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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	3 September 2015
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2015) 416 final
Subject:	Proposal for a COUNCIL IMPLEMENTING DECISION amending Implementing Decision 2013/54/EU authorising the Republic of Slovenia to introduce 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(2015) 416 final.

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COM(2015) 416 final

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Proposal for a

COUNCIL IMPLEMENTING DECISION

amending Implementing Decision 2013/54/EU authorising the Republic of Slovenia to introduce 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

• Reasons 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 27 May 2015 and 17 June 2015, Slovenia requested an authorisation to continue 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 letters dated 24 June 2015 of the request made by Slovenia. By letter dated 25 June 2015, the Commission notified Slovenia 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 input.

Under Article 287(15) of the VAT Directive, Slovenia may exempt from VAT taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 25 000.

In 2012, Slovenia 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 Implementing Decision 2013/54/EU of 22 January 2013 the Council authorised Slovenia to exempt from VAT taxable persons whose annual turnover is no higher than EUR 50 000 until 31 December 2015. This measure is optional for taxable persons. Based on this experience, Slovenia has now requested an extension of that measure which would continue to be optional for taxable persons.

From the information provided by Slovenia, at the end of 2013, 51.45% of the VAT payers had a taxable turnover below EUR 50 000 and the VAT revenue generated by them represented only 1% of the total VAT revenue. In addition, the number of taxable persons registered for VAT purposes with a threshold between EUR 25 000 and EUR 50 000 has decreased both in 2013 and 2014. This signifies that an increasing number of small business make use of the simplification measure.

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

It is therefore proposed to extend the derogation for another period until the earliest of 31 December 2018 or the entry into force of a Directive on the annual turnover thresholds below which taxable persons may be exempt from VAT.

- **Consistency with existing policy provisions in the policy area**

Similar derogations have been granted to other Member States.

- **Consistency with other Union policies**

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. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 395 of the VAT Directive.

- **Subsidiarity (for non-exclusive competence)**

The proposal falls under the exclusive competence of the European Union. The subsidiarity principle therefore does not apply.

- **Proportionality**

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 the instrument**

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.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable

- **Stakeholder consultations**

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 for another three years a simplification measure which removes many of the VAT obligations for businesses operating with an annual turnover no higher than EUR 50 000 and therefore has a potential positive impact on the reduction of administrative burden for businesses and tax administration without a major impact on the total VAT revenue. Because of the narrow scope of the derogation and its limited application in time, the scope will in any case be limited.

4. BUDGETARY IMPLICATIONS

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

5. OTHER ELEMENTS

The proposal includes a sunset clause; an automatic time limit which is set at 31 December 2018 for this derogation.

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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) Article 287(15) of Directive 2006/112/EC authorises Slovenia to exempt from value added tax (VAT) taxable persons whose annual turnover is no higher than EUR 25 000.

(2) By Council Implementing Decision 2013/54/EU[2], Slovenia was authorised, until 31 December 2015 and as a derogation, to exempt from VAT taxable persons whose annual turnover is no higher than EUR 50 000.

(3) By letters registered with the Commission on 27 May 2015 and 17 June 2015, Slovenia requested authorisation for an extension of the measure derogating from Article 287(15) of Directive 2006/112/EC in order to be able to continue to exempt from VAT taxable persons whose annual turnover is no higher than EUR 50 000. 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.

(4) The Commission informed the other Member States by letters dated 24 June 2015 of the request made by Slovenia. By letter dated 25 June 2015, the Commission notified Slovenia that it had all the information necessary to consider the request.

(5) From the information provided by Slovenia, at the end of 2013, 51.45% of the VAT payers had a taxable turnover below EUR 50 000 and represented only 1% of the total VAT revenue.

(6) Given that this higher threshold has resulted in reduced VAT obligations for the small businesses, whilst such businesses may still opt for the regular VAT arrangements in accordance with Article 290 of Directive 2006/112/EC, Slovenia should be authorised to apply the measure for a further limited period.

[1] OJ L 347, 11.12.2006, p. 1

[2] Council Implementing Decision 2013/54/EU of 22 January 2013 authorising the Republic of Slovenia to introduce a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 22, 25.1.2013, p.15).

(7) (7) The derogation has no impact on the Union's own resources accruing from VAT because Slovenia will carry out a compensation calculation in accordance with Article 6 of Council Regulation (EEC, EURATOM) 1553/89[3].

(8) (8) Implementing Decision 2013/54/EU should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In the second paragraph of Article 2 of Implementing Decision 2013/54/EU, the date ‘31 December 2015’ is replaced by the date ‘31 December 2018’.

Article 2

This Decision is addressed to the Republic of Slovenia.

Done at Brussels,

For the Council
The President

[3] 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).