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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION authorising the Republic of Lithuania to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax

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

of ...

**authorising the Republic of Lithuania to apply a special measure
derogating from Article 287 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 tax¹, and in particular the first subparagraph of Article 395(1) thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 347, 11.12.2006, p. 1.

Whereas:

- (1) Under Article 287 of Directive 2006/112/EC, Lithuania is able to exempt from value added tax ('VAT') taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 29 000 at the conversion rate on the day of its accession to the Union. Lithuania was authorised by Council Implementing Decision 2011/335/EU¹ to exempt from VAT taxable persons whose annual turnover was no higher than the equivalent in national currency of EUR 45 000 at the conversion rate on the day of its accession to the Union, until 31 December 2020.
- (2) By letter registered with the Commission on 18 June 2020, Lithuania requested an authorisation to continue applying a special measure derogating from Article 287 of Directive 2006/112/EC (the 'derogating measure') from 1 January 2021 until 31 December 2024, and to increase the threshold of that exemption to EUR 55 000 (the 'increased threshold'). By 31 December 2024 Member States are to adopt and publish the laws, regulations and administrative provisions necessary to comply with Article 1 of Council Directive (EU) 2020/285², which lays down simpler VAT rules for small enterprises and, inter alia, deletes Article 287 of Directive 2006/112/EC with effect from 1 January 2025.

¹ Council Implementing Decision 2011/335/EU of 30 May 2011 authorising the Republic of Lithuania to apply a measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 150, 9.6.2011, p. 6).

² Council Directive (EU) 2020/285 of 18 February 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Regulation (EU) No 904/2010 as regards the administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small enterprises (OJ L 62, 2.3.2020, p. 13).

- (3) On the basis of the derogating measure, taxable persons whose annual turnover is no higher than EUR 55 000 will be exempt from certain or all of the obligations in relation to VAT laid down in Chapters 2 to 6 of Title XI of Directive 2006/112/EC.
- (4) A higher threshold for the special scheme for small enterprises set out in Articles 281 to 294 of Directive 2006/112/EC is a simplification measure, as it may significantly reduce the VAT obligations of small enterprises. The requested increased threshold is consistent with Article 284 of Directive 2006/112/EC.
- (5) In accordance with the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission transmitted the request made by Lithuania to the other Member States by letters dated 10 August 2020 and 11 August 2020. By letter dated 12 August 2020, the Commission notified Lithuania that it had all the information it considered necessary for appraisal of the request.
- (6) The derogating measure is optional for taxable persons, who will still be able to opt for the regular VAT arrangements in accordance with Article 290 of Directive 2006/112/EC.
- (7) According to the information provided by Lithuania, the derogating measure will only have a negligible impact on the overall amount of tax revenue collected at the stage of final consumption.

- (8) The derogating measure will not have a negative impact on the Union's own resources accruing from VAT because Lithuania will carry out a compensation calculation in accordance with Article 6 of Council Regulation (EEC, Euratom) No 1553/89¹.
- (9) Given that the increased threshold is expected to reduce VAT obligations and thus compliance costs for small enterprises, as well as the administrative burden for the tax authorities, and as the impact on the total VAT revenue generated is negligible, Lithuania should be authorised to continue applying the derogating measure.
- (10) The authorisation to apply the derogating measure should be limited in time. The time limit should be sufficient to allow the evaluation of the effectiveness and appropriateness of the increased threshold. Moreover, in accordance with Directive (EU) 2020/285, Member States are to adopt and publish, by 31 December 2024, the laws, regulations and administrative provisions necessary to comply with Article 1 of that Directive, and apply those provisions from 1 January 2025. It is therefore appropriate to authorise Lithuania to apply the derogating measure for a further limited period, until 31 December 2024.
- (11) Due to the difficulties caused by the COVID-19 pandemic, the process for the renewal of the derogating measure took more time than expected and was not finalised by 31 December 2020. Without retroactive application of this Decision, small enterprises would suffer economic losses. It is therefore appropriate to apply this Decision retroactively, as from 1 January 2021, to ensure legal continuity of the derogating measure,

HAS ADOPTED THIS DECISION:

¹ 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).

Article 1

By way of derogation from Article 287 of Directive 2006/112/EC, the Republic of Lithuania is authorised to exempt from value added tax taxable persons whose annual turnover is no higher than EUR 55 000.

Article 2

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

It shall apply from 1 January 2021 until 31 December 2024.

Article 3

This Decision is addressed to the Republic of Lithuania.

Done at Brussels,

For the Council

The President
