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REV3 – replaces the notice (REV2)  
dated 16 April 2020<sup>1</sup>

## NOTICE TO STAKEHOLDERS

### WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF VALUE ADDED TAX (VAT) FOR GOODS

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<sup>1</sup> REV3 highlights the rules for refund claims in the Withdrawal Agreement, and reflects the new date of application of the extended scope of the “One Stop Shop”. REV3 also gives additional detail on the rules applicable in Northern Ireland by virtue of the IE/NI protocol.

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## INTRODUCTION

Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a “third country”.<sup>2</sup> The Withdrawal Agreement<sup>3</sup> provides for a transition period ending on 31 December 2020. Until that date, EU law in its entirety applies to and in the United Kingdom.<sup>4</sup>

During the transition period, the EU and the United Kingdom are negotiating an agreement on a new partnership, providing notably for a free trade area. However, it is

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<sup>2</sup> A third country is a country not member of the EU.

<sup>3</sup> Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 29, 31.1.2020, p. 7 (“Withdrawal Agreement”).

<sup>4</sup> Subject to certain exceptions provided for in Article 127 of the Withdrawal Agreement, none of which is relevant in the context of this notice.

not certain whether such an agreement will be concluded and will enter into force at the end of the transition period. In any event, such an agreement would create a relationship which in terms of market access conditions will be very different from the United Kingdom's participation in the internal market,<sup>5</sup> in the EU Customs Union, and in the VAT and excise duty area.

Therefore, all interested parties, and especially economic operators, are reminded of the legal situation applicable after the end of the transition period (Part A below). This notice also explains certain relevant separation provisions of the Withdrawal Agreement (Part B below), as well as the rules applicable in Northern Ireland after the end of the transition period (Part C below).

**Advice to stakeholders:**

To address the consequences set out in this notice, stakeholders are in particular advised to:

- familiarise themselves with customs procedures and formalities regarding import and export of goods;
- take account of VAT payment upon importation of goods from the United Kingdom and;
- submit their electronic refund applications for VAT paid before the end of the transition period in the UK (or in a Member State for UK traders) at the latest on **31 March 2021** (see further for more details).

**Please note:**

This notice does not address:

- VAT treatment of services, in particular on the Mini-One-Stop-Shop (MOSS);
- Customs procedures;
- EU rules on excise.

For these aspects, other notices are in preparation or have been published.<sup>6</sup>

It has to be noted that the purpose of this notice is to give a general explanation on the main consequences of the Withdrawal Agreement on the EU VAT rules applicable for goods in relation to the United Kingdom. It is not intended to explain in detail each

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<sup>5</sup> In particular, a free trade agreement does not provide for internal market concepts (in the area of goods and services) such as mutual recognition, the “country of origin principle”, and harmonisation. Nor does a free trade agreement remove customs formalities and controls, including those concerning the origin of goods and their input, as well as prohibitions and restrictions for imports and exports.

<sup>6</sup> [https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/future-partnership/preparing-end-transition-period\\_en](https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/future-partnership/preparing-end-transition-period_en)

specific VAT rule, in particular the simplification schemes that will enter into force in 2021 for distance sales of goods<sup>7</sup> or other more specific systems such as call-off stock arrangements.<sup>8</sup> General information is available on the Taxation and Customs Union Commission website.<sup>9</sup>

## **A. LEGAL SITUATION AFTER THE END OF THE TRANSITION PERIOD**

After the end of the transition period, the EU rules in the field of VAT, and in particular Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<sup>10</sup> (hereafter the “VAT Directive”) and Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State<sup>11</sup>, no longer apply to and in the United Kingdom.<sup>12</sup> This has in particular the following consequences concerning the treatment of taxable transactions in goods (see below, 1) and VAT refunds (see below, 2).

### **1. VAT RULES FOR CROSS-BORDER SUPPLIES OF GOODS**

EU VAT legislation provides for different VAT regimes for cross-border supplies/acquisitions and movements to/from Member States and third countries or territories.

After the end of the transition period, the EU rules for cross-border supplies and movements between Member States will no longer apply in the relations between Member States and the United Kingdom (e.g. no intra-EU supplies and acquisitions of goods; no distance sales<sup>13</sup> regime for goods to and from the United Kingdom).

Instead, after the end of the transition period, supplies and movements of goods between the EU and the United Kingdom will be subject to the VAT rules on imports and exports. This implies that goods which are brought into the VAT territory of the EU from the United Kingdom or are to be taken out of that territory for dispatch or transport to the United Kingdom, will be subject to customs

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<sup>7</sup> See the specific notice on “online purchase with subsequent parcel delivery” ([https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/future-partnership/preparing-end-transition-period\\_en](https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/future-partnership/preparing-end-transition-period_en)).

<sup>8</sup> [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/explanatory\\_notes\\_2020\\_quick\\_fixes\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/explanatory_notes_2020_quick_fixes_en.pdf)

<sup>9</sup> [https://ec.europa.eu/taxation\\_customs/business/vat\\_en](https://ec.europa.eu/taxation_customs/business/vat_en)

<sup>10</sup> OJ L 347, 11.12.2006, p. 1.

<sup>11</sup> OJ L 44, 20.2.2008, p. 23.

<sup>12</sup> Regarding the applicability of the EU VAT law for goods to Northern Ireland, see Part C of this notice.

