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**Subject:** **State Aid SA.57027 (2020/N) –** ***Denmark***
**COVID-19: Credit facility and tax deferrals linked to VAT and payroll tax**

Excellency,

## 1. PROCEDURE

(1) By electronic notification of 29 April 2020, Denmark notified an *aid scheme in the form of a credit facility and tax deferrals linked to VAT and payroll tax* ("the scheme" or "measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended ("the Temporary Framework").[1]

(2) The Danish authorities confirmed that the notification does not contain business secrets.

(3) Denmark exceptionally agrees to waive its rights deriving from Article 342 Treaty on the Functioning of the European Union ("TFEU"), in conjunction with Article 3 of Regulation 1/1958,[2] and to have this Decision adopted and notified in English.

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[1] Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I , 4.4.2020, p. 1–9.

[2] Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

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## 2. DESCRIPTION OF THE SCHEME

(4) On 12 March 2020 the Danish Government announced the first of a number of measures aimed at combating the COVID 19-outbreak. These measures included social distancing, lock downs of all educational institutions (covering all stages from preschool to universities), nurseries and kindergartens, public workplaces for all but the essential workforce, etc. These measures were strengthened during the following weeks. By 13 April 2020 a gradual and very slow relaxation of some of the measures was introduced, but the majority of the measures are still in force and are expected to be so for quite some time.

(5) Already before 12 March 2020 the COVID-19 outbreak had started having effects on the economy, but the measures adopted on 12 March 2020 and later on have had immediate and draconian effects on the Danish economy, and undertakings in most sectors have faced a severe lack of liquidity.

(6) Many undertakings have been seriously affected by these containment measures. Denmark considers that small and medium sized enterprises (SMEs) are at a particular risk due to the lack of liquidity as the current situation seriously affects the economic situation of many healthy SMEs in the short and medium term, and the survival of many of those undertakings is endangered.

(7) Denmark considers that the COVID-19 outbreak has started to affect the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the damage inflicted upon undertakings impacted by the outbreak and to preserve the continuity of economic activity during and after the outbreak.

(8) The measure is expressly based on Article 107(3)(b) of the TFEU, as interpreted by Section 2 and Section 3.9 of the Temporary Framework.

### 2.1. The nature and form of aid

(9) The scheme provides aid in the form of both tax deferrals and measures with a similar effect. In particular, it aims at alleviating the liquidity constraints for the most vulnerable undertakings, with a particular focus on SMEs. It consists of four parts (or ‘legs’):

- The first part (‘1$^{st}$ leg’) will allow small and medium-sized undertakings to ask for the repayment of their VAT liability (already due and paid) for the first quarter 2020, by way of an interest-free credit facility;
- The second part (‘2$^{nd}$ leg’) consists in the repayment (upon request) of the quarterly payroll tax liability (already due and paid) by certain (VAT-exempt) undertakings for the first quarter 2020, by way of an interest-free credit facility;
- The third part (‘3$^{d}$ leg’) consists in the granting (upon request) of a tax deferral for 25 per cent of the annual payroll tax liability due in 2020 by certain (VAT-exempt) undertakings. Where the tax was already due and paid, it may also consist in repayment (upon request) of 25 per cent of the same amount by way of an interest-free credit facility.

- Finally, the last part ('4th leg') of the scheme consists in the (automatic) deferral of quarterly payroll tax liabilities due by certain (VAT-exempt) undertakings for the second and third quarter 2020.

### 2.2. National legal basis

(10) The legal basis for the scheme is (§1 to 6 of) the Act on interest-free loans corresponding to declared VAT, payroll tax and advance payment of tax credits due to COVID-19[3].

### 2.3. Administration of the measure

(11) The Danish Tax Agency is responsible for administering the measure.

### 2.4. Budget and duration of the measure

(12) The estimated budget of the scheme is DKK 970 million (approx. EUR 130.1 million).

