Council Implementing Decision (EU) 2018/1904 of 4 December 2018 authorising the Netherlands 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) 2018/1904

of 4 December 2018

authorising the Netherlands 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) 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 taxable persons whose annual turnover is no higher than EUR 5 000 from value added tax (VAT) or the equivalent in national currency.

(2) By letter registered with the Commission on 19 July 2018, the Netherlands requested authorisation to introduce a special measure derogating from Article 285 of Directive 2006/112/EC in order to apply an exemption threshold of EUR 25 000. Through that special measure taxable persons whose annual turnover is no higher than EUR 25 000 would be exempt from certain or all of the obligations in relation to VAT as referred to in Chapters 2 to 6 of Title XI of Directive 2006/112/EC.

(3) A higher threshold for the special scheme for small enterprises set out in Articles 281 to 294 of Directive 2006/112/EC is a simplification measure, as it may significantly reduce the VAT obligations of small enterprises. That special scheme is optional for taxable persons.

(4) In accordance with the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission transmitted the request of the Netherlands to the other Member States by letters dated 9 August 2018, with the exception of Spain and Cyprus, to which the request was transmitted by letters dated 10 August 2018. By letter dated 13 August 2018, the Commission notified the Netherlands that it had all the information necessary for the appraisal of the request.

(5) The requested derogation is in line with the policy objectives of the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions of 25 June 2008 – ‘Think Small First’ – A ‘Small Business Act’ for Europe.

(6) Given that the Netherlands expects that the increased threshold will result in reduced VAT obligations and thus a reduction in administrative burdens and compliance costs for small enterprises, the Netherlands should be authorised to apply the special measure for a limited period of time, until 31 December 2022. The special scheme for small enterprises is optional, so taxable persons would still be able to opt for the normal VAT arrangements.

(7) As Articles 281 to 294 of Directive 2006/112/EC governing the special scheme for small enterprises are subject to review, it is possible that a directive amending those Articles will be adopted and will set a date from which Member States are to apply national provisions before the period of validity of the derogation expires on 31 December 2022. In that case, this Decision should cease to apply.

(8) Based on information provided by the Netherlands, the increased threshold will only have a negligible impact on the overall amount of the tax revenue of the Netherlands collected at the final stage of consumption.

(9) The derogation has no impact on the Union's own resources accruing from VAT because the Netherlands is to carry out a compensation calculation in accordance with Article 6 of Council Regulation (EEC, Euratom) No 1553/89[3],

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 285 of Directive 2006/112/EC, the Netherlands is authorised to exempt taxable persons whose annual turnover is no higher than EUR 25 000 from VAT.

Article 2

This Decision shall apply from 1 January 2020 until the earlier of the following two dates:

(a) 31 December 2022;

(b) the date from which Member States are to apply any national provisions that they are required to adopt in the event that a directive is adopted amending Articles 281 to 294 of Directive 2006/112/EC governing the special scheme for small enterprises.

Article 3

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

Article 4

This Decision is addressed to the Kingdom of the Netherlands.