<sup>13</sup> Article 14(4) of the VAT Directive introduced by Council Directive (EU) 2017/2455 of 5 December 2017 and applicable as of 1 July 2021.

supervision and may be subject to customs controls in accordance with Regulation (EU) No 952/2013 of 9 October 2013 laying down the Union Customs Code.<sup>14</sup>

- VAT will be due at the **importation** in the EU<sup>15</sup>, at the rate that applies to the supplies of the same goods within the EU.<sup>16</sup> VAT will be payable to customs authorities at the time of importation, unless the Member State of importation allows to enter import VAT in the periodical VAT return of the taxable person.<sup>17</sup> The taxable amount is based on the value for customs purposes, but increased by (a) taxes, duties, levies and other charges due outside the Member State of importation, and those due by reason of importation, excluding the VAT to be levied, and (b) incidental expenses, such as commission, packing, transport and insurance costs, incurred up to the first place of destination within the territory of the Member State of importation as well as those resulting from transport to another place of destination within the EU, if that other place is known when the chargeable event occurs.<sup>18</sup>
- The customs **export** procedure will be obligatory for Union goods leaving the EU customs territory. First the exporter will present the goods and a pre-departure declaration (customs declaration, re-export declaration, exit summary declaration) at the customs office responsible for the place where he is established or where the goods are packed or loaded for export shipment (customs office of export). Subsequently, the goods will be presented at the customs office of exit which may examine the goods presented based on the information received from the customs office of export and will supervise their physical exit out of the EU customs territory.

Goods will be exempt from VAT if they are dispatched or transported to a destination outside the EU.<sup>19</sup> The supplier of exported goods must be able to prove that the goods have left the EU. In this regard, Member States generally base themselves on the certification of exit given to the exporter by the customs office of export.

- **As of 1 July 2021**, an optional import scheme will be implemented covering distance sales of goods<sup>20</sup> imported from third countries or territories to customers in the EU up to a value of EUR 150.<sup>21</sup>

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<sup>14</sup> OJ L 269, 10.10.2013, p. 1.

<sup>15</sup> Article 2(1)(d) of the VAT Directive.

<sup>16</sup> Article 94(2) of the VAT Directive.

<sup>17</sup> Article 211 of the VAT Directive.

<sup>18</sup> Articles 85 and 86 of the VAT Directive.

<sup>19</sup> Article 146 of the VAT Directive.

<sup>20</sup> Except products subject to excise duties.

<sup>21</sup> Section 4 of Chapter 6 under Title XII of the VAT Directive as introduced by Council Directive (EU) 2017/2455 and applicable as of 1 July 2021 (amended by Council Decision (EU) 2020/1109 as to postpone the application from 1 January to 1 July 2021).

The seller will charge and collect the VAT at the point of sale to EU customers and declare and pay that VAT globally to the Member State of identification via a One-Stop-Shop (OSS). These goods will then benefit from a VAT exemption upon importation, allowing a fast release at customs.

A taxable person established outside the EU wishing to make use of this special scheme will be obliged to appoint an intermediary established in the EU (e.g. a courier, postal operator or customs agent), unless it is established in a country with which the EU has concluded an agreement on mutual assistance and from which it carries out the distance sales of goods.

Additionally, also with effect from 1 July 2021, where the import OSS is not used, a second simplification mechanism will be available for imports in consignments of an intrinsic value not exceeding EUR 150. Import VAT due in respect of goods for which the dispatch or transport ends in the Member State of importation will be collected from customers by the customs declarant (e.g. a courier, postal operator or customs agents) which will pay it to the customs authorities via a monthly payment.<sup>22</sup>

As of 1 July 2021, together with the introduction of the import scheme, the current VAT exemption for goods in small consignment of a value of up to EUR 22 will be abolished.<sup>23</sup>

## 2. VAT REFUNDS

VAT refunds by Member States to taxable persons established outside the EU are subject to the following conditions<sup>24</sup>:

- The request must be submitted directly to the Member State from which the refund is requested, in accordance with the arrangements determined by that Member State (Article 3(1) of the Thirteenth Council Directive 86/560/EEC of 17 November 1986 on the harmonisation of the laws of the Member States relating to turnover taxes - Arrangements for the refund of value added tax to taxable persons not established in Community territory<sup>25</sup> - hereafter “13<sup>th</sup> VAT Directive”);
- The VAT refund may be subject to a reciprocity condition (meaning that the refund is only permitted if VAT refund is also granted by the third country or territory to taxable persons established in the Member State concerned (Article 2(2) of the 13<sup>th</sup> VAT Directive);

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<sup>22</sup> Article 369y of the VAT Directive.

<sup>23</sup> Article 23 of Council Directive 2009/132/EC.

<sup>24</sup> Further information on: [https://ec.europa.eu/taxation\\_customs/business/vat/eu-vat-rules-topic/vat-refunds\\_en](https://ec.europa.eu/taxation_customs/business/vat/eu-vat-rules-topic/vat-refunds_en)

<sup>25</sup> OJ L 326, 21.11.1986, p. 40.

- Each Member State may require the taxable person established in a third country or territory to designate a tax representative in order to obtain the VAT refund (Article 2(3) of the 13<sup>th</sup> VAT Directive).

Subject to the Withdrawal Agreement,<sup>26</sup> after the end of the transition period these rules apply to refunds by Member States to taxable persons established in the United Kingdom.<sup>27</sup>

## **B. RELEVANT SEPARATION PROVISIONS OF THE WITHDRAWAL AGREEMENT**

### **1. DISPATCH OR TRANSPORT OF GOODS BETWEEN THE EU AND THE UNITED KINGDOM WHERE IT STARTED BEFORE THE END OF THE TRANSITION PERIOD, BUT ENDED THEREAFTER**

The dispatch or transport of goods from the United Kingdom to the territory of a Member State (or vice versa) may start before the end of the transition period but end after that transition period, whereby the goods arrive at the EU border (or respectively the UK border) after the transition period.

According to Article 51(1) of the Withdrawal Agreement, these transactions will still be considered for VAT purposes as intra-EU transactions (intra-EU supplies and acquisitions of goods, or B2C<sup>28</sup> supplies of goods taxable in the country of destination (distance sales of goods) or of origin) and not as exports/imports.

After the end of the transition period, those ongoing movements of goods will, however, have to be presented to customs at the border of the EU and of the United Kingdom. Customs authorities may request the importer to prove, by means of a transport document or any other document, that the dispatch or transport started before the end of the transition period.<sup>29</sup>

**The reporting obligations related to these transactions provided for in the VAT Directive such as the submission of recapitulative statements will still apply.**

### **2. REIMPORTATION OF GOODS AFTER THE END OF THE TRANSITION PERIOD**

According to Article 51(2) of the Withdrawal Agreement, the taxable person's rights and obligations under EU VAT law continue to apply where the transaction between the United Kingdom and the EU took place before the end of the transition period.

