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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	13 October 2014
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2014) 626 final
Subject:	Proposal for a COUNCIL IMPLEMENTING DECISION 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

Delegations will find attached document COM(2014) 626 final.

Encl.: COM(2014) 626 final

EUROPEAN
COMMISSION

Brussels, 13.10.2014
COM(2014) 626 final

2014/0290 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

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

EN EN

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Pursuant to Article 395(1) of Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (hereafter 'the VAT Directive'), the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to apply special measures for derogation from the provisions of that Directive in order to simplify the procedure for collecting VAT or to prevent certain forms of tax evasion or avoidance.

By letter registered with the Commission on 1 July 2014, Latvia requested authorisation to exempt taxable persons whose annual turnover is no higher than EUR 50 000. In accordance with Article 395(2) of the VAT Directive, the Commission informed the other Member States by letter dated 7 August 2014 of the request made by Latvia. By letter dated 11 August 2014, the Commission notified Latvia that it had all the information necessary to consider the request.

General context

Chapter 1 of Title XII of the VAT Directive allows for the possibility for Member States to apply special schemes for small enterprises, including the possibility of exempting taxable persons below a certain annual turnover. This exemption implies that a taxable person does not have to charge VAT on his supplies and, consequently, he cannot deduct VAT on his inputs.

Latvia was first granted the same exemption by Council Implementing Decision 2010/584/EU[1] which had expired on 31 December 2013. The measure derogated from Title XII of the VAT Directive only in so far as the taxable person’s annual turnover threshold for the special scheme was higher than that currently allowed for Latvia under Article 287(10) of the VAT Directive, which is EUR 17 200.

Based on this experience, Latvia has now requested to be authorised again to apply the measure, which would anyhow be optional for taxable persons.

From information provided by Latvia, it appears that the impact of the measure on tax revenue collected at the final consumption stage is negligible.

It is therefore proposed to provide the derogation for a limited period until 31 December 2017.

Existing provisions in the area of the proposal

Similar derogations have been granted to other Member States.

Consistency with the other policies and objectives of the Union.

The measure is in line with the Union's objectives for small businesses, as laid out in Commission Communication "Think small first" – a "Small Business Act" for Europe" (COM(2008) 394 of 25 June 2008).

[1] OJ L 256, 30.9.2010, p. 29.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Consultation of interested parties

Not relevant.

Collection and use of expertise

There was no need for external expertise.

Impact assessment

The decision aims at providing a simplification measure which removes many of the VAT obligations for businesses operating below an annual turnover.

Because of the narrow scope of the derogation, and its limited application in time, the scope will in any case be limited.

3. LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action

Authorisation for Latvia to apply a derogating measure from the VAT Directive as regards the application of a simplification measure for businesses with an annual turnover no higher than EUR 50 000.

Legal basis

Article 395 of the VAT Directive.

Subsidiarity principle

Considering the provision of the VAT Directive on which the proposal is based, the proposal falls under the exclusive competence of the Union. The subsidiarity principle therefore does not apply.

Proportionality principle

The proposal complies with the proportionality principle for the following reasons:

This Decision concerns an authorisation granted to a Member State upon its own request and does not constitute any obligation.

Given the limited scope of the derogation, the special measure is proportionate to the aim pursued.

Choice of instruments

Proposed instrument: Council Implementing Decision.

Other means would not be adequate for the following reasons:

Under Article 395 of the VAT Directive, derogation from the common VAT rules is only possible on the authority of the Council acting unanimously on a proposal from the Commission. A Council Implementing Decision is the only suitable instrument since it can be addressed to an individual Member State.

4. BUDGETARY IMPLICATION

The proposal has no implication for the budget of the Union because Latvia will carry out a compensation calculation in accordance with Article 6 of Council Regulation (EEC, EURATOM) No 1553/89.

5. OPTIONAL ELEMENTS

The proposal is limited in time.

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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 ([2]) (the VAT Directive), and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) In a letter registered by the Commission on 1 July 2014, the Republic of Latvia requested authorisation for a measure derogating from Article 287(10) of the VAT Directive in order to exempt certain taxable persons whose annual turnover is no higher than EUR 50 000. Through that measure, those taxable persons would be exempt from certain or all of the obligations in relation to value added tax (VAT) referred to in Chapters 2 to 6 of Title XI of the VAT Directive. Such measure had already been granted to the Republic of Latvia by Council Implementing Decision 2010/584/EU[3] which expired on 31 December 2013.

(2) The Commission informed the other Member States by letter dated 7 August 2014 of the request made by Latvia. By letter dated 11 August 2014, the Commission notified Latvia that it had all the information necessary to consider the request.

(3) A special scheme for small enterprises is already available to Member States under Title XII of the VAT Directive. The measure derogates from Title XII of the VAT Directive only in so far as the taxable person's annual turnover threshold for the special scheme is higher than that allowed for Latvia under Article 287(10) of the VAT Directive, which is EUR 17 200.

(4) A higher threshold for the special scheme is a simplification measure as it may significantly reduce the VAT obligations of the smallest businesses, whilst that special scheme is optional for taxable persons and allows businesses to opt for the normal VAT arrangements.

[2] OJ L 347, 11.12.2006, p. 1.
[3] OJ L 256, 30.9.2010, p. 29.

(5) From information provided by Latvia, the derogation will only have a negligible impact on the overall amount of tax revenue collected at the final stage of consumption.

(6) The derogation has no impact on the Union's own resources accruing from value added tax,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 287(10) of Directive 2006/112/EC, the Republic of Latvia is authorised to exempt from VAT taxable persons whose annual turnover is no higher than EUR 50 000.

Article 2

This Decision shall apply until 31 December 2017.

Article 3

This Decision is addressed to the Republic of Latvia.

Done at Brussels,

For the Council
The President