Council Implementing Decision (EU) 2020/1260 of 4 September 2020 amending Implementing Decision (EU) 2017/1855 authorising Romania to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2020/1260

of 4 September 2020

amending Implementing Decision (EU) 2017/1855 authorising Romania to apply a special measure derogating from Article 287 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 Article 287 of Directive 2006/112/EC, Romania is able to exempt from value added tax ('VAT') taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 35 000 at the conversion rate on the day of its accession to the Union.

(2) By means of Council Implementing Decision 2012/181/EU[(2)], Romania was authorised to introduce a special measure derogating from Article 287 of Directive 2006/112/EC ('the derogating measure') to exempt from VAT taxable persons whose annual turnover was no higher than the equivalent in national currency of EUR 65 000 at the conversion rate on the day of its accession to the Union. The derogating measure expired on 31 December 2014.

(3) By means of Council Implementing Decision 2014/931/EU[(3)], Romania was authorised to continue to apply the derogating measure until 31 December 2017.

(4) By means of Council Implementing Decision (EU) 2017/1855[(4)], Romania was authorised to apply a special measure derogating from Article 287 of Directive 2006/112/EC to exempt from VAT taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 88 500 at the conversion rate on the day of its accession. The derogating measure was authorised until 31 December 2020, or until the entry into force of a directive amending the provisions of Articles 281 to 294 of Directive 2006/112/EC, whichever date is the earlier.

(5) On 18 February 2020, the Council adopted Directive (EU) 2020/285[(5)], amending Articles 281 to 294 of Directive 2006/112/EC as regards the special scheme for small enterprises. Directive (EU) 2020/285 also allows Member States to exempt taxable

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Decision (EU) 2020/1260. (See end of Document for details)*

persons whose Member State annual turnover does not exceed a threshold of EUR 85 000 or the equivalent in national currency.

(6) By letter registered with the Commission on 14 January 2020, Romania requested authorisation to continue to apply the derogating measure after 31 December 2020.

(7) Pursuant to the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission transmitted the request made by Romania to the other Member States by letter dated 18 February 2020. By letter dated 19 February 2020, the Commission notified Romania that it had all the information necessary for appraisal of the request.

(8) From the information provided by Romania, it appears that the reasons for the derogating measure remain largely unchanged. The derogating measure is a simplification measure that reduces VAT-related obligations for a number of small enterprises. It also reduces the burden on tax authorities by removing the need to monitor the collection of a small volume of revenues from a larger number of small enterprises. Maintaining the current exemption threshold appears to be an effective way of saving administrative resources and reducing tax evasion.

(9) The derogating measure is and will remain optional for taxable persons. Taxable persons can still opt for the normal VAT arrangements pursuant to Article 290 of Directive 2006/112/EC.

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

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

(12) Given the potential positive impact of the derogating measure in reducing the administrative burden and compliance costs for small enterprises and for the tax authorities, and the lack of any major impact on the total VAT revenue generated, Romania should be authorised to continue applying the derogating measure.

(13) 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, pursuant to Article 3(1) of Directive (EU) 2020/285, 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 Romania to apply the derogating measure until 31 December 2024.

(14) Implementing Decision (EU) 2017/1855 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In Article 2 of Implementing Decision (EU) 2017/1855, the second paragraph is replaced by the following: