



EUROPEAN COMMISSION

Brussels, 25.05.2021
C(2021) 3880 final

PUBLIC VERSION

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**Subject: State Aid SA.62998 (2021/N) – Denmark
COVID-19: Credit Facility for VAT liabilities due by medium-sized
enterprises in June 2021 and amendment to SA.61233 – COVID-19 -
Credit Facility and Deferral of Withholding Taxes for SME
Employers.**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 7 May 2021, Denmark notified an aid scheme in the form of a credit facility related to VAT liabilities due by certain undertakings in June 2021 (“the VAT scheme”), under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).¹ As part of the same electronic notification, Denmark also notified an amendment (“the notified withholding tax amendment”) to the aid scheme (“the existing aid scheme”) previously approved by Decision of 25 January 2021 in case SA.61233 (“the initial decision”) under the Temporary Framework.

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

Udenrigsminister Jeppe KOFOD,
Ministry of Foreign Affairs
Asiatisk Plads 2 DK-1448 Copenhagen

- (2) Denmark exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURES

- (3) Denmark explains that, despite a gradual, controlled relaxation of the measures initiated in April 2021 and a gradual reopening of the Danish society as from 6 May 2021, restrictions still directly affect almost all sectors of the Danish economy. Due to the severity and the duration of the restrictions, undertakings of all sizes are still seriously suffering from liquidity constraints. SMEs continue to be particularly affected by the COVID-19 outbreak, and it is still considered that SMEs tend to be more in need of liquidity than other undertakings as a result of the COVID-19 outbreak.

The VAT scheme

- (4) The measure forms part of an overall package of measures aimed at bringing urgent relief from the liquidity constraints affecting Danish undertakings. These additional measures mainly consist in elements which would be of a general nature and, according to the Danish authorities, do not involve State aid³. Those elements are not covered by the notification. However, the Danish authorities expressed the view that one of the elements of the above package will involve new State aid, namely a credit facility for the VAT which medium-sized undertakings must declare and pay on 1 June 2021 (the VAT scheme).
- (5) The VAT scheme aims to alleviate the liquidity crisis, which is presently affecting Danish undertakings, and mainly SMEs, as a result of the COVID-19 outbreak. As further explained in recital (9), small undertakings are not covered as they have no VAT liability due in June 2021. For that reason, the Danish authorities have limited the scope of the VAT scheme to medium-sized undertakings.
- (6) Denmark confirms that the aid under the VAT scheme is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (7) The compatibility assessment of the VAT scheme is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.9 of the Temporary Framework.

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

³ Those measures consist in credit facilities regarding withholding tax rates (income tax and labour market contributions), to be declared or paid in April and May 2021 as well as a deferral of the similar rates for June 2021. The measures will apply to all employers on identical terms.

The notified withholding tax amendment (amendment to SA.61233)

- (8) The notified withholding tax amendment introduces changes in relation to the following aspects of the existing aid scheme (Credit Facility and Deferral of Withholding Taxes for SME Employers)⁴:
- The repayment date for the credit facility is postponed from 1 November 2021 to 1 November 2022;
 - The budget for the amended scheme is updated and revised for 2022 (see recital (15) below).

2.1. The nature and form of aid

- (9) The VAT scheme provides aid in the form of a credit facility (interest-free loans) corresponding to the amount of VAT due on 1 June 2021 by medium-sized undertakings (as defined by the Danish VAT legislation). As further explained below in recitals 0 and (22), pursuant to Danish VAT rules, this corresponds to the VAT liability related to the first quarter of 2021 for medium-sized undertakings, i.e. newly registered undertakings as well as undertakings whose total annual taxable supplies amount to between DKK 5 million (approx. EUR 672 000) and DKK 50 million (approx. EUR 6.72 million). The Danish authorities have designed the measure to have an effect equivalent to a tax deferral. It aims at alleviating the liquidity constraints for medium-sized undertakings, which are particularly vulnerable due to the COVID-19 outbreak. Small undertakings, as defined by the Danish VAT legislation, do not fall within the scope of the measure as they pay VAT on a six-monthly basis and have no VAT liability due in June 2021.
- (10) The notified withholding tax amendment relates to the existing aid scheme SA.61233 involving credit facilities for withholding tax liabilities due and paid by SME employers in January 2021. The SMEs were able to request that such payments credited the so-called tax-account (“Skattekontoen”) of the undertaking, so that the amount was made available as an interest-free credit facility for the undertaking. The deadline for submitting a request for access to the credit facility was 31 March 2021, and – as mentioned in point 26 of the initial decision – repayment of the amounts refunded was to take place by 1 November 2021. The number of deadlines for the payment of various ordinary and deferred tax rates for SMEs during the last months of 2021 and the first months of 2022 is considered unreasonably high by the Danish authorities as it might entail the risk of creating unjustified liquidity constraints for SMEs during that period of time. Accordingly, the notified withholding tax amendment postpones the repayment date to 1 November 2022 and plans a budget for 2022.

