Council Implementing Decision (EU) 2019/2210 of 19 December 2019 amending Implementing Decision 2013/677/EU authorising Luxembourg to introduce a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2019/2210

of 19 December 2019

amending Implementing Decision 2013/677/EU authorising Luxembourg to introduce 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 Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Under Article 285 of Directive 2006/112/EC, Member States which have not exercised the option under Article 14 of Second Council Directive 67/228/EEC[(2)] are able to 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 Implementing Decision 2013/677/EU[(3)], Luxembourg 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 is no higher than EUR 25 000. The derogating measure was authorised until 31 December 2016.

(3) Implementing Decision 2013/677/EU was amended by Council Implementing Decision (EU) 2017/319[(4)] to authorise Luxembourg to exempt from VAT taxable persons whose annual turnover was no higher than EUR 30 000. That authorisation applies 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 is the earlier. Such a directive has not yet been adopted.

(4) By letter registered with the Commission on 2 May 2019, Luxembourg requested authorisation to continue to apply the derogating measure after 31 December 2019 and, at the same time, to increase the threshold from EUR 30 000 to EUR 35 000.

(5) By letter dated 21 June 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 Luxembourg. By letter dated 24 June 2019, the Commission notified Luxembourg that it had all the information necessary to consider the request.

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Decision (EU) 2019/2210. (See end of Document for details)*

(6) From the information provided by Luxembourg, 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. Luxembourg estimates that an increase in the exemption threshold to EUR 35 000 could affect 1 106 taxable persons, which corresponds to 1,5 % of VAT-registered taxable persons in Luxembourg in 2017. Such an increase in the threshold would therefore further reduce the administrative burden and compliance costs and help to simplify further the procedure for collecting tax.

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

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

(9) The derogating measure with the increased threshold will not adversely affect the Union's own resources accruing from VAT because Luxembourg will carry out a compensation calculation in accordance with Article 6 of Council Regulation (EEC, Euratom) No 1553/89[(5)].

(10) 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, Luxembourg should be authorised to continue to apply the derogating measure for a further period and to increase the threshold to EUR 35 000 for that period.

(11) Extension of 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. It is therefore appropriate to authorise Luxembourg to continue to apply the derogating measure until 31 December 2022. However, if a directive amending Articles 281 to 294 of Directive 2006/112/EC on a special scheme for small enterprises is adopted and the date from which the national provisions necessary to comply with such a directive are to apply is earlier than 31 December 2022, the derogating measure should cease to apply when those national provisions become applicable.

(12) Implementing Decision 2013/677/EU should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Articles 1 and 2 of Implementing Decision 2013/677/EU are replaced by the following:

Article 1

By way of derogation from Article 285 of Directive 2006/112/EC, Luxembourg is authorised to exempt from VAT taxable persons whose annual turnover is no higher than EUR 35 000.