

# VAT Webinar

VAT, an issue at the very  
hearth of the Brexit

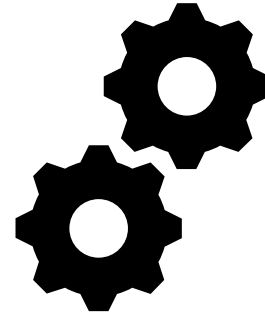
May 27<sup>th</sup> 2021



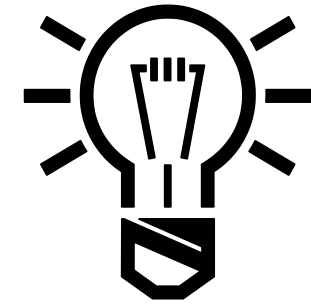
**EY**

Building a better  
working world

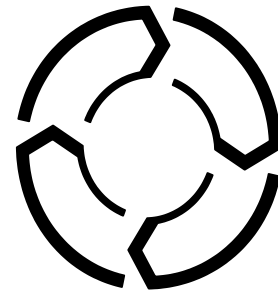
# VAT Agenda



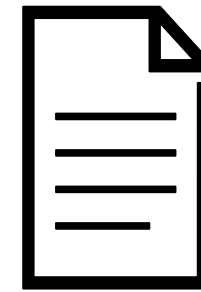
Goods



Services



VAT deduction/  
VAT refunds



Compliance/  
formalities





# Introduction

# Introduction: VAT, an issue at the very heart of the Brexit

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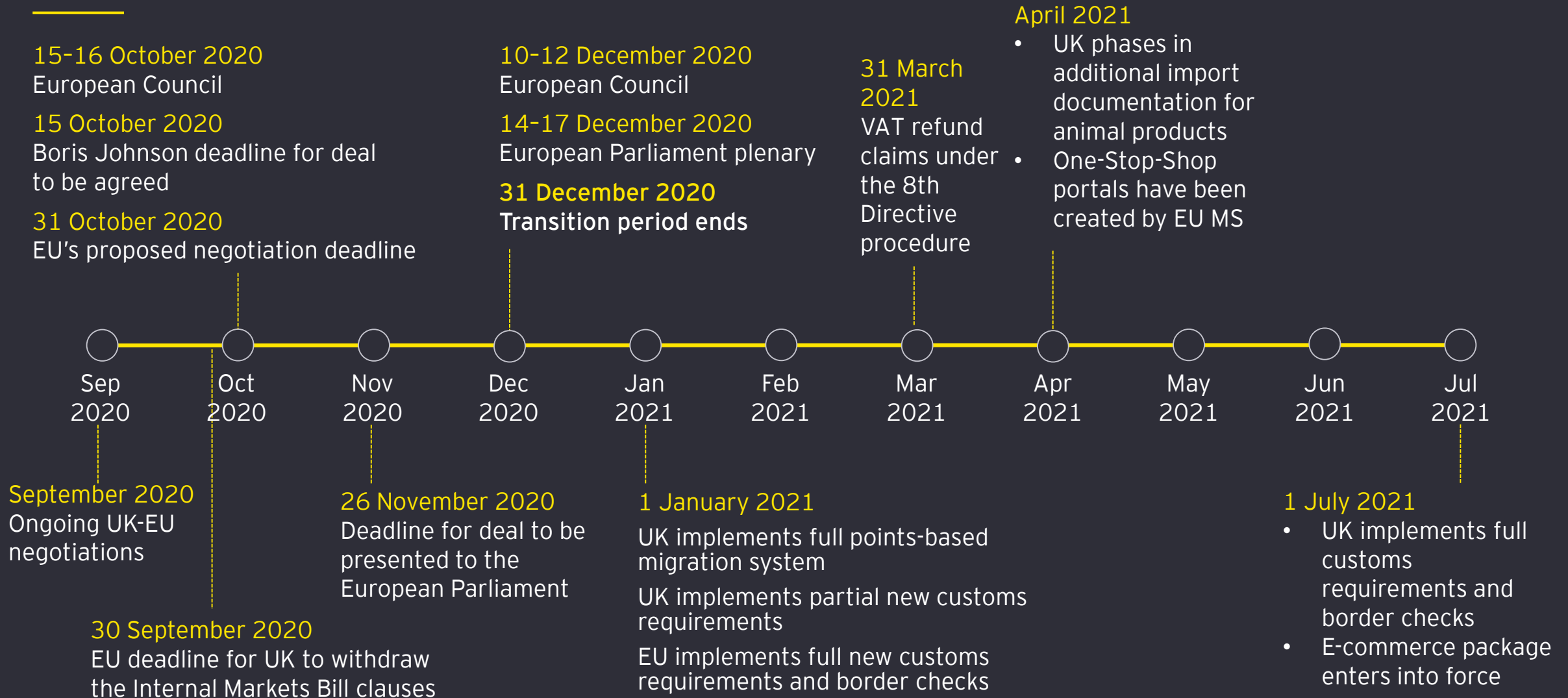
- ▶ At the beginning of a new era of international relationships for the United Kingdom, a reconfiguration of the legal and tax aspects is necessary for companies impacted by Brexit.
- ▶ From a Member State of the European Union (EU), the United Kingdom has become an export territory, i.e., a third EU country. With the Brexit, cross-border operators are facing practical and tax issues.
- ▶ This change leads to tax consequences for all operators, i.e., services providers and suppliers of goods.
- ▶ This webinar has the aim to overview the new VAT obligations of the economic operators and the skills needed to approach the exchanges with your French and European based partners.
- ▶ This change impacts all VAT rules, in particular:

Systems

VAT territoriality rules

Documentation

# Introduction: Brexit timeline - key dates



# Introduction: Northern Ireland protocol

IP systems should be able to make the distinction between Northern Ireland (NI) and Great Britain (GB).

## NI to GB

- ▶ Export/Import for VAT purposes but supplier to charge VAT in most cases
- ▶ Small number of exceptions

## NI – Rest of World

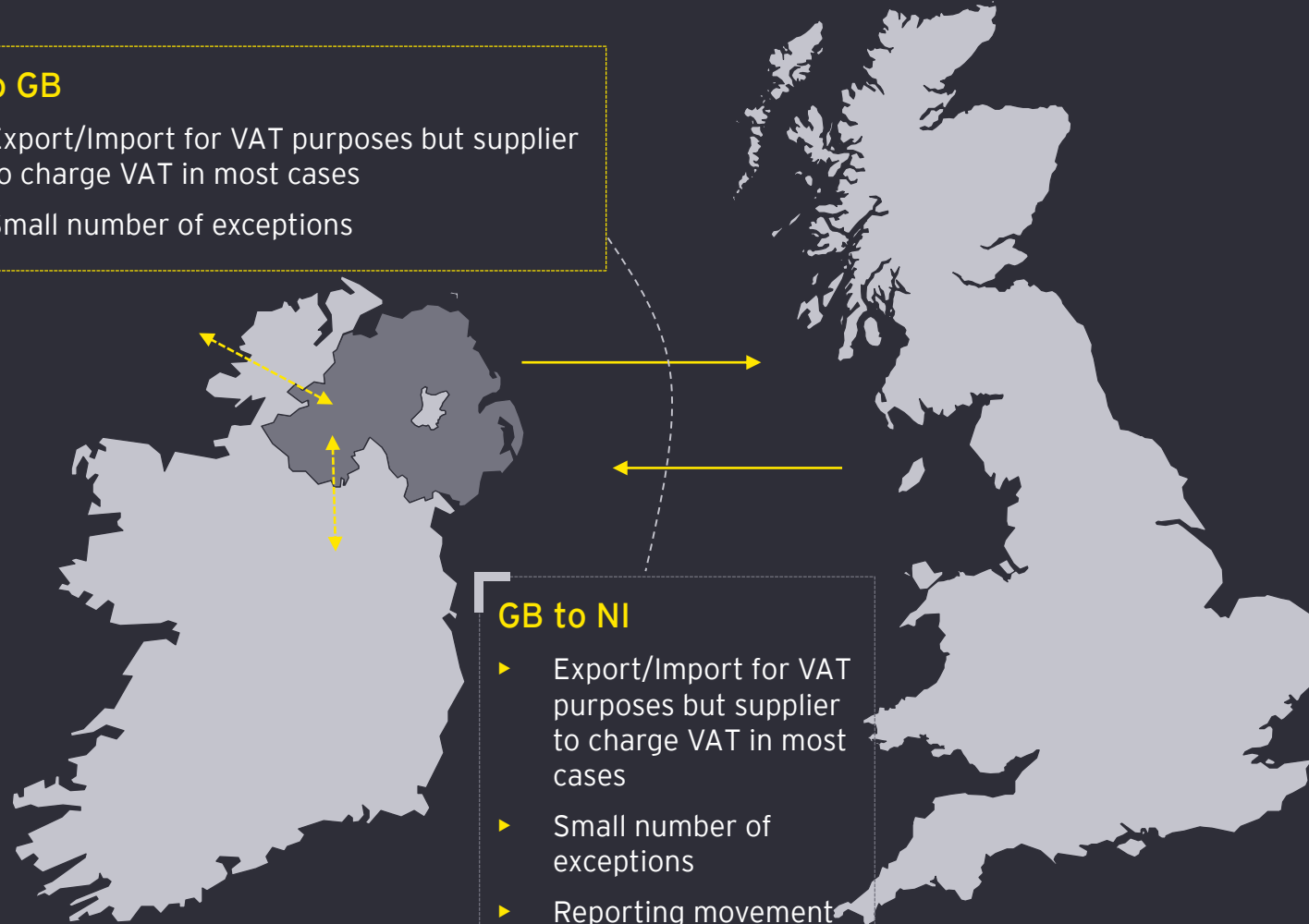
- ▶ Export – Zero-rated subject to conditions
- ▶ Import – postponed accounting

