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Proposal for a

COUNCIL IMPLEMENTING DECISION

authorising the Republic of Latvia to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax, and repealing Implementing Decision (EU) 2017/2408

EXPLANATORY MEMORANDUM

Pursuant to Article 395(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax¹ ('the VAT Directive'), the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to apply special measures for derogation from the provisions of that Directive in order to simplify the procedure for collecting value added tax ('VAT') or to prevent certain forms of tax evasion or avoidance.

Pursuant to Council Implementing Decision 2017/2408 of 18 December 2017², as amended by Council Implementing Decision (EU) 2020/1261 of 4 September 2020³, Latvia is currently authorised to apply a special measure derogating from Article 287 of the VAT Directive to exempt from VAT taxable persons whose annual turnover is no higher than EUR 40 000 until 31 December 2024.

By letter registered with the Commission on 14 December 2023, Latvia requested an authorisation to increase the threshold of the above-mentioned existing measure to EUR 50 000 from 1 January 2024 to 31 December 2024.

In accordance with Article 395(2) of the VAT Directive, the Commission informed the other Member States by letter dated 16 January 2024 of the request made by Latvia. By letter dated 17 January 2024, the Commission notified Latvia that it had all the information it considered necessary for the appraisal of the request.

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Chapter 1 of Title XII of the VAT Directive allows for the possibility for Member States to apply a special scheme for small enterprises, which includes the possibility to exempt from VAT taxable persons below a certain annual turnover. Taxable persons falling under this exemption do not have to charge VAT on their supplies and, consequently, cannot deduct VAT on their inputs.

Under Article 287(10) of the VAT Directive, Latvia may exempt from VAT taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 17 200 at the conversion rate on the day of its accession. By virtue of Council Implementing Decision 2010/584/EU⁴ Latvia was authorised to apply a higher threshold and thus to exempt from VAT taxable persons with an annual turnover not exceeding EUR 50 000. This measure was

¹ OJ L 347, 11.12.2006, p. 1.

² Council Implementing Decision (EU) 2017/2408 of 18 December 2017 authorising the Republic of Latvia to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 342, 21.12.2017, p. 8).

³ Council Implementing Decision (EU) 2020/1261 of 4 September 2020 amending Implementing Decision (EU) 2017/2408 authorising the Republic of Latvia to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 296, 10.9.2020, p. 4).

⁴ Council Implementing Decision 2010/584/EU of 27 September 2010 authorising the Republic of Latvia to apply a measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 256, 30.9.2010, p. 29).

extended by Council Implementing Decision 2014/796/EU⁵ until 31 December 2017. By Council Implementing Decision (EU) 2017/2408⁶, Latvia was authorised to extend the measure until 31 December 2020 and, at the same time, to decrease the exemption threshold from EUR 50 000 to EUR 40 000. Finally, by Council Implementing Decision (EU) 2020/1261, Latvia was authorised to continue to apply the special measure until 31 December 2024.

According to the Latvian authorities, the special measure facilitates VAT collection, enabling Latvia to simplify administrative procedures for small enterprises and thus reduce the administrative burden on them.

In addition, the Latvian authorities indicate that the average inflation rate in Latvia was 17.3% in 2022 and 9% in 2023, which had a significant impact on the overall economic situation, including the economic activity of small enterprises. Inflation also increases the turnover of businesses as prices of goods and services rise, bringing small enterprises closer to crossing the VAT exemption threshold. Raising the VAT exemption threshold to EUR 50 000 would mitigate the effects of inflation on small enterprises and would be in line with the objective of the exemption - to reduce the administrative burden of complying with the VAT rules for small enterprises.

The Latvian authorities also indicate that it should also be taken into account that several EU Member States have significantly increased their VAT exemption thresholds in recent years (in particular Bulgaria to EUR 51 130, Czech Republic to EUR 85 000, and Hungary to EUR 71 500), moreover Lithuania has also set its VAT exemption threshold at EUR 55 000 from 1 January 2024.

The special measure, simplifying the obligations of small operators, is in line with the objectives set out by the European Union for small businesses, as laid out in Commission Communication "Think small first" - A "Small Business Act" for Europe.

