



ABDO Guidance on Brexit

25 March 2019

We appreciate that Brexit and the impact it will have on us all is still unclear as the Government continues with its negotiations and preparations. As you will be aware the deadline of 29 March 2019 has been delayed but for how long for we do not know, as this will depend on on-going negotiations. However 30 June seems to be the date the UK Government are now aiming for to leave the EU with a deal in place.

We have put together this guidance specifically for our members working in the optical industry, focussing on relevant topics to provide information and guidance where possible. We encourage members to monitor the links we have provided to individual organisations' and governments' websites for on-going up to date information.

Our guidance focuses on what we think are the main factors that need considered in advance of us leaving the EU with or without a deal.

Employment/Employees

The nations listed below will remain in the EU once the UK leaves:

Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden

As part of the draft Withdrawal Agreement, EU citizens and their families who wish to stay in the UK beyond 31st December 2020, will need to apply to the EU Settlement Scheme.

The EU Settlement scheme will allow EU citizens and their families to continue to live, work and study in the UK. It also means they continue to be eligible for:

- Public services including healthcare and schools.
- Public funds and pensions.
- British citizenship, if you wish to apply for it and meet the requirements.

To apply for the EU Settlement Scheme, applicants will need:

- To be an EU citizen or a non-EU family member of an EU citizen.



- Be a resident in the UK by 21st December 2020. EU citizens who have been a resident in the UK for more than five continuous years will be eligible for settled status. If someone has been a resident for less than five continuous years, they will be eligible for pre-settled status.
- Not be a serious or persistent criminal, a threat to national security or have a deportation or exclusion order or a removal decision against them.

On 21 January 2019 the application fee to apply to the scheme of £65.00 for adults and £32.50 for children under 16 was scrapped by the government. There is no fee to apply to the scheme for any applicants.

Irish citizens will not need to apply to the EU Settlement scheme and will be able to live, work and study in the UK after 31st December 2020.

At the moment, negotiations around the Irish backstop issue are also on-going. ABDO will support all our Irish members and provide up to date information when possible.

Settlement status

Settled or pre-settled status

Successful applicants will get digital proof of their status through the online application service.

If applicants receive settled status (also known as indefinite leave to remain) this means there is no time limit on how long they may stay in the UK. Subject to government approval, applicants with settled status should be able to spend up to five years in a row outside of the UK without losing their settled status.

If an applicant receives pre-settled status (also known as limited leave to remain) this means they can stay in the UK for a period of five years. This will allow applicants to remain in the UK until they are eligible for settled status, which is generally granted once an applicant has lived continuously in the UK for five years.

Employment law

Implementation of Brexit and amendments to legislation and regulations related to it can take a number of years to be amended and implemented. We suspect that some amendments to employment law may be changed although it is still unclear at the moment, whether any changes will be made by the UK government in the next two years. Therefore, we are not able to provide any concrete information on this at the moment; we have included information on a few areas that may change from 2021.

Working Time Regulations

The UK's law on holiday pay, breaks from work and the maximum working week come from the European Working Time Directive.



Collective Redundancy Consultation

Collective consultation takes effect when redundancies are a possibility within an organisation. Collective consultation takes effect when there are 20 or more employees that are going to be affected by the redundancy consultation process. This figure has been set by European law.

Transfer of Undertakings (TUPE)

Transfer of Undertakings, or TUPE, is when a business changes owner, and its employees may be protected under the Transfer of Undertakings (Protection of Employment) regulations (TUPE). Following Brexit, there may be changes to the TUPE rules.

Discrimination

Some of the UK's discrimination law comes from European law and some comes from domestic legislation. It is very unlikely that post-Brexit the government would change the right not to be discriminated against for protected characteristics, which are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

These are just a few of the laws that could change. We will keep everyone up to date on the position as Brexit unfolds.

Trade/Supplies

If you have not done so already, we encourage you to talk directly with your suppliers regarding on-going trade for frames, lenses medical devices and medicines. Suppliers and patients have been advised to not stockpile medicines. ABDO will continue to circulate guidance from the NHS regarding the provision of medicines. The most up to date circular on medicine supplies can be found using the link listed below.

