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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DIRECTIVE amending Directive 2006/112/EC on the common system of value added tax, as regards the duration of the obligation to respect a minimum standard rate

COUNCIL DIRECTIVE (EU) 2016/...

of ...

**amending Directive 2006/112/EC
on the common system of value added tax,
as regards the duration of the obligation
to respect a minimum standard rate**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with a special legislative procedure,

¹ Opinion of 12 April 2016 (not yet published in the Official Journal).

² Opinion of 17 February 2016 (OJ C 133, 14.4.2016, p. 23).

Whereas:

- (1) Article 97 of Council Directive 2006/112/EC¹ provides that from 1 January 2011 until 31 December 2015 the standard rate of value added tax (VAT) may not be less than 15 %.
- (2) The standard VAT rate currently in force in the Member States, combined with the mechanism of the transitional system has ensured that the VAT system has functioned to an acceptable degree. With new rules on the place of supply of services which favour taxation at the place of consumption, the possibilities for exploiting differences in VAT rates through relocation have been limited further and potential distortions of competition have been reduced.
- (3) To prevent excessive divergence in the standard VAT rates applied by Member States from leading to structural imbalances in the Union and distortions of competition in some sectors of activity, it is common practice in the field of indirect taxes to set minimum rates. It is still prudent to do so for VAT.
- (4) In view of the ongoing discussion on the features of the definitive VAT regime for intra-Union trade, it would be premature to set a permanent standard VAT rate or to consider changing the minimum VAT rate.

¹ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

- (5) It is therefore appropriate to maintain the current minimum standard rate at 15 % for a period long enough to ensure legal certainty, while allowing further review.
- (6) The maintenance of the current minimum standard rate does not preclude a further revision of VAT legislation before 31 December 2017 to address the introduction of a definitive VAT regime for intra-Union trade.
- (7) In order to ensure the uninterrupted application of the minimum standard rate established by Directive 2006/112/EC, it is appropriate that this Directive apply from 1 January 2016.
- (8) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Article 97 of Directive 2006/112/EC is replaced by the following:

‘Article 97

From 1 January 2016 until 31 December 2017, the standard rate may not be lower than 15 %.’.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ...[two months after date of publication]. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President