(13) Aid may be granted under the scheme as from its approval until no later than 31 December 2020[4] and the latest repayments by beneficiaries to the tax authorities are to take place on 1 April 2021 at the latest.

### 2.5. Beneficiaries

(14) The VAT-related part of the scheme (1st leg), will apply to undertakings for which the declaration and settlement of VAT for the second half or the fourth quarter of the calendar year 2019 was 2 March 2020, namely: (1) small undertakings, whose total annual taxable supplies do not exceed DKK 5 million (approx. EUR 669,000), and (2) newly registered undertakings as well as undertakings, whose total annual taxable supplies amount to between DKK 5 million and DKK 50 million (approx. EUR 6,690,000). According to the Danish authorities, the VAT-related part of the scheme (1st leg) benefits mainly SMEs (as defined for the application of State aid rules[5]).[6]

(15) A number of undertakings whose supplies are VAT exempt are subject to payroll tax. The main or general method for calculating payroll tax is known as "method

[3] Act submitted to the Danish Parliament on 21 April, not yet adopted.

[4] The aid based on the first three legs of the scheme is granted upon request. Such request must be submitted by 15 June 2020 at the latest. The Danish authorities have confirmed that the aid will be awarded no later than 31 December 2020. The aid granted under the fourth leg of the scheme involves automatic tax deferrals and therefore the aid will be granted at the entry into force of the scheme (expected to take place on 5 May 2020).

[5] See Annex I to Commission Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty ('the Block Exemption Regulation'), OJ L 187, 26.6.2014, p. 1.

[6] The Danish authorities have indicated that the undertakings covered by the measure could all be considered to be SMEs in accordance with the EU definition if viewed separately. However, as some of those undertakings are part of groups of companies, there would inevitably be some undertakings covered by the measure which would not be SMEs in accordance with the EU definition. However, according to the Danish authorities, the very large majority of the undertakings concerned would be SMEs in accordance with the EU definition.

4". Separate methods apply to financial undertakings (banks, insurance companies, pension funds, etc – "method 2"), lotteries and certain organisations ("method 1"), and newspapers ("method 3").

(16) As to the part of the scheme related to payroll tax ($2^{nd}$, $3^{rd}$ and $4^{th}$ leg), it will only apply to undertakings subject to payroll tax in accordance with the main method, i.e. method 4. The Danish authorities have also indicated that the benefitting undertakings will be mainly SMEs (as defined for the application of State aid rules[7])[8].

(17) Undertakings, which are undergoing insolvency procedures will not be entitled to benefit from the scheme, with the exception of the fourth leg of the scheme (automatic deferral).

(18) Financial institutions are excluded *de facto* from the first leg of the scheme (as they will generally not qualify as small or medium-sized undertakings). They are *de jure* excluded from the other legs of the scheme (as they are not subject to payroll tax under 'method 4').

### 2.6. Sectoral and regional scope of the measure

(19) The VAT-related part of the scheme ($1^{st}$ leg) is open to all sectors subject to VAT[9]. The remaining aspects of the scheme are available to VAT-exempt undertakings of certain sectors (subject to 'method 4' for the calculation of the payroll tax). Financial undertakings (subject to 'method 2'), lotteries and certain organizations (subject to 'method 1'), and newspapers (subject to 'method 3') are excluded. The scheme applies to the whole territory of Denmark.

### 2.7. Basic elements of the measure

#### *2.7.1. Interest-free credit facility based on the VAT liability due in March 2020 (first leg)*

*Declaration and payment obligations under the Danish VAT system*

(20) For the purposes of collecting VAT, the Danish legislation distinguishes between relatively small and medium-sized undertakings and large undertakings[10]. Accordingly, a distinction is made between (1) small undertakings, whose total

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[7] See Annex I to Commission Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty ('the Block Exemption Regulation'), OJ L 187, 26.6.2014, p. 1.