The Medicines and Healthcare Products Regulatory Agency (MHRA) regulate spectacle frames and lenses. Contact lenses are medical devices under both EU and UK laws and in April 2018 MHRA released a statement stating that it wishes to retain "a close working partnership with both EU and other global regulators to ensure patients continue to have timely access to safe medicines and medical innovations". The link to the full statement is provided below for ease of reference.

ABDO will also continue to be part of the European Council of Optometry and Optics (ECOO) to represent our members and influence activity going forward, under the remit of the Joint Optical Committee for the European Union (JOCEU).

Irish Backstop

The backstop is a position of last resort, to maintain an open border on the island of Ireland in the event that the UK leaves the EU without securing a full Brexit deal. At the moment, goods and services are traded between Northern Ireland and the Republic of Ireland with few restrictions. The UK and Republic of Ireland are currently part of the EU single market and customs union, so products



do not need to be inspected for customs and standards when moving across the Irish border. After Brexit the two parts of Ireland could be in different customs and regulatory regimes, which could mean products being checked at the border. The UK government does not want this to happen. The EU has also said it does not want any hardening of the border. However, with the UK leaving the European customs union and single market through Brexit, there are potential challenges should the UK leave without a deal. We will provide up to date information on the position here as best we can.

VAT

Under current VAT rules:

- VAT is charged on most goods and services sold within the UK and the EU.
- VAT is payable by businesses when they bring goods into the UK - there are different rules depending on whether the goods come from an EU or non-EU country.
- Goods that are exported by UK businesses to non-EU countries and EU businesses are zero-rated, meaning that UK VAT is not charged at the point of sale.
- Goods that are exported by UK businesses to EU consumers have either UK or EU VAT charged, subject to distance selling thresholds.
- For services the 'place of supply' rules determine the country in which you need to charge and account for VAT.

The UK will continue to have a VAT system after it leaves the EU. The revenue that VAT provides is vital for funding public services. The VAT rules relating to UK domestic transactions will continue to apply to businesses as they do now.

If the UK leaves the EU on 12 April 2019 without a deal, the government has said it will aim to keep VAT procedures as close as possible to what they are now.

VAT on goods entering the UK as parcels sent by overseas businesses

If the UK leaves the EU without an agreement, VAT will be payable on goods entering the UK as parcels sent by overseas businesses.

The government set out in the Customs Bill White Paper (published October 2017) that Low Value Consignment Relief (LVCR) will not be extended to goods entering the UK from the EU. This note confirms that if the UK leaves the EU without an agreement then LVCR will no longer apply to any parcels arriving in the UK, this aligns the UK with the global direction of travel on LVCR. This means that all goods entering the UK as parcels sent by overseas businesses will be liable for VAT (unless they are already relieved from VAT under domestic rules, for example zero-rated children's clothing).

For parcels valued up to and including £135, a technology-based solution will allow VAT to be collected from the overseas business selling the goods into the UK. Overseas businesses will charge VAT at the point of purchase and will be expected to register with an HM Revenue & Customs (HMRC) digital service and account for VAT due.



The digital service is an online registration, accounting, and payments service for overseas businesses. On registration, businesses will be provided with a Unique Identifier number which will accompany the parcels they send in to the UK. They will then declare the VAT due on those parcels and pay this via their online account. This ensures the process of paying VAT on parcels does not become burdensome for UK consumers and businesses. To give overseas businesses sufficient time to familiarise themselves with their new obligations, the online service will be available for businesses to register in early 2019, before the UK leaves the EU.

On goods worth more than £135 sent as parcels VAT will continue to be collected from UK recipients in line with current procedures for parcels from non-EU countries, guidance on these procedures can be found here in the link below, [HMRC notice 143](#). VAT will also continue to be collected in line with current procedures for all excise goods sent as parcels and potentially in cases where their supplier is not compliant with HMRC's new parcels policy. HMRC is working with the relevant industry stakeholders and will provide further information in due course.

[UK businesses exporting goods to EU consumers](#)

If the UK leaves the EU without an agreement, distance selling arrangements will no longer apply to UK businesses and UK businesses will be able to zero rate sales of goods to EU consumers.

