

COUNCIL IMPLEMENTING DECISION (EU) 2022/1661**of 26 September 2022****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 introduce a special measure derogating from Article 285 of Directive 2006/112/EC to exempt from VAT taxable persons whose annual turnover is no higher than EUR 25 000 until 31 December 2016 ('special measure').
- (3) Implementing Decision 2013/677/EU was initially amended by Council Implementing Decision (EU) 2017/319 ⁽⁴⁾, which authorised Luxembourg to exempt from VAT taxable persons whose annual turnover was no higher than EUR 30 000 until 31 December 2019. It was subsequently amended by Council Implementing Decision (EU) 2019/2210 ⁽⁵⁾, authorising Luxembourg to increase the threshold to EUR 35 000 and extend the application of the special measure until 31 December 2022.
- (4) By letter registered with the Commission on 11 March 2022, Luxembourg requested an authorisation to continue to apply the special measure until 31 December 2024, the date by which Member States are to transpose Council Directive (EU) 2020/285 ⁽⁶⁾ which lays down simpler VAT rules for small enterprises. It follows from that Directive that, from 1 January 2025, Member States will be allowed to exempt from VAT the supply of goods and services made by taxable persons whose annual turnover in a given Member State does not exceed a threshold of EUR 85 000 or the equivalent in national currency.
- (5) Pursuant to Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission transmitted the request made by Luxembourg to the other Member States, by letter dated 7 April 2022. By letter dated 8 April 2022, the Commission notified Luxembourg that it had all the information necessary for the appraisal of the request.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Second Council Directive 67/228/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes – Structure and procedures for application of the common system of value added tax (OJ 71, 14.4.1967, p. 1303).

⁽³⁾ Council Implementing Decision 2013/677/EU of 15 November 2013 authorising Luxembourg to introduce a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 316, 27.11.2013, p. 33).

⁽⁴⁾ Council Implementing Decision (EU) 2017/319 of 21 February 2017 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 (OJ L 47, 24.2.2017, p. 7).

⁽⁵⁾ 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 (OJ L 332, 23.12.2019, p. 155).

⁽⁶⁾ Council Directive (EU) 2020/285 of 18 February 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Regulation (EU) No 904/2010 as regards the administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small enterprises (OJ L 62, 2.3.2020, p. 13).

- (6) The special measure is in line with Directive (EU) 2020/285, which seeks to reduce the compliance burden of small enterprises and avoid distortions of competition in the internal market. It also seeks to facilitate compliance by small enterprises as well as monitoring by tax authorities. The threshold of EUR 35 000 is consistent with the new threshold for exemption as laid down by Directive (EU) 2020/285.
- (7) The special measure will remain optional for taxable persons. Taxable persons may still opt for the normal VAT arrangements pursuant to Article 290 of Directive 2006/112/EC.
- (8) According to information provided by Luxembourg, the special measure will only have a negligible effect on the overall amount of the tax revenue Luxembourg collects at the stage of final consumption.
- (9) Following the entry into force of Council Regulation (EU, Euratom) 2021/769 ⁽⁷⁾, there is to be no compensation calculation carried out by Luxembourg with regard to the VAT own resource statement for the financial year 2022 onwards.
- (10) Given that the special measure has had a positive impact on the simplification of VAT-related obligations, as it has reduced the administrative burden and compliance costs for both small enterprises and tax authorities, and given that it lacks any major impact on the total VAT revenue generated, Luxembourg should be authorised to continue to apply the special measure.
- (11) The application of the special measure should be limited in time. The time limit should be sufficient to allow the Commission to evaluate the effectiveness and appropriateness of the current threshold. 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 are to apply those provisions from 1 January 2025. It is therefore appropriate to authorise Luxembourg to apply the special measure until 31 December 2024.
- (12) Implementing Decision 2013/677/EU should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Article 2 of Implementing Decision 2013/677/EU is replaced by the following:

'Article 2

This Decision shall apply from 1 January 2013 until 31 December 2024.'

Article 2

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

Article 3

This Decision is addressed to the Grand Duchy of Luxembourg.

⁽⁷⁾ Council Regulation (EU, Euratom) 2021/769 of 30 April 2021 amending Regulation (EEC, Euratom) No 1553/89 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ L 165, 11.5.2021, p. 9).

Done at Brussels, 26 September 2022.

For the Council
The President
Z. NEKULA