[8] The Danish authorities have indicated that the undertakings covered by the measure could almost exclusively be considered to be SMEs in accordance with the EU definition if viewed separately. However, as some of those undertakings are part of groups of companies, there would inevitably be some undertakings covered by the measure which would not be SMEs in accordance with the EU definition. However, according to the Danish authorities, the very large majority of the undertakings concerned would be SMEs in accordance with the EU definition.

[9] However, in practice, it is mainly limited to SMEs as it relates to the quarterly or six-monthly payment of VAT due on $2^{nd}$ March which concerns only undertakings as defined under recital 14 above.

[10] Large undertakings – which are not covered by the scheme – pay VAT on a monthly basis. The VAT must be declared and settled within 25 days of the end of the tax period.

annual taxable supplies do not exceed DKK 5 million (approx. EUR 669,000) and (2) newly registered undertakings as well as undertakings, whose total annual taxable supplies amount to between DKK 5 million and DKK 50 million (approx. EUR 6,690,000). For both categories, VAT must be declared and settled within two months of the end of the tax period.

(21) Small undertakings (as defined in the Danish VAT legislation) report and pay VAT on a six-monthly basis. For the second half of the calendar year 2019, the deadline for submitting the declaration (and for paying the resulting VAT liability) was 2 March 2020 (as 1 March 2020 was a Sunday).

(22) For medium-sized undertakings (as defined in the Danish VAT legislation), VAT is declared and settled on a quarterly basis; i.e. 2 March 2020 was the deadline for submitting the declaration for the last quarter of the calendar year 2019 (and for settling the resulting VAT liability).

*Description of the measure (first leg)*

(23) Undertakings which declared and settled their VAT liability with due date on 2 March 2020 (small and medium-sized undertakings as defined in the Danish legislation) will be entitled upon request (by 15 June 2020 at the latest) to be credited of the same amount on their ‘tax-account’. This applies to the VAT due (and paid) on 2 March 2020 by small undertakings for their activities during the second half of 2019 and by medium-sized undertakings for the last quarter of 2019 (as defined by Danish VAT legislation). Once being credited on the undertaking’s tax account, this amount (less all outstanding debts due to public authorities) will be available as an interest-free credit facility. Accordingly, if the undertaking does not have other tax liabilities, it will be credited an amount corresponding to its VAT liability due and paid in March 2020 and therefore will be entitled to ask for a total or partial refund of this amount. Repayment in full of this amount to the tax authorities is to take place on 1 April 2021 at the latest[11]. In the absence of repayment within the deadline, interest will be charged as of that date[12].

### *2.7.2. Tax deferrals and interest-free credit facility based on payroll tax liabilities (second, third and fourth legs)*

*Overall description of the payroll tax system*

(24) A number of undertakings whose supplies are VAT-exempt are subject to payroll tax in Denmark. Undertakings covered by the Danish Payroll Tax Act include, among others, financial undertakings, lotteries, newspapers, undertakings providing hospital care and medical services, including doctors and dentists, schools and higher education institutions, services related to the pursuit of sports or physical training provided by non-profit organizations, cultural activities, including libraries, museums, zoos and the like, and passenger transport services.

[11] The Danish authorities consider that the maturity date of 1 April 2021 will ensure that the benefitting undertakings will be able to have access to the credit facility for a reasonable amount of time, thus enabling them to recover from the serious effects of the COVID-19 outbreak.

[12] The interest rate will be the normal (high) interest rate, which applies to all direct and indirect tax debts.

(25) As already explained in Recital (15), Denmark applies four different 'methods' for the calculation of the payroll tax. "Method 4" (main method) applies to the "other" VAT-exempt undertakings, including doctors and dentists, schools and higher education institutions, cultural activities, including museums, zoos and the like, and passenger transport services[13]. Separate methods apply to financial undertakings (banks, insurance companies, pension funds, etc – "method 2"), lotteries and certain organizations ("method 1"), and newspapers ("method 3")[14]. In principle, the tax is due in quarterly instalments[15]. For 2020, the first quarterly instalment was due on 15 April.

