



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 5 November 2013  
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**FISC 190**

**LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL IMPLEMENTING DECISION authorising Luxembourg to introduce 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**

**of**

**authorising Luxembourg to introduce 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(1) thereof,

Having regard to the proposal from the European Commission,

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

Whereas:

- (1) By letter registered with the Secretariat General of the Commission on 24 October 2012, Luxembourg requested authorisation to apply a measure derogating from Article 285 of Directive 2006/112/EC, allowing Luxembourg to exempt from value added tax (VAT) taxable persons whose annual turnover is no higher than EUR 25 000. Through that measure, those taxable persons would be exempted from all or some 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 Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States of the request made by Luxembourg by letter dated 9 November 2012. By letter dated 12 November 2012, the Commission notified Luxembourg that it had all the information necessary to consider the request.
- (3) According to Article 285 of Directive 2006/112/EC, Member States, which have not exercised the option under Article 14 of Second Council Directive 67/228/EEC<sup>1</sup>, may exempt from VAT taxable persons whose annual turnover is no higher than EUR 5 000 or the equivalent in national currency and may also grant graduated tax relief to taxable persons whose annual turnover exceeds the ceiling fixed by them for its application.

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<sup>1</sup> Second Council Directive 67/228/EEC of 11 April 1967 on the harmonization 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. 1303/67).

- (4) Luxembourg has informed the Commission that it currently exempts from VAT taxable persons whose annual turnover is no higher than EUR 10 000 and that it makes use of the option of granting graduated tax relief with respect to taxable persons whose annual turnover is between EUR 10 000 and EUR 25 000. Luxembourg has requested the authorisation to exempt from VAT, as a derogating measure, taxable persons whose annual turnover is no higher than EUR 25 000.
- (5) A higher threshold for the special scheme is a simplification measure, insofar as it may significantly reduce the VAT obligations of small businesses and would enable Luxembourg to cease applying the graduated tax relief scheme that is burdensome for businesses. Taxable persons should be still able to opt for the normal VAT arrangements.
- (6) On 29 October 2004, the Commission has adopted a proposal for a Council Directive amending Directive 77/388/EEC<sup>1</sup> with a view to simplifying valued added tax obligations, which included provisions aimed at allowing Member States to set the annual turnover ceiling for the VAT exemption scheme at up to EUR 100 000 or the equivalent in national currency, with the possibility of updating that amount each year. This Decision is in line with that proposal.
- (7) The derogating measure has only a negligible effect on the overall amount of tax collected at the stage of final consumption and will not adversely affect the Union's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

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<sup>1</sup> Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes - Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1).

*Article 1*

By way of derogation from Article 285 of Directive 2006/112/EC, Luxembourg is authorised to exempt from VAT taxable persons whose annual turnover is no higher than EUR 25 000.

*Article 2*

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

This Decision shall apply until the date of entry into force of Union rules amending the amounts of the annual turnover ceilings below which taxable persons may qualify for VAT exemption or until 31 December 2016, whichever date is earlier.

*Article 3*

This Decision is addressed to the Grand Duchy of Luxembourg.

Done at Brussels,

*For the Council*

*The President*

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