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<sup>26</sup> See below, part B of this notice.

<sup>27</sup> These rules are also applicable to taxable persons established in Northern Ireland as regards the refund of VAT paid on services in the Member States.

<sup>28</sup> Business to Consumers.

<sup>29</sup> See the Guidance Note Withdrawal of the United Kingdom and EU rules in the field of customs, including preferential origin.

Article 143(1)(e) of the VAT Directive provides for an exemption from VAT of the reimportation, by the person who exported them, of goods in the state in which they were exported, where those goods are exempt from customs duties.<sup>30</sup>

Thus, where goods had been transported or dispatched from one of the Member States to the United Kingdom before the end of the transition period and are returned in an unaltered state<sup>31</sup> from the United Kingdom to the EU after the end of the transition period, these movements are considered as reimportations according to Article 143(1)(e) of the VAT Directive. Provided the other conditions of Article 143(1)(e) of the VAT Directive are fulfilled,<sup>32</sup> the import is VAT exempted.

### **3. REFUND REQUESTS RELATING TO VAT PAID BEFORE THE END OF THE TRANSITION PERIOD**

According to Article 51(3) of the Withdrawal Agreement, a taxable person established in one of the Member States or in the United Kingdom is still to use the electronic portal set up by his State of establishment, in accordance with Article 7 of Directive 2008/9/EC, for submitting an electronic refund application that relates to VAT which was paid in, respectively, the United Kingdom or a Member State, before the end of the transition period<sup>33</sup>.

The application is to be submitted, under the conditions of the Directive, **at the latest on 31 March 2021.**

The other rules provided for in the VAT Directive and Directive 2008/9/EC will continue to apply, until 5 years after the end of the transition, to these refund applications and the previous ones relating to VAT chargeable<sup>34</sup> before the end of the transition period.

#### **Advice to stakeholders:**

Please note that the date of **31 March 2021** derogates from the usual rule that electronic refund applications can be submitted until 30 September of the calendar year following the refund period.

Stakeholders are advised to submit their electronic refund applications on time.

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<sup>30</sup> See the guidance note on the withdrawal of the United Kingdom and customs related matters relevant at the end of the transition period.

<sup>31</sup> In accordance with Article 203(5) of Regulation (EU) No 952/2013.

<sup>32</sup> In particular, the return has to take place within a period of three years, cf. Article 203(1) of Regulation (EU) No 952/2013.

<sup>33</sup> These rules are also applicable to taxable persons established in Northern Ireland as regards the refund of VAT paid on services in the Member States.

<sup>34</sup> Article 14 of Directive 2008/9/EC.



## **C. APPLICABLE RULES ON VAT FOR GOODS IN NORTHERN IRELAND AFTER THE END OF THE TRANSITION PERIOD**

### **1. INTRODUCTION**

After the end of the transition period, the Protocol on Ireland/Northern Ireland (“IE/NI Protocol”) applies.<sup>35</sup> The IE/NI Protocol is subject to periodic consent of the Northern Ireland Legislative Assembly, the initial period of application extending to 4 years after the end of the transition period.<sup>36</sup>

The IE/NI Protocol makes certain provisions of EU law applicable also to and in the United Kingdom in respect of Northern Ireland. In the IE/NI Protocol, the EU and the United Kingdom have furthermore agreed that insofar as EU rules apply to and in the United Kingdom in respect of Northern Ireland, Northern Ireland is treated as if it were a Member State.<sup>37</sup>

The IE/NI Protocol provides that EU VAT rules concerning goods apply to and in the United Kingdom in respect of Northern Ireland.<sup>38</sup> This means that references to the EU in Parts A and B of this notice have to be understood as including Northern Ireland, whereas references to the United Kingdom have to be understood as referring only to Great Britain.

Transactions involving services are not covered by the IE/NI Protocol. This means that transactions in services between Member States and Northern Ireland will be treated as transactions between Member States and third countries/territories.<sup>39</sup>

This will have in particular the following consequences:

- Transactions involving movements of goods between Northern Ireland and Member States will be considered as intra-EU transactions;
- Transactions involving movements of goods between Northern Ireland and other parts of the United Kingdom will be considered as imports/exports;
- Taxable persons established in Northern Ireland will be able to use the One-Stop-Shop (OSS) for declaring and paying the VAT due on their intra-EU distance sales of goods from Northern Ireland (or from Member States) to customers in the Member States (or in Northern Ireland);
- Taxable persons established in the Member States will be able to use the One-Stop-Shop (OSS) for declaring and paying the VAT due on their intra-

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<sup>35</sup> Article 185 of the Withdrawal Agreement.

<sup>36</sup> Article 18 of the IE/NI Protocol.

<sup>37</sup> Article 7(1) of the Withdrawal Agreement in conjunction with Article 13(1) of the IE/NI Protocol.

<sup>38</sup> Article 8 of the IE/NI Protocol and section 1 of annex 3 to that Protocol.

<sup>39</sup> Article 8 of the IE/NI Protocol and section 1 of annex 3 to that Protocol.

EU distance sales of goods from Member States to customers in Northern Ireland;

- Taxable persons established in Northern Ireland will be able to request a refund of the VAT paid in the Member States under the refund procedure established by Council Directive 2008/9/EC, insofar as the refund relates to VAT which they have paid on acquisitions of goods;
- Taxable persons established in the Member States will be able to request a refund of the VAT paid in Northern Ireland under the refund procedure established by Council Directive 2008/9/EC, insofar as the refund relates to VAT which they have paid on acquisitions of goods.

However, the IE/NI Protocol excludes the possibility for the United Kingdom in respect of Northern Ireland to participate in the decision-making and decision-shaping of the Union.<sup>40</sup>

The VAT treatment of taxable transactions and the VAT refunds rules are further detailed in the respective sections 2 and 3 below.