(26) As regards undertakings subject to method 4 (eligible for the parts of the scheme related to payroll tax), the tax base is the undertaking's payroll with the addition of profits or losses during the income year[16]. Undertakings with employees must, on a quarterly basis, make preliminary assessments of the annual tax on the basis of the undertaking's payroll. While the quarterly payroll tax liability for the first quarter of 2020 ('Q1') is to be declared and paid on 15 April 2020, the annual final assessment, which includes profit and losses during the income year (2019), must (typically) be declared by 15 August 2020[17]. Undertakings without employees only declare payroll tax once a year (in most cases at the latest on 15 August)[18], and solely on the basis of profits/losses as these undertakings do not have employees and therefore do not pay the quarterly liability based on the payroll. A number of undertakings have, however, already declared (and paid) the annual payroll tax (or adjustment) for 2019, in particular those whose income year does not follow the calendar year.

(27) For (method 4) undertakings with employees, the annual declaration can lead to additional payroll tax (adjustment), which can be either positive (if the undertaking was profit-making during the income period) or negative (if the undertaking incurred a loss during the same period). Undertakings without employees pay the annual payroll tax only if they generated profits during the income period.

[13] Under method 4, the tax base is the payroll +/- profits/losses and the rate is 4.12 per cent.

[14] Method 1 applies to lotteries and certain organisations: the tax base is the payroll (i.e. profits/losses not included) and the rate is 6.37 per cent. Method 2 applies to banks and insurance companies and other financial undertakings: the tax base is the payroll (i.e. profits/losses not included) and the rate is 15 per cent for 2019 and 15.2 per cent for 2020. Method 3 applies to newspapers: the tax base is the value of the newspaper sales and the rate is 3.54 per cent.

[15] However, undertakings subject to method 2 (financial sector) declare and pay payroll tax on a monthly basis.

[16] See section 4 (1) of the Danish Payroll Tax Act.

[17] Or by the 15th day of the 8th month after the income year (2019) if the undertaking is a legal person, which is on 15 August if the income year follows the calendar year. However, for undertakings whose income year does not follow the calendar year, the date may be either before or after 15 August.

[18] The quarterly instalments are based on the payroll only, without the inclusion of profit and losses as the latter will come into play in the annual final assessment. Therefore (VAT-exempt) undertakings without employees do not pay quarterly instalments.

*Description of the measures (second, third and fourth legs)*

(28) Undertakings subject to payroll tax in accordance with method 4 will be entitled to the following measures*:*

<u>*Second leg:*</u>

(29) Upon request by 15 June at the latest, the eligible undertakings' tax account will be credited of an amount corresponding to the quarterly payroll tax payment declared and paid on 15 April 2020 (**interest-free credit facility**), under the same terms as the VAT-related measure (repayment to take place on 1 April 2021)[19].

<u>*Third leg:*</u>

(30) The third leg provides for either a tax deferral or an interest-free credit facility in relation to 25 per cent of the payroll tax liability due as a result of the annual declaration (2019 income). The annual payroll tax (or adjustment) is typically declared and paid by 15 August 2020. However, as the income year 2019 does not necessarily correspond to the 2019 calendar year[20], some undertakings have already submitted the annual profit/loss declaration/adjustment for the income year 2019 (and have paid the tax) and others have not. As the Danish authorities intend to give all 'method 4' undertakings the same possibility of deferring the payment of the 2019 annual payroll tax adjustment, two possibilities are offered to the relevant undertakings:

- If the annual payroll tax (or adjustment) is already declared and paid by 15 June 2020, the undertaking can request (by 15 June 2020 at the latest) an **interest-free credit facility** amounting to 25 per cent of the tax (**third leg, part 1**);

- If the annual payroll tax (or adjustment) is to be declared and paid after 15 June 2020 (or if it has not been paid before or on 15 June 2020), the undertaking can submit at the latest by 15 June 2020 a declaration of the tax and request that 25 per cent of the tax is deferred until 1 April 2021 (**actual tax deferral**). This results in that when the due date arises on, for instance, 15 August 2020, only 75 per cent of the tax needs to be paid (**third leg, part 2**).

