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

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), first subparagraph, thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By Council Implementing Decision (EU) 2020/647 ([2]), Italy is authorised to apply 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 65 000 until 31 December 2024.

(2) By letter registered with the Commission on 29 November 2022, Italy requested an authorisation to apply a measure from 1 January 2023 until 31 December 2024, derogating from Article 285 of Directive 2006/112/EC in order to exempt taxable persons whose annual turnover is no higher than EUR 85 000 from VAT (the 'special measure').

(3) Pursuant to Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission transmitted the request made by Italy to the other Member States, by letter dated 8 December 2022. By letter dated 9 December 2022, the Commission notified Italy that it had all the information it considered necessary for the appraisal of the request.

(4) The special measure is in line with Council Directive (EU) 2020/285 ([3]), which seeks to reduce the compliance burden of small enterprises and avoid distortions of competition in the internal market.

(5) The special measure will remain optional for taxable persons. Taxable persons may still opt for the regular VAT arrangements in accordance with Article 290 of Directive 2006/112/EC.

(6) According to the information provided by Italy, the special measure will only have a negligible effect on the overall amount of tax revenue Italy collects at the stage of final consumption.

(7) Following the entry into force of Council Regulation (EU, Euratom) 2021/769 ([4]), there is to be no compensation calculation carried out by Italy with regard to the VAT-based own resource statement for the financial year 2021 onwards.

(8) 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 the tax authorities and allowed Italy to allocate more resources to the fight against VAT fraud by focusing its control activities towards larger taxable persons, and given that it has a negligible impact on the total VAT revenue generated, Italy should be authorised to apply the special measure.

([1]) OJ L 347, 11.12.2006, p. 1.

([2]) Council Implementing Decision (EU) 2020/647 of 11 May 2020 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 (OJ L 151, 14.5.2020, p. 7).

([3]) 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).

([4]) 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).

(9) In order to ensure the integrity of Italy's one-year tax period that starts on 1 January and to avoid imposing an excessive administrative burden on taxable persons and tax authorities, it is appropriate to grant authorisation to apply the special measure from 1 January 2023. By providing for the application of the special measure from a date that is prior to that of taking effect, legitimate expectations of eligible taxable persons are respected, as the special measure does not encroach upon their rights and obligations.

(10) 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(12) of that Directive, and are to apply those provisions from 1 January 2025. It is therefore appropriate to authorise Italy to apply the special measure until 31 December 2024.

(11) Implementing Decision (EU) 2020/647 should therefore be repealed,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 285 of Directive 2006/112/EC, Italy is authorised to exempt from VAT taxable persons whose annual turnover is no higher than EUR 85 000.

Article 2

Implementing Decision (EU) 2020/647 is repealed.

Article 3

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

It shall apply from 1 January 2023 until 31 December 2024.

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 21 March 2023.

For the Council
The President
J. ROSWALL