

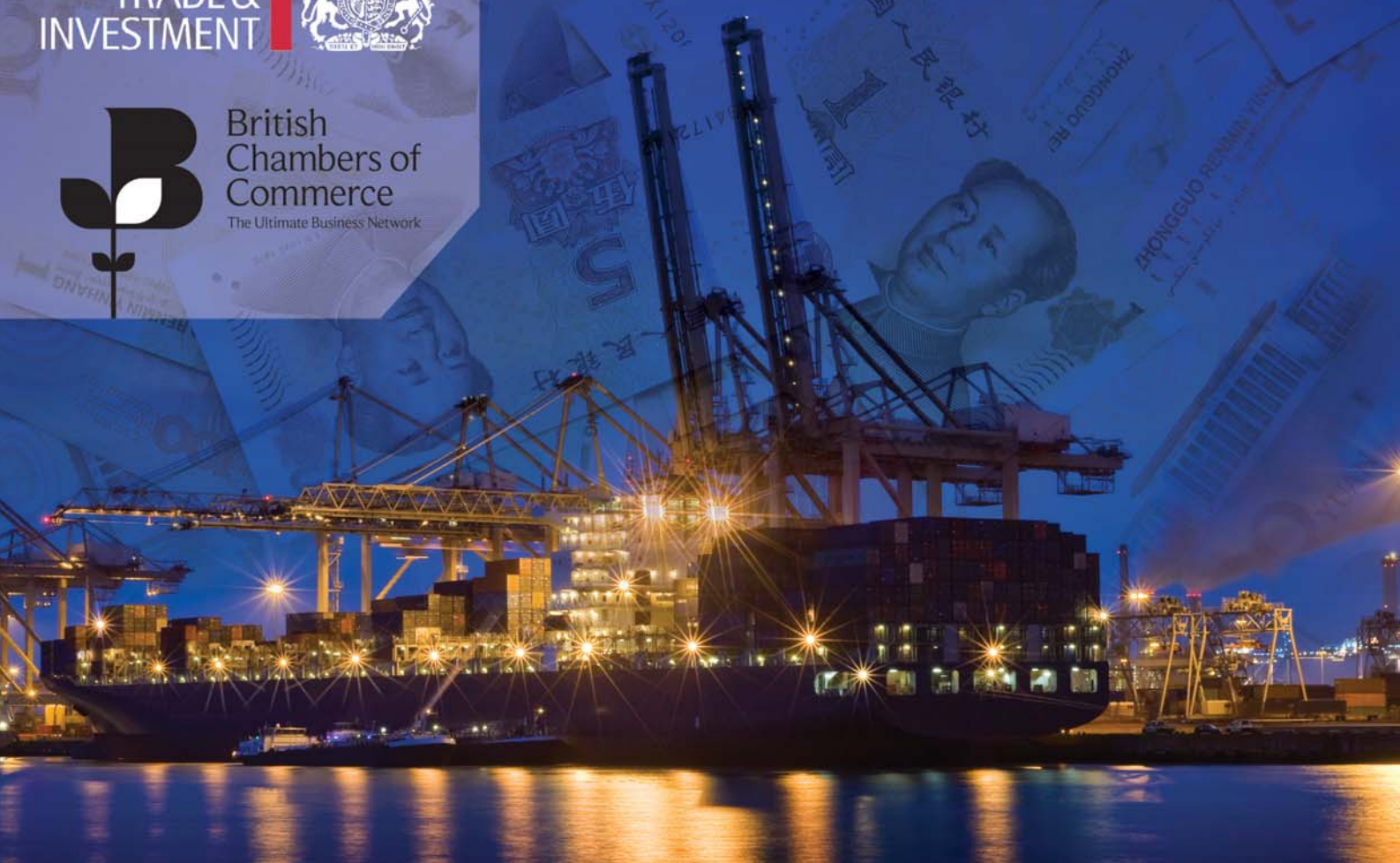


# UK GUIDE TO WORLDWIDE EXPORTING

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# Taxation aspects of international trade

**MICHELLE SLOANE** explains the key taxation and regulatory aspects of international trade which exporters should be aware of in order to avoid a dispute with HM Revenue and Customs



**UNDERSTANDING** your VAT, duties and associated tax obligations when exporting is essential to making international trade commercially viable. Failure to abide by the rules can have serious financial and even criminal consequences. For tax purposes, the term 'export' generally means the supply and movement of goods to a destination outside of the customs territory of the European Community (EC) whereas the supply and movement of goods within the EC are technically known as 'dispatches'. This article will focus on exports.