## NI – EU

- ▶ Intra-Community movement
- ▶ XI prefix for UK VAT number

## GB to NI


- ▶ Export/Import for VAT purposes but supplier to charge VAT in most cases
- ▶ Small number of exceptions
- ▶ Reporting movement of own goods
- ▶ VAT group complexity



# Introduction: how to handle the key changes

	Who	Why	When	
1	VAT registration and fiscal rep	<ul style="list-style-type: none"> <li>UK businesses not already VAT registered in France having VAT obligations there</li> </ul>	<ul style="list-style-type: none"> <li>To submit initial compliance obligations. No obligation to appoint a fiscal rep in France</li> </ul>	<ul style="list-style-type: none"> <li>As soon as the obligations in France start</li> </ul>
2	EORI registration	<ul style="list-style-type: none"> <li>UK businesses that export from UK/import in France</li> </ul>	<ul style="list-style-type: none"> <li>To export from the UK and import in France</li> </ul>	<ul style="list-style-type: none"> <li>As soon as the import/export transactions occur</li> </ul>
3	EU VAT refund claims	<ul style="list-style-type: none"> <li>UK that incur overseas VAT in France</li> </ul>	<ul style="list-style-type: none"> <li>To recover VAT on expenses incurred in France</li> </ul>	<ul style="list-style-type: none"> <li>EU refund portal by 29 March 2020</li> <li>13<sup>th</sup> Directive (manual) procedure after</li> </ul>
4	Triangular transactions	<ul style="list-style-type: none"> <li>UK businesses that are intermediaries in transactions where the supplier and customer are in different EU countries</li> </ul>	<ul style="list-style-type: none"> <li>Because the simplification will no longer apply (VAT registration mandatory). Safe harbour: Northern Ireland?</li> </ul>	<ul style="list-style-type: none"> <li>January 1<sup>st</sup>, 2021</li> </ul>
5	EU MOSS	<ul style="list-style-type: none"> <li>B2C suppliers of digital services in the EU</li> </ul>	<ul style="list-style-type: none"> <li>Because UK is not part of the MOSS system anymore</li> </ul>	<ul style="list-style-type: none"> <li>National one-stop-shop portals have been implemented in April 2021</li> </ul>
6	Contracts and legal agreements	<ul style="list-style-type: none"> <li>UK businesses with French suppliers and customers</li> </ul>	<ul style="list-style-type: none"> <li>To check legal agreements and contracts starting with Ex Works (for purchases) and Delivered Duty Paid (DDP) (for supplies) against VAT obligations</li> </ul>	<ul style="list-style-type: none"> <li>As soon as possible or upon the expiration of the contracts</li> </ul>
7	EU exporter status	<ul style="list-style-type: none"> <li>UK companies with no customs presence in the EU who will continue to export from the EU</li> </ul>	<ul style="list-style-type: none"> <li>Because EU do not allow non-EU entity to appear as "exporter" in the export doc</li> </ul>	<ul style="list-style-type: none"> <li>Automate processes/systems to ensure recovery</li> </ul>



