Update – July 2021

IRELAND – A GATEWAY TO EUROPEAN MARKETS FOR UK BUSINESS

Following the UK's withdrawal from the European Union it is evident that many UK businesses trading with Europe are experiencing severe problems caused by Brexit which run much deeper than initial teething troubles.

As a result of leaving the single market some businesses have been forced to implement significant changes to their operations and restructure their supply chains. Furthermore, these businesses are experiencing burdensome compliance obligations when dealing with EU customers and EU suppliers and are incurring unforeseen costs.

Some of the most common issues, which have already being brought to our attention by Moore UK firms and their clients, are outlined below:

Additional complexities and costs for UK businesses selling into the EU

From a VAT perspective, UK businesses can no longer avail of:

- EU rules for zero-rated B2B intra-community supplies. Post Brexit, all sales of goods to EU countries are now exports and subject to EU import VAT. Similarly, all goods purchased from EU countries are now imports and subject to UK import VAT. In addition, businesses are now required to have two EORI numbers to move goods between the UK and EU.
- EU VAT triangulation simplification rules for B2B transactions where UK businesses are buying from a supplier in one EU member state to sell to a business customer in another state. This may result in VAT registrations being required in other jurisdictions.

Additional complexities and costs for EU businesses buying goods from the UK

EU businesses buying goods from the UK:

- are now importing goods from outside the EU and could be liable to pay VAT at the point where the goods are imported.
- may now have to file customs declarations and unless the goods are of EU or UK origin tariffs may be payable on the imports as the EU-UK Trade and Cooperation Agreement only allows for zero rate tariffs if the goods traded are of EU or UK origin.

Withholding tax issues in respect of dividend, interest and royalty payments to UK companies

From a corporate tax perspective, UK companies in receipt of dividend, interest or royalty income could previously rely on the EU Parent-Subsidiary Directive ("PSD") and the EU Interest and Royalties Directive ("IRD") to ensure withholding taxes were not imposed by the EU countries making these payments.

Post Brexit, the treatment of dividend, interest or royalty payments from EU companies to UK companies will depend on the particular EU countries domestic tax legislation and the Double Tax Treaty between that country and the UK. While the UK has Double Tax Treaties with all remaining EU Member States, many of these treaties do not provide equivalent benefits to those available under the "PSD" and the "IRD".

As a result of the above, many UK companies which have corporate tax structures that include EU subsidiaries are concerned that some of these EU Member States may start to impose withholding tax on dividends, interest and royalties paid by the EU subsidiaries to the UK parent companies which were previously exempt.

CE Markings

Many products sold by UK companies in the EU require a CE marking to verify that the products have been assessed by the manufacturer and are deemed to meet EU safety, health and environmental protection requirements.

Part of this verification process requires UK manufacturers selling within the EU to have representation in the EU whose name and address can go on the product as a contact point for the Market Surveillance Authorities.

EU Public Tenders

Generally, if your company, organisation or institution is established in the EEA, you have the right to compete for a public tender in any EU country.

Whilst the EU-UK Trade and Cooperation Agreement establishes a new tender framework which goes beyond the commitments of both the EU and the UK in the World Trade Organisation's Government Procurement Agreement, anecdotal evidence is that many UK businesses believe their tenders for EU public contracts will have a better chance of success if they have an EU base.

Increase in UK corporation tax rate

As widely predicted, the Chancellor confirmed in the recent UK Budget 2021 that the rate of UK corporation tax will increase from 19% to 25% from April 2023 for companies with taxable profits over £250,000.

Globally, Covid-19 has had a significant and detrimental impact on all of our economies. However, it is being reported to us that the economic effects of the pandemic coupled with the implications of Brexit are having an even greater impact on some UK businesses and that a 6% increase in the UK corporate tax rate could be the straw that breaks the camel's back.

Could an Irish company be a solution?

Increasingly over the past four months, we have been working with many Moore UK firms in an effort to help them and their clients find viable solutions to the various issues mentioned above.

By having a base in the EU, Irish companies:

- can sell goods directly into other EU countries without EU VAT being charged at the point of entry and the need for customs declarations. Irish companies can also avail of all EU VAT simplification measures such as:
  - Zero-rated B2B intra-community supplies.
  - EU VAT triangulation simplification rules.
  - EU Mini One-Stop-Shop.
- can buy goods directly from other EU countries without the added complications and costs of EU VAT being charged at the point of entry and customs declarations.
- can receive dividend, interest and royalty income from EU subsidiaries without any withholding tax implications. Furthermore, under Irish domestic tax legislation an Irish company would not have to impose dividend withholding tax on any dividend payments it pays to a UK parent company.

- will automatically have the EU address required to obtain a CE marking which verifies that products meet EU safety, health and environmental protection requirements.
- have the right to compete for a public tenders in any EU country.
- pay corporation tax at a rate of 12.5%. This rate has remained unchanged since 2003 and the Irish Government is committed to maintaining this rate into the future.

If you are of the view that incorporating an Irish company into your client's existing structure might be of benefit to them please contact Eoghan Bracken to discuss matters further. Alternatively, if you or your client would like to find out more about incorporating an Irish company please click on the following link: https://gatal.ie/

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