CHAPTER 21
INTERNATIONAL ASPECTS – GOODS

This chapter looks at the treatment of sales and purchases of goods where the customers/suppliers are based overseas.

21.1 Introduction

When dealing with international goods we must initially focus on the place of supply.

The place of supply rules are found in VATA 1994 s.7 and operate on a hierarchy basis, i.e. start at s.7(2) and work down – as soon as you have found your particular supply then that is the place of supply. Most supplies will invariably be within s.7(7) which can be summarised as follows: VATA 1994, s.7

Goods leaving the UK = UK place of supply
Goods arriving in the UK = No UK place of supply

Where we have a UK place of supply we then need to consider the UK implications of that supply, i.e. registration and liability.

For goods it is irrelevant as to where the supplier is based. If they have a UK supply of goods they must consider their UK VAT obligations. It is also worth remembering that non-established traders will have a UK registration obligation if they make any taxable supplies in the UK. VATA 1994, Sch 1A

21.2 Exports

Exports are where a trader sells goods to a customer based outside the EU. The place of supply is in the UK as goods are leaving the UK. VATA 1994, s.7(7)a

The liability of the supply is zero-rated, irrespective of the type of goods being sold. VATA 1994, s.30(6)

There are great demands placed on a trader to obtain the necessary evidence that the goods he sold have been exported. The sort of evidence that HMRC will accept is a Bill of Lading, an Air Waybill or other commercial evidence. VAT Notice 703 paras 6.1-6.6

SI 1995/2518 Reg 2 provides a list of countries within the EU. Any country not on the list is considered outside the EU.

UK → Non-EU

Goods leaving UK

→ UK supply under VATA 1994, s.7(7)a
→ Zero-rated by way of VATA 1994, s.30(6)
→ Evidence of export movement required
21.3 Imports

When goods arrive in the UK from a non-EU supplier this is regarded as an import.

The place of supply is not in the UK as goods are arriving in the UK. VATA 1994, s.7(7)B

This is important as the overseas supplier does NOT have any UK VAT obligations as they are not making a UK supply. This would however change if the overseas supplier was responsible for the importation but this is generally not the case. VATA 1994, s.7(6)

Whilst this is not a UK supply VAT will be due on the import and it will be the customer’s obligation to account for the import VAT. VATA 1994, s.1(1)c; VATA 1994, s.1(4)

NON-EU → UK

Goods arriving in UK

→ No UK supply under VATA 1994, s.7(7) B
→ Import VAT payable by UK customer under s.1(1)c and s.1(4) VATA 1994

HMRC will need to value the goods (or rather the importer values the goods for HMRC) and HMRC apply the appropriate rate of VAT to those goods. The rate of VAT applied is whatever rate would have been applied if the goods had been bought in the UK. That amount of VAT is charged to the person who wants to take the goods out of the port and bring them to their UK business premises.

The import VAT can either be paid straight away or, for regular importers, a line of credit can be set up with HMRC to allow deferred payment. VATA 1994, s.38

The VAT paid to import the goods is treated like any other type of input VAT and so will be deducted in the next VAT return in the normal way.

The VAT is paid to put the trader into the same position whether he buys goods in the UK or overseas; there will be the appropriate input tax on both and the location of the supplier is irrelevant. The purchaser will then deduct the input tax in the normal way depending on the use that he makes of those goods.

Import VAT can be paid at a later date under the duty deferment scheme. There is a credit limit that applies to the scheme which is usually 100% of the estimated monthly debt for VAT. Bank guarantees are required to support this credit limit. The import VAT on a month’s imports is then all paid on the 15th day of the following month.

Approved importers are able to provide reduced, possibly even zero, security in relation to the import VAT element, when it comes to the duty deferment scheme.

The duty deferment scheme gives some cash flow relief. If there is no duty deferment guarantee in place then HMRC will require payment before they release the goods from the port of entry. SI 1976/1223

As an alternative to a trader importing goods himself, an import agent could be used to clear the goods. If a business only occasionally imports goods, it is a good idea to use an import agent because they are familiar with the paperwork and
the rules that go with importing goods. The import agent will use a deferment account to obtain the release of goods. The agent will recover the import VAT from the importer. The import agent must make sure that the actual importer is shown on the import entry so that the entitlement to credit for input tax will be available to the business.

21.4 Goods Sold to an EU Customer

The place of supply when goods leave the UK is the UK. **VATA 1994, s.7(7)a**

If the European customer is VAT registered in his EU member state and he gives the UK trader his VAT registration number, then the UK trader will zero rate the supply. This is often referred to as a dispatch. **VATA 1994, s.30(8)**

If however the customer is not VAT registered in his EU member state, the UK trader will charge UK VAT at the rate that would be appropriate to the goods being sold.

