Council Decision (EU) 2020/1109 of 20 July 2020 amending Directives (EU) 2017/2455 and (EU) 2019/1995 as regards the dates of transposition and application in response to the COVID-19 pandemic

COUNCIL DECISION (EU) 2020/1109

of 20 July 2020

amending Directives (EU) 2017/2455 and (EU) 2019/1995 as regards the dates of transposition and application in response to the COVID-19 pandemic

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament[(1)],

Having regard to the opinion of the European Economic and Social Committee[(2)],

Acting in accordance with a special legislative procedure,

Whereas:

(1) Council Directive 2006/112/EC[(3)] was amended by Council Directives (EU) 2017/2455[(4)] and (EU) 2019/1995[(5)] to modernise the legal framework for value added tax (VAT) for cross-border business-to-consumer (B2C) e-commerce. The majority of those new provisions are to be applied as of 1 January 2021.

(2) On 30 January 2020, the World Health Organization (WHO) declared the COVID-19 outbreak a public health emergency of international concern. On 11 March 2020, the WHO declared the COVID-19 outbreak a pandemic. The COVID-19 pandemic has affected all Member States. Due to the alarming increase in the number of cases and the lack of efficient means immediately available to deal with the COVID-19 pandemic, numerous Member States have declared a national state of emergency.

(3) The COVID-19 pandemic constitutes an unexpected and unprecedented emergency that deeply affects all Member States and obliges them to take immediate action at national level to tackle the ongoing crisis as a priority by reallocating resources reserved for other issues. As a result of this crisis, several Member States are encountering difficulties in finalising by 31 December 2020 the development of IT systems necessary for the application of the rules laid down in Directives (EU) 2017/2455 and (EU) 2019/1995 as of 1 January 2021. Some Member States as well as postal and courier operators have therefore asked for the postponement of the dates of application of both Directive (EU) 2017/2455 and Directive (EU) 2019/1995.

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2020/1109. (See end of Document for details)*

(4) Taking into consideration the challenges that Member States face in tackling the COVID-19 crisis and the fact that the new provisions are based on the principle that all Member States have to update their IT systems in order to be able to apply the rules laid down in Directives (EU) 2017/2455 and (EU) 2019/1995, and ensure the collection and transmission of information and payments under the modified schemes, it is necessary to postpone the dates of transposition and application of those Directives by six months. A postponement of six months is appropriate, as the delay should be kept as short as possible in order to minimise additional budgetary losses for Member States.

(5) In view of the significant impact of the economic disturbances and possible additional difficulties resulting from the COVID-19 pandemic and in order to support the correct and timely application of the new VAT e-commerce rules, the Commission could work closely with the Member States concerned to monitor the adaptation of the national IT systems and to provide technical assistance whenever needed.

(6) Directives (EU) 2017/2455 and (EU) 2019/1995 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Amendments to Directive (EU) 2017/2455

Directive (EU) 2017/2455 is amended as follows:

(1) Article 2 is amended as follows:

(a) the heading is replaced by the following:

Amendments to Directive 2006/112/EC with effect from 1 July 2021;

(b) the introductory sentence is replaced by the following:

With effect from 1 July 2021, Directive 2006/112/EC is amended as follows:;

(2) Article 3 is replaced by the following:

Article 3

Amendment to Directive 2009/132/EC

With effect from 1 July 2021, Title IV of Directive 2009/132/EC is deleted.;

(3) in Article 4, paragraph 1 is amended as follows:

(a) the second subparagraph is replaced by the following:

Member States shall adopt and publish, by 30 June 2021, the laws, regulations and administrative provisions necessary to comply with Articles 2 and 3 of this Directive. They shall immediately communicate to the Commission the text of those provisions.;