

Brexit Untangled The tax implications



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The UK is free to set its own rates of VAT, and so a Brexit will have no effect on that. It would be freer – in a post-Brexit world – to alter the boundaries of exemption and zero-rating for VAT. Consumers of Jaffa Cakes and chocolate teacakes beware!

Whilst VAT has its roots in Europe, the legislation enacting it in the UK is entirely our own – as is true of direct tax. The Court of Justice of the European Union interprets difficult aspects of tax law for all the EU family. The Court includes Brits amongst its judges - but would not do so on a Brexit.

On Brexit, it is not certain to what extent the jurisprudence of the CJEU would apply to UK tax law, or to what extent that which has already become part of our law would need to be reversed. The UK's Supreme Court might have to look again at each and every decision to opine on whether or not it should apply to the UK – a process that would take years. In the meantime, there will be confusion, and the status of CJEU judgements – and the rights they give to UK taxpayers - would be unclear.

Where national law has been found incompatible with EU law, then the 'offending' EU State has to bring its laws into line. We have not been told if the UK would enact legislation to reverse the effect of such decisions for the UK, nor what aspects of UK law might be seen as 'un-British' in a post-Brexit world. New UK law, new UK regulations and more UK red tape would follow.

UK businesses should be wary of double taxation in doing business with EU member states. The UK may impose UK taxes on distributions by EU subsidiaries to UK parents, a practice currently outlawed by the Parent-Subsidiary Directive. It would be natural for any EU state to react to any unilateral 'tax grab' by the UK. At a time when all countries need to co-operate to counter cross-border evasion and avoidance, creating barriers to co-operation by 'tax grabs' would be regrettable.

Many multi-nationals choose the UK as a jumping-off point for bringing their businesses to Europe, and the new UK landscape may become just too uncertain (in the short-term at least). It must be a concern that the UK, its businesses and people will simply be by-passed.

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