Council Implementing Decision of 15 December 2009 authorising the Republic of Estonia to apply a measure derogating from Article 167 of Directive 2006/112/EC on the common system of value added tax (2009/1022/EU)

COUNCIL IMPLEMENTING DECISION

of 15 December 2009

authorising the Republic of Estonia to apply a measure derogating from Article 167 of Directive 2006/112/EC on the common system of value added tax

(2009/1022/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Directive 2006/112/EC[(1)], and in particular Article 395(1) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Republic of Estonia (hereinafter 'Estonia') was authorised by Council Decision 2007/133/EC[(2)], by derogation from Article 167 of Directive 2006/112/EC, to postpone the right of deduction of value added tax (VAT) until it has been paid to the supplier of goods or of services, in respect of taxable persons applying an optional scheme under which, in accordance with Article 66(b) of that Directive, VAT on their supplies of goods and of services becomes chargeable on receipt of payment (cash accounting scheme). In order to qualify for this scheme, the taxable persons must be registered as sole proprietors.

(2) Estonia requested authorisation to extend this special derogating measure by letter registered by the Commission's Secretariat-General on 4 September 2009.

(3) In accordance with Article 395(2) of Directive 2006/112/EC, by letter of 1 October 2009, the Commission forwarded the request to the other Member States. By letter of 5 October 2009, the Commission informed Estonia that it had all the information it considered necessary for appraisal of its request.

(4) The cash accounting scheme is a simplified optional scheme intended for small undertakings which do not qualify for tax exemption. It allows such taxable persons to apply a simple rule based on the date of payment for their input and output transactions, to determine when they must exercise their right to deduct VAT and pay the tax to the revenue authorities. This scheme thus constitutes for those taxable persons a simplification measure, which can, furthermore, create a cash-flow advantage for them.

(5) On 28 January 2009, the Commission submitted a proposal of a directive with a view to amending Directive 2006/112/EC as regards the rules on invoicing and also allowing the Member States to postpone the right to deduct VAT arising until it has been paid

to the supplier in respect of taxable persons with an annual turnover not exceeding a ceiling, which could be fixed by Member States at up to EUR 2 000 000, and accordingly entitled to use an optional scheme under which the VAT to which their transactions are liable does not become chargeable until they have received the payment.

(6) The special derogating measure in question does not affect the amount of VAT revenue collected by Estonia at the final consumption stage and has no impact on the Union's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 167 of Directive 2006/112/EC, Estonia is authorised to postpone the right of deduction of VAT in respect of taxable persons, as defined in the second paragraph, until it has been paid to the supplier of goods or of services.

The taxable persons concerned must have opted for a scheme under which the VAT on their supplies of goods and of services becomes chargeable on receipt of the payment.

Until 31 December 2010, the scheme referred to in the second paragraph shall be applicable to taxable persons registered as a sole proprietor.

As from 1 January 2011, the scheme referred to in the second paragraph shall be applicable to taxable persons whose annual turnover does not exceed a threshold which shall be set by Estonia at up to the equivalent in national currency of EUR 200 000, determined in accordance with Articles 399 and 400 of Directive 2006/112/EC.

Article 2

This Decision shall apply from 1 January 2010 until the date of entry into force of a directive authorising the Member States to postpone the right of deduction of VAT arising until it has been paid to the supplier of goods or of services in respect of taxable persons whose annual turnover does not exceed a certain ceiling and who therefore benefit from an optional scheme according to which the tax on their supplies of goods and of services becomes chargeable when they have received the payment. In any event, this Decision shall apply until 31 December 2012 at the latest.

Article 3

This Decision is addressed to the Republic of Estonia.

Done at Brussels, 15 December 2009.

For the Council

The President

E. ERLANDSSON

(**1**) OJ L 347, 11.12.2006, p. 1.

(**2**) OJ L 57, 24.2.2007, p. 12.

Status:
Point in time view as at 15/12/2009.

Changes to legislation:
There are currently no known outstanding effects for the Council Implementing Decision of 15 December 2009 authorising the Republic of Estonia to apply a measure derogating from Article 167 of Directive 2006/112/EC on the common system of value added tax (2009/1022/EU).