![Zero Rate](image)

UK supplier  EU customer

Zero Rate

\[\text{X} \quad \text{→ VAT Number}\]

X  Charge UK rate  → No VAT Number

As appropriate

There are no port formalities within the European Union, so when a UK trader sends goods from the UK to Europe they are not held up at the port of entry into that European country. They go straight to the premises of the customer.

Where a supply is made to a **taxable person in another EU country**, the time of supply (tax point) is the earlier of:

- the 15th day of the month following that in which the goods are removed; and
- the day of the issue of a VAT invoice in respect of the supply.

Unlike a UK domestic supply, the receipt of payment before the issue of an invoice does not create a tax point.

**Supplies to non-taxable persons in another EU country** are taxable in the UK and the tax point is determined under the normal rules.

HMRC Notice 725 is useful when considering EU movements of goods.

21.5 Goods Bought From an EU Supplier

The place of supply is outside the UK as goods are arriving in the UK. This is important from the EU supplier’s perspective as they do not need to consider the UK VAT rules as they are not making a UK supply. **VATA 1994, s.7(7)**

When the UK customer is registered for VAT in the UK these purchases are referred to as acquisitions.
Acquisitions work in a mirror-image way to dispatches. Therefore if the UK trader has given the European supplier his VAT registration number in the UK, the supplier will zero rate (in his own country) the supply of goods to the UK trader.

If the UK trader has not given the supplier his VAT registration number, the supplier will charge the UK trader his local rate of VAT on those goods as appropriate.

Where the UK customer is registered for VAT, HMRC will expect the customer to account for acquisition VAT. VATA 1994, s.1(1)B

The acquisition VAT is entered in Box 2 of the VAT return. The trader will then consider recovery in Box 4 under the normal rules. A copy of a UK VAT return can be found in SI 1995/2518, Sch 1, Form 4. VATA 1994, s.1(3)

For a fully taxable business, there will be a nil effect in the VAT return – the tax in the output tax box will equal the amount in the input tax box. Only partially exempt traders will have anything to pay from such an acquisition.

The tax point for acquisitions is the earlier of two dates:

- the 15th of the month following the month in which the goods arrived; or VATA 1994, s.12
- the date on which the invoice is issued for that supply of goods.

**Summary**

EU supplier ➔ UK registered customer

Goods arriving in UK

➔ No UK supply under VATA 1994, s.7(7)B
➔ Acquisition VAT due from UK customer under s.1(1)B and s.1(3) VATA 1994

There are no port formalities for transfers of goods between EU member states. VAT is only accounted for on the customer’s VAT return. Notice 725, Paras 4.1, 4.2, 4.4

### 21.6 Paperwork

For an export, a trader must ensure he has sufficient evidence to prove that the goods were exported. For an import there are valuation forms to fill in and then a trader must pay import VAT etc. SI 1995/2518, Regs 21-23 & 134

When it comes to acquisitions and dispatches there is also considerable paperwork for a business. In particular, there are two returns of importance. The first return is called the Intrastat, or the Supplementary Statistical Declaration (SSD). There is an acquisitions Intrastat and a dispatches Intrastat.

These are required for dispatches if the total value within a year exceeds £250,000. For arrivals they must be submitted if the total annual value exceeds £1,500,000 (£1,200,000 prior to 1 January 2015). The Intrastat must be completed and submitted electronically within 21 days of the end of the relevant month. Nil returns are not required.

A failure to submit an Intrastat when required is a criminal offence.
The details required on an Intrastat are: SI 1992/2790

- the commodity code of the goods (each type of goods has a separate classification code);
- the VAT exclusive value in sterling;
- the terms of delivery;
- the nature of the transaction so is it a sale or a lease etc., and this is identified by a two digit code;
- the net mass of goods in kilograms;
- the member state of arrival or dispatch; and
- the mode of transport.

The other return that has to be completed only applies to dispatches and is called the EC Sales List or ESL. It shows the value of supplies made to each customer, with each customer being identified by their VAT registration number in the appropriate Member State.

EC sales listings must be submitted quarterly (or monthly – see below) within 14 days of the end of the quarter for paper returns or within 21 days of the end of the quarter for electronic returns. It is possible to make an annual submission of an EC sales listing if turnover does not exceed £25,500 plus the current registration limit (which is £82,000 so that would give £107,500 as a grand total) or, the sales to EU customers do not exceed £11,000.