The special measure is optional for taxable persons. Therefore, small businesses whose turnover does not exceed the threshold would still have the possibility to exercise their right to apply the normal VAT arrangements.

According to the Latvian authorities, raising the VAT exemption threshold to EUR 50 000 would lead to a decrease in VAT revenue collection of EUR 4.6 million per year and would therefore have a negligible impact on VAT revenue of the Member State collected at the stage of final consumption.

In the light of the above, it is appropriate to authorise Latvia to raise the VAT exemption threshold to EUR 50 000 and to apply the special measure until 31 December 2024.

⁵ Council Implementing Decision 2014/796/EU of 7 November 2014 authorising the Republic of Latvia to apply a measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 330, 15.11.2014, p. 46).

⁶ Council Implementing Decision (EU) 2017/2408 of 18 December 2017 authorising the Republic of Latvia to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 342, 21.12.2017, p. 8).

- **Consistency with existing policy provisions in the policy area**

The special measure is consistent with Directive (EU) 2020/285⁷ amending Articles 281 to 294 of the VAT Directive on a special scheme for small enterprises, which resulted from the VAT action plan⁸, and aims to create a modern, simplified scheme for those businesses. In particular, it seeks to reduce VAT compliance costs and distortions of competition both domestically and at EU level, reduce the negative impact of the threshold effect, and facilitate business compliance as well as monitoring by tax administrations. It will enter into force on 1 January 2025.

Moreover, the threshold of EUR 50 000 is consistent with Directive (EU) 2020/285, insofar as it allows Member States to set the annual turnover threshold required for an exemption from VAT at a level no higher than EUR 85 000 (or the equivalent in national currency).

Similar derogations, exempting from VAT taxable persons whose annual turnover is below a certain threshold, have been granted to other Member States. Finland⁹ has been granted a threshold of EUR 15 000; the Netherlands¹⁰ and Belgium¹¹ a threshold of EUR 25 000; Malta¹² a threshold of EUR 30 000; Luxembourg¹³ a threshold of EUR 35 000; Poland¹⁴ and Estonia¹⁵ have been granted a threshold of EUR 40 000; Croatia¹⁶ a threshold of EUR 45 000;

⁷ 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).

⁸ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT – Towards a single EU VAT area – Time to decide COM (2016)148 final.

⁹ Council Implementing Decision (EU) 2020/774 of 8 June 2020 authorising the Republic of Finland to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 184, 12.6.2020, p. 77).

¹⁰ Council Implementing Decision (EU) 2022/2542 of 19 December 2022 amending Implementing Decision (EU) 2018/1904 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 (OJ L 328, 22.12.2022, p. 105).

¹¹ Council Implementing Decision (EU) 2022/88 of 18 January 2022 amending Implementing Decision 2013/53/EU as regards authorisation to the Kingdom of Belgium to apply for a further period the special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 14, 21.1.2022, p. 23)

¹² Council Implementing Decision (EU) 2021/753 of 6 May 2021 authorising Malta to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax, and repealing Implementing Decision (EU) 2018/279 (OJ L 163, 10.5.2021, p. 1).

¹³ 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 (OJ L 250, 28.9.2022, p. 14).

¹⁴ Council Implementing Decision (EU) 2021/1780 of 5 October 2021 amending Decision 2009/790/EC authorising the Republic of Poland to apply a measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 360, 11.10.2021, p. 122).

¹⁵ Council Implementing Decision (EU) 2021/358 of 22 February 2021 amending Implementing Decision (EU) 2017/563 authorising the Republic of Estonia to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 69, 26.2.2021, p. 4).

¹⁶ Council Implementing Decision (EU) 2020/1661 of 3 November 2020 amending Implementing Decision (EU) 2017/1768 authorising the Republic of Croatia to introduce a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 374, 10.11.2020, p. 4).

Slovenia¹⁷ a threshold of EUR 50 000; Bulgaria¹⁸ a threshold of EUR 51 130; Lithuania¹⁹ a threshold of EUR 55 000; Hungary²⁰ a threshold of EUR 71 500; Czechia²¹ and Italy²² a threshold of EUR 85 000; and Romania²³ a threshold of EUR 88 500.

