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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DIRECTIVE amending Directive 2006/112/EC on the common system of value added tax as regards the identification of taxable persons in Northern Ireland

COUNCIL DIRECTIVE (EU) .../...

of ...

**amending Directive 2006/112/EC on the common system of value added tax
as regards the identification of taxable persons in Northern Ireland**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with a special legislative procedure,

¹ Opinion of ... (not yet published in the Official Journal).

² Opinion of ... (not yet published in the Official Journal).

Whereas:

- (1) The United Kingdom withdrew from the European Union on 31 January 2020 on the basis of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ('the Withdrawal Agreement'). The Withdrawal Agreement provides for a transition period that is to end on 31 December 2020. Until that date, the provisions of Union law on value added tax ('VAT') are to be applicable to and in the United Kingdom. After that transition period, the provisions of Union law on VAT are to no longer apply to or in the United Kingdom.
- (2) However, in accordance with Article 8 of the Protocol on Ireland/Northern Ireland ('the Protocol'), which forms an integral part of the Withdrawal Agreement, provisions of Union law on VAT as listed in Annex 3 to the Protocol concerning goods are to continue to apply in Northern Ireland¹ after the transition period so as to avoid a hard border between Ireland and Northern Ireland.
- (3) Therefore, taxable persons and certain non-taxable legal persons will be subject to provisions of Union law on VAT for transactions in goods in Northern Ireland, whereas they will be subject to the provisions of United Kingdom legislation on VAT for all other transactions in the United Kingdom, including in respect of Northern Ireland.

¹ Subject to the democratic consent in Northern Ireland to the continued application of Articles 5 to 10 referred to in Article 18(1) of the Protocol.

- (4) For the proper functioning of the Union VAT system, it is essential that a distinct VAT identification number is granted to every taxable person who carries out supplies of goods in Northern Ireland and every taxable person, or non-taxable legal person, who makes intra-Community acquisitions of goods as listed in points (a), (b) and (c) of Article 214(1) of Council Directive 2006/112/EC¹, or to a taxable person in view of the use of the optional special schemes for taxable persons making distance sales of goods.
- (5) Therefore, distinct VAT identification numbers with a specific prefix should be introduced in Northern Ireland to distinguish between taxable persons and non-taxable legal persons whose transactions in goods located in Northern Ireland are subject to provisions of Union law on VAT, on the one hand, and persons carrying out other transactions for which they are identified for VAT purposes in the United Kingdom.
- (6) As a rule, prefixes of VAT identification numbers in the Union are based on ISO code 3166 – alpha 2 – by which the Member State of issue may be identified. Northern Ireland has no specific code under that system, but the ISO foresees the possibility to use X-codes for territories that do not have a specific code. Therefore, it is appropriate to propose the code ‘XI’ for Northern Ireland.
- (7) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

¹ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

Article 1

In Article 215 of Directive 2006/112/EC, the following paragraph is added:

‘The prefix “XI” shall be used for Northern Ireland’.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2020. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at ..., ...

For the Council

The President