ESLs can be submitted quarterly provided that the VAT exclusive value of supplies of goods to other member states has not exceeded £35,000 in any one of the previous four quarters. Once the threshold is exceeded, monthly returns must be submitted.

Most traders selling to EU member states will have to fill in an EC sales list and if it is wrong or if it is late, there are civil penalties to penalise the trader for his wrong doing.

There is one other return that has information on it in respect of sales to overseas customers and purchases from overseas suppliers and that is the VAT return itself. The trader has to put an entry for the value of supplies in Boxes 6 and 8 of the VAT return. Box 6 is for total supplies made, excluding VAT i.e. the total sales figure, and this must include the Box 8 figure. Box 8 is the statistical box for supplies of goods and related services to the EU. Likewise the value of purchases has to be accounted for in Boxes 7 and 9 of the VAT return. Box 7 is for total purchases made, excluding VAT i.e. the net purchases figure, and this must include the Box 9 figure. Box 9 is the statistical box for acquisitions of goods and related services from the EU. Notice 725, Para 3.17.
Example 1

Here are six transactions. Cross the appropriate box to say whether the transaction is a dispatch, an acquisition, an export or an import.

<table>
<thead>
<tr>
<th></th>
<th>Dispatch</th>
<th>Acquisition</th>
<th>Export</th>
<th>Import</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Sale of apples to France</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>2.</td>
<td>Purchase of men’s hats from Canada</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>3.</td>
<td>Purchase of lamb from New Zealand</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>4.</td>
<td>Sale of children’s toys to Italy</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>5.</td>
<td>Sale of coal to Siberia</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>6.</td>
<td>Purchase of wine from Spain</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

21.7 Transfer of Own Goods to Another EU Country

Subject to certain exceptions, the transfer of goods within the same legal entity from one EU country to another (e.g. between branches of the same company) is deemed to be a supply of goods for VAT purposes under the general provisions of VATA 1994, Sch 4 para 6 and is liable to VAT under the normal arrangements for intra-EU supplies. Therefore, where a UK business transfers its own goods from the UK to another EU country in the course of its business (e.g. to sell them on from that country or to use them there), it is liable to account for VAT in that EU country on the acquisition of the goods. It should be advised to register for VAT in that EU country both to meet its obligations there and to use an overseas VAT registration number to support zero-rating of the deemed supply when the goods leave the UK. Otherwise the business must account for VAT in the UK on the goods (and cannot recover this as input tax in the other EU country). HMRC Notice 725, Para 9; VATA 1994, Sch 4 para 6

Essentially you must treat the movement of own goods like an ordinary dispatch. If the branch is registered in the member state you do not charge UK VAT. If the branch is not registered in the member state you account for UK VAT.

Similarly, where a business transfers its own goods from another EU country to the UK in the course of its business, VAT must be accounted for on the acquisition of the goods in the UK under the normal rules.

21.8 Installed Goods

Where the supplier is responsible for the supply and installation of the goods, the supply is regarded as one supply of installed goods.

The place of supply of installed goods is the place of installation. VATA 1994, s.7[3]
The EU Co is making a UK supply of installed goods and shall consider its UK registration obligations.

HMRC will however allow a simplification whereby the UK customer accounts for acquisition VAT thus avoiding the need for the EU Co to register in the UK. [VATA 1994, s.14(2)]

Mirror provisions would apply if a UK supplier was selling installed goods within the EU.

If a non-EU supplier was installing goods in the UK the simplification within s.14(2) will not apply. In this instance the non-EU supplier would need to register in the UK unless the installation was a one-off supply. [Business Brief 1/98]

21.9 Distance Selling

Distance selling occurs when a taxable person in one member state supplies and delivers goods to a customer in another member state who is not registered for VAT. The most common examples of distance sales are goods supplied by mail order or ordered over the internet. [Notice 725, Para 6.4]

EU Supplier ➔ Goods arriving in UK ➔ UK Individuals

Place of supply = outside the UK under VATA 1994 s.7(7)B

The UK individuals will be charged VAT by the EU supplier at the rate in force in the supplier's member state.

