

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1948**of 10 November 2021****on the treatment of repayments of VAT to non-taxable persons and to taxable persons for their exempt activities for the purposes of Regulation (EU) 2019/516 of the European Parliament and of the Council on the harmonisation of gross national income at market prices (GNI Regulation) and repealing Commission Decision 1999/622/EC, Euratom and Commission Regulation (EC, Euratom) No 116/2005****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/516 of the European Parliament and of the Council of 19 March 2019 on the harmonisation of gross national income at market prices and repealing Council Directive 89/130/EEC, Euratom and Council Regulation (EC, Euratom) No 1287/2003 (GNI Regulation) ⁽¹⁾, and in particular Article 5(3) thereof,

Whereas:

- (1) The treatment of repayments of VAT is one of the issues defined in Commission Delegated Regulation (EU) 2020/2147 ⁽²⁾ on the list of issues to ensure the reliability, exhaustiveness and comparability of the gross national income at market prices ('GNI') data to be addressed in every verification cycle.
- (2) For data on GNI to be reliable, exhaustive and comparable, the definition of the treatment of repayments of VAT to non-taxable persons and to taxable persons for their exempt activities needs to be clarified.
- (3) GNI aggregates and their components should be comparable across Member States and should comply with the relevant definitions and accounting rules of the European system of accounts 2010 ('ESA 2010') ⁽³⁾.
- (4) Commission Decision 1999/622/EC, Euratom ⁽⁴⁾ and Commission Regulation (EC, Euratom) No 116/2005 ⁽⁵⁾ should therefore be repealed.
- (5) Council Directive 2006/112/EC ⁽⁶⁾ uses the notions of taxable person, of non-taxable person and of exempt activities, which should also be used for the purposes of this act.
- (6) The ESA 2010 does not explicitly specify the treatment of repayments of VAT to non-taxable persons and to taxable persons for their exempt activities.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the European Statistical System Committee referred to in Article 8 of Regulation (EU) 2019/516,

⁽¹⁾ OJ L 91, 29.3.2019, p. 19.

⁽²⁾ Commission Delegated Regulation (EU) 2020/2147 of 8 October 2020 supplementing Regulation (EU) 2019/516 of the European Parliament and of the Council by defining the list of issues to be addressed in every verification cycle (OJ L 428, 18.12.2020, p. 9).

⁽³⁾ Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union (OJ L 174, 26.6.2013, p. 1).

⁽⁴⁾ Commission Decision 1999/622/EC, Euratom of 8 September 1999 on the treatment of repayments of VAT to non-taxable units and to taxable units for their exempt activities, for the purpose of implementing Council Directive 89/130/EEC, Euratom on the harmonisation of the compilation of gross national product at market prices (OJ L 245, 17.9.1999, p. 51).

⁽⁵⁾ Commission Regulation (EC, Euratom) No 116/2005 of 26 January 2005 on the treatment of repayments of VAT to non-taxable persons and to taxable persons for their exempt activities, for the purposes of Council Regulation (EC, Euratom) No 1287/2003 on the harmonisation of gross national income at market prices (OJ L 24, 27.1.2005, p. 6).

⁽⁶⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

1. In compiling national accounts aggregates for the purposes of Regulation (EU) 2019/516, repayments of VAT incurred on purchases, made to non-taxable persons or to taxable persons for their exempt activities, shall be treated in ESA 2010 as other current transfers (D.7) or capital transfers (D.9), and not as if they were deductible VAT.
2. For the purposes of paragraph 1, the term 'taxable person' shall have the meaning given to it by Articles 9 to 13 of Directive 2006/112/EC, and the 'exempt activities' shall be understood as the activities listed in Articles 132 to 137 of that Directive.

Article 2

Decision 1999/622/EC, Euratom and Regulation (EC, Euratom) No 116/2005 are repealed.

Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 November 2021.

For the Commission
The President
Ursula VON DER LEYEN