(31) In both cases, the repayment or due date will be 1 April 2021.

<u>*Fourth leg:*</u>

(32) The declaration and due dates for quarterly payroll taxes due for the second quarter (Q2) and third quarter (Q3) of 2020 will be automatically deferred by approximately 6 and 4 weeks respectively (from 15 July 2020 to 1 September 2020 and from 15 October 2020 to 16 November 2020). This part of the scheme is a deferral of the declaration and due dates of the Q2 and Q3 liabilities for all

[19] This means that undertakings with employees will be able to request before 15 June 2020 that their tax account is credited the (preliminary) payroll tax liability for the first quarter 2020, i.e. the amount declared and due on 15 April 2020.

[20] The income year 2019 can be any period consisting of 12 consecutive months within the period 1 march 2018 – 1 April 2020.

'method 4' undertakings with employees, and no request is therefore to be submitted in order to benefit from the deferral.

### 2.8. Cumulation

(33) The Danish authorities confirm that aid granted under the scheme may be cumulated with aid under *de minimis* Regulations[21] or the Block Exemption Regulations[22] provided the provisions and cumulation rules of those Regulations are respected.

(34) The Danish authorities confirm that aid granted under the scheme may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.

### 2.9. Monitoring and reporting

(35) The Danish authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (*e.g.*, by 31 December 2020, a list of measures put in place on the basis of schemes approved under the Temporary Framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years upon granting of the aid, etc.).

## 3. ASSESSMENT

### 3.1. Lawfulness of the measure

(36) By notifying the measure before putting it into effect, the Danish authorities have respected their obligations under Article 108(3) TFEU.

### 3.2. Existence of State aid

(37) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the

[21] 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, 24.12.2013, p.1), Commission Regulation (EU) No 1408/2013 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 in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

[22] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1, Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1 and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

(38) The notified scheme is imputable to the State, since it is administered by the Danish Tax Agency and it is based on the Act on interest-free loans corresponding to declared VAT, payroll tax and advance payment of tax credits due to COVID-19. It is financed through State resources, since it is financed by public funds (foregone tax revenues and interests).

(39) The scheme confers an advantage on its beneficiaries in the form of tax deferrals and interest-free credit facilities. The advantage consists of the interest, which would be due by the benefitting undertakings under normal market conditions for the duration of the deferrals or interest-free credit facilities and up to 1 April 2021. The scheme thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(40) For the purpose of assessing the selective nature of the advantage granted by the scheme, it is necessary to consider two different parts of scheme separately: the classical tax deferrals (second part of the third leg and fourth leg) on the one hand, and the interest-free credit facilities (first and second leg as well as the first part of the third leg) on the other.

(41) With respect to the first category (classical tax deferrals in relation to payroll tax), it must be held that, in the light of the objective of the payroll tax system (raising revenue by taxing payroll and profit), the advantaged undertakings (subject to 'method 4')[23] benefit from a derogation to the normally applicable dates of payments for both quarterly liabilities and annual adjustments, although such undertakings are in the same legal and factual situation as undertakings being subject to other methods. The Danish authorities did not provide any justification based on the nature or the general scheme of the payroll tax system. Accordingly, that part of the scheme is selective.

(42) As to the second category (interest-free credit facilities based on settled VAT and payroll tax liabilities), the aid is awarded only to certain undertakings narrowly defined by the scheme, i.e. small and medium-sized undertakings as defined by the Danish VAT legislation, which settled their VAT liabilities due on 2 March 2020 (first leg in relation to VAT), and undertakings subject to 'method 4' involving a limited number of sectors (second leg and first part of the third leg). Accordingly, that part of the scheme is selective as well.

(43) In addition, selectivity is reinforced by the exclusion of undertakings, which are undergoing insolvency procedures.

(44) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

[23] See Recital 25.

(45) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Danish authorities do not contest that conclusion.