## Classification and Export Declarations

The starting point for a trader when exporting is to classify the goods. Classification determines what taxes, duties, licences and controls are placed on the goods. Goods are classified using the Integrated Tariff of the United Kingdom and there are approximately 16,000 possible classification codes. It is wise to seek advice from a professional or HM Revenue and Customs ("HMRC") if you are having difficulties in finding the appropriate code. Once the correct code is ascertained, this can then be used to complete the compulsory export declaration to HMRC. This declaration may be in the form of an electronic export entry, completion of the Single Administrative Document ("SAD") or Form C88. Agents such as Freight Forwarders and Shipping Agents can assist with Export Declarations; however, it is the exporter that is ultimately responsible for any incorrect declaration.

## Export licences and regulations

Most goods can be exported without restrictions; however some are controlled or regulated. The broad categories of goods which are controlled are agricultural products and processed food, animals and animal products, weapons and other specified paramilitary and regulated goods, certain plants, controlled drugs and dangerous chemicals. You can identify whether your goods require a licence by checking the tariff and enquiring with the appropriate government department.

It is extremely important that you be aware of licenses which may apply to goods as the Customs & Excise Management 1979 makes it a criminal offence to export goods from the

UK in breach of any kind of export prohibitions or restrictions.

## Origin rules and preferential trade agreements

The EC has entered into numerous preferential trade agreements to assist EC trade. These preferential agreements allow goods to be exported at reduced or nil rates of duty if the products originate in the EC. The rules are beneficial for your customer as they may pay a lower or a nil rate of duty on your goods. In order for exported goods to qualify, they must meet the relevant trade agreement, be directly transported to your customer and you must provide your customer with proof of



origin (the proof normally being a Eur.1 or EUR-MED Movement Certificate). Customs authorities have three years to check origin declarations so you need to retain all necessary supporting evidence of origin. If you cannot prove the origin, your customer may have to pay the difference between the duty paid at the preferential rate and that payable at the full rate and possibly a penalty as well, obviously affecting your future trade with this customer and your market reputation.

## Value Added Tax

VAT is a tax levied on goods and services consumed in the EC. If goods are exported outside the EC, the goods can usually be zero-rated for VAT. A zero rate VAT supply is one which is subject to VAT but where the VAT is at 0%.

Two conditions must be met for zero-rating to apply. Firstly, the goods must be physically exported within three months of the time of supply. This can be longer for goods that need processing before export and for thoroughbred racehorses. In most cases the time of supply will be the earlier of the day on which the goods are exported or the day on which full payment is received. If the goods have to be processed in the UK or EC, the time of supply can be extended to six months.

Secondly, official and commercial transport evidence of export needs to be obtained. Official evidence is produced by HMRC, for example, a SAD. Commercial transport evidence describes the physical moving of goods: for example, authenticated air waybills, international consignment notes, bills of lading, certificates of shipment. Equal weight is put on official and commercial transport evidence but both must be supported by supplementary evidence to show that a transaction has taken place. Supplementary evidence includes purchase orders, sales contracts, insurance and freight charges and evidence of payment. Pursuant to the Value Added Tax Rules, export evidence needs to be retained for six years.

If HMRC deems that the evidence of export is unsatisfactory, VAT zero-rating will not be allowed and HMRC will hold the exporter liable to account for the VAT due and this may also incur default interest and financial penalties. Consequently, it is extremely important that exporters understand what proof of export is required and retain the documentation.

In conclusion, the taxation rules which apply to exporting goods are complicated and it is important that exporters understand the rules so that they do not become embroiled in a dispute with HMRC which could lead to an unexpected assessment, penalties, interest, seizure of goods or even prosecution. Exporters are advised to seek professional advice to ensure that the rules are understood and that systems are in place to ensure compliance.

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