## **2. VAT RULES FOR SUPPLIES OF GOODS**

After the end of the transition period, all EU VAT rules concerning transactions in goods (supplies of goods, intra-EU acquisitions of goods and exportations/importations of goods) will continue to apply in Northern Ireland as if it were a Member State of the EU. This means, for instance, that the place of taxation, the chargeable event and chargeability of VAT, the taxable amount, the VAT rates, the exemptions, the deduction rules or the obligations applicable will be those provided for in the VAT Directive as regards goods, as they will be implemented in Northern Ireland. The standard VAT treatment that will be applicable to transactions in goods is detailed below.

### **2.1. Supplies of goods within Northern Ireland**

VAT will be due on supplies of goods that will take place in Northern Ireland<sup>41</sup> at the rate applicable in Northern Ireland.<sup>42</sup>

### **2.2. Transactions involving movements of goods between Northern Ireland and the Member States**

Transactions involving movements of goods between Northern Ireland and Member States will be considered as intra-EU transactions.

All EU rules applying to cross-border supplies and movements of goods between the Member States will also apply in the relations between Northern

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<sup>40</sup> Where an information exchange or mutual consultation is necessary, this will take place in the joint consultative working group established by Article 15 of the IE/NI Protocol.

<sup>41</sup> Article 2(1)(a) of the VAT Directive.

<sup>42</sup> Article 93 of the VAT Directive.

Ireland and the Member States (e.g. intra-EU supplies and acquisitions of goods, distance sales regime for goods to and from Northern Ireland).

As from 1 January 2021, taxable persons in Northern Ireland that, on the basis of the IE/NI Protocol, are subject to EU VAT legislation as regards goods, will have to be identified via a VAT identification number with the prefix “XI”<sup>43</sup>. Suppliers in Northern Ireland will have to mention this “XI” prefix notably on their invoices for their supplies of goods to a taxable person in a Member State).

This VAT identification number with the “XI” prefix will also have to be indicated by a taxable person in Northern Ireland to his supplier in a Member State when he is acquiring goods as it is one of the conditions for the intra-EU supply to be exempt (see also below)<sup>44</sup>.

### 2.2.1. *Intra-EU supplies and acquisitions of goods (B2B<sup>45</sup> transactions)*

#### 2.2.1.1. Goods moving from Northern Ireland to a Member State

An intra-EU supply of goods will take place in Northern Ireland if the goods are dispatched or transported by (or on behalf of) the supplier or the customer from Northern Ireland to a Member State. The customer will make a corresponding intra-EU acquisition in the Member State of destination of the goods.

Where the conditions are fulfilled, the intra-EU supply will be exempt from VAT in Northern Ireland<sup>46</sup>. The corresponding intra-EU acquisition made by the customer in the Member State of destination of the goods will be taxed at the rate and under the conditions applicable in that Member State.<sup>47</sup>

#### 2.2.1.2. Goods moving from a Member State to Northern Ireland

An intra-EU supply of goods will take place in the Member State of departure of the goods if the goods are dispatched or transported by (or on behalf of) the supplier or the customer from that Member State to Northern Ireland. The

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<sup>43</sup> Council Directive (EU) 2020/1756 of 20 November 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the identification of taxable persons in Northern Ireland (OJ L 396, 25.11.2020, p. 1).

<sup>44</sup> Article 138(1b) of the VAT Directive.

<sup>45</sup> Business to Business.

<sup>46</sup> Article 138 and 139 of the VAT Directive.

<sup>47</sup> Article 2(1)(b) and Articles 40 to 42 of the VAT Directive.

customer will make a corresponding intra-EU acquisition in Northern Ireland.

Where the conditions are fulfilled, the intra-EU supply will be exempt from VAT in the Member State of departure<sup>48</sup>. The corresponding intra-EU acquisition made by the customer in Northern Ireland will be taxed at the rate and under the conditions applicable in Northern Ireland.<sup>49</sup>

## 2.2.2. *Intra-EU distance sales of goods (B2C transactions)*

### 2.2.2.1. Goods moving from Northern Ireland to a Member State

When goods (to the exclusion of new means of transport and goods supplied after assembly or installation by or on behalf of the supplier) are dispatched or transported by or on behalf of the supplier from Northern Ireland to a Member State and qualify as “distance sales”<sup>50</sup>, VAT will be due in the Member State of destination of these goods<sup>51</sup>, at the rate applicable in that Member State.

Taxable persons established in Northern Ireland will be able to use the One-Stop-Shop (OSS)<sup>52</sup> available in Northern Ireland for declaring and paying the VAT due on their intra-EU distance sales of goods to the Member States.

### 2.2.2.2. Goods moving from a Member State to Northern Ireland

When goods (to the exclusion of new means of transport and goods supplied after assembly or installation by or on behalf of the supplier) are dispatched or transported by or on behalf of the supplier from a Member State to Northern Ireland and qualify as “distance sales”<sup>53</sup>, VAT will be due

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<sup>48</sup> Article 138 and 139 of the VAT Directive.

<sup>49</sup> Article 2(1)(b) and Articles 40 to 42 of the VAT Directive.

<sup>50</sup> Article 14(4) of the VAT Directive introduced by Council Directive (EU) 2017/2455 and applicable as of 1 July 2021 (amended by Council Decision (EU) 2020/1109 as to postpone the application from 1 January to 1 July 2021).

<sup>51</sup> Article 33 of the VAT Directive introduced by Council Directive (EU) 2017/2455 and applicable as of 1 July 2021 (amended by Council Decision (EU) 2020/1109 as to postpone the application from 1 January to 1 July 2021).

<sup>52</sup> Article 369bis to Article 369k of the VAT Directive introduced by Council Directive (EU) 2017/2455 and applicable as of 1 July 2021 (amended by Council Decision (EU) 2020/1109 as to postpone the application from 1 January to 1 July 2021).

<sup>53</sup> Article 14(4) of the VAT Directive introduced by Council Directive (EU) 2017/2455 and applicable as of 1 July 2021 (amended by Council Decision (EU) 2020/1109 as to postpone the application from 1 January to 1 July 2021).

in Northern Ireland<sup>54</sup>, at the rate applicable in Northern Ireland.

