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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION amending Implementing Decision (EU) 2018/1904 authorising the Netherlands to introduce a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2022/...

of ...

**amending Implementing Decision (EU) 2018/1904
authorising the Netherlands to introduce a special measure
derogating from Article 285 of Directive 2006/112/EC
on the common system of value added tax**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax¹, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 347, 11.12.2006, p. 1.

Whereas:

- (1) By Council Implementing Decision (EU) 2018/1904¹, the Netherlands was authorised to introduce a special measure derogating from Article 285 of Directive 2006/112/EC to exempt from value added tax (VAT) taxable persons whose annual turnover is no higher than EUR 25 000 (the ‘special measure’).
- (2) Implementing Decision (EU) 2018/1904 is to expire on 31 December 2022. By letter dated 23 August 2022, the Netherlands requested authorisation to continue to apply the special measure for a further period until 31 December 2024, the date by which Member States are to transpose Council Directive (EU) 2020/285². It follows from that Directive that, from 1 January 2025, Member States will be allowed to exempt from VAT the supply of goods and services made by taxable persons whose annual turnover in a given Member State does not exceed a threshold of EUR 85 000 or the equivalent in national currency.

¹ Council Implementing Decision 2018/1904 of 4 December 2018 authorising the Netherlands to introduce a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 310, 6.12.2018, p. 25).

² Council Directive (EU) 2020/285 of 18 February 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Regulation (EU) No 904/2010 as regards the administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small enterprises (OJ L 62, 2.3.2020, p. 13).

- (3) Pursuant to Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission transmitted the request made by the Netherlands to the other Member States, except Spain, by letter dated 25 August 2022. By letter dated 26 August, the Commission transmitted that request to Spain. By letter dated 29 August 2022, the Commission notified the Netherlands that it had all the information necessary for the appraisal of the request.
- (4) The special measure is in line with Directive 2006/112/EC, as amended by Directive (EU) 2020/285, which seeks to reduce the compliance burden of small enterprises and avoid distortions of competition in the internal market.
- (5) The special measure will remain optional for taxable persons as they may still opt for the normal VAT arrangements pursuant to Article 290 of Directive 2006/112/EC.
- (6) According to information provided by the Netherlands, the special measure will only have a negligible effect on the overall amount of the tax revenue collected at the stage of final consumption.
- (7) Following the entry into force of Council Regulation (EU, Euratom) 2021/769¹, there is to be no compensation calculation carried out by the Netherlands with regard to the VAT-based own resource statement for the financial year 2022 onwards.

¹ Council Regulation (EU, Euratom) 2021/769 of 30 April 2021 amending Regulation (EEC, Euratom) No 1553/89 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ L 165, 11.5.2021, p. 9).

- (8) Given that the special measure has had a positive impact on the simplification of VAT-related obligations, as it has reduced the administrative burden and compliance costs for both small enterprises and tax authorities, and given that it lacks any major impact on the total VAT revenue generated, it is appropriate to allow the Netherlands to apply the special measure set out in Implementing Decision (EU) 2018/1904.
- (9) The application of the special measure should be limited in time. The time limit should be sufficient to allow the Commission to evaluate the effectiveness and appropriateness of the current threshold. Moreover, pursuant to Article 3(1) of Directive (EU) 2020/285, Member States are to adopt and publish, by 31 December 2024, the laws, regulations and administrative provisions necessary to comply with Article 1 of that Directive, and are to apply those provisions from 1 January 2025. It is therefore appropriate to authorise the Netherlands to apply the special measure until 31 December 2024.
- (10) Implementing Decision (EU) 2018/1904 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Article 2 of Implementing Decision (EU) 2018/1904 is replaced by the following:

‘Article 2

This Decision shall apply from 1 January 2020 until 31 December 2024.’.

Article 2

This Decision shall take effect on the date of its notification.

Article 3

This Decision is addressed to the Kingdom of the Netherlands.

Done at ...,

For the Council

The President
