

Date: 15/12/2017
Email: Lucia.Zitti@nfu.org.uk

Taxation (Cross-border Trade) Bill

Introduction

As part of its preparations for Brexit, the Government has published [The Taxation \(Cross-border Trade\) Bill](#). Whatever the outcome of negotiations with the European Union (EU), the UK will need to legislate for a new customs regime to be in place when the UK leaves the EU in by March 2019. The Taxation (Cross-border Trade) Bill does not presuppose any particular outcome from the UK's negotiations with the EU. It seeks to allow sufficient flexibility to give effect to a range of potential outcomes from negotiations with the UK's European partners, including an implementation period and implementation of a new Customs regime in the event there is no negotiated settlement at the time of Brexit.

New Standalone Customs regime

Parts 1 and 2 of the Bill, which provide for a new standalone Customs regime, are largely based on EU law. It is the government's intention that the UK's Customs regime will continue to operate in much the same way as it does today following exit from the EU. However, depending on the outcome of the negotiations, traders that currently trade only with the EU may be subject to Customs declarations and Customs checks for the first time.

The Bill would allow for divergence from EU law where the government feels it is necessary to do so, or where it believes that there is a clear benefit to business to diverge from it and such divergence is consistent with whatever bilateral arrangements the government agrees with the EU.

The Bill will allow the government to create a standalone Customs regime by ensuring that, among other things:

- the UK can charge Customs duty on goods (including on goods imported from the EU)
- the UK can define how goods will be classified to establish the amount of Customs duty due (known as the nomenclature)
- the UK can establish a new UK tariff and set out additional tariff-related provisions, for example the tariff applicable to developing countries (unilateral preferences)
- the UK can set and vary rates of Customs duty, specify where goods are subject to quotas and where goods are relieved from duty
- the UK can vary or suspend duty at import in certain circumstances
- the UK can implement arrangements to establish a customs union between the UK and another territory or country



- HMRC can request and collect tax-related information from declarants and store and share it as appropriate.

VAT and excise

The Bill will provide for amendment of existing VAT and excise legislation. It will provide for the EU concept of acquisition VAT (for business-to-business intra-EU movements) to be abolished so that import VAT is charged on all imports from outside the UK. In addition, the Bill will allow the VAT and excise regimes to continue to function whatever the outcome of the negotiations.

Delegated powers

In its White Paper, the government noted that for tax matters it is usual practice for primary legislation to set out a 'framework', and for secondary legislation to be used to set out rules concerning administration, collection and enforcement. This is the approach that the government will also be taking to the new Customs regime.

Financial implications of the Bill

The Bill contains the powers to impose Customs duty on goods and vary the amounts of duty which will be payable (for example, by varying or suspending duty at import). Customs duties collected will, like all tax income, flow into the Consolidated Fund. Most parts of the Bill will not result in immediate financial implications because the way in which the powers will be used will depend on the outcome of negotiations with the EU and on policy decisions yet to be taken. Therefore it is not possible at this stage to provide an estimate of the impact on the Consolidated Fund.

NFU comments

The Bill provides the legislative powers for the Government to implement the UK's trade policy (e.g. tariffs, TRQs, unilateral preferences, trade remedies etc.) and therefore is of great relevance to the agriculture sector. The Bill also looks at practical aspects of trade like Customs declarations and procedures.

Previously, the NFU has [submitted comments](#) to the Customs White Paper reiterating the importance of achieving UK-EU trade as frictionless as possible and no hard border between Ireland and Northern Ireland. UK trade in agricultural goods is dominated by trade with the EU, so maintaining access to the EU market that is as free and frictionless as possible is a priority. Moreover, given the perishable nature of agricultural and food products we have also called on the Government to establish an efficient and cost-effective customs and veterinary and plant health inspections clearance regime in order to avoid costs and delays on clearance of consignments. The system must be effective to ensure that UK plant and animal health is not jeopardised.

