Council Implementing Decision (EU) 2020/1277 of 9 September 2020 amending Implementing Decision 2013/680/EU authorising the Kingdom of Denmark and the Kingdom of Sweden to extend the application of a special measure derogating from Articles 168, 169, 170 and 171 of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2020/1277

of 9 September 2020

amending Implementing Decision 2013/680/EU authorising the Kingdom of Denmark and the Kingdom of Sweden to extend the application of a special measure derogating from Articles 168, 169, 170 and 171 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 letters registered with the Commission on 20 February 2020, Denmark and Sweden requested authorisation to extend the application of a special measure derogating from Articles 168, 169, 170 and 171 of Directive 2006/112/EC, which require taxable persons to exercise their right to deduct or obtain a refund of value added tax ('VAT') in the Member State where it was paid.

(2) In accordance with the second subparagraph of Article 395(2) of Directive 2006/112/EC the Commission transmitted the requests made by Denmark and Sweden to the other Member States by letter dated 2 April 2020. By letter dated 3 April 2020, the Commission notified Denmark and Sweden that it had all the information necessary for appraisal of the requests.

(3) The requests for derogation relate to the recovery of VAT paid on tolls for the use of the Öresund fixed link between Denmark and Sweden. Under the VAT rules on the place of supply of services connected with immovable property, part of the VAT on tolls for the Öresund fixed link is payable to Denmark and part to Sweden.

(4) By means of Council Decision 2000/91/EC[(2)], Denmark and Sweden were authorised, by way of derogation from the requirement for taxable persons to exercise their right to deduct or obtain a refund of VAT in the Member State where it was paid, to apply a special measure enabling taxpayers to recover VAT from a single administration until 31 December 2002. That authorisation was subsequently extended by Council Decision 2003/65/EC[(3)] until 31 December 2006 and by Council Decision 2007/132/EC[(4)] until 31 December 2013. By means of Council Implementing Decision 2013/680/

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Decision (EU) 2020/1277. (See end of Document for details)*

EU[5] Denmark and Sweden were authorised to apply special measure derogating from Articles 168, 169, 170 and 171 of Directive 2006/112/EC from 1 January 2014 until 31 December 2020.

(5) The legal and factual situation which justified the derogation has not changed and continues to exist. Denmark and Sweden should therefore be authorised to apply the special measure for a further limited period.

(6) The application of special measure has no adverse impact on the Union's own resources accruing from VAT.

(7) Implementing Decision 2013/680/EU should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In Article 2 of Implementing Decision 2013/680/EU, the date '31 December 2020' is replaced by '31 December 2027'.

Article 2

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

Article 3

This Decision is addressed to the Kingdom of Denmark and to the Kingdom of Sweden.

Done at Brussels, 9 September 2020.

For the Council

The President

M. ROTH