Derogations from the VAT Directive should always be limited in time so that their effects can be assessed. The inclusion of an expiry date of the special measure until 31 December 2024, as requested by Latvia, is aligned with the requirements of Directive (EU) 2020/285. That directive provides for 1 January 2025 as the date on which Member States will have to apply the national provisions, which they are required to adopt to comply with it.

The proposed measure is therefore consistent with the provisions of the VAT Directive.

- **Consistency with other Union policies**

The Commission has been consistently stressing the need for simpler rules for small enterprises. In this respect, the Commission adopted in March 2020 an SME Strategy for a sustainable and digital Europe²⁴, where it committed to continue to work on reducing the burden on SMEs. The objective to reduce the regulatory burden for SMEs is one of the pillars of that strategy. This special measure is in line with such objectives, as far as fiscal rules are concerned. It is also consistent with the 2020 Action Plan on fair and simple taxation supporting the recovery strategy²⁵, which acknowledges that tax compliance costs remain high in the EU, and that compliance costs are typically substantially higher for small than for large companies.

¹⁷ Council Implementing Decision (EU) 2022/464 of 21 March 2022 amending Implementing Decision 2013/54/EU as regards the authorisation granted to the Republic of Slovenia to continue to apply the special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 94, 23.3.2022, p. 4).

¹⁸ Council Implementing Decision (EU) 2022/2254 of 14 November 2022 authorising Bulgaria to introduce a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 297, 17.11.2022, p. 69).

¹⁹ Council Implementing Decision (EU) 2021/86 of 22 January 2021 authorising the Republic of Lithuania to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 30, 28.1.2021, p. 2).

²⁰ Council Implementing Decision (EU) 2023/1025 of 22 May 2023 authorising Hungary to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax, and repealing Implementing Decision (EU) 2018/1490 (OJ L 137, 25.5.2023, p. 26).

²¹ Council Implementing Decision (EU) 2022/865 of 24 May 2022 authorising the Czech Republic to introduce a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 151, 2.6.2022, p. 66).

²² Council Implementing Decision (EU) 2023/664 of 21 March 2023 authorising the Italian Republic to apply a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax and repealing Implementing Decision (EU) 2020/647 (OJ L 83, 22.3.2023, p. 68).

²³ Council Implementing Decision (EU) 2020/1260 of 4 September 2020 amending Implementing Decision (EU) 2017/1855 authorising Romania to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 296, 10.9.2020, p. 1).

²⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – An SME Strategy for a sustainable and digital Europe (COM(2020) 103 final).

²⁵ Communication from the Commission to the European Parliament and the Council – An Action Plan for fair and simple taxation supporting the Recovery Strategy (COM(2020) 312 final).

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 395 of the VAT Directive.

- **Subsidiarity (for non-exclusive competence)**

Considering the provision of the VAT Directive on which it is based, the proposal falls under the exclusive competence of the European Union. Hence, the subsidiarity principle does not apply.

- **Proportionality**

The Decision concerns an authorisation granted to a Member State upon its own request and does not constitute any obligation.

Given the limited scope of the derogation, the special measure is proportionate to the aim pursued, i.e. to simplify the tax collection for small taxable persons and for the tax administration.

- **Choice of the instrument**

The instrument proposed is a Council Implementing Decision.

Under Article 395 of the VAT Directive, a derogation from the common VAT rules is only possible upon authorisation by the Council, which is acting unanimously on a proposal from the Commission. A Council Implementing Decision is the most suitable instrument since it can be addressed to an individual Member State.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

No stakeholder consultation has been conducted. The present proposal is based on a request made by Latvia and concerns only this particular Member State.

- **Impact assessment**

The proposal for a Council Implementing Decision aims at increasing the current exemption threshold from EUR 40 000 to EUR 50 000. This increase of the threshold is a simplification measure which removes many of the VAT obligations for businesses operating with an annual turnover no higher than that threshold. It will therefore have a positive impact on the reduction of administrative burden for both businesses and the tax administration without a major impact on the total VAT revenue. Because of the narrow scope of the derogation and its limited application in time, the impact of the measure will in any case be limited.