Taxable persons established in the Member States will be able to use the One-Stop-Shop (OSS)<sup>55</sup> available in their Member State for declaring and paying the VAT due on their intra-EU distance sales of goods to Northern Ireland.

### 2.2.3. *Goods installed or assembled*

#### 2.2.3.1. Goods installed or assembled in a Member State

When goods dispatched or transported by the supplier, by the customer or by a third person from Northern Ireland to a Member State are installed or assembled, by or on behalf of the supplier, VAT will be due in that Member State.<sup>56</sup>

#### 2.2.3.2. Goods installed or assembled in Northern Ireland

When goods dispatched or transported by the supplier, by the customer or by a third person from a Member State to Northern Ireland are installed or assembled, by or on behalf of the supplier, VAT will be due in Northern Ireland.<sup>57</sup>

### 2.2.4. *New means of transport*

#### 2.2.4.1. New means of transport moving from Northern Ireland to a Member State

The supply of new means of transport<sup>58</sup>, dispatched or transported from Northern Ireland to a Member State will be exempt from VAT in Northern Ireland<sup>59</sup>. The corresponding intra-EU acquisition of the new means of transport<sup>60</sup> will be taxed in the Member State of destination

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<sup>54</sup> Article 33 of the VAT Directive introduced by Council Directive (EU) 2017/2455 and applicable as of 1 July 2021 (amended by Council Decision (EU) 2020/1109 as to postpone the application from 1 January to 1 July 2021).

<sup>55</sup> Article 369bis to Article 369k of the VAT Directive introduced by Council Directive (EU) 2017/2455 and applicable as of 1 July 2021 (amended by Council Decision (EU) 2020/1109 as to postpone the application from 1 January to 1 July 2021).

<sup>56</sup> Article 36 of the VAT Directive.

<sup>57</sup> Article 36 of the VAT Directive.

<sup>58</sup> Article 2(2) of the VAT Directive.

<sup>59</sup> Article 138(1) and (2)(a) of the VAT Directive.

<sup>60</sup> Article 20 of the VAT Directive.

of that new means of transport<sup>61</sup> at the rate applicable in that Member State. More information can be found at:

[https://ec.europa.eu/taxation\\_customs/individuals/car-taxation/buying-selling-cars\\_en](https://ec.europa.eu/taxation_customs/individuals/car-taxation/buying-selling-cars_en)

#### 2.2.4.2. New means of transport moving from a Member State to Northern Ireland

The supply of new means of transport<sup>62</sup>, dispatched or transported from a Member State to Northern Ireland will be exempt from VAT in the Member State of departure<sup>63</sup>. The corresponding intra-EU acquisition of the new means of transport<sup>64</sup> will be taxed in Northern Ireland<sup>65</sup> at the rate applicable in Northern Ireland.

More information can be found at:

[https://ec.europa.eu/taxation\\_customs/individuals/car-taxation/buying-selling-cars\\_en](https://ec.europa.eu/taxation_customs/individuals/car-taxation/buying-selling-cars_en)

### **2.3. Transactions involving movements of goods between Northern Ireland and third countries/territories or other parts of the United Kingdom**

Transactions involving movements of goods between Northern Ireland and third countries/territories and between Northern Ireland and other parts of the United Kingdom will be subject to the VAT rules on imports and exports.

Goods that are brought into Northern Ireland from third countries/territories or from other parts of the United Kingdom or that are to be taken out of Northern Ireland for dispatch or transport to third countries/territories or other parts of the United Kingdom, will be subject to customs supervision and may be subject to customs controls in accordance with Regulation (EU) No 952/2013 of 9 October 2013 laying down the Union Customs Code.

#### *2.3.1. Goods brought into Northern Ireland from third countries/territories or from other parts of the United Kingdom*

VAT will be due on the importation of goods<sup>66</sup> in Northern Ireland<sup>67</sup> from third countries/territories or from other parts of the United

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<sup>61</sup> Article 2(1)(b)(i) and (ii) and Article 40 of the VAT Directive.

<sup>62</sup> Article 2(2) of the VAT Directive.

<sup>63</sup> Article 138(1) and (2)(a) of the VAT Directive.

<sup>64</sup> Article 20 of the VAT Directive.

<sup>65</sup> Article 2(1)(b)(i) and (ii) and Article 40 of the VAT Directive.

<sup>66</sup> Article 2(1)(d) of the VAT Directive.

<sup>67</sup> Articles 60 and 61 of the VAT Directive.

Kingdom, at the rate that applies to the supplies of the same goods in Northern Ireland.<sup>68</sup>

VAT will be payable to customs authorities at the time of importation, unless the United Kingdom allows to enter import VAT in the periodical VAT return of the taxable person.<sup>69</sup>

The taxable amount will be based on the value for customs purposes, increased by (a) taxes, duties, levies and other charges due outside the Member State of importation, and those due by reason of importation, excluding the VAT to be levied, and (b) incidental expenses, such as commission, packing, transport and insurance costs, incurred up to the first place of destination within the territory of the Member State of importation as well as those resulting from transport to another place of destination within the EU, if that other place is known when the chargeable event occurs.<sup>70</sup>

These importations will be exempted from VAT if the taxable persons make use of One-Stop-Shop (OSS)<sup>71</sup> for declaring and paying the VAT due on their distance sales of goods (except products subject to excise duties) imported from third countries/territories or from other parts of the United Kingdom to customers in the Member States or Northern Ireland, in consignments of an intrinsic value not exceeding EUR 150.

If the taxable persons are not established in the Member States or in Northern Ireland, to be able to make use of the special scheme, they will have to be represented by an intermediary established in the EU, unless they are established in a country with which the EU has concluded an agreement on mutual assistance and from which he is carrying out the distance sales of goods.

