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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION amending Implementing Decision (EU) 2017/2408 authorising the Republic of Latvia 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) 2017/2408 authorising the Republic of Latvia 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 Article 287 of Directive 2006/112/EC, Latvia 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 17 200 at the conversion rate on the day of its accession to the Union.

(2) By means of Council Implementing Decision 2010/584/EU[1], Latvia was authorised to apply a special measure derogating from Article 287 of Directive 2006/112/EC ('the derogating measure') to exempt from VAT taxable persons whose annual turnover was no higher than the equivalent in national currency of EUR 50 000 at the conversion rate on the day of its accession to the Union until 31 December 2013. The derogating measure was extended by means of Council Implementing Decision 2014/796/EU[2] until 31 December 2017.

(3) By means of Council Implementing Decision (EU) 2017/2408[3], Latvia was authorised to further extend the derogating measure until 31 December 2020, and the exemption threshold was decreased from EUR 50 000 to EUR 40 000.

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1 Council Implementing Decision 2010/584/EU of 27 September 2010 authorising the Republic of Latvia to apply a measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 256, 30.9.2010, p. 29).

2 Council Implementing Decision 2014/796/EU of 7 November 2014 authorising the Republic of Latvia to apply a measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 330, 15.11.2014, p. 46).

3 Council Implementing Decision (EU) 2017/2408 of 18 December 2017 authorising the Republic of Latvia to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 342, 21.12.2017, p. 8).

(4) By letter registered with the Commission on 17 April 2020, Latvia requested authorisation to continue to apply the derogating measure until 31 December 2024, which is 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 or the equivalent in national currency.

(5) Pursuant to the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission transmitted the request made by Latvia to the other Member States by letter dated 19 May 2020. By letter dated 20 May 2020, the Commission notified Latvia that it had all the information necessary for appraisal of the request.

(6) The derogating 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 40 000 is consistent with Article 284 of Directive 2006/112/EC.

[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).

(7) The derogating measure is and will remain optional for taxable persons. Taxable persons can still opt for the normal VAT arrangements pursuant to Article 290 of Directive 2006/112/EC.

(8) According to the information provided by Latvia, the derogating measure will only have a negligible effect on the overall amount of the tax revenue of Latvia collected at the stage of final consumption.

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

(10) Given the potential positive impact of the derogating measure in 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, Latvia should be authorised to continue applying the derogating measure.

[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).

(11) 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, 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 apply those provisions from 1 January 2025. It is therefore appropriate to authorise Latvia to apply the derogating measure until 31 December 2024.

(12) Implementing Decision (EU) 2017/2408 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In Article 2 of Implementing Decision (EU) 2017/2408, the second paragraph is replaced by the following:

‘This Decision shall apply until 31 December 2024.’.

Article 2

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

Article 3

This Decision is addressed to the Republic of Latvia.

Done at Brussels,

For the Council
The President