A chessboard with a blue pawn featuring yellow stars and a red and white striped pawn. The blue pawn is on the left, and the red and white striped pawn is on the right. A yellow banner is overlaid on the right side of the image.

## Part 1 - Supply of goods (B2B)



# Part 1 - Supplies of goods (B2B) : overview

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## Exporting

### Exporting basic requirements:

- ▶ Established in France/UK or elsewhere;
- ▶ No customs/fiscal representative required for UK and FR companies;
- ▶ Valid EORI number;
- ▶ GB VAT number in principle required but an exemption is possible if only exports are carried out in the UK;
- ▶ Mandatory documentation for the VAT exemption on exports;
- ▶ Additional export/import requirements in case of goods subject to excise duties.

## Importing

### Importing basic requirements:

- ▶ Established in France; or,
- ▶ Indirectly represented for customs purposes in France (no fiscal rep required);
- ▶ Valid EORI number;
- ▶ No FR VAT ID required for the sole need of imports + VAT RC applicable in case of further sale;
- ▶ Optional import VAT reverse-charge mechanism provided that conditions are met (for UK importers, provided that the customs representative has the Authorized Economic Operator certification")

# Supplies of goods (B2B): what are the formalities?

The end of the EU movements of goods

VAT rules and formalities

1 January 2021

## Imports into the EU from the UK



UK

### Export formalities

- ▶ (EU) exporter of record - Who will make export declaration (self-filing or customs broker)?
- ▶ Prepare the invoice (and possibly other documentation) to be sent with the goods
- ▶ No VAT charged on the invoice provided that the proof of transport outside the UK is stored by the exporter (customs declaration or transport document)
- ▶ No intrastat return due anymore

Customs  
Douane

Customs border

### Import Formalities

- ▶ (UK) importer of record - Who will make import declaration? (IoR ≠ customs rep)
- ▶ Documentation & data requirements for import customs declaration : at least invoice + SAD
- ▶ Import VAT paid by the exporter, except if the French customer is the importer (mentioned in box 08 of the SAD) : **the choice of the incoterm is very important**
- ▶ Classify the goods : customs duties may be due : in this case the benefit of the agreement UK and the EU may be requested



