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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION amending Implementing Decision 2013/53/EU as regards authorisation to the Kingdom of Belgium to apply for a further period the 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 2013/53/EU as regards authorisation to the Kingdom of Belgium to apply for a further period the 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 tax[1], 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 2013/53/EU[1] the Kingdom of Belgium 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 until 31 December 2015 ('the special measure'). That authorisation was extended initially by Council Implementing Decision (EU) 2015/2348[2] until 31 December 2018 and subsequently by Council Implementing Decision (EU) 2018/2077[3] until 31 December 2021.

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1 Council Implementing Decision 2013/53/EU of 22 January 2013 authorising the Kingdom of Belgium to introduce a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 22, 25.1.2013, p. 13).

2 Council Implementing Decision (EU) 2015/2348 of 10 December 2015 amending Implementing Decision 2013/53/EU authorising the Kingdom of Belgium to introduce a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 330, 16.12.2015, p. 51).

3 Council Implementing Decision (EU) 2018/2077 of 20 December 2018 amending Implementing Decision 2013/53/EU authorising the Kingdom of Belgium to introduce a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 331, 28.12.2018, p. 222).

(2) By letter of 5 May 2021, Belgium 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) 2020/285[1] 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.

(3) Pursuant to Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission transmitted the request made by Belgium to the other Member States, by letter dated 29 June 2021. By letter dated 30 June 2021, the Commission notified Belgium that it had all the information necessary for the appraisal of the request.

(4) 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 25 000 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).

(5) 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.

(6) According to information provided by Belgium, the special measure will have only a negligible effect on the overall amount of the tax revenue Belgium collects at the stage of final consumption.

(7) Following the entry into force of Council Regulation (EU, Euratom) 2021/769[1], there will be no compensation calculation carried out by Belgium with regard to the VAT own resource statement for the financial year 2021 onwards.

(8) Given the positive impact of the special measure in simplifying VAT-related obligations by reducing the administrative burden and compliance costs for both small enterprises and tax authorities, and the lack of any major impact on the total VAT revenue generated, Belgium should be authorised to apply the special measure for a further period.

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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).

(9) 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 Belgium to apply the special measure until 31 December 2024.

(10) In order to avoid disruptive effects, Belgium 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 2013/53/EU.

(11) Implementing Decision 2013/53/EU should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Article 2 of Implementing Decision 2013/53/EU is replaced by the following:

‘*Article 2*

This Decision shall apply from 1 January 2013 until 31 December 2024.’.

Article 2

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

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at …,

For the Council
The President