# DECISIONS

## COUNCIL IMPLEMENTING DECISION (EU) 2017/319

**of 21 February 2017**

**amending Implementing Decision 2013/677/EU 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 ([1]), and in particular Article 395 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Under 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 ([2]) are able to exempt from value added tax ('VAT') taxable persons whose annual turnover is no higher than EUR 5 000 or the equivalent in national currency. They are also able to grant graduated tax relief to taxable persons whose annual turnover exceeds the ceiling fixed by them for its application.

(2) By Council Implementing Decision 2013/677/EU ([3]), Luxembourg was authorised, as a measure derogating from Article 285 of Directive 2006/112/EC ('the derogating measure'), to exempt from VAT taxable persons whose annual turnover is no higher than EUR 25 000 until 31 December 2016.

(3) By letter registered with the Commission on 26 September 2016, Luxembourg requested authorisation to extend the derogating measure from 1 January 2017 and, at the same time, to increase the threshold from EUR 25 000 to EUR 30 000.

(4) The Commission informed the other Member States by letters dated 4 October 2016 of the request made by Luxembourg. By letter dated 5 October 2016, the Commission notified Luxembourg that it had all the information necessary to consider the request.

(5) According to the information provided by Luxembourg, 970 additional taxable persons could potentially make use of the derogating measure in order to reduce their VAT obligations referred to in Chapters 2 to 6 of Title XI of Directive 2006/112/EC. The burden on the tax administration with regard to tax collection and the auditing of small businesses would therefore also be decreased.

(6) Given that the derogating measure will result in reduced VAT obligations for small businesses, which will still be able to opt for the regular VAT arrangements in accordance with Article 290 of Directive 2006/112/EC, Luxembourg should be authorised to apply the increased threshold until 31 December 2019.

(7) Derogations are normally granted for a limited time in order to allow for an assessment of whether they are appropriate and effective. Moreover, as Articles 281 to 294 of Directive 2006/112/EC on a special scheme for small enterprises are subject to review, it is possible that a directive amending those provisions will enter into force before 31 December 2019. The derogating measure should therefore be limited in time and accompanied by a sunset clause.

([1]) OJ L 347, 11.12.2006, p. 1.
([2]) Second Council Directive 67/228/EEC of 11 April 1967 on the harmonisation 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).
([3]) Council Implementing Decision 2013/677/EU of 15 November 2013 authorising Luxembourg to introduce a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 316, 27.11.2013, p. 33).

(8) In order to ensure that the objectives pursued by the derogating measure, in particular those of avoiding disruptive effects and ensuring a level playing field, are achieved, it is appropriate that this Decision apply from 1 January 2017. By providing for a retroactive application of the derogating measure, legitimate expectations of the persons concerned are respected, as the derogating measure does not encroach on the rights and obligations of economic operators or individuals.

(9) According to information provided by Luxembourg, the increased threshold will have a negligible impact on the overall amount of tax revenue collected at the stage of final consumption.

(10) The derogating measure is in line with the objectives of the Commission communication '"Think small first" — a "Small Business Act" for Europe' of 25 June 2008.

(11) The derogating measure has no impact on the Union's own resources accruing from VAT because Luxembourg will carry out a compensation calculation in accordance with Article 6 of Council Regulation (EEC, Euratom) No 1553/89 ([1]).

(12) Implementing Decision 2013/677/EU should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

Articles 1 and 2 of Implementing Decision 2013/677/EU are replaced by the following:

'*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 30 000.

*Article 2*

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

This Decision shall apply from 1 January 2017 until 31 December 2019, or until the entry into force of a directive amending Articles 281 to 294 of Directive 2006/112/EC on a special scheme for small enterprises, whichever is the earlier.'.

*Article 2*

This Decision is addressed to the Grand Duchy of Luxembourg.

Done at Brussels, 21 February 2017.

*For the Council*
*The President*
E. SCICLUNA

([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).