

# BREXIT: SOLUTIONS FOR UK BUSINESSES



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**Brexit has created a number of changes directly impacting UK companies. In recent months we have seen many recurring themes. If you fall into any of the following categories, we can assist you.**

- UK Company supplying telecommunications, broadcasting or electronic services to the EU;
- Owners of an Irish incorporated company with UK directors;
- Business to Business supply of goods from the UK to Ireland;
- A business that uses triangulation;
- A business requiring EU regulation.

## **MOSS Registration**

The VAT Mini One Stop Shop (MOSS) system is a simplification measure used by digital businesses supplying telecommunications, broadcasting and electronic services throughout Europe. Many UK business have been managing their VAT obligations through a UK MOSS registration.

However, after December 31, 2020, there should be no UK VAT MOSS system therefore business-critical decisions need to be made very soon.

Where a business based outside the EU, as the UK will be, makes supplies of digital services to consumers in the EU, the place of supply will be where the consumer is located.

From 31st December 2020, if your UK business had no fixed place of supply and is supplying digital services to consumers in the EU then you may need to use a Non-Union VAT MOSS scheme. You can choose to register for non-union MOSS in Ireland.

You must register by the 10th day of the month following your first supply e.g. if the first supply is in January 2021 then you must register by 10th February 2021.

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## **Irish Subsidiaries and EEA resident Directors**

Under Irish company law an Irish company should have an EEA resident director. However, under certain circumstances an exemption can be obtained.

Prior to 31 December 2021 having a UK resident director satisfied the EEA resident director requirement. However, going forward if the only directors are resident in the UK or otherwise outside the EU then action has to be taken.

To this end there are three options:

- Appoint an EEA resident director;
- Put in place an insurance bond in the appropriate form;

Apply to the Companies Registration Office for an exemption on the grounds of having a “real and continuous link” with economic activities carried out in the state.

We are able to assist with sourcing an Irish resident non-executive director for your business, getting the appropriate insurance bond in place or applying to the CRO on economic grounds.

We can advise you on which of the three options is most suitable in your circumstances.



# Delivering Goods to Irish Customers

A number of UK companies sell a large portion of their goods to customers in Ireland. Following Brexit, the free movement of goods may no longer be available.

The additional customs duty is not only an additional cost for your customer, but it is also an additional administrative burden for them, particularly if they do not otherwise import goods from outside the EU.

We are seeing many UK business look at solutions to ease the burden on their Irish customers. These include:

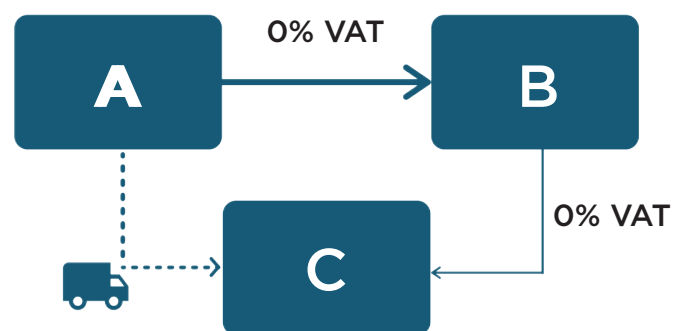
- Registering for VAT in Ireland and obtaining a Customs Deferred Payment Authorisation;
- Setting up an Irish branch to act as importer;
- Setting up an Irish subsidiary to act as importer.

There are benefits and drawbacks to each of these solutions and choosing the right option depends on the circumstances of each case.

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## Triangulation

Triangulation is an EU VAT simplification measure. It involves supplies that involve 3 VAT registered businesses in 3 separate EU countries. Company B purchases goods from Company A and sells to a third party, Company C. A ships products directly to C.



Under Triangulation, Company A 0% rates its VAT invoice to Company B and similarly Company B 0% rates its VAT invoice to Company C.

Brexit could impact on a UK company where it is the Original supplier (Company A), the middleman (Company B) or the final customer (Company C).

In cases where the UK company is currently the middleman, an Irish entity capable of managing the sale may facilitate the continued use of Triangulation.

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## A Market Requiring EU Regulation

Many UK service providers operating internationally are of the view that leaving the European Union will invariably inevitably lead to reduced access to the European market for their services.

Although the media focus has been firmly on the transfer of goods, and no doubt that will be the area most heavily impacted, the provision of services has not received the attention that it deserves.

The barrier to market will vary by sector, with the more heavily regulated industries being the most heavily impacted. Financial services, insurance providers and legal service providers may all require an EU presence in order to service the market.

Another consideration for UK businesses is the requirement to comply with GDPR regulations. Non-EU countries which process information on EU customers are still required to comply with GDPR regulations. If you process large amounts of data from EU data subjects or if you process special categories of data and you don't have an office in the EU, then you may need an EU Data Representative.

Service providers should consider if their markets will be impacted by Brexit and if so what steps need to be taken. If an EU presence is required there are many compelling reasons for choosing Ireland, not least similar tax and legal systems.

## ABOUT US

HLB Ireland is a leading advisory & accounting firm working with ambitious domestic and overseas businesses in Ireland.

Based in Dublin, the firm was formed in 1976 and continues to grow its client base, services and sector specialists.

TOGETHER  
WE MAKE  
IT HAPPEN

HLB is a global network of independent advisory and accounting firms. The network of firms has a shared history of innovation, collaboration and is dedicated to helping clients grow across borders. At a time when those borders and trading relationships are evolving, **HLB Ireland** is proud to be a part of the wider HLB story which gives us and our clients access to what is, quite literally, a world of insight and expertise.

If you are interested in speaking to our specialist advisory team in relation to your Brexit strategy, please contact our International Tax Partner, **Bruce Stanley** to arrange an initial obligation-free conversation.



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