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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION authorising Malta to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax, and repealing Implementing Decision (EU) 2018/279

COUNCIL IMPLEMENTING DECISION (EU) 2021/...

of ...

**authorising Malta to apply a special measure
derogating from Article 287 of Directive 2006/112/EC
on the common system of value added tax,
and repealing Implementing Decision (EU) 2018/279**

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 Article 395(1), first subparagraph, thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 347, 11.12.2006, p. 1.

Whereas:

- (1) Pursuant to Article 287, point (13), of Directive 2006/112/EC, Malta may exempt from value added tax ('VAT') three categories of taxable persons: those whose annual turnover is no higher than EUR 37 000 if the economic activity consists principally in the supply of goods; those whose annual turnover is no higher than EUR 24 300 if the economic activity consists principally in the supply of services with a low value added (high inputs); and those whose annual turnover is no higher than EUR 14 600 in other cases, namely supplies of services with a high value added (low inputs).
- (2) By means of Council Implementing Decision (EU) 2018/279¹ Malta was authorised to apply, until 31 December 2024, a special measure derogating from Article 287, point (13), of Directive 2006/112/EC to exempt from VAT taxable persons whose economic activity consists principally in supplies of services with a high value added (low inputs) and whose annual turnover is no higher than EUR 20 000.

¹ Council Implementing Decision (EU) 2018/279 of 20 February 2018 authorising Malta to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 54, 24.2.2018, p. 14).

- (3) By letter registered with the Commission on 20 October 2020, Malta requested authorisation to apply, until 31 December 2024, a measure derogating from Article 287, point (13), of Directive 2006/112/EC, allowing Malta to exempt from VAT taxable persons whose economic activity consists principally in the supply of services with a low value added (high inputs), or the supply of services with a high value added (low inputs) and whose annual turnover is no higher than EUR 30 000 ('the derogating measure'). The Commission requested further information related to the request, which was provided by letter registered with the Commission on 9 November 2020.
- (4) In accordance with Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission, by letter dated 17 December 2020, transmitted Malta's request to the other Member States. By letter dated 18 December 2020, the Commission notified Malta that it had all the information it considered necessary for the appraisal of the request.
- (5) Given that the increased threshold is expected to reduce VAT obligations and thus the administrative burden and compliance costs for small enterprises, and simplify VAT collection for the tax authorities, and given that the impact on the total VAT revenue of Malta collected at the stage of final consumption is negligible, Malta should be authorised to apply the derogating measure.

- (6) The derogating measure will not adversely affect the Union's own resources accruing from VAT because Malta will carry out a compensation calculation in accordance with Article 6 of Council Regulation (EEC, Euratom) No 1553/89¹.
- (7) The authorisation to apply the derogating measure should be limited in time. The time limit should be sufficient to allow for the evaluation of the effectiveness and appropriateness of the threshold. Moreover, Article 287 of Directive 2006/112/EC is deleted by Council Directive (EU) 2020/285², which lays down simpler VAT rules for small enterprises, with effect from 1 January 2025. It is therefore appropriate to authorise Malta to apply the derogating measure until 31 December 2024.
- (8) Implementing Decision (EU) 2018/279 should therefore be repealed,

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).

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).

Article 1

By way of derogation from Article 287, point (13), of Directive 2006/112/EC, Malta is authorised to exempt from VAT taxable persons whose economic activity consists principally in the supply of services with a low value added (high inputs), or the supply of services with a high value added (low inputs), and whose annual turnover is no higher than EUR 30 000.

Article 2

Implementing Decision (EU) 2018/279 is hereby repealed.

Article 3

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

It shall apply until 31 December 2024.

Article 4

This Decision is addressed to the Republic of Malta.

Done at Brussels,

For the Council

The President