According to the Latvian authorities, raising the VAT exemption threshold to EUR 50 000 would result in a decrease in VAT revenue of EUR 4.6 million per year and would therefore have a negligible impact on VAT revenue.

The special measure will be optional for taxable persons. Taxable persons will be able to opt for the normal VAT arrangements in accordance with Article 290 of Directive 2006/112/EC.

- **Fundamental rights**

The proposal does not have any consequences for the protection of fundamental rights.

4. BUDGETARY IMPLICATIONS

Following entry into force of 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 tax²⁶, there will be no compensation calculation carried out by Latvia as of VAT own resource statement for the financial year 2021 onwards.

²⁶ 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).

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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 tax¹, and in particular Article 395(1), first subparagraph, thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Pursuant to Article 287, point (10), of Directive 2006/112/EC, the Republic of Latvia ('Latvia') may exempt from value added tax ('VAT') taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 17 200 at the conversion rate on the day of its accession.
- (2) By Council Implementing Decision (EU) 2017/2408², as amended by Council Implementing Decision (EU) 2020/1261³, Latvia was authorised to continue to apply a special measure derogating from Article 287, point (10), of Directive 2006/112/EC to exempt from VAT taxable persons whose annual turnover is no higher than EUR 40 000 until 31 December 2024 ('initial special measure').
- (3) By letter registered with the Commission on 14 December 2023, Latvia requested authorisation to increase the threshold of the initial special measure to EUR 50 000 from 1 January 2024 until 31 December 2024 ('the special measure').
- (4) Pursuant to Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission transmitted the request made by Latvia to the other Member States by letter dated 16 January 2024. By letter dated 17 January 2024, the Commission notified Latvia that it had all the information necessary for the appraisal of the request.

¹ OJ L 347, 11.12.2006, p. 1, ELI: <http://data.europa.eu/eli/dir/2006/112/oj>.

² Council Implementing Decision (EU) 2017/2408 of 18 December 2017 authorising the Republic of Latvia to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 342, 21.12.2017, p. 8, ELI: http://data.europa.eu/eli/dec_impl/2017/2408/oj).

³ Council Implementing Decision (EU) 2020/1261 of 4 September 2020 amending Implementing Decision (EU) 2017/2408 authorising the Republic of Latvia to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 296, 10.9.2020, p. 4, ELI: http://data.europa.eu/eli/dec_impl/2020/1261/oj).

- (5) The special measure is in line with Council Directive (EU) 2020/285⁴, which seeks to reduce the VAT compliance burden of small enterprises and mitigate distortions of competition in the internal market, and will enter into force on 1 January 2025.
- (6) The special measure will remain optional for taxable persons as they may still opt for the normal VAT arrangements pursuant to Article 290 of Directive 2006/112/EC.
- (7) According to the information provided by Latvia, the special measure will only have a negligible effect on the overall amount of the tax revenue of Latvia collected at the stage of final consumption.
- (8) Following the entry into force of Council Regulation (EU, Euratom) 2021/769⁵ on 1 January 2021, there is to be no compensation calculation carried out by Latvia with regard to the VAT-based own resource statement for the financial year 2021 onwards.
- (9) 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 threshold. Moreover, since the provisions laying down thresholds set out in Article 284 of Directive 2006/112/EC, as amended by Directive (EU) 2020/285, need to be transposed by Member States by 31 December 2024 and to be applied from 1 January 2025, it is appropriate to authorise Latvia to apply the special measure until 31 December 2024.
- (10) Implementing Decision (EU) 2017/2408 should therefore be repealed,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 287, point (10), of Directive 2006/112/EC, the Republic of Latvia is authorised to exempt from VAT taxable persons whose annual turnover is no higher than EUR 50 000.

Article 2

Implementing Decision (EU) 2017/2408 is repealed.

Article 3

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

It shall apply until 31 December 2024.

⁴ 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, ELI: <http://data.europa.eu/eli/dir/2020/285/oj>)

⁵ 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, ELI: <http://data.europa.eu/eli/reg/2021/769/oj>).

Article 4

This Decision is addressed to the Republic of Latvia.

Done at Brussels,

*For the Council
The President*