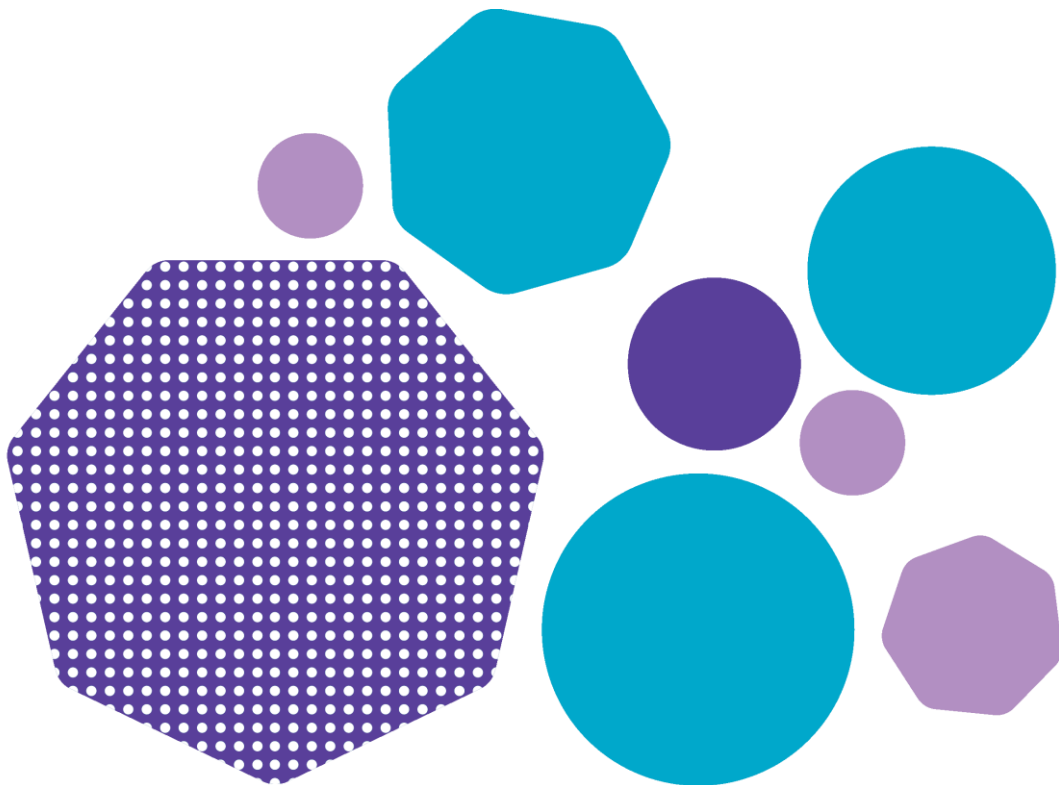


TAX&LEGAL ALERT

DEAL OR NO DEAL?

CONSEQUENCES OF BREXIT IF YOUR BUSINESS IS IN POLAND

14.02.2019





The 29 March 2019 is approaching at rapid rate and with the very first moment of 30 March 2019 the United Kingdom will no longer be a member of the European Union. The outcome of negotiations regarding the upcoming leave of the United Kingdom from EU is still uncertain. Taking into account the recent political affairs, so-called, “no deal” Brexit (i.e. UK leaving the EU without any agreement, called also as “hard” Brexit), is highly probable.

However, there is a chance that before 29 March the terms of the exit will be finally specified and agreed. If so, then the Brexit process will be conducted in an orderly manner - Great Britain will admittedly have the status of a third country (formally outside of the UE), but by 31 December 2020, the, so-called, “transition period” will be in force. This period may be extended by a maximum of two years.

What does the Brexit “deal” mean for you from the Polish perspective?

During the transitional period, the United Kingdom will respect the EU legal order. There will be a single internal market, including free movement of people, capital, goods and services. Thus, in connection with maintaining the customs union, there will be no duties on trade of goods. Selling or purchasing goods will not be treated as import / export, so the transactions between the EU member states and the UK can be made with no customs formalities and on terms similar to an intra-Community acquisition or an intra-Community supply of goods from the VAT perspective.

Brexit “deal” consequences ought to be expected after the transitional period, when:

- a necessity to meet additional standards (e.g. sanitary conditions for agro-food products) and to get additional licenses, certificates and assessments for exported goods will occur.
- a restriction on the free movement of people will be introduced - only selected categories of employees being UK citizens will be able to provide work or services in Poland; additional confirmation of qualifications may be required;
- trade agreements concluded between Polish and British contractors will have to be adapted to the INCOTERMS rules, which may generate additional costs;
- controls and queues at the border may cause the delays in supply, which may have negative consequences both for entrepreneurs from the food industry and for entrepreneurs conducting transport activities and participating in the supply chains;
- from the legal perspective the country-of-origin EU principle will be excluded – to the services provided in the United Kingdom by Polish entrepreneurs, the British regulations will be applicable; on the other hand – to the services provided in the Poland by the British entrepreneurs, the Polish regulations will be applicable;
- there will be a restriction on the EU rule of free movement of capital, which may cause a reduction in the investments made by both Polish entrepreneurs in the United Kingdom and British entrepreneurs in Poland;
- the difficulties related to the transfer of personal data between the UK and Poland may appear - the transfer of personal data from Poland to the UK will be possible, but in the same time requirements specified by the EU law will have to be met.



What does Brexit ("hard" Brexit) mean from the Polish perspective?

- lack of any transition period, which means that on 30 March 2019, EU law will cease to be binding in the UK;
- the free movement of persons, goods, capital and services will cease to apply – in each case, the British counterparty will be having the status of an entity from a third country;
- imposition of mutual duties – the Polish taxpayers who import goods from the United Kingdom will be obliged to pay customs duties (at the level of current rates applicable for third countries), which means that:
 - the import of goods from Great Britain will cease to be an intra-Community acquisition of goods and becoming instead an import of goods; that means customs formalities and obligation to pay VAT on the import of goods "at the border";
 - the export of goods from Poland to Great Britain will cease to be an intra-Community supply of goods and becoming instead an export in Poland. In Great Britain, customs duties may be imposed on goods imported from Poland; the Polish entrepreneur will be obligated to complete additional customs formalities;
- the "hard" Brexit will be less damaging for entrepreneurs who provide services. In this respect rules that concern VAT settlements are similar, regardless if the contractor is from the EU or from a third country;
- in the relations between subsidiaries from Poland and from Great Britain, tax regulations regarding taxation of dividends, interest, royalties, mergers, divisions or exchanges of shares will cease to apply – those rules are applicable only to relationships with counterparties from EU or European Economic Area (EEA) Member States;
- additional difficulties for the UK entrepreneurs who offer services in Poland - internal regulations in Poland may impose significant restrictions in this matter. This also applies to the posting of UK employees to work in the Poland (time limits of residence, work permits);
- entrepreneurs who runs economic activity in transport branch will be forced to obtain transport permits;
- the General Data Protection Regulation (GDPR) will cease to be binding in the scope of processing of personal data and new restrictions in this subject will be established.

An entrepreneur who maintain trade relations between Poland and the UK may be exposed to the negative consequences of Brexit, especially in the case of its "no-deal" option. It is worth taking precautionary measures now.



CONTACT

This alert was prepared for informational purposes only and does not constitute legal or tax advice.

We kindly invite you to contact us. Our services include legal and tax advisory aimed at supporting entrepreneurs in the course of their normal business operations as well as in emergency situations. In particular, we work on the restructuring transactions (change of legal forms, mergers and transformations of companies, transactions of sale of enterprises, corporate compliance, transfer of the whole or part of the business). As an affiliate member of UHY network with global reach, we are able to provide services also with the support of our worldwide partners.

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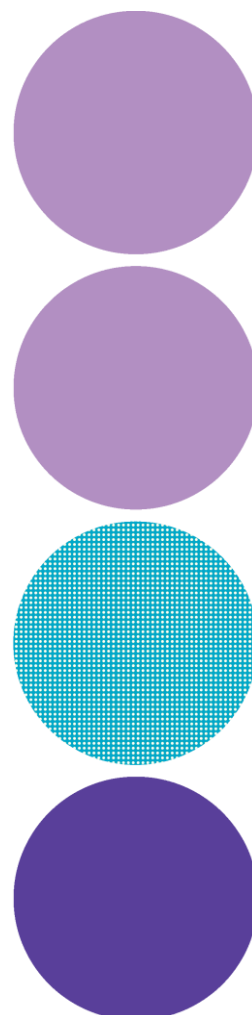
Łukasz Kosiński

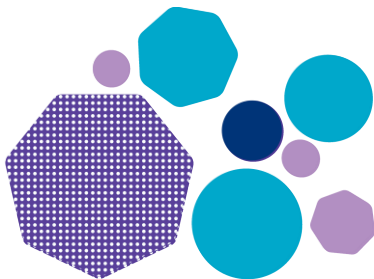
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