EU

Import formalities

# Supplies of goods (B2B): what are the VAT consequences?

## Exports from the UK into the EU



Customs  
Douane

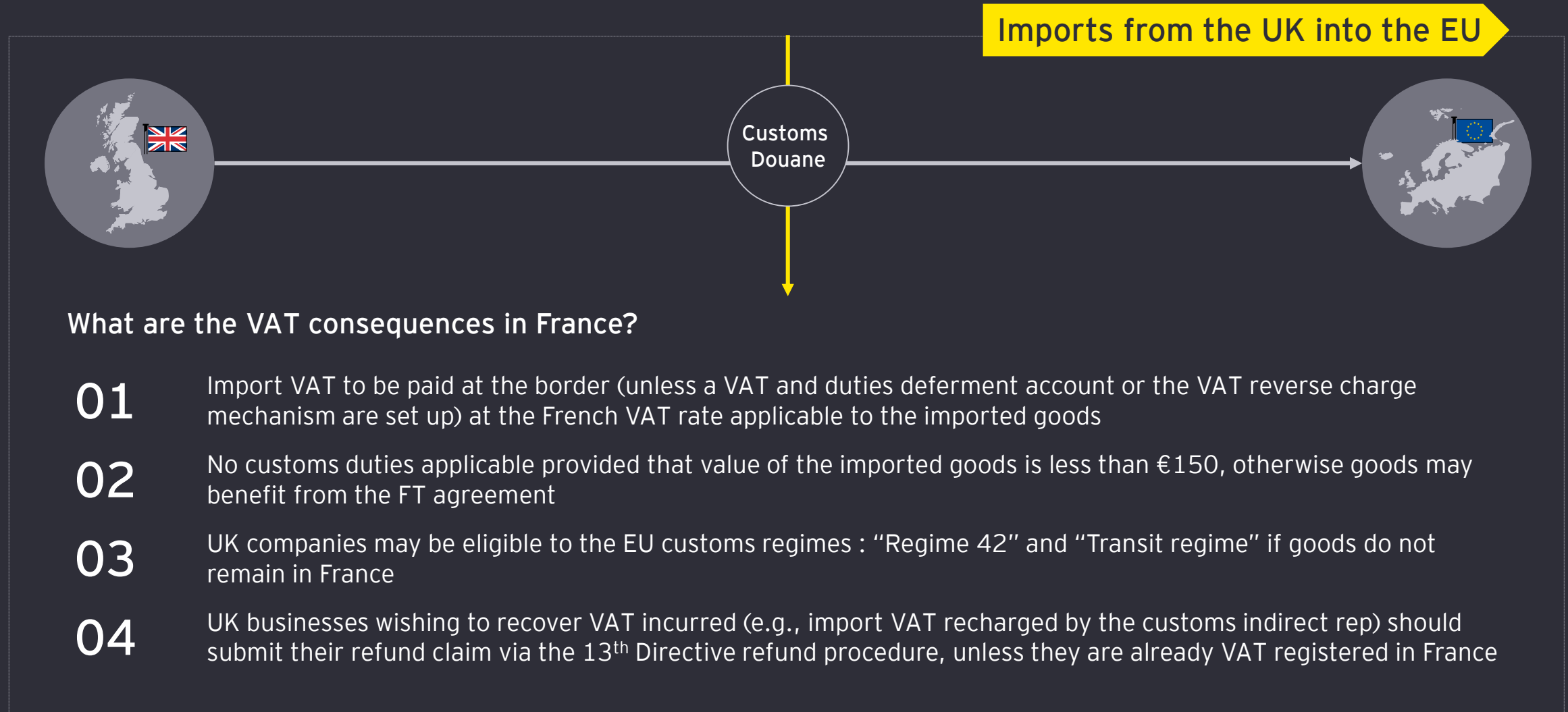


### What are the VAT consequences in the UK?

- 01** A zero-rated transaction provided that that the customs declaration is stored and that goods are removed from the UK within 3 months of the date of supply
- 02** In case of a EXW incoterm, the UK business should ensure to get the customs declaration back from its French client in charge of export customs formalities to avoid the VAT zero-rated transaction to be challenged
- 03** Triangulation simplification enabling the UK intermediary not to register for VAT in the customers EU country no longer applicable : the UK business will need to register for VAT and account for local VAT on its supply.




# Supplies of goods (B2B): what are the VAT consequences?



## What are the VAT consequences in France?

- 01** Import VAT to be paid at the border (unless a VAT and duties deferment account or the VAT reverse charge mechanism are set up) at the French VAT rate applicable to the imported goods
- 02** No customs duties applicable provided that value of the imported goods is less than €150, otherwise goods may benefit from the FT agreement
- 03** UK companies may be eligible to the EU customs regimes : “Regime 42” and “Transit regime” if goods do not remain in France
- 04** UK businesses wishing to recover VAT incurred (e.g., import VAT recharged by the customs indirect rep) should submit their refund claim via the 13<sup>th</sup> Directive refund procedure, unless they are already VAT registered in France

A chessboard with a blue pawn featuring yellow stars and a red and white striped pawn. The blue pawn is on the left, and the red and white striped pawn is on the right. A yellow banner is overlaid on the right side of the image.

