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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION amending Implementing Decision (EU) 2018/1490 as regards authorisation to Hungary to apply for a further period the special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2022/...

of ...

**amending Implementing Decision (EU) 2018/1490 as regards authorisation
to Hungary to apply for a further period the 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 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) Pursuant to Article 287, point (12), of Directive 2006/112/EC, Hungary may exempt from value added tax (VAT) taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 35 000 at the conversion rate on the day of its accession.
- (2) By Council Implementing Decision (EU) 2018/1490¹, Hungary was authorised to introduce a special measure derogating from Article 287 of Directive 2006/112/EC to exempt from VAT taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 48 000 at the conversion rate on the day of its accession to the Union, either until 31 December 2021 or until the entry into force of a directive amending the provisions of Articles 281 to 294 of Directive 2006/112/EC, whichever date is earlier ('the special measure').

¹ Council Implementing Decision (EU) 2018/1490 of 2 October 2018 authorising Hungary to introduce a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 252, 8.10.2018, p. 38).

- (3) By letter of 19 April 2021, Hungary submitted a request to the Commission for an authorisation to continue to apply the special measure until 31 December 2024, the date by which Member States are to transpose Council Directive (EU) 2020/285¹ which lays down simpler VAT rules for small enterprises. That Directive also allows Member States to exempt taxable persons whose Member State annual turnover does not exceed a threshold of EUR 85 000 or the equivalent in national currency.
- (4) Pursuant to Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission transmitted the request made by Hungary to the other Member States by letter dated 28 June 2021. By letter dated 29 June 2021, the Commission notified Hungary that it had all the information necessary for the appraisal of the request.
- (5) The special measure is in line with Directive (EU) 2020/285, which seeks to reduce VAT compliance costs for small enterprises, distortions of competition at both national and Union level, and the negative impact of transition from exemption to taxation (the threshold effect). It also seeks to facilitate compliance by small enterprises as well as monitoring by tax authorities. The threshold of EUR 48 000 is consistent with the new threshold for exemption as laid down by Directive (EU) 2020/285.

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 special measure will remain optional for taxable persons. Taxable persons may still opt for the normal VAT arrangements pursuant to Article 290 of Directive 2006/112/EC.
- (7) According to information provided by Hungary, the special measure will have only a negligible effect on the overall amount of the tax revenue Hungary collects at the stage of final consumption.
- (8) Following the entry into force of Council Regulation (EU, Euratom) 2021/769¹, there will be no compensation calculation carried out by Hungary with regard to the VAT own resource statement for the financial year 2021 onwards.
- (9) Given the positive impact of the special measure in simplifying VAT-related obligations by reducing the administrative burden and compliance costs for small enterprises and for the tax authorities, and the lack of any major impact on the total VAT revenue generated, Hungary should be authorised to apply the special measure for a further period.

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).

- (10) The authorisation to apply the special measure should be limited in time. The time limit should be sufficient to allow for evaluating the effectiveness and appropriateness of the 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 Hungary to apply the special measure until 31 December 2024.
- (11) In order to avoid disruptive effects, Hungary should be allowed to apply the special measure without interruption. The authorisation requested should therefore be granted with effect from 1 January 2022, in order to follow seamlessly on from the prior arrangements under Implementing Decision (EU) 2018/1490.
- (12) Implementing Decision (EU) 2018/1490 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Article 2 of Implementing Decision (EU) 2018/1490 is replaced by the following:

‘Article 2

This Decision shall apply from 1 January 2019 until 31 December 2024.’.

Article 2

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

Article 3

This Decision is addressed to Hungary.

Done at ...,

For the Council

The President
