

Fiscal Representatives Factsheet

Introduction

In the EU, the purpose of a customs union and single market is to facilitate trade between Member States. There are simplifications that allow goods be moved around the EU seamlessly and often avoid the seller's requirement to register for VAT in the destination country. If VAT registration is required in another Member State due to the ownership/place of supply rules, Fiscal Representation (FR) is often not required because of mutual assistance rules.

After 1 January 2021, as the UK will no longer be an EU member and it will be a 'third country'. As a third country, unless agreed otherwise, a UK business will require Fiscal Representation in most EU countries (at least 19 at the moment) if it has a requirement to register for VAT or wishes to import goods into that country as importer of record and owner. To import goods an EU EORI will be required.

If a UK business has a subsidiary in an EU country which is registered with the tax authorities it may not require Fiscal Representation. This is because it has a legal tax base in the EU - this is not always clear cut and is worth checking before making assumptions.

What is a Fiscal Representative (FR)?

An FR, is a local entity that represents foreign traders (non-established) for VAT purposes. They manage queries and the compliance issues of the unestablished company in dealings with the tax authorities. Generally, the FR will be jointly and severally liable for the VAT and duty payments.

What are the issues?

Since an FR will generally be jointly liable for debts, it will normally be necessary for a bank guarantee or security deposit to be required in favour of the FR. As a result, finding and appointing a local representative can be difficult and costly. There are specialist firms that have networks across the EU which can help find someone, freight agents also may know of firms that can assist.

Do I need a representative?

Each Member State is free to dictate whether a fiscal representation is required for a non-established business to register for VAT in the country. Across the EU, representation may be compulsory or optional, dependant on the overseas business's activities carried out or it may not be required at all.

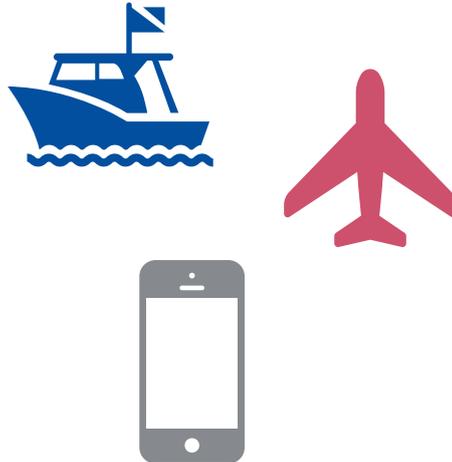
In some cases, representation may not be required but by appointing a representative the business may qualify for VAT simplifications such as postponed import VAT accounting.

Whilst most Member States do require representation if you are unsure it is highly recommended you check when registering for VAT in that country. Whoever is assisting with the registration should be aware of the latest position.



Steps to be taken before 1 January 2021

- Review Incoterms® and sales contracts with both suppliers and customers to understand where your responsibilities lie and where the transfer of title to the goods takes place
- Determine where your businesses are considered to be established (could be multiple places)
- Consider transport of own goods, particularly if moving own goods between the UK and an EU Member State when you are not established in the EU
- Speak to a local tax specialist and determine if representation is required, how much it costs and how long it takes to put things in place
- Consider whether you need to make alternative arrangements to supply chains or transport routes and whether the costs involved outweigh VAT and Customs obligations
- Consider whether relocation of business activities or setting up of EU subsidiaries is beneficial



Finally, it is important to remember that the first step in preparing for Brexit is understanding fully your current position. Once understood you should then consider what steps are necessary to maintain your current activities and the costs involved in doing so. You can then consider alternatives and use a cost benefit analysis to make an executive business decision on the best way ahead for your business.