## Part 2 - Supply of goods (B2C)

# Supplies of goods (B2C): overview

Current situation: import/export	July 1st, 2021: a new regime - distance sales of imported goods
<ul style="list-style-type: none"> <li>▶ Same requirements than export/imports for B2B transactions</li> </ul>	<ul style="list-style-type: none"> <li>▶ IOSS implementation: one single registration</li> </ul>
<ul style="list-style-type: none"> <li>▶ Exemption (VAT/ customs) for the import of small consignments of negligible value, with a value not more than:               <ul style="list-style-type: none"> <li>▶ VAT: 10 to 22 EUR // Customs: 150 EUR</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▶ Removal of the VAT exemption: VAT to be paid on all imports, unless IOSS is used</li> <li>▶ Maintenance of the customs exemption</li> </ul>
<ul style="list-style-type: none"> <li>▶ No specific simplified customs data set</li> </ul>	<ul style="list-style-type: none"> <li>▶ New customs data set ("H7")</li> </ul>
<ul style="list-style-type: none"> <li>▶ Centralized customs clearance procedure open to UK businesses dealing with several EU countries</li> </ul>	<ul style="list-style-type: none"> <li>▶ Centralized customs clearance procedure limited to customers using IOSS, otherwise a transit procedure should be implemented</li> </ul>
<ul style="list-style-type: none"> <li>▶ Import VAT recoverable through 13<sup>th</sup> Directive</li> </ul>	<ul style="list-style-type: none"> <li>▶ Import VAT still recoverable through 13<sup>th</sup> Directive</li> </ul>



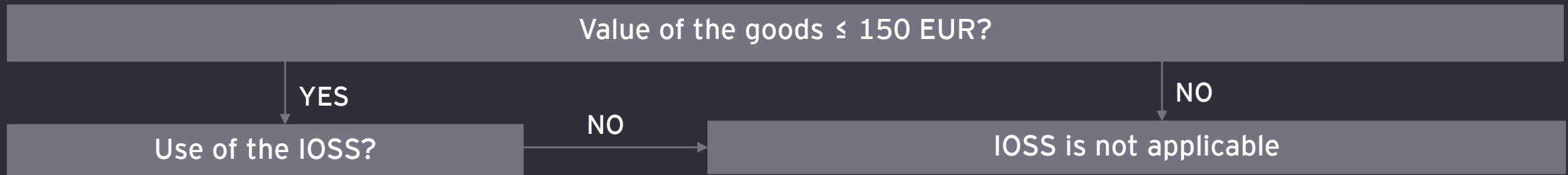
# Supplies of goods (B2C): the IOSS regime

The new IOSS	2021
<b>What?</b>	▶ Import One Stop Scheme (part of OSS)
<b>Who can apply?</b>	▶ UK businesses when they are liable to pay import VAT (i.e., without OMP). ▶ No need to appoint a fiscal rep as UK companies to use the IOSS (but some other EU countries may require one)
<b>For which transactions?</b>	▶ Distance sales of imported goods ( $\leq$ 150 EUR) <ul style="list-style-type: none"><li>▶ MS of import <math>\neq</math> MS of arrival</li><li>▶ MS of import = MS of arrival</li></ul>
<b>When?</b>	▶ EU Member States should have create their IOSS portals in April 2021

- ▶ Additionally, UK businesses may also be eligible to the OSS with respect to their distance sales within the EU (« union scheme »).

# Supplies of goods (B2C): what are the key changes?

## ▶ Distance sales of imported goods (no OMP)



- ▶ Place of the supply = France
- ▶ Import is exempt from VAT
- ▶ Supplier (or his intermediary) declares and pays French VAT via the IOSS
- ▶ No invoice requirements

### **If the importer = the supplier**

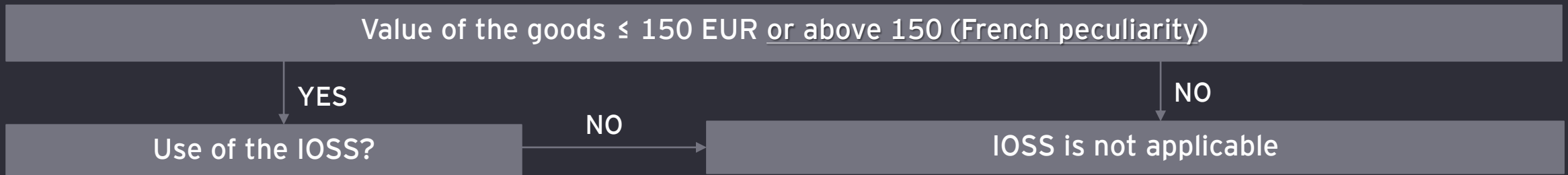
- ▶ Place of supply = France
- ▶ Normal VAT registration is required
- ▶ Import VAT + VAT on the further sale is payable by the supplier (deductible through French VAT returns)

