UK will have to register for VAT in the UK. (<https://www.gov.uk/government/publications/accounting-for-vat-on-goods-moving-between-great-britain-and-northern-ireland-from-1-january-2021/accounting-for-vat-on-services-between-the-uk-and-eu-member-states-from-1-january-2021>). Similarly, businesses from the UK providing these services to customers in the EU must register for VAT in individual EU member states and pay VAT there, with no limit on the turnover for supplying services to individual EU member states and all performance provided will have to be taxed in the country of the recipient of the service.

VAT refunds

Changes also take effect as of January 1, 2021 for VAT refunds pursuant to Section 82 of the VAT Act. A VAT refund request on VAT paid in the UK on or before December 31, 2020 must be filed no later than March 31, 2021.

It will no longer be possible to apply procedures in the VAT refund shared system in the EU (according to the VAT Refund Directive) for refunds on VAT paid after December 31, 2020.

The only exception to this rule applies to **acquisition of goods by the payer in Northern Ireland or acquisition of goods in the Czech Republic by a taxable person located in Northern Ireland** who has a VAT ID number with the prefix XI, in which case the VAT refund system in the EU will remain in place even after the transition period ends pursuant to **Section 83 of the VAT Act**.

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