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European Union

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## **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL IMPLEMENTING DECISION amending Implementing Decision 2013/678/EU authorising the Italian Republic to continue to apply a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax

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**COUNCIL IMPLEMENTING DECISION (EU) 2016/...**

**of ...**

**amending Implementing Decision 2013/678/EU  
authorising the Italian Republic to continue to apply a 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<sup>1</sup>, and in particular Article 395 thereof,

Having regard to the proposal from the European Commission,

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<sup>1</sup> OJ L 347, 11.12.2006, p. 1.

Whereas:

- (1) By virtue of Decision 2008/737/EC<sup>1</sup>, Italy was authorised, as a derogating measure, to exempt from value added tax ('VAT') taxable persons whose annual turnover is no higher than EUR 30 000 until 31 December 2010 ('the derogating measure'). The application of the derogating measure was subsequently extended until 31 December 2013 by Implementing Decision 2010/688/EU<sup>2</sup> and until 31 December 2016 by Implementing Decision 2013/678/EU<sup>3</sup>, which, in addition, increased the maximum authorised exemption threshold to EUR 65 000 of annual turnover.
- (2) By letter registered with the Commission on 5 April 2016, Italy requested authorisation to extend the derogating measure.

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<sup>1</sup> Council Decision 2008/737/EC of 15 September 2008 authorising the Italian Republic to apply a measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 249, 18.9.2008, p. 13).

<sup>2</sup> Council Implementing Decision 2010/688/EU of 15 October 2010 authorising the Italian Republic to continue to apply a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 294, 12.11.2010, p. 12).

<sup>3</sup> Council Implementing Decision 2013/678/EU of 15 November 2013 authorising the Italian Republic to continue to apply a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 316, 27.11.2013, p. 35).

- (3) In accordance with the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States, by letter dated 21 June 2016, of the request made by Italy. By letter dated 22 June 2016, the Commission notified Italy that it had all the information necessary to consider the request.
- (4) Under Article 285 of Directive 2006/112/EC, Member States that have not made use of Article 14 of the Second Council Directive 67/228/EEC<sup>1</sup> may exempt taxable persons whose annual turnover is no higher than EUR 5 000. The derogating measure derogates from Article 285 in its application to Italy only to the extent that the annual turnover threshold exceeds EUR 5 000.
- (5) The derogating measure is in line with the objectives of the Commission Communication “Think Small First” – A “Small Business Act” for Europe” of 25 June 2008.
- (6) Since the derogating measure has resulted in reduced VAT obligations for those smaller businesses that did not opt for the regular VAT arrangements in accordance with Article 290 of Directive 2006/112/EC, Italy should be authorised to continue to apply the derogating measure for a further limited period. Taxable persons should still be able to opt for the normal VAT arrangements.

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<sup>1</sup> Second Council Directive 67/228/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes - Structure and procedures for application of the common system of value added tax (OJ 71, 14.4.1967, p. 1303).

- (7) The derogating measure should be limited in time to allow an assessment as to whether it remains appropriate and effective. Moreover, Articles 281 to 294 of Directive 2006/112/EC on a special scheme for small enterprises are subject to review. The derogating measure should, therefore, also be subject to a sunset clause.
- (8) From information provided by Italy, the derogating measure will have a negligible impact on the overall amount of tax revenue collected at the final stage of consumption.
- (9) The derogating measure has no impact on the Union's own resources accruing from VAT.
- (10) Implementing Decision 2013/678/EU should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

Article 2 of Decision 2013/678/EU is replaced by the following:

*‘Article 2*

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

This Decision shall apply until the entry into force of a directive amending Articles 281 to 294 of Directive 2006/112/EC on a special scheme for small enterprises, or until 31 December 2019, whichever is the earlier.’

*Article 2*

This Decision is addressed to the Italian Republic.

Done at Brussels,

*For the Council*

*The President*

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