### **If the importer = the recipient**

- ▶ Place of the supply = start of the transport (outside the EU)
- ▶ Import VAT is payable by the customer
- ▶ A special declaration can be submitted by the person who declares the goods to customs (H6 or H7)
- ▶ Invoice may be required for the need of the customs clearance

# Supplies of goods (B2C): what are the key changes?

## ▶ Distance sales of imported goods (through a OMP)



- ▶ Place of the supply = France
- ▶ Import is exempted of VAT
- ▶ OMP (or his intermediary) declares and pays French VAT via the IOSS
- ▶ No invoice requirements

### OMP is always liable for French VAT

- ▶ Place of supply = France
- ▶ Normal VAT registration is required
- ▶ Import VAT + VAT on the further sale is payable by the OMP (deductible through French VAT returns)

### A « fictitious » sale between the UK seller and the OMP

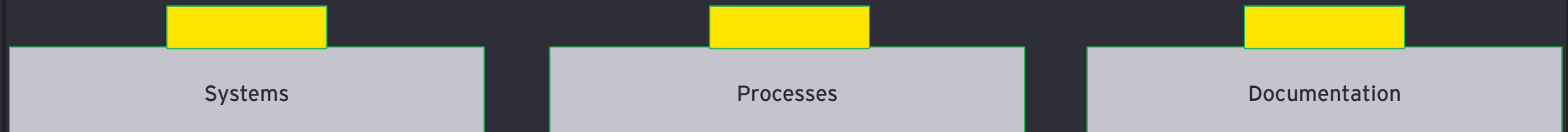
- ❑ Outside the scope of French VAT
- ❑ Does not require to issue an invoice from French perspective
- ❑ Does not entitle to any VAT deduction right from French perspective



# Supplies of goods (B2C): what are the key changes?

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- ▶ Sales model for the interim period i.e., post Brexit and before the new EU rules for e-commerce should be handled
- ▶ Consideration of business model when supplying to EU consumer:
  - ▶ Direct shipping from overseas
  - ▶ EU hub model
  - ▶ Importer of record considerations
  - ▶ Direct to consumer sales and/or sales through online marketplaces
- ▶ Impact on existing VAT registrations in EU and compliance activities
- ▶ Impact on the processes to account for VAT under the new rules



A chessboard with a blue pawn featuring yellow stars and a red and white striped pawn. The blue pawn is on the left, and the red and white striped pawn is on the right. A yellow rectangular overlay is positioned over the right side of the board, containing the text 'Part 3 - Supply of services'.

## Part 3 - Supply of services

# Supplies of services: overview

## Supplies to French B2B customers



UK

### In the UK (including NI)

- ▶ VAT principles remain the same: no VAT due
- ▶ No EC-sales lists for services required anymore
- ▶ UK businesses should comply with UK invoicing requirements where applicable

### In France

- ▶ Recipient self-assesses French VAT\*
- ▶ UK businesses should comply with French invoicing rules : “reverse charge” → “VAT not applicable, article 44 of the EU directive”

