

DECISIONS

COUNCIL IMPLEMENTING DECISION (EU) 2018/279

of 20 February 2018

authorising Malta 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 Article 395 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Under point 13 of Article 287 of Directive 2006/112/EC, Malta may exempt three categories of taxable persons from value added tax (VAT): those whose annual turnover is no higher than EUR 37 000, if the economic activity consists principally in the supply of goods; EUR 24 300 if the economic activity consists principally in the supply of services with a low value added (high inputs); and EUR 14 600 in other cases, namely supplies of services with a high value added (low inputs).
- (2) By letter registered with the Commission on 22 September 2017, Malta requested authorisation to apply a special measure derogating from Article 287 of Directive 2006/112/EC ('the special measure'), allowing Malta to increase the level of the lowest threshold from EUR 14 600 to EUR 20 000 for the supplies of services with a high value added (low inputs) as of 1 January 2018.
- (3) In accordance with Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States by letter dated 3 November 2017 of the request made by Malta. The Commission notified Malta by letter dated 7 November 2017 that it had all the information necessary to consider the request.
- (4) The requested special measure is in line with the objectives of Commission Communication of 25 June 2008 entitled "Think Small First" — A "Small Business Act" for Europe.
- (5) Given that the special measure should result in reduced VAT obligations and thus a reduction in the administrative burden and costs for small enterprises, Malta should be authorised to apply the measure for a limited period, until 31 December 2020. Taxable persons should still be able to opt for the normal VAT arrangements.
- (6) Based on information provided by Malta, the special measure will have a negligible impact on the overall amount of tax revenue collected at the stage of final consumption.
- (7) In order to ensure that the objectives pursued by the special measure are achieved, in particular those that reduce disruptive effects and ensure a level playing field, it is appropriate that this Decision apply from 1 January 2018. By providing for a retroactive application of the special measure, legitimate expectations of the persons concerned are respected, as the special measure does not encroach on the rights and obligations of economic operators or individuals.
- (8) As Articles 281 to 294 of Directive 2006/112/EC governing the special scheme for small enterprises are currently subject to review, it is possible that a directive amending those provisions of Directive 2006/112/EC will enter into force before the period of validity of the special measure expires on 31 December 2020, in which case this Decision will cease to apply.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

- (9) The special measure has no impact on the Union's own resources accruing from VAT because Malta will carry out a compensation calculation in accordance with Article 6 of Council Regulation (EEC, Euratom) No 1553/89⁽¹⁾,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from point 13 of Article 287 of Directive 2006/112/EC, Malta is authorised to exempt from VAT taxable persons whose economic activity consists principally in supplies of services with a high value added (low inputs) and whose annual turnover is no higher than EUR 20 000.

Article 2

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

It shall apply from 1 January 2018 until 31 December 2020, or until the entry into force of a directive amending Articles 281 to 294 of Directive 2006/112/EC, whichever date is earlier.

Article 3

This Decision is addressed to Malta.

Done at Brussels, 20 February 2018.

For the Council
The President
V. GORANOV

⁽¹⁾ Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ L 155, 7.6.1989, p. 9).