Where the special scheme is not used for the importation of goods, except products subject to excise duties, in consignments of an intrinsic value not exceeding EUR 150, the customs declarant in Northern Ireland will be allowed to report electronically the VAT due in respect of goods for which the dispatch or transport ends in Northern Ireland in a monthly declaration and pay it via a monthly payment.<sup>72</sup>

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<sup>68</sup> Article 94(2) of the VAT Directive.

<sup>69</sup> Article 211 of the VAT Directive.

<sup>70</sup> Articles 85 and 86 of the VAT Directive.

<sup>71</sup> Articles 369l to 369x of the VAT Directive.

<sup>72</sup> Articles 369y to 369zb of the VAT Directive.

### 2.3.2. *Goods taken out of Northern Ireland to third countries/territories or to other parts of the United Kingdom*

Goods will be exempt from VAT in Northern Ireland if they are dispatched or transported from Northern Ireland to a third country/territory or to another part of the United Kingdom<sup>73</sup>. The supplier of exported goods must be able to prove that the goods have left Northern Ireland to a destination in a third country/territory or in another part of the United Kingdom. In this regard, the competent authorities could base themselves on the certification of exit given to the exporter by the customs office of export.

## 2.4. **Recapitulative table**

The table below summarises the VAT treatment linked to the different possible scenarios. The following acronyms are used for didactical purpose:

**EU:** the EU Member States;

**GB:** Great Britain i.e. the United Kingdom with the exception of Northern Ireland;

**MS:** Member State;

**NI:** Northern Ireland;

**Third country:** any non-EU country which is not the United Kingdom.

<b>Goods moving from/to</b>	<b>VAT treatment</b>
GB to EU	Importation in the concerned MS
EU to GB	Exportation in the concerned MS
GB to NI	Importation in NI
NI to GB	Exportation in NI
NI to EU	Intra-EU transaction
EU to NI	Intra-EU transaction
Third country to NI	Importation in NI
NI to third country	Exportation in NI

## 2.5. **Goods dispatched or transported from or to Northern Ireland before the end of the transition period**

There may be situations where goods are dispatched or transported from or to Northern Ireland before the end of the transition period, but where these goods arrive to their final destination only after the end of the transition period.

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<sup>73</sup> Article 146 of the VAT Directive.



Where the dispatch or transport of goods started in Northern Ireland before the end of the transition period and ends in a Member State thereafter (or vice versa), there will be no change in the VAT treatment of this movement that will continue to be considered as an intra-EU transaction.

Where the dispatch or transport of goods started in Northern Ireland before the end of the transition period and ends in another part of the United Kingdom thereafter (or vice versa), the relevant rules of the Withdrawal Agreement<sup>74</sup> apply: there will be no change in the VAT treatment of this movement that will continue to be considered as a domestic transaction taking place in the United Kingdom.

After the end of the transition period, those ongoing movements of goods from another part of the United Kingdom will however have to be presented to customs authorities in Northern Ireland. Taxable persons must be able to prove that the transaction took place under this particular circumstance, i.e. that the dispatch or transport of goods started before the end of the transition period and ended thereafter. Customs authorities may request the importer to prove the customs status of the goods as Union goods and, by means of a transport document, that the dispatch or transport started before the end of the transition period.

### 3. VAT REFUNDS

EU VAT legislation provides for different regimes of VAT refunds to taxable persons not established in the Member State in which they have paid VAT. This depends on whether the taxable person is established in the EU or in a third country/territory.

According to the IE/NI Protocol, the EU rules for VAT refunds will be applicable in and to Northern Ireland<sup>75</sup> **to the extent that they relate to purchases of goods or imported goods**. The main principles are set out below.

#### **Advice to stakeholders:**

Please also consult the annex that provides more detailed guidelines for the application of the VAT refund procedures in respect of transactions involving Northern Ireland and the Member States.

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<sup>74</sup> Article 51 of the Withdrawal Agreement and Article 13(1), subparagraphs 2 and 3, of the IE/NI Protocol.

<sup>75</sup> Article 8 of the IE/NI Protocol and section 1 of annex 3 to that Protocol.

### **3.1. Taxable persons established in Northern Ireland, and having a VAT identification number with the “XI” prefix, with VAT paid on purchases of goods or imported goods in a Member State**

Taxable persons established in Northern Ireland can request a Member State where they are not established to refund the VAT paid there.<sup>76</sup> The standard procedure applies, in particular:

- The refund request must be submitted electronically to the authorities competent in Northern Ireland at the latest on 30 September of the year following the refund period (Article 15 of Directive 2008/9/EC);
- The refund request must be forwarded by the authorities competent in Northern Ireland to the Member State of refund within 15 days (Article 48(1) of Council Regulation (EU) No 904/2010<sup>77</sup>);
- The Member State of refund must take a decision on the refund request within 4 months (Article 19(2) of Directive 2008/9/EC); if the refund application is approved, the refund must be paid within 4 months + 10 working days (Article 22 of Directive 2008/9/EC); these periods can be prolonged if the Member State of refund asks additional information (Article 21 of Directive 2008/9/EC).

### **3.2. Taxable persons established in a Member State with VAT paid on purchases of goods or imported goods in Northern Ireland**

Taxable persons established in a Member State (provided they are not established in Northern Ireland) can request to the authorities competent in Northern Ireland to refund the VAT paid there<sup>78</sup>. The following standard procedure applies, in particular:

- The refund request must be submitted electronically to the Member State of establishment at the latest on 30 September of the year following the refund period (Article 15 of Directive 2008/9/EC);
- The refund request must be forwarded by the Member State of establishment to the authorities competent in Northern Ireland within 15 days (Article 48(1) of Council Regulation (EU) No 904/2010<sup>79</sup>);
- The authorities competent in Northern Ireland must take a decision on the refund request within 4 months (Article 19(2) of Directive 2008/9/EC); if the refund application is approved, the refund must be paid within 4 months + 10 working days (Article 22 of Directive 2008/9/EC); these

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<sup>76</sup> Articles 170 and 171 of the VAT Directive.

<sup>77</sup> Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax, OJ L 268, 12.10.2010, p. 1.