Current EU rules would mean that EU member states will treat goods entering the EU from the UK in the same way as goods entering from other non-EU countries, with associated import VAT and customs duties due when the goods arrive into the EU.

[UK businesses selling their own goods in an EU member state to customers in that country](#)

If the UK leaves the EU without an agreement, UK businesses will be able to continue to sell goods they have stored in an EU member state to customers in the EU in line with current Rest of World rules.

Current EU rules would mean that UK businesses will continue to be required to register for VAT in the EU member states where sales are made in order to account for the VAT due in those countries.

You can find further information on EU rules for storing non Union goods in an EU member state before selling or exporting on the [EU Commission's website](#).

You can find further information on registering for VAT in EU member states on the [EU Commission's website](#).

[EU VAT refund system](#)

If the UK leaves the EU without an agreement, then UK businesses will continue to be able to claim refunds of VAT from EU member states but in future they will need to use the existing processes for non-EU businesses.



UK business will no longer have access to the EU VAT refund system. UK businesses will continue to be able to claim refunds of VAT from EU member states by using the existing processes for non-EU businesses. This process varies across the EU and businesses will need to make themselves aware of the processes in the individual countries where they incur costs and want to claim a refund.

You can find further information about claiming VAT refunds from EU member states on the EU Commission's website.

[EU VAT Registration Number Validation - accessed via the EU Commission's website](#)

If the UK leaves the EU without an agreement, UK businesses will be able to continue to use the EU VAT number validation service to check the validity of EU business VAT registration numbers and HMRC is developing a service so that UK VAT numbers can continue to be validated.

The EU VAT Registration Number Validation service allows businesses to check whether a customer or supplier's VAT number is valid.

UK businesses will be able to continue to use the EU VAT number validation service to check the validity of EU business VAT registration numbers. UK VAT registration numbers will no longer be part of this service. In the event of no agreement HMRC is developing a system so that UK VAT numbers can continue to be validated. We know this is important for certain businesses to carry out due diligence.

[Businesses in Northern Ireland importing and exporting to Ireland](#)

The UK government is clear that in a no deal scenario we must respect our unique relationship with Ireland, with whom we share a land border and who are co-signatories of the Belfast Agreement.

The Irish government have indicated they would need to discuss arrangements in the event of no deal with the European Commission and EU member states. We would recommend that, if you trade across the land border, you should consider whether you will need advice from the Irish government about preparations you need to make.



Conclusion

We have tried our best to ensure that all the information provided here is up to date and accurate, but with the on-going Brexit negotiations and changes that are regularly occurring, it is possible that some of the information may not be up to date at the time you are reading it. Should you have any questions, please contact our policy lead, Debbie McGill (dmcgill@abdolondon.org.uk) who will be able to help you or guide you to the right resources. We will continue to monitor Brexit preparations and will circulate further guidance as and when we can.

Websites and links

Government Brexit guidance <https://www.gov.uk/world/brexit-ireland>

Settlement Scheme <https://www.gov.uk/government/collections/eu-settlement-scheme-applicant-information>

Scottish Government <https://www.gov.scot/search/?q=Brexit>

<https://stv.tv/news/politics/1435313-scottish-government-launches-brexit-information-website/>

Welsh Assembly <http://www.assembly.wales/en/newhome/Pages/Brexit-and-Wales.aspx>

HMRC <https://www.gov.uk/government/publications/vat-for-businesses-if-theres-no-brexit-deal/vat-for-businesses-if-theres-no-brexit-deal>

European Commission https://ec.europa.eu/info/brexit_en

European Union - https://euexitbusiness.campaign.gov.uk/?utm_source

Customs Bill White Paper <https://www.gov.uk/government/publications/customs-bill-legislating-for-the-uks-future-customs-vat-and-excise-regimes>

Medicine Supplies <https://www.gov.uk/government/publications/medicines-supply-no-deal-brexit-preparation-plans-update>

Medicine and Healthcare Products Regulatory Authority

<https://www.gov.uk/government/collections/mhra-guidance-and-publications-on-a-possible-no-deal-scenario>