DECISIONS

COUNCIL IMPLEMENTING DECISION (EU) 2020/647

of 11 May 2020

authorising the Italian Republic to apply 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 the first subparagraph of Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Pursuant to the first paragraph of Article 285 of Directive 2006/112/EC, Member States which have not exercised the option under Article 14 of Council Directive 67/228/EEC ([2]) may exempt from value added tax ('VAT') taxable persons whose annual turnover is no higher than EUR 5 000 or the equivalent in national currency.

(2) By Council Decision 2008/737/EC ([3]), Italy was authorised to apply a special measure derogating from Article 285 of Directive 2006/112/EC ('the derogating measure') to exempt from VAT taxable persons whose annual turnover was no higher than EUR 30 000. The derogating measure was authorised until 31 December 2010.

(3) By Council Implementing Decision 2010/688/EU ([4]), Italy was authorised to continue to apply the derogating measure until 31 December 2013.

(4) By Council Implementing Decision 2013/678/EU ([5]), Italy was authorised to continue to apply the derogating measure until 31 December 2016. The annual turnover threshold was increased to EUR 65 000.

(5) By Council Implementing Decision (EU) 2016/1988 ([6]), the validity of the authorisation to apply derogating measure was extended 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 was the earlier. On 18 February 2020, the Council adopted Directive (EU) 2020/285 ([7]) amending Articles 281 to 294 of Directive 2006/112/EC as regards the special scheme for small enterprises.

([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 Decision 2008/737/EC of 15 September 2008 authorising the Italian Republic to apply a measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 249, 18.9.2008, p. 13).

([4]) Council Implementing Decision 2010/688/EU of 15 October 2010 authorising the Italian Republic to continue to apply a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 294, 12.11.2010, p. 12).

([5]) Council Implementing Decision 2013/678/EU of 15 November 2013 authorising the Italian Republic to continue to apply 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. 35).

([6]) Council Implementing Decision (EU) 2016/1988 of 8 November 2016 amending Implementing Decision 2013/678/EU authorising the Italian Republic to continue to apply a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 306, 15.11.2016, p. 11).

([7]) 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).

(6) By letter registered with the Commission on 26 July 2019, Italy requested authorisation to continue to apply the derogating measure after 31 December 2019 as well as to increase the threshold and the scope of the exemption.

(7) By letter dated 20 September 2019, the Commission informed the other Member States, pursuant to the second subparagraph of Article 395(2) of Directive 2006/112/EC, of the request made by Italy. By letter dated 23 September 2019, the Commission notified Italy that it had all the information necessary to consider the request.

(8) By letter registered with the Commission on 5 December 2019, Italy revised its request; requesting authorisation only to continue to apply the derogating measure until 31 December 2024.

(9) By letter dated 10 December 2019, the Commission informed the other Member States, pursuant to the second subparagraph of Article 395(2) of Directive 2006/112/EC, of the revised request of Italy. By letter dated 11 December 2019, the Commission notified Italy that it had all the information necessary to consider the revised request.

(10) From the information provided by Italy, it appears that the reasons for the derogating measure remain largely unchanged. The derogating measure reduces the administrative burden and compliance costs both for small enterprises and for tax authorities and it therefore helps to simplify the procedure for collecting VAT.

(11) The derogating measure is and will remain optional for taxable persons. Taxable persons will still be able to opt for the normal VAT arrangements in accordance with Article 290 of Directive 2006/112/EC.

(12) According to information provided by Italy, the derogating measure will have only a negligible effect on the overall amount of the tax revenue of Italy collected at the stage of final consumption.

(13) The derogating measure will not adversely affect the Union's own resources accruing from VAT because Italy will carry out a compensation calculation in accordance with Article 6 of Council Regulation (EEC, Euratom) No 1553/89 ([8]).

(14) Given the potential positive impact of the derogating measure in reducing the administrative burden and compliance costs for small businesses and for the tax authorities, and the lack of any major impact on the total VAT revenue generated, Italy should be authorised to apply the derogating measure for a further period.

(15) The authorisation to apply the derogating measure should be limited in time. The time limit should be sufficient to allow the effectiveness and appropriateness of the threshold to be evaluated. Moreover, Directive (EU) 2020/285 provides that 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 Italy to apply the derogating measure until 31 December 2024.

(16) In order to ensure that the objectives pursued by the derogating measure are achieved and that its application does not create legal uncertainty with regard to the current tax period, it is appropriate that this Decision apply from 1 January 2020,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 285 of Directive 2006/112/EC, Italy is authorised to exempt from VAT taxable persons whose annual turnover is no higher than EUR 65 000.

Italy may increase that threshold in order to maintain the value of the exemption in real terms.

([8]) 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 2

This Decision shall apply from 1 January 2020 until 31 December 2024.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 11 May 2020.

For the Council
The President
G. GRLIĆ RADMAN