2.2. Legal basis

- (11) The legal bases for both the VAT scheme and the notified withholding tax amendment are the Bill on the amendment of the Act on interest-free loans

⁴ The existing aid scheme is outlined in recital (10) below. In its initial decision, the Commission considered that the scheme was compatible with the internal market pursuant to Article 107(3)(b) TFEU, in light of Section 3.9 of the Temporary Framework.

corresponding to declared A-income tax and labour market contributions in connection with COVID-19, the Act on interest-free loans corresponding to declared VAT and payroll taxes and advance payment of tax credits, etc. in connection with COVID-19, and the Act on temporary deferral of declaration and payment dates regarding taxes in connection with covid-19 (“*Lov om ændring af lov om rentefrie lån svarende til indberettet A-skat og arbejdsmarkedsbidrag i forbindelse med covid-19, lov om rentefrie lån svarende til angivet moms og lønsumsafgift og fremrykket udbetaling af skatte kreditter m.v. i forbindelse med covid-19 og lov om midlertidig udskydelse af angivelses- og betalingsfrister m.v. på skatteområdet i forbindelse med covid-19*”). The above acts were adopted by the Danish Parliament on 27 April 2021. Both the VAT scheme and the notified withholding tax amendment are subject to a suspension clause according to which the measures will only enter into force on a date fixed by ministerial order. Therefore, it is ensured that both the VAT scheme and the notified withholding tax amendment will enter into force only when approved by the Commission.

2.3. Administration of the measures

- (12) The Danish Tax Agency is responsible for administering both the VAT scheme and the amended withholding tax scheme.⁵

2.4. Budget and duration of the measures

- (13) The estimated budget of the VAT scheme is DKK 115 million (approx. EUR 15.46 million).⁶
- (14) Aid may be granted under the VAT scheme as from the notification of this Decision to Denmark until no later than 31 December 2021⁷ and the tax must be repaid to the tax authorities by 1 November 2022.

⁵ Apart from checking that the conditions are fulfilled – including that the applicant is not subject to any insolvency procedure – the requests are dealt with automatically and will therefore be handled within a matter of a few working days. According to the draft legislation, the Danish Tax Agency may withhold the payment of the aid, if it is unable to carry out control of the request due to circumstances for which the undertaking is responsible. The payment can also be withheld if the Tax Agency estimates that the payment will present a risk of tax losses due to a specific suspicion of tax evasion. If the suspicion of tax evasion is disproven after a closer examination of the circumstances, the aid must be paid out.

⁶ The Danish authorities consider that the VAT scheme is equivalent to a temporary non-interest-bearing overdraft facility and that the advantage consists in the amount of interest foregone. The calculation of the budget is therefore based on the following elements: (1) estimation that the total amount of the VAT due in June 2021 for all medium-sized undertakings will be approximately DKK 19 billion (approx. EUR 2.56 billion); (2) expectation, based on the experiences from similar schemes for VAT-rate, that approximately 20 percent of the medium-sized undertakings will submit a request for access to the credit facility; (3) estimation that the market-based interest rate on overdraft facilities for those companies would likely be approximately 4 percent; (4) assumption that the average length of the credit period is 488 days; and (5) correction based on the existence of derived additional tax revenue in the form of e.g. corporation tax, share income tax and other taxes (as a result of behavioural effects). Similar assumptions were applied when estimating the budget in relation to the credit facility schemes (linked to the March 2020 and March 2021 VAT liabilities) previously approved by the Commission (SA.57027 and SA.61943).

⁷ Undertakings can submit aid requests from 2 June 2021 until 16 June 2021 at the latest. The tax authorities will, as far as possible, disburse all loans within 12 banking days from the receipt of the requests. Therefore, the aid will be granted long before 31 December 2021.

- (15) The estimated budget of the amended withholding tax scheme is DKK 57 million⁸ (approx. 7.67 EUR million), which is in its entirety allocated to 2022.

2.5. Beneficiaries

- (16) The final beneficiaries of the VAT scheme are: newly registered undertakings as well as undertakings whose total annual taxable supplies amount to between DKK 5 million and DKK 50 million (approx. EUR 6.72 million). They are defined as medium-sized enterprises (“MEs”) or medium-sized undertakings for the purpose of the Danish VAT legislation⁹. Approximately 90 000 MEs are covered by the scheme.
- (17) Undertakings, which are undergoing insolvency procedures (i.e. undertakings under a bankruptcy procedure, reorganisation proceedings, or subject to liquidation or compulsory dissolution) will not be entitled to benefit from the scheme.
- (18) The Danish authorities confirm that financial institutions will be excluded from the scheme.
- (19) The notified withholding tax amendment does not change the beneficiaries of the existing aid scheme; i.e. employers whose annual withholding taxes for the entire workforce do not exceed DKK 1 million (approx. EUR 134,000) of income tax or DKK 250,000 (approx. EUR 33,000) of labour market contributions (see recital (12) of the initial decision).

2.6. Sectoral and regional scope of the aid

- (20) The VAT scheme is open to all sectors.¹⁰ It applies to the whole territory of Denmark. The scope of the amended scheme has not been changed.

2.7. Basic elements of the measures

Declaration and payment obligations under the Danish VAT system

- (21) For the purposes of collecting VAT, the Danish legislation distinguishes between relatively small and medium-sized undertakings and large undertakings. Accordingly, a distinction is made between (1) small undertakings, whose total annual taxable supplies do not exceed DKK 5 million (approx. EUR 672,000), (2)

⁸ The budget was calculated on the basis of the following elements: (1) actual amount paid out to the SMEs, namely DKK 828 million; (2) average credit period of approximately 630 days; and (3) an interest rate of 4 per cent. Under the existing aid scheme, no budget was allocated to 2022 as the repayment date was 1 November 2021.

⁹ The Danish authorities have indicated that inevitably some undertakings covered by the measure would not be SMEs in accordance with the EU definition as some of those undertakings are part of groups of companies. However, the number of such undertakings is assumed to be extremely small or even negligible. Accordingly, the Danish authorities consider that the very large majority of the benefitting medium-sized undertakings are expected to be SMEs in accordance with the definition under 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.

¹⁰ Except the financial sector, as explained in recital (18).

newly registered undertakings¹¹ as well as (medium-sized) undertakings, whose total annual taxable supplies amount to between DKK 5 million and DKK 50 million (approx. EUR 6.72 million), and (3) large undertakings (with total annual taxable supplies exceeding DKK 50 million). While VAT is paid on a six-monthly basis for small undertakings, it is paid on a quarterly basis for medium-sized undertakings and on a monthly basis for large undertakings. For the first two categories, VAT must be declared and settled within two months of the end of the tax period. For large undertakings, that period is reduced to 25 days after the end of the tax period.

- (22) As to medium-sized undertakings (as defined in the Danish VAT legislation), 1 June 2021 is the deadline for submitting the declaration for the first quarter of the calendar year 2021 (and for settling the resulting VAT liability).¹²

Previous deferrals with relevance for the VAT scheme

- (23) A number of measures have been adopted in Denmark in order to alleviate the liquidity constraints of Danish undertakings. This includes a credit facility scheme in relation to the VAT liabilities which were due and paid by SMEs in March 2020. This scheme was notified by Denmark under SA.57027 and approved by the Commission on 30 April 2020. Denmark notified an amendment to this scheme, which was approved by the Commission on 11 November 2020 (SA.59341). Under the amended scheme, the due date for repayment (in full) of the amounts received under the credit facility was to take place by 1 November 2021. A similar deferral scheme for the VAT payment due in March 2021 was approved by the Commission on 5 March 2021 under SA.61943.