*\*even on services physically located in France (e.g, real-estate services)*



EU

## Supplies to French B2C customers



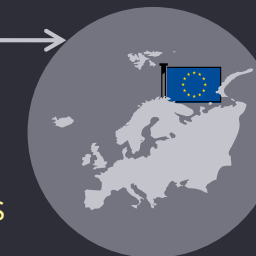
UK

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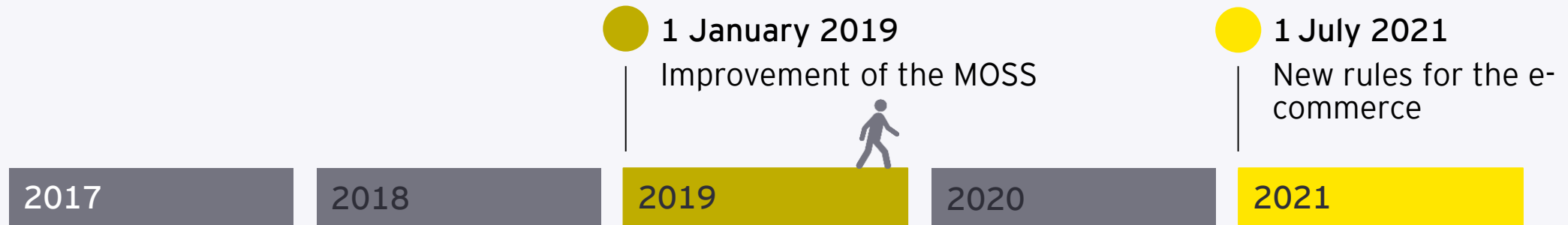
- ▶ No VAT due
- ▶ Exception for the use and enjoyment rule for services effectively used and consumed in France
- ▶ One-stop-shop regime applicable to UK businesses (OSS MS to be chosen) when FR VAT due
- ▶ No invoice required



EU

# Supplies of services (B2C): electronic, broadcasting and telecom

## E-commerce package



● **5 December 2017**  
Directive 2017/2455

● **21 November 2019**  
Directive 2019/1995

### New rules for the e-commerce

- ▶ UK Suppliers of electronic, broadcasting and telecom services must re-register to MOSS in the EU
- ▶ 10k€ threshold not applicable to non-EU businesses
- ▶ Extension of the MOSS to other services VAT taxable in EU performed by UK businesses (OSS "non-EU regime")





## Part 4 - VAT refund

# How to get the refund of French VAT?

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## UK companies VAT registered in France

- ▶ A form (Cerfa) must be filed and submitted together with the VAT returns
- ▶ VAT refund request may be on a monthly basis (or longer period)

## UK companies not registered in France

- ▶ VAT refund claim must be submitted *via* the EU Refund portal, under the 13<sup>th</sup> Directive (manual) procedure.
- ▶ A fiscal representative must be appointed
- ▶ Request cannot be for a period longer than one calendar year (minimum threshold 50 €) or shorter than three calendar months (minimum threshold 400 €) = Maximum of 5 declarations per year (4 quarterly, and one annual)





## Part 5 - Compliance

# Summary of UK and French compliance obligations

## In the UK

1. Get an EORI number starting with GB (starting with XI when moving goods between NI and EU countries)
2. File export declarations
3. Be VAT registered in the UK (except if an exemption is required)
4. Report export transactions in the UK VAT returns


 No Intrastat returns required for exports from the UK

## In FR

1. Get an EORI number starting with FR
2. Appoint an indirect customs representative who will be in charge of the filling of import declarations
3. If VAT registered in France : report import VAT in the French VAT returns, or report import transactions by using reverse charge mechanism (if applied for)

 No need to be VAT registered in France if only import transactions are carried out in France

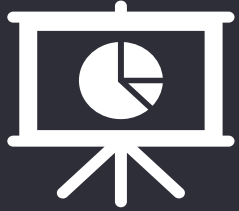
 No Arrival Intrastat returns due in France for imports from the UK

 No need to appoint a fiscal representative except for VAT refund requests under the 13<sup>th</sup> Directive procedure (for non registered UK companies)



# What updates on digital records?

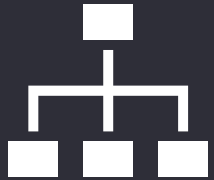
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## Impact on Master Data

Requirement to both understand and update master data where appropriate:

- Customer information
- Vendor information
- XI VAT and EORI numbers
- Changes in time of supply



## Update Tax Codes

Tax codes should be updated to reflect redefinitions from EU to non-EU

- Some transactions with EU Member States should be coded as imports and exports
- To the extent it is evidenced the import tax code should self-account for VAT
- Exempt supplies of finance to EU customers should now entitle VAT recovery



## Changes due to Northern Ireland Protocol

The following changes may have to be made to adhere with the new rules:

- Distinction between goods and services required due to dual VAT regime
- ERP systems should distinguish between Great Britain and Northern Ireland
- Supplies within VAT groups may have to be recognised

Questions?





Thank you

