

## Information Note - VAT, Customs and Excise Duty

### VAT Refund procedure to businesses or entrepreneurs established in the territories of the United Kingdom of Great Britain and Northern Ireland

7th January 2021

Resolution of the Directorate General for Taxation of the 4th January 2021

The United Kingdom/European Union Withdrawal Agreement provided for a transitional period ending on 31st December 2020, meaning that as from this date onwards the United Kingdom territories are not part of the European Community.

However, Northern Ireland will be part of the territory of the European Community for the purposes of supplies, intra-Community acquisitions and imports of goods.

For VAT purposes this means that businesses or entrepreneurs established in the United Kingdom and not established in the Community, the Canary Islands, Ceuta or Melilla, may claim a refund of the VAT paid on account of the acquisitions or imports of goods, or services carried within the Spanish VAT territory in accordance with Article 119a of Law 37/1992 of 28th December 1992 on value added tax.

To apply for the VAT refund, businesses and entrepreneurs will have to meet all the conditions set forth for the recovery of the input VAT by EU entrepreneurs not established within the Spanish VAT territory plus the following requirements:

- On the one hand, they will be obliged to appoint a tax representative in the Territory of Application of the Tax who will comply with the corresponding procedures and who will be jointly liable in the event of an improper refund,
- And on the other hand, the applicant must be established in a State with which there is reciprocity in the treatment given to businesses or entrepreneurs established in the Territory of Application of the Tax.

In this respect, the General Tax Directorate published a decision in the Boletín Oficial del Estado (Official State Gazette) on the 5th January 2021, **recognising reciprocity with the United Kingdom for the purposes of the VAT refund procedure** by businesses or entrepreneurs established in the United Kingdom, and not established whether in the EU, the Canary Islands, Ceuta or Melilla. Any VAT incurred on account of transactions in which the United Kingdom does not recognise the refund



of the input VAT in its territory will be excluded and in particular, any input VAT incurred on account of the following transactions:

- Acquisition of goods or services that will not be affected to the business activity.
- Acquisition of goods and services intended for resale.
- Acquisition of goods and services related to entertainment or services of a recreational nature.
- Acquisition of a motor vehicle.
- For 50% of input VAT, for the rental or leasing of a motor vehicle.

During the period in which the special protocol established with Northern Ireland is in force, businesses or entrepreneurs established in Northern Ireland and not established in the Spanish VAT territory will be entitled to recover the input Spanish VAT following the procedure set forth for EU entrepreneurs not established within the EU territory.

We hope that you will find these comments useful. If you have any questions regarding Brexit, please do not hesitate to contact the **Andersen** Tax Department.

You can consult the resolution [here](#).

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