Description of the VAT scheme

- (24) The VAT scheme covers VAT liabilities that will be due and paid by MEs in June 2021 for their activities during the first quarter of 2021.
- (25) The above-mentioned MEs, as defined by the Danish legislation, will be entitled upon request to be credited of the same amount on their so-called ‘tax-account’ (“Skattekontoen”). This means that the amount will be available as an interest-free credit facility for the undertaking, but that all outstanding debt to public authorities will automatically be deducted. Accordingly, if the undertaking does not have other tax liabilities, it will be credited an amount corresponding to its VAT liabilities due and paid in June 2021 and therefore will be entitled to ask for a total refund of this amount.

¹¹ According to § 47(5) of the Danish VAT Act, new taxable persons for VAT purposes are liable to declare and pay VAT on a quarterly basis. However, if the expected taxable turnover during the first 12 month period exceeds DKK 55 million (approx. EUR 8 million), the taxable person must declare and pay VAT on a monthly basis. In other words, such undertakings are treated as large undertakings as soon as they are registered. After the first year of activity, the tax period is fixed (6 months for small undertakings, 3 months for medium-sized undertakings, or 1 month for large undertakings) based on the actual turnover during that first year of activity.

¹² With respect to small undertakings (as defined in the Danish VAT legislation), 1 September 2021 is the deadline for submitting the VAT return for the first semester 2021 (and for paying the resulting VAT liability).

- (26) Requests can be submitted as of 2 June 2021, and the deadline for submitting a request for access to the credit facility is 16 June 2021.
- (27) Repayment of the amount so refunded is to take place by 1 November 2022, and if that amount is not repaid by that time, interest will be charged as from that date.¹³

Description of the notified withholding tax amendment

- (28) The amendment introduces limited changes to the existing aid scheme SA.61233 involving credit facilities for withholding tax liabilities (payroll taxes) due and paid by SME employers in January 2021. As explained in recital (8), the repayment date for the credit facility is postponed from 1 November 2021 to 1 November 2022, as a result of the amendment. The budget for 2022 is also amended accordingly. The other aspects of the existing aid scheme remain unchanged.

2.8. Cumulation

- (29) The Danish authorities confirm that aid granted under the VAT scheme may be cumulated with aid under de minimis Regulations¹⁴ or the General Block Exemption Regulation¹⁵ provided the provisions and cumulation rules of those Regulations are respected.
- (30) The Danish authorities confirm that aid under the notified VAT scheme may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.
- (31) The Danish authorities confirm that aid granted under the VAT 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.

¹³ The interest rate will be the normal interest rate, which applies to all direct and indirect tax debts.

¹⁴ 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, 26.4.2012, p. 8).

¹⁵ 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.

- (32) The Danish authorities confirm that all the commitments made for the purposes of the existing aid scheme are valid in their entirety also for the notified withholding tax amendment.

2.9. Monitoring and reporting

- (33) 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 2021, 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 measures

- (34) By notifying the measures before putting them into effect, the Danish authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (35) 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 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.

The VAT scheme

- (36) The VAT scheme is imputable to the State, since it is administered by the Danish Tax Agency and is based on the amendment of the Act on interest-free loans corresponding to declared VAT and payroll taxes and advance payment of tax credits, etc. in connection with COVID-19, and the Act on temporary deferral of declaration and payment dates regarding taxes in connection with COVID-19. It is financed through State resources, since it is financed by public funds (foregone interests on late payments).
- (37) The scheme confers an advantage on its beneficiaries in the form of interest-free credit facilities with an effect equivalent to tax deferrals. The advantage consists of the interest, which would be due by the benefitting undertakings under normal market conditions for the duration of the interest-free credit facilities, *i.e.* up to 1 November 2022. The scheme thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (38) The advantage granted by the scheme is selective since it is awarded only to certain undertakings defined by the scheme, *i.e.* medium-sized undertakings as defined in recital (16), in relation to their VAT liabilities due on 1 June 2021. This is also in derogation to the normally applicable dates of payment and the late interest payment rules under the VAT legislation. The Danish authorities have not provided any justification for the differential VAT treatment based on the nature or the general scheme of the VAT legislation. Hence, the scheme is selective.

- (39) In addition, selectivity is reinforced by the exclusion of undertakings, which are undergoing insolvency procedures, as well as the exclusion of financial institutions.
- (40) The scheme 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.
- (41) In view of the above, the Commission concludes that the VAT scheme constitutes aid within the meaning of Article 107(1) TFEU. The Danish authorities do not contest that conclusion.

