



EUROPEAN COMMISSION

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Subject: State aid SA.49411 (2017/N) – Netherlands - Multiplied gift deduction - Prolongation

Sir,

1. PROCEDURE

- (1) On 25 October 2017, the Netherlands notified to the Commission, under Article 4 of Commission Regulation (EC) N° 794/2004¹, a prolongation from 1 January 2018 until 31 December 2023 of the existing aid scheme approved initially on 20 March 2013 (case SA.34357, 2012/NN)² and prolonged on 2 October 2013 (case SA.37097, 2013/N)³.
- (2) A request for information was sent to the Netherlands on 14 November 2017, to which a reply was submitted on 27 November 2017.

¹ Commission Regulation (EC) N° 794/2004 of 21 April 2004 implementing Council Regulation (EC) N° 659/1999 laying down detailed rules for the application of Article [93] of the EC Treaty, OJ L 140, 30.04.2004, p. 1.

² Commission Decision of 20.03.2013, in case SA SA.34357 (2012/NN) – NL – Multiplier Giftenaftrek, available at http://ec.europa.eu/competition/state_aid/cases/246177/246177_1418793_56_2.pdf.

³ Commission Decision of 02.10.2013 in case SA.37097 (2013/N) NL – Multiplier Giftenaftrek, available at http://ec.europa.eu/competition/state_aid/cases/249779/249779_1474206_69_2.pdf.

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2. DESCRIPTION OF THE MEASURE

- (3) Under the scheme, individuals and undertakings that make donations to charitable entities with cultural activities qualifying as a so-called “Algemeen nut beogende Instelling – ANBI” (Institutions for General Benefit) benefit from increased tax deductions. For the individuals and the undertakings that make donations to cultural ANBI, the deductible amount related to donations for the determination of the corporate tax base is increased by: 25 % for individuals and 50 % for companies, up to a maximum amount of EUR 5 000. The increased deduction for donations may direct more donations to the cultural entities that have the ANBI status, compared to other entities (without the ANBI status) and other ANBI that are not cultural.
- (4) The expected loss of State revenues due to this prolongation is estimated by the Dutch authorities to amount to maximum EUR 9 million (yearly). All other features of the measure remain unchanged. A more detailed description of the prolonged scheme can be found in recitals 3-26 of Commission's Decision of 20 March 2013, in case SA.34357 (2012/NN).

3. ASSESSMENT OF THE MEASURE

3.1. Existence of aid within the meaning of Article 107(1) of the TFEU

- (5) As confirmed by the Netherlands, the only notified change concerns the duration of the scheme which will be prolonged by 6 years and the corresponding increase in budget. Therefore, this change does not alter the assessment of the measure by the Commission in cases SA.34357 (2012/NN) and SA.37097 (2013/N), where it was concluded that the measure constitutes, in certain cases,⁴ State aid within the meaning of Article 107(1) of the TFEU in respect of the cultural institutions that qualify as ANBI (indirect beneficiaries).

3.2. Compatibility of the aid

- (6) Given the fact that there are no substantial changes to the scheme, except for the prolongation by six years and the increase of the budget associated with this prolongation, the Commission sees no reason to depart from its previous positive compatibility assessment that the aid scheme promotes culture and preserves cultural heritage without adversely affecting competition and trading conditions in the Union to an extent contrary to the common interest⁵.

4. CONCLUSION

- (7) The Commission therefore finds that the existing measure SA.34357 (2012/NN) prolonged by SA.37097 (2013/N), as amended by the current notified measure in

⁴ The Commission noted in its previous decisions that parts of the support may not constitute State aid because: (1) the indirect beneficiaries are not undertakings performing an economic activity, (2) because there is no effect on trade between Member States and no distortion of competition, or (3) because the support would fall under *de minimis* (Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid, OJ L 352/1 of 24.12.2012). For further details, see recitals 37-48 of Commission Decision of 20.03.2013, in case SA.34357.

⁵ See recitals 49-68 of Commission Decision of 20.03.2013, in case SA.34357.

case SA.49411 (2017/N) partly does not constitute aid and to the extent that it involves aid, this is compatible with the internal market in accordance with Article 107(3)(d) of the TFEU. The Commission therefore has accordingly decided not to raise objections to the notified measure.

- (8) The Commission confirms that the Member State has submitted annual reports in accordance with Article 4(3) of Commission Regulation (EC) N° 794/2004.

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Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission