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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	24 October 2014
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2014) 653 final
Subject:	Proposal for a COUNCIL IMPLEMENTING DECISION extending the application of Council Implementing Decision 2012/181/EU authorising Romania to apply a special 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) 653 final.

Encl.: COM(2014) 653 final

EUROPEAN
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Brussels, 24.10.2014
COM(2014) 653 final

2014/0302 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

extending the application of Council Implementing Decision 2012/181/EU authorising Romania to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Grounds for and objectives 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 letters registered with the Commission on 28 April 2014 and 22 August 2014, Romania requested an authorisation to continue to exempt taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 65 000 at the conversion rate on the day of its accession. In accordance with Article 395(2) of the VAT Directive, the Commission informed the other Member States by letters dated 1 September 2014 of the request made by Romania. By letter dated 3 September 2014, the Commission notified Romania 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 the VAT on his inputs.

Under Article 287(18) of the VAT Directive, Romania may exempt from VAT taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 35 000 at the conversion rate on the day of its accession.

In 2011, Romania requested a derogation in order to simplify VAT obligations for small traders and to ease the collection of the tax for the national tax administration. By Council Decision 2012/181/EU of 26 March 2012, the Council authorised Romania to exempt from VAT taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 65 000 until 31 December 2014. This measure is optional for taxable persons.

Romania has now requested an extension of that measure.

From the information provided by Romania, it appears that more than 10000 taxable persons benefited from VAT exemption as a result of the application of the measure. In addition, the structure of the Romanian economy shows that more than 84% of the total number of taxpayers has a turnover below EUR 65 000. Approximately 21% of such taxpayers are registered for VAT and contribute to only 1.81% in the total of the VAT revenues and to only 0.54% in the total state budget revenues. Romania considers that this measure brings simplification both for taxable persons and for the tax administration. It is proposed to extend the derogation for another 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).

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 proposal for a Council Implementing Decision aims at continuing a simplification measure which removes many of the VAT obligations for businesses operating with an annual turnover no higher than the equivalent in national currency of EUR 65 000 and therefore has a potential positive impact.

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 Romania to continue to apply a derogating measure from the VAT Directive as regards a simplification measure for businesses with an annual turnover no higher than the equivalent in national currency of EUR 65 000 at the conversion rate on the day of its accession.

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 European Union. The subsidiarity principle therefore does not apply.

Proportionality principle

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

The 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 instruments: Council Implementing Decision.

Under Article 395 of the VAT Directive, derogation from the common VAT rules is only possible with the authorisation of the Council acting unanimously on a proposal from the Commission. Moreover, a Council Implementing Decision is the most suitable instrument since it can be addressed to individual Member States.

4. BUDGETARY IMPLICATION

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

5. OPTIONAL ELEMENTS

Limitation clause

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[1], and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By letters registered with the Commission on 28 April 2014 and 22 August 2014, Romania requested authorisation for a measure derogating from Article 287 (18) of Directive 2006/112/EC in order to continue to exempt from value added tax (VAT) taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 65 000 at the conversion rate on the day of accession. Through that measure, those taxable persons would continue to be exempted from certain or all of the obligations in relation to VAT referred to in Chapters 2 to 6 of Title XI of Directive 2006/112/EC.

(2) In accordance with the second paragraph of Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States by letter dated 1 September 2014 of the request made by Romania. By letter dated 3 September 2014, the Commission notified Romania 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 Directive 2006/112/EC. Under point (18) of Article 287 of Directive 2006/112/EC, Romania may exempt from VAT taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 35 000 at the conversion rate on the day of its accession.

(4) By Council Implementing Decision 2012/181/EU of 26 March 2012 authorising Romania to introduce a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax[2], Romania was authorised, until 31 December 2014 and as a derogating measure, to exempt from VAT taxable persons whose annual turnover is no higher than the equivalent in national currency of

[1] OJ L 347, 11.12.2006, p. 1.
[2] OJ L 92, 30.03.2012, p. 26.

EUR 65 000 at the conversion rate on the day of its accession. Given that this higher threshold has resulted in reduced VAT obligations for the smallest businesses, whilst the latter may still opt for the regular VAT arrangements in accordance with Article 290 of Directive 2006/112/EC, Romania should be authorised to apply the measure for a further limited period.

(5) From the information provided by Romania, the measure will only have a negligible impact on the VAT collected at the stage of final consumption.

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

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from point 18 of Article 287 of Directive 2006/112/EC, Romania is authorised to exempt from VAT taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 65 000 at the conversion rate on the day of its accession to the European Union.

Article 2

This decision shall apply from 1 January 2015 until 31 December 2017.

Article 3

This Decision is addressed to Romania.

Done at Brussels,

For the Council
The President