The notified withholding tax amendment

- (42) The qualification of the existing aid scheme as State aid was established in the initial decision. The notified withholding tax amendment does not affect that qualification. The Commission therefore refers, for this analysis, to recitals (32) to (38) of the initial Decision. The Danish authorities also do not contest that the notified amendment involves aid.

3.3. Compatibility

- (43) Since the measures involve aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether those measures are compatible with the internal market.
- (44) 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*”.
- (45) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in 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*”.

The VAT scheme

- (46) The scheme aims at easing the liquidity constraints of medium-sized undertakings at a time when the normal functioning of 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.
- (47) The 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 measure 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.

(48) The Commission accordingly considers that the VAT 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 not only 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 scheme involves credit facilities rather than actual tax deferrals. Due to limitations in relation to the IT system for the collection of VAT in Denmark, it is not possible for the Danish Tax Agency to grant a deferral for the VAT liabilities due in June 2021. The effect of the planned interest-free credit facilities is similar to a tax deferral. 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 the interest-free credit facilities under the scheme are covered by Section 3.9 of the Temporary Framework.
- The measure assists undertakings that are particularly affected by the COVID-19 outbreak, i.e. MEs (as defined by the Danish VAT legislation), which are considered by the Danish authorities to be particularly pressured for liquidity as a result of the outbreak of COVID-19. Moreover, the Danish authorities have confirmed that the very large majority of undertakings at stake (with an extremely small or even negligible number of exceptions) meet the conditions to qualify as medium-sized undertakings also under EU State aid rules (see recital (16) and footnote 9). By deferring the payment of VAT, the measure eases the liquidity constraints faced by those undertakings due to the COVID-19 outbreak and contributes to preserving the continuity of their economic activities. As already explained in recital (9), small undertakings do not fall within the scope of the measure as they pay VAT on a six-monthly basis and have no VAT liability due in June 2021¹⁶.
- Aid granted under the measure will be granted before 31 December 2021, and the end date of the deferrals (1 November 2022) will be not later than 31 December 2022. The measure therefore complies with point 41 of the Temporary Framework.

¹⁶ The Danish authorities have indicated that a deferral of the VAT payment due by small undertakings on 1 September 2021 will be considered at a later stage.

- (49) The Danish authorities confirm that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA (recital (6)).
- (50) The Danish authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (33)). The Danish authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework and the cumulation rules of the relevant Regulations are respected (recital (29-31)).
- (51) The Commission therefore considers that the VAT scheme is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

The notified withholding tax amendment

- (52) The Commission has examined the notified withholding tax amendment pursuant to Article 107(3)(b) TFEU.
- (53) The existing aid scheme aims at easing the liquidity constraints of SMEs at a time when the normal functioning of 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.
- (54) In the initial Decision, the Commission concluded that the existing aid scheme fulfilled the conditions set out in Section 3.9 of the Temporary Framework and was therefore compatible with the internal market on the basis of Article 107(3)(b) TFEU. The Commission refers to its compatibility analysis as set out in recitals (39) to (46) of the initial Decision.
- (55) For the reasons set out in recital (3) above, the conditions for the application of Article 107(3)(b) TFEU still apply. The amendment to the duration and budget of the scheme (see recitals (8) and (10)) have no impact on the compatibility of the scheme with Section 3.9, and in particular with point 41 of the Temporary Framework. In particular, the aid will be granted before 31 December 2021 (see recital (10)) and the end date for the deferral (or the maturity date for the credit facilities) will be no later than 31 December 2022 (see recital (10)).
- (56) Apart from the amendments referred to in recitals (8) and (10) above, the Commission notes that there are no other alterations to the existing aid scheme (recital (28)). Nor does the notified withholding tax amendment affect the compliance of the scheme with the provisions on cumulation or those on monitoring and reporting, as laid down in point 20 and Section 4 of the Temporary Framework, which Denmark has committed to observe. The Commission therefore considers that the notified withholding tax amendment does not affect the compatibility analysis of the existing aid scheme as set out in the initial Decision.

(57) Accordingly, the Commission considers that both the VAT scheme and the notified withholding tax amendment fulfil the conditions set out in Section 3.9 of the Temporary Framework and are therefore compatible with the internal market on the basis of Article 107(3)(b) TFEU.

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.

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President