### 3.3. Compatibility

(46) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

(47) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid "*to remedy a serious disturbance in the economy of a Member State*".

(48) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (Section 2) that "*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*". The Commission concluded that "*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*".

(49) The measure aims at easing the liquidity constraints of businesses at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(50) The aid scheme is one of a series of measures conceived at national level by the Danish authorities to remedy a serious disturbance in their economy. The importance of easing liquidity constraints is widely accepted by economic commentators and the scheme is of a scale which can be reasonably anticipated to produce effects across the entire Danish economy. Furthermore, the scheme has been designed to meet the requirements of a specific category of aid ("*Aid in the form of deferrals of tax and/or social security contributions*") described in Section 3.9 of the Temporary Framework.

(51) The Commission accordingly considers that the scheme is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:

- Section 3.9 applies to temporary deferrals of taxes and social security contributions but also to "*measures provided for in relation to fiscal and social security obligations intended to ease the liquidity concerns faced by the beneficiaries, included but not limited to the deferral of payments due in instalments, easier access to tax debt payment plans and of the granting of interest free periods, suspension of tax debt recovery, and expedited tax refunds.*"

- The second part of the third leg (deferral of 25 per cent of the annual payroll tax adjustment) as well as the fourth leg of the scheme (payroll tax deferral for the second and third quarters 2020) relate to mere and classical tax deferrals, which are obviously covered by Section 3.9 of the Temporary

Framework (as defined in point 41). The other parts of the scheme (first, and second leg as well as the first part of the third leg) involve credit facilities rather than actual tax deferrals. However, in view of the date of adoption of the measures, it was impossible to grant a deferral for amounts already paid at the early stage of the crisis and the effect of the planned interest-free credit facilities is very similar to a tax deferral (applied retroactively). In particular, the amounts available under the credit facilities are linked to actual tax liabilities settled in the context of the outbreak of the pandemic. Accordingly, the interest-free credit facilities granted under the scheme can be considered as measures provided for in relation to fiscal and social security obligations intended to ease the liquidity constraints faced by the beneficiaries for the purpose of Section 3.9 of the Temporary Framework. In this context, the Commission is of the view that both the tax deferrals and the interest-free credit facilities under the scheme are covered by section 3.9 of the Temporary Framework.

- The scheme applies to undertakings that are particularly affected by the Covid-19 outbreak. Indeed, most of the beneficiaries will be SMEs (as defined by the Danish legislation) and are considered by the Danish authorities to be more pressurized for liquidity than other companies as a result of the outbreak of covid-19[24]. Moreover, the Danish authorities have confirmed that in most cases the companies at stake meet the conditions to qualify as SMEs also under EU State aid rules[25].

- Such scheme will effectively ease the liquidity constraints faced by the beneficiaries and contribute to preserve the economic continuity during and after the Covid-19 outbreak.

- In addition, in accordance with point 41 of the Temporary Framework, the aid under the scheme will be granted before 31 December 2020, and the end date of the deferrals and the maturity date for the credit facilities (at the latest 1 April 2021) will be not later than 31 December 2022.

(52) The Danish authorities confirmed that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (35)). The Danish authorities further confirm that the aid under the scheme may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recitals (33-34)).

(53) The Commission therefore considers that the aid scheme is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member

[24] See the explanatory memorandum of the law https://www.ft.dk/samling/20191/lovforslag/l175/20191_l175_som_fremsat.htm

[25] In particular as concerns the "payroll tax" legs of the scheme, the few cases where companies not meeting the conditions to qualify as SMEs under EU law would concern companies active in sectors particularly affected by the crisis, such as the transport sector. As concerns the "VAT leg part" of the scheme, the application (in exceptional cases) of the scheme to companies not fully meeting the conditions to be considered as SMEs under EU State aid rules is explained by administrative manageability reasons, as the tools available to the administration would make it difficult to identify and exclude these cases.

State pursuant to Article 107(3) (b) TFEU and meets all the relevant conditions of the Temporary Framework.

## 4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President