DECISIONS

COUNCIL IMPLEMENTING DECISION (EU) 2020/1088

of 22 July 2020

amending Implementing Decision (EU) 2018/485 authorising Denmark to apply a special measure derogating from Article 75 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(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By letter registered with the Commission on 21 February 2020, Denmark requested, in accordance with Article 395 of Directive 2006/112/EC, an authorisation to apply a special measure governing the right to deduct input value added tax (VAT), derogating from Article 75 of that Directive.

(2) By letter dated 2 April 2020, the Commission informed the other Member States of the request submitted by Denmark and, by letter dated 3 April 2020, it notified Denmark that it had all the information necessary to consider the request.

(3) Without a derogating measure, the legislation in Denmark provides that if a light goods vehicle with a maximum authorised total weight of three tonnes is registered with the Danish authorities as being used for business purposes only, the taxable person is allowed to deduct the full input VAT on the purchase and running costs of the vehicle. If such a vehicle is subsequently used for private purposes, the taxable person loses the right to deduct the VAT incurred on the purchase cost of the vehicle.

(4) To mitigate the consequences of that regime, Denmark requested authorisation to apply a special measure derogating from Article 75 of Directive 2006/112/EC. The Derogation was granted by Council Implementing Decision 2012/447/EU ([2]) and subsequently by Council Implementing Decisions (EU) 2015/992 ([3]) and (EU) 2018/485 ([4]). Decision (EU) 2018/485 is set to expire on 31 December 2020.

(5) The measure would allow taxable persons who have registered a vehicle only for business purposes to use the vehicle for private purposes, and to calculate the taxable amount of the deemed supply of services pursuant to Article 75 of Directive 2006/112/EC on a daily flat-rate basis, rather than lose their right to deduct the VAT incurred on the purchase cost of the vehicle.

(6) That simplified calculation method should, however, be limited to twenty days of use for private purposes for each calendar year, and the flat-rate amount of VAT to be paid should be fixed at DKK 40 for each day of such use. That amount has been set by the Danish Government on the basis of an analysis of national statistics.

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

([2]) Council Implementing Decision 2012/447/EU of 24 July 2012 authorising Denmark to introduce a special measure derogating from Article 75 of Directive 2006/112/EC on the common system of value added tax (OJ L 202, 28.7.2012, p. 24).

([3]) Council Implementing Decision (EU) 2015/992 of 19 June 2015 authorising Denmark to introduce a special measure derogating from Article 75 of Directive 2006/112/EC on the common system of value added tax (OJ L 159, 25.6.2015, p. 66).

([4]) Council Implementing Decision (EU) 2018/485 of 19 March 2018 authorising Denmark to apply a special measure derogating from Article 75 of Directive 2006/112/EC on the common system of value added tax (OJ L 81, 23.3.2018, p. 13).

(7) This measure, which should apply to light goods vehicles with a maximum authorised total weight of three tonnes, aims to simplify the VAT obligations of taxable persons who make occasional use for private purposes of a vehicle that was registered only for business purposes, thereby simplifying the procedure for collecting VAT. However, it would remain possible for a taxable person to choose to register a light goods vehicle as being used for both business and private purposes. In doing so, the taxable person would lose the right to deduct the VAT incurred on the purchase cost of the vehicle but would not be required to pay a daily charge for any use for private purposes.

(8) Authorising a measure which ensures that a taxable person who makes occasional use for private purposes of a vehicle registered only for business purposes is not deprived of the full right to deduct the input VAT on that vehicle is consistent with the general rules on deduction as set out in Directive 2006/112/EC.

(9) The authorisation should be valid for a limited period and should therefore expire on 31 December 2023.

(10) In the event that Denmark requests a further extension of the special measure beyond 31 December 2023, it should submit a report to the Commission together with the extension request by 31 March 2023.

(11) It is considered that the derogation would only have a negligible effect on the overall amount of VAT revenue collected at the stage of final consumption and would have no adverse impact on the Union's own resources accruing from VAT.

(12) Implementing Decision (EU) 2018/485 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In Article 3 of Implementing Decision (EU) 2018/485, the second and the third paragraphs are replaced by the following:

'It shall apply from 1 January 2018 to 31 December 2023.

Any request for extension of the measure provided for in this Decision shall be submitted to the Commission by 31 March 2023 and shall be accompanied by a report which includes a review of the measure.'.

Article 2

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 22 July 2020.

For the Council
The President
M. ROTH