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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION amending Implementing Decision (EU) 2018/279 authorising Malta to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2020/…

of …

amending Implementing Decision (EU) 2018/279
authorising Malta to apply a special measure
derogating from Article 287 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 tax[1], and in particular the first subparagraph of Article 395(1) thereof,

Having regard to the proposal from the European Commission,

[1] OJ L 347, 11.12.2006, p. 1.

Whereas:

(1) Under point 13 of Article 287 of Directive 2006/112/EC, Malta is able to exempt three categories of taxable persons from value added tax ('VAT'): those whose annual turnover is no higher than EUR 37 000 if the economic activity consists principally in the supply of goods, those whose annual turnover is no higher than EUR 24 300 if the economic activity consists principally in the supply of services with a low value added (high inputs), and those whose annual turnover is no higher than EUR 14 600 in other cases, namely supplies of services with a high value added (low inputs).

(2) Malta was authorised by Council Implementing Decision (EU) 2018/279[1] to introduce a special measure derogating from Article 287 of Directive 2006/112/EC ('the derogating measure') to exempt from VAT taxable persons whose economic activity consists principally in supplies of services with a high value added (low inputs) and whose annual turnover is no higher than EUR 20 000, until 31 December 2020, or until the entry into force of a directive amending Articles 281 to 294 of Directive 2006/112/EC, whichever date is earlier.

[1] Council Implementing Decision (EU) 2018/279 of 20 February 2018 authorising Malta to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 54, 24.2.2018, p. 14).

(3) By letter registered with the Commission on 5 June 2020, Malta requested authorisation to continue applying the derogating measure until 31 December 2024, that is the date by which Member States are to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive (EU) 2020/285[1], which lays down simpler VAT rules for small enterprises and, inter alia, deletes Article 287 of Directive 2006/112/EC with effect from 1 January 2025.

(4) In accordance with the second subparagraph Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States by letter dated 12 June 2020 of the request made by Malta. The Commission notified Malta by letter dated 15 June 2020 that it had all the information necessary to consider the request.

(5) Given that the derogating measure has resulted in reduced VAT obligations and thus a reduction in the administrative burdens and costs for small enterprises, Malta should be authorised to continue applying the derogating measure.

[1] 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).

(6) The authorisation to apply the derogating measure should be limited in time. The time limit should be sufficient to allow the effectiveness and appropriateness of the threshold to be evaluated. Moreover, Article 287 of Directive 2006/112/EC is deleted by Directive (EU) 2020/285 with effect from 1 January 2025. It is therefore appropriate to authorise Malta to apply the derogating measure until 31 December 2024.

(7) The derogating measure has no impact on the Union's own resources accruing from VAT because Malta will carry out a compensation calculation in accordance with Article 6 of Council Regulation (EEC, Euratom) No 1553/89[1].

(8) Implementing Decision (EU) 2018/279 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

[1] Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ L 155, 7.6.1989, p. 9).

Article 1

In Article 2 of Implementing Decision (EU) 2018/279, the second paragraph is replaced by the following:

‘It shall apply from 1 January 2018 until 31 December 2024.’.

Article 2

This Decision is addressed to Republic of Malta.

Done at Brussels,

For the Council
The President