Council of the
European Union

Brussels, 12 February 2021
(OR. en)

5739/21

Interinstitutional File:
2021/0006 (NLE)

FISC 14
ECOFIN 80

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION amending Implementing Decision (EU) 2017/563 authorising the Republic of Estonia 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) 2021/…

of …

amending Implementing Decision (EU) 2017/563
authorising the Republic of Estonia 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) Pursuant to point (8) of Article 287 of Directive 2006/112/EC, Estonia is able to exempt from value added tax ('VAT') taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 16 000 at the conversion rate on the day of its accession.

(2) By means of Council Implementing Decision (EU) 2017/563[1], Estonia was authorised to introduce a special measure derogating from point (8) of Article 287 of Directive 2006/112/EC (the 'derogating measure') to exempt from VAT taxable persons whose annual turnover is no higher than EUR 40 000. Estonia was authorised to apply the derogating measure from 1 January 2018 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.

(3) On 18 February 2020 the Council adopted Directive (EU) 2020/285[2], amending Articles 281 to 294 of Directive 2006/112/EC as regards the special scheme for small enterprises and laying down new rules for small enterprises, including fixing the maximum threshold of Member State annual turnover at EUR 85 000 or the equivalent in national currency.

---

[1] Council Implementing Decision (EU) 2017/563 of 21 March 2017 authorising the Republic of Estonia to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 80, 25.3.2017, p. 33).

[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).

(4) By letter registered with the Commission on 9 October 2020, Estonia requested authorisation to continue applying the derogating measure until 31 December 2024.

(5) By letter dated 15 October 2020, the Commission informed the other Member States, in accordance with the second subparagraph of Article 395(2) of Directive 2006/112/EC, of the request made by Estonia. By letter dated 19 October 2020, the Commission notified Estonia that it had all the information it considered necessary for appraisal of the request.

(6) The derogating measure is in line with the objectives of the Commission communication of 25 June 2008 entitled '"Think Small First" – a "Small Business Act" for Europe'.

(7) Based on the information provided by Estonia, the derogating measure will only have a negligible impact on the overall amount of tax revenue of Estonia collected at the stage of final consumption. Taxable persons will still be able to opt for the normal VAT arrangements in accordance with Article 290 of Directive 2006/112/EC.

(8) The derogating measure will not adversely affect the Union's own resources accruing from VAT because Estonia will carry out a compensation calculation in accordance with Article 6 of Council Regulation (EEC, Euratom) No 1553/89[1].

[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).

(9) Given the potential positive impact of the derogating measure in simplifying VAT obligations by reducing the administrative burden and costs for small businesses, Estonia should be authorised to continue applying the derogating measure for a further period.

(10) 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, Directive (EU) 2020/285 requires Member States to adopt and publish, by 31 December 2024, the laws, regulations and administrative provisions necessary to comply with Article 1 of that Directive, and apply those provisions from 1 January 2025. It is therefore appropriate to authorise Estonia to apply the derogating measure until 31 December 2024.

(11) In order to avoid disruptive effects, Estonia should be allowed to apply the derogating measure without interruption. The authorisation requested should therefore be granted with effect from 1 January 2021, in order to follow seamlessly on from the previous arrangement authorised by Implementing Decision (EU) 2017/563.

(12) Implementing Decision (EU) 2017/563 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In Article 2 of Implementing Decision (EU) 2017/563, the second paragraph is replaced by the following:

'This Decision shall apply from 1 January 2018 until 31 December 2024.'.

Article 2

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

It shall apply from 1 January 2021 until 31 December 2024.

Article 3

This Decision is addressed to the Republic of Estonia.

Done at Brussels,

For the Council
The President