<sup>78</sup> Articles 170 and 171 of the VAT Directive.

<sup>79</sup> Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax, OJ L 268, 12.10.2010, p. 1.

periods can be prolonged if the authorities competent in Northern Ireland ask additional information (Article 21 of Directive 2008/9/EC).

### **3.3. Taxable persons established outside the EU or in other parts of the United Kingdom with VAT paid on purchases of goods or imported goods in Northern Ireland**

VAT refunds by the authorities competent in Northern Ireland to taxable persons established outside the EU or in other parts of the United Kingdom will be subject to the following conditions provided for in the 13<sup>th</sup> Directive<sup>80</sup>:

- The request must be submitted directly to the authorities competent in Northern Ireland, in accordance with the arrangements determined by them (Article 3(1) of the 13<sup>th</sup> Directive);
- The VAT refund may be subject to a reciprocity condition (meaning that the refund is only permitted if VAT refund is also granted by the third country or territory to taxable persons established in Northern Ireland (Article 2(2) of the 13<sup>th</sup> Directive);
- The authorities competent in Northern Ireland may require the taxable person established in a third country or territory to designate a tax representative in order to obtain the VAT refund (Article 2(3) of the 13<sup>th</sup> Directive).

The website of the Commission on taxation and customs union ([https://ec.europa.eu/taxation\\_customs/index\\_en](https://ec.europa.eu/taxation_customs/index_en)) provides general information concerning the consequences of the United Kingdom withdrawal in the field of VAT. These pages will be updated with further information, where necessary.

European Commission  
Directorate-General Taxation and Customs Union

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<sup>80</sup> Article 8 of the IE/NI Protocol and section 1 of annex 3 to that Protocol.

## ANNEX

### **Practical arrangements for the application of VAT refund procedures in respect of the transactions involving Northern Ireland and the Member States (under the IE/Ni Protocol)**

Two different VAT refund systems exist: the electronic EU VAT refund system<sup>81</sup> for traders established in the EU and the 13<sup>th</sup> Directive<sup>82</sup> for traders established outside the EU.

Under the IE/Ni Protocol, the EU VAT legislation as regards goods (but not as regards services) remains applicable in Northern Ireland. Questions were raised on how to determine the applicable refund procedure in a given situation.

In this context, detailed guidelines for the application of the VAT refund procedures in respect of transactions involving Northern Ireland and the Member States have been discussed and agreed between the UK and the Commission services.

The guidelines below determine which refund procedure is to be applied for a particular transaction involving the EU and Northern Ireland but do not change in any way the functioning of these procedures as laid down in the respective Directives<sup>83</sup>.

#### **A. Refunds under the EU VAT system**

The EU VAT refund system applies subject to three basic cumulative conditions<sup>84</sup>:

- The claimant is a taxable person who is established in a Member State or in Northern Ireland<sup>85</sup>;
- The claimant is identified for VAT purposes either via an EU VAT identification number of a Member State or, in the case of Northern Ireland, a VAT identification number with the “XI” prefix<sup>86</sup>;
- The invoice for which the refund is asked concerns only purchases of goods (not services).

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<sup>81</sup> “EU VAT refund system“ or “EU refund” refers in this document to Council Directive 2008/9/EC of 12 February 2008.

<sup>82</sup> Thirteenth Council Directive 86/560/EEC of 17 November 1986.

<sup>83</sup> In particular as regards the 13<sup>th</sup> Directive, the powers of the Member States in respect of refunds have not been altered or reduced as a result of this common understanding.

<sup>84</sup> The other conditions set in Directive 2008/9/EC have also to be fulfilled.

<sup>85</sup> See Article 2(1) of Directive 2008/9/EC.

<sup>86</sup> Attributed on the basis of the conditions set out in Article 214 of the VAT Directive in relation to goods. In this context, taxable persons that only supply services in Northern Ireland are not identified in Northern Ireland with a VAT identification number with the “XI” prefix, and cannot access the EU VAT refund system as their transactions are not covered by the IE/Ni Protocol. However, such taxable persons can be covered by the IE/Ni Protocol for their intra-Community acquisitions of goods (see examples in lines 5 and 6).

If the claimant is eligible to request the refund under the EU VAT system under the first two conditions<sup>87</sup> but he purchased at the same time goods and services, he would have to hold two separate invoices<sup>88</sup> (one for purchases of goods and one for purchases of services) if he wants to make use of the EU VAT refund system for his input in relation to goods.

**B. Refunds under the 13<sup>th</sup> Directive (or the equivalent legislation in the UK)**

The 13<sup>th</sup> Directive (or the equivalent legislation in the UK) applies to the following refunds<sup>89</sup>:

- The invoice for which the refund is asked concerns at the same time purchases of goods and services.
- The invoice for which the refund is asked concerns only purchases of services.

Hereunder, an overview is provided of the different possibilities:

	Claimant in Northern Ireland		Claimant in the EU	
1	NI TP only supplying goods –XI Input goods in EU	EU refund	EU TP only supplying goods Input goods in NI	EU refund
2	NI TP only supplying goods –XI Input services in EU	13 <sup>th</sup> Directive	EU TP only supplying goods Input services in NI	Equivalent of 13 <sup>th</sup> Directive
3	NI TP only supplying services-GB Input goods in EU	13th Directive (Not under the IE/NI Protocol)	EU TP only supplying services Input goods in NI	EU refund
4	NI TP only supplying services-GB Input services in EU	13th Directive	EU TP only supplying services Input services in NI	Equivalent of 13 <sup>th</sup> Directive
5	NI TP only supplying services – GB and XI (because IC-A) Input goods in EU	EU refund (via XI code)		
6	NI TP only supplying services –	13th Directive		

<sup>87</sup> And provided that the other conditions contained in Directive 2008/9/EC are fulfilled.

<sup>88</sup> Without prejudice of the VAT treatment of complex supplies which should not artificially be split.

<sup>89</sup> The other conditions set in the 13<sup>th</sup> Directive have also to be fulfilled.

