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Brexit Impact Scan

Introduction
The decision of the UK to leave the EU has raised uncertainty about the effects and the relationship between the UK and the EU. In this Brexit Impact Scan an overview is provided to consider the expected most important Tax, Legal and People effects of the Brexit.

Areas to be considered

1 Tax

The expected tax areas which could be influenced by the Brexit are Customs, Excise, Value Added Tax (VAT), Capital, Dividends, Royalties, Interest and Tax facilities.

- **Customs:** without a trade agreement between the UK and the EU, customs duties could arise for the trade of goods between the EU and the UK. Customs authorizations provided by the EU or UK could become invalid for cross-border movements between the EU and the UK. Furthermore a declaration of the cross-border goods could result in additional administrative procedures, formalities and costs, since customs declarations, the proof of origins and the detection of the customs value could be implied.

- **Excise:** the EU Directive Tax Warehouse & EMCS, which regulates the movement of goods under duty within the EU, could be inapplicable for the UK. Movements of excise goods will then be qualified as imports and exports and this could result in additional costs and formalities, like guarantees.

- **VAT:** the EU VAT Directives and provisions, like the simplified triangulation procedures and reporting, and interpretations of the European Court of Justice on EU tax law will no longer be valid for the UK. The UK could introduce new national VAT rules, which could lead to double taxation or non-taxation of VAT in cross-border transactions between the EU and the UK. This new UK VAT law needs to be implemented in your supply chain, and possibly translated in your ERP systems. In the e-commerce business the Mini-one stop-shop (MOSS) regime could no longer be available for those who have the UK as their prime registration country. Selecting another EU member state for the registration could be required to make use of the MOSS, which implies additional procedures, formalities and costs.

- **Capital:** the EU Capital Duty Directive and related EU law will no longer be bounding for the UK. The currently used 1,5% Stamp Duty Tax Reserve of the UK will probably not be abolished and this can result in additional costs.

- **Dividends:** withholding tax on dividends is regulated in the EU through the EU Parent-Subsidiary Directive (and European Tax Law). Subject to conditions the Directive eliminates tax obstacles (withholding tax) in the area of profit distributions between group entities in the EU. At the same time, the country of the EU parent company has to eliminate any additional/double taxation on the profits distributed as dividends by its subsidiary residing in another EU member state. If the directive can't be applied, bilateral treaties with the UK are still applicable. These treaties could result in higher tax burdens and administrative burdens.

- **Interest and royalties:** withholding taxes on interest and royalties are regulated by the EU Interest and Royalty Directive (and European Tax Law). The Interest and Royalty Directive is designed to eliminate withholding tax obstacles in the area of cross-border interest and royalty payments within a group of companies by abolishing withholding taxes on royalties/interest payments arising in a member state. If the directive can't be applied, bilateral treaties with the UK are still applicable. These treaties could result in higher tax burdens and administrative burdens.

- **Tax facilities:** Brexit may impact the applicability of certain tax facilities in bilateral tax treaties and national tax law. It concerns facilities with the condition to be domiciled in an EU member state in order to be applicable. Loss of applicability could lead to a higher tax burden.

2 People

The expected people related changes of the Brexit could arise in the areas of cross-border employment, assignment policy, social security, pension and immigration. The Brexit-effects on these areas are given in the following section.

- C**ross-border employment:** it remains to be seen whether free movement of workers between the existing EU states and the UK will continue. The UK already declared the intention to create a mobility framework so that the UK and EU citizens can continue to travel to each other's territories, and apply for study and work. However, Brexit could lead to higher administrative burdens.
- **Compensation and assignment policy:** the cost of an international assignment may vary as a result of volatility in the currency markets. So your assignment policy and the compensation and benefits package for cross-border working employees in/from the UK should be investigated and adjusted.
- **Social security:** the EU Directive that regulates social security legislation in the member states will no longer be applicable to the UK. The member states will need bilateral social security treaties with the UK to replace the EU Directive. These treaties might be different from the provisions in the currently applicable EU directive. Some of the EU member states already have bilateral social security treaties with the UK. These will stay in force but might differ from current legislation.
- **Pension:** pension and pension accrual within the EU is regulated by several EU directives. EU member states have implemented the directives in their national legislation. After Brexit, the legislation implemented in the UK as a result of these EU directives could be adjusted. Difficulties may arise during the pension payment phase with respect to the transfer of accrued pension rights. The rules for imposing protective income tax assessments are more stringent in the event of an emigration to a non-EU country such as providing a collateral for the accrued pension entitlements.
- **Immigration:** work permits and residential permits might be required after Brexit.

3 Legal

Contracts, Intellectual Property, Data Protection and Corporate Restructuring are the most relevant legal areas which could be influenced by the Brexit.

- **Contracts:** it is important to audit any concluded contracts connected with the UK, because the UK could be scoped out for the contract, if a contract has the EU as territorial scope. Re-negotiation rights and agreements about possible Brexit costs could be implemented to contracts, to be able to include the Brexit consequences at a later date in the contract.
- **Intellectual Property:** there could be uncertainty about the validity of an EU registration of intellectual property in the UK. Registration in the EU and the UK could be necessary.
- **Data Protection:** the General Data Protection Regulation could lead to legal protections for personal data transfers between the EU and the UK after the Brexit.
- **Corporate Restructuring:** the EU Directive for cross-border restructuring will no longer be applicable on UK companies. National law of an EU-member might not allow a legal merger, demerger or a cross-border conversion with a non-EU entity. It is imaginable that a merger between an EU and an UK resided entity might no longer be facilitated by UK law. Reconsideration of the place of business can be important.

Conclusion

Depending on your type of business and business model, Brexit might result in additional costs, formalities, procedures, etc. Therefore it's important to perform a first general Brexit Impact Scan of short notice in order to determine and to know in what areas changes for your company will occur after a Brexit. Based on this first general scan next steps can be determined in order to make your company Brexit-proof.

Does one of the above mentioned topics apply to your organization, our experts are happy to assist you.

Contact

Jochem Berretty
+31 13 464 7282
jochem.berretty@abab.nl

Jeroen Geers
+31 13 464 7288
jeroen.geers@abab.nl

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