This can lead to a VAT advantage if the UK individuals chose to buy their goods from a supplier operating in a member state with a VAT rate lower than the UK. To counter this advantage the EU supplier will have an obligation to register in the UK if they breach the distance selling thresholds under VAT 1994, Schedule 2. [VATA 1994, Sch 2]

The distance selling threshold varies between different EU member states; it is either 35,000 Euros or 100,000 Euros. The UK has gone for the higher limit and in sterling equates to a £70,000 threshold. For anyone from another member state selling mail order into the UK it is only once their cumulative turnover exceeds £70,000 that the distance selling legislation requires them to register for VAT in the UK. The test is on a calendar year basis. [VATA 1994, Sch 2, para 1]

A person who is not liable to be registered under VATA 1994 and is not already so registered may request to be registered under these provisions. [VATA 1994, Sch 2, para 4]

It should be noted that VATA 1994, Schedule 1A will not apply in distance selling situations. Distance selling to the UK is not a UK supply – until the trader becomes registered under Schedule 2.

> Illustration 1

French Co sells goods by mail order into the UK. On 10 March 2016 its sales to UK individuals breached the £70,000 threshold for 2016. The French Co. must notify HMRC of its requirement to be registered within 30 days of 10 March 2016 under Schedule 2. It will be registered from 10 March 2016.
Once a trader is registered in the UK under Schedule 2 the place of supply changes.

Under VATA 1994 s.7(4) the place of supply is now the UK and UK VAT must be charged on any further supplies to individuals.

The EU supplier must include the sale on their UK VAT return (Box 1 – output tax, Box 6 – value of the supply). Notice 725 Para 6.17

A person who becomes liable to registration under these rules must notify HMRC of the fact within 30 days after that day. VATA 1994, Sch 2, para 3

A person who has become liable to be registered under these provisions ceases to be liable if at any time:

a. his relevant supplies in the year ended 31 December last before that time did not exceed £70,000;

b. HMRC are satisfied that the value of his relevant supplies in the year immediately following that year will not exceed £70,000 and will not include any such dutiable supply.

If a trader finds he has to register for VAT under the distance selling rules, he may wish to take up the services of a fiscal representative who will administer his VAT registration in that EU member state.

Distance selling is consistent throughout the EU so where a UK trader sells via mail order or internet to EU individuals they will have to consider their EU distance selling obligations. Until they breach a threshold they will continue to charge UK VAT on their UK supply. VATA 1994, s.7(7)a

When they do breach an EU distance selling threshold they will register in that member state. Any further sales to individuals in that member state will not be liable to UK VAT as the supplies are no longer UK supplies. The UK trader would however continue to make entries in Box 6 and Box 8 of its UK VAT return. VATA 1994, s.7(5); Notice 725, Para 6.17

21.10 Registration in Respect of Acquisitions of Goods from Other EU Countries.

Where a person is not registered for VAT in the UK, any goods purchased from a registered supplier in another EU country bear VAT at origin. To avoid distortions of VAT, additional registration requirements apply in respect of certain acquisitions from other EU countries by persons who acquire goods in excess of an annual threshold but who are not registered, or required to be registered. The provisions apply to any person not currently registered (including public bodies, charities and even private individuals if they are not acting in a purely personal capacity). VATA 1994, Sch 3

A ‘person’ becomes liable to be registered under these provisions if:

a. at the end of any month, in the period beginning with 1 January in that year, he has made acquisitions whose value exceeds £82,000, or

b. there are reasonable grounds for believing that the value of his acquisitions in the period of 30 days then beginning will exceed £82,000.
Pre-Sch 3 registration

<table>
<thead>
<tr>
<th>French Co</th>
<th>German Co</th>
<th>Spanish Co</th>
</tr>
</thead>
<tbody>
<tr>
<td>SR</td>
<td>↓</td>
<td>SR</td>
</tr>
<tr>
<td></td>
<td>UK Exempt Co</td>
<td></td>
</tr>
</tbody>
</table>

The UK Exempt Co is not registered for VAT in the UK and will therefore be charged VAT by its suppliers at the rate prevailing in the supplier's member state.

This can create a VAT advantage if the UK Exempt Co chooses to buy from suppliers in member states with a lower standard rate of VAT.

If the UK Exempt Co breaches the Sch 3 acquisition limit it will need to register for VAT.

Post-Sch 3 registration

<table>
<thead>
<tr>
<th>French Co</th>
<th>German Co</th>
<th>Spanish Co</th>
</tr>
</thead>
<tbody>
<tr>
<td>ZR</td>
<td>↓</td>
<td>ZR</td>
</tr>
<tr>
<td></td>
<td>UK Exempt Co (reg'd)</td>
<td></td>
</tr>
</tbody>
</table>

The supplies will now be zero-rated from their EU suppliers as the UK Exempt Co has a UK VAT number.