	GB and XI (because IC-A) Input services in EU			
7	NI TP supplying both goods/services - XI and GB Input goods in EU related to goods	EU refund (via XI code)	EU TP supplying both good/services Input goods in NI related to goods	EU refund
8	NI TP supplying both goods/services - XI and GB Input goods in EU related to services	EU refund (via XI code)	EU TP supplying both good/services Input goods in NI related to services	EU refund
9	NI TP supplying both goods/services - XI and GB Input services in EU related to goods	13th Directive	EU TP supplying both good/services Input services in NI related to goods	Equivalent of 13 <sup>th</sup> Directive
10	NI TP supplying both goods/services - XI and GB Input services in EU related to services	13 <sup>th</sup> Directive	EU TP supplying both good/services Input services in NI related to services	Equivalent of 13 <sup>th</sup> Directive
11	NI TP supplying both goods/services - XI and GB Input goods in EU related to goods and services	EU refund (via XI code)	EU TP supplying both good/services Input goods in NI related to goods and services	EU refund
12	NI TP supplying both goods/services - XI and GB Input services in EU related to goods and services	13 <sup>th</sup> Directive	EU TP supplying both good/services Input services in NI related to goods and services	Equivalent of 13 <sup>th</sup> Directive
13	NI TP only supplying goods or only supplying services or supplying both Input goods and services in EU on one single invoice	13 <sup>th</sup> Directive	EU TP only supplying goods or only supplying services or supplying both Input goods and services in NI on one single invoice	Equivalent of 13 <sup>th</sup> Directive

## **Explanation of the table**

### ***Assumptions and abbreviations***

- In case a taxable person in Northern Ireland is not (or is partly) covered by the IE/NI Protocol e.g. because he only (or also) supplies services, the attribution of a VAT identification number for the activity that is not under the IE/NI Protocol, is done by the UK and on the basis of the UK legislation. The mentioning of the abbreviation ‘GB’ only means that the UK legislation is applicable in the described situation.
- Other abbreviations: “IC-A”: intra-Community acquisition of goods, “TP”: taxable persons.
- It is assumed that all traders are ‘established’, either in Northern Ireland or in a Member State and not merely ‘identified’. In all the examples, it is also assumed that (1) the claimants in Northern Ireland are not established, or for VAT purposes identified, in the Member State of refund; and (2) the claimants in the EU are not established, or for VAT purposes identified, in Northern Ireland.
- It is also assumed that the VAT, incurred on either goods or services, is related to the economic activity of the claimant as a taxable person and that the right of deduction exists.

### ***Description of the practical examples (the numbers in the examples refer to numbering in the table)***

- Line 1 - Claimant established in Northern Ireland: a taxable person only supplies goods in Northern Ireland and has therefore a VAT identification number with the “XI” prefix. He incurs VAT on purchases of goods in a Member State (e.g. fuel) for which he is eligible for a refund. The EU VAT refund system is applicable.
- Line 1 - Claimant established in the EU: A taxable person in the EU incurs VAT on purchases of goods (e.g. fuel) in Northern Ireland. Since this input VAT is related to goods, the claim can be introduced via the EU VAT refund system; a similar reasoning is applicable for the situations in lines 3, 7, 8 and 11.
- Line 2 - Claimant established in Northern Ireland: a taxable person only supplies goods in Northern Ireland and has therefore a VAT identification number with the “XI” prefix. He incurs VAT on purchases of services in a Member State (e.g. hotel services) for which he is eligible for refund. Since the refund claim is related to purchase of services, the 13<sup>th</sup> Directive is applicable.
- Line 2 - Claimant established in the EU: a taxable person in the EU incurs VAT on purchases of services (e.g. hotel services) in Northern Ireland. Since the refund claim is related to services, the equivalent of the 13<sup>th</sup> Directive in the UK is applicable and not the EU VAT refund system; a similar reasoning is valid for the situations in lines 4, 9, 10 and 12.
- Line 3 and 4 - Claimant established in Northern Ireland: a taxable person only supplies services in Northern Ireland and is not identified with a VAT identification number with an “XI” prefix. The input VAT he incurs in a Member

State, even in relation to goods, cannot be refunded under the EU VAT system but only under the 13<sup>th</sup> Directive.

- Line 5 - Claimant established in Northern Ireland: in this particular case, the taxable person in Northern Ireland has a VAT identification number with an “XI” prefix, not because of his activity in supplying goods but because of his intra-Community acquisitions of goods in Northern Ireland. Also under these circumstances, he is authorised to make use of the EU VAT refund system in relation to purchase of goods (e.g. fuel).
- Line 6 - Claimant established in Northern Ireland: in this particular case, the taxable person in Northern Ireland has a VAT identification number with an “XI” prefix, despite the fact that he is only supplying services, because of his intra-Community acquisitions of goods in Northern Ireland. However, since the refund claim is related to purchases of services, the 13th Directive is applicable.
- Line 7, 8 and 11 - Claimant established in Northern Ireland: in these cases, taxable persons are, at the same time, for a certain part of their activity under the IE/NI Protocol (supplies of goods) and outside the IE/NI Protocol for another part (for their supplies of services). The EU VAT refund system can also be used in these cases in relation to purchase of goods.
- Line 9, 10 and 12 - Claimant established in Northern Ireland: in these cases, taxable persons are, at the same time, for a certain part of their activity under the IE/NI Protocol (supplies of goods) and outside the IE/NI Protocol for another part (for their supplies of services). However, since the refund claim is related to purchases of services, the 13th Directive is applicable.
- Line 13 - Claimant established in Northern Ireland – claimant established in the EU: the 13<sup>th</sup> Directive, or its equivalent in the UK, is to be used in case goods and services are invoiced on a single invoice. The number of these cases could be limited in practice. First, as a rule, sales of goods between a taxable person in a Member State and a taxable person in Northern Ireland (and vice versa) mostly constitute exempt intra-Community supplies. Secondly, as explained above, taxable persons can continue to make use of the EU VAT refund system for their input in relation to goods by requesting two separate invoices.