The UK Exempt Co will then have to adopt acquisition accounting by making an entry in box 2 of its VAT Return. The Box 4 recovery is subject to normal rules and as an exempt co there should be no input recovery. Hence the cost of buying from an EU supplier is the same as from a UK Supplier.

### 21.11 Refunds Under the Electronic Cross-Border Refund Scheme

The electronic cross border refund scheme enables a taxable person to recover VAT suffered in another EU country provided he was not already registered in that country (in which case that country's domestic VAT legislation would apply). <SI 1995/2518, Reg 173A-173X>

Electronic claims are completed and submitted via the competent authorities in each Member State, that being HMRC in the UK. These electronic submissions are then dealt with by the Member State from which the refund is requested and are determined under the rules of the Member State of refund.

**Who Can Claim?**

The claimant must be a taxable person established in a Member State other than the Member State of refund. An authorised agent can make the claim.

The applicant must meet the following conditions:

- it must not be registered, liable or eligible to be registered in the Member State from which it is claiming the refund;
• the applicant must have no fixed establishment, seat of economic activity, place of business or other residence there;

• during the refund period the applicant must not have supplied any goods or services in the member state of refund except:
  
  i. transport and ancillary services;
  
  ii. supplies of goods or services where VAT is payable by the person to whom the supply is made.

An application must be completed for each Member State.

The refund period must not be more than one calendar year or less than three calendar months, unless the period covered represents the remainder of a calendar year. If the application relates to less than a calendar year but not less than three months the minimum amount claimable is 400 Euros. If the claim relates to a period of a calendar year or the remainder of a calendar year, the minimum amount claimable is 50 Euros. Council Directive 2008/9/EC Article 17

The UK limit for claims to HMRC are £295 and £35 respectively. SI 1995/2518, Reg. 173H

Claims must be made to the Member State of establishment by 30 September of the calendar year following the refund year at the latest. If the claimant deregisters during the refund year, it should submit its claim as soon as possible following deregistration. If the claim is not completed correctly by 30 September it will be considered out of time. SI 1995/2518, Reg. 173P; Council Directive 2008/9/EC Article 15

Invoices with a value of 1,000 Euros or more, or the equivalent in national currency, must be scanned and submitted electronically with the application. All other invoices should be retained as they may be requested as part of the checking process. The UK limit is £750. SI 1995/2518, Reg. 173K; Council Directive 2008/9/EC Article 10

The Member State of refund must notify the applicant of the decision to approve or refuse the application within four months of the date they first received the application. If the Member State of refund requires further information, it must request it within the four month period. Once the Member State has received it, it has a further two months in which to notify its decision. If further additional information is requested, the final deadline can be extended up to a maximum of eight months from the date they received the application. Payment must be made within 10 working days following expiry of the appropriate deadline. SI 1995/2518, Reg. 173S; Council Directive 2008/9/EC Articles 20–23

If a Member State refuses an application it must give its reasons. Applicants can appeal against a decision to refuse repayment.

21.12 Refunds under EC 13th Directive

The 13th Directive requires each EU country to introduce a scheme to enable a taxable person established outside the EU to recover VAT suffered in that country provided he is not already registered there. The UK scheme can be found within SI 1995/2518 Regs 185–197.
The taxable person must not make supplies of goods or services in the particular EU country other than:

- supplies of transport (and related) services carried out in connection with the international carriage of goods; or

- services where the VAT on the supply is accounted for solely by the person to whom they are supplied.

Countries may make the refunds conditional upon the granting of comparable advantages regarding turnover tax by the territory where the taxable person is established. EC 13th Directive Arts 1, 2

Administrative arrangements and conditions for submitting applications, time limits and periods covered, minimum amounts claimable and methods of repayment are left to the individual countries. Refunds cannot be granted on terms more favourable than those applied to EU taxable persons. Countries may provide for the exclusion of certain expenditure. EC 13th Directive Arts 3, 4

In the UK the 13th Directive claims cover the year to 30 June and claims must be submitted within 6 months of this date. SI 1995/2518, Regs 185 & 192
## ANSWERS

### Answer 1

<table>
<thead>
<tr>
<th>Transaction</th>
<th>Dispatch</th>
<th>Acquisition</th>
<th>Export</th>
<th>Import</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Sale of apples to France</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Purchase of men’s hats from Canada</td>
<td></td>
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<td></td>
<td>X</td>
</tr>
<tr>
<td>3. Purchase of lamb from New Zealand</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>4. Sale of children’s toys to Italy</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>5. Sale of coal to Siberia</td>
<td></td>
<td>X</td>
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<td></td>
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<td>X</td>
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