



NOTAT

26. maj 2020
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HT.5594 The Danish Governments' response to the consultation on the prolongation and amendment of the General Block Exemption Regulation (GBER) the De minimis regulation and various guidelines

The Danish Government welcomes the opportunity to comment on the proposal consisting of prolongation and amendments of the GBER, de minimis regulation and a series of guidelines and communications.

Prolongation

The Danish Government is positive regarding the suggested prolongation of both the GBER and the de minimis regulation until the end of 2023 and the suggested prolongation of the mentioned guidelines and communications until the end of 2021. The Danish Government acknowledges the need for the prolongations in light of the current fitness check and in order to provide legal certainty for Member States.

Undertakings in difficulties

COVID-19 has put a great number of otherwise healthy undertakings under economic pressure. Therefore, the Danish Government is also generally positive regarding the amendments entailing that undertakings which were not in difficulty as of 31st of December 2019 will not be excluded from GBER and the mentioned guidelines if the undertakings were in difficulty in a following period. However, the Danish Government is not convinced of the necessity and reasoning for suggesting such a long period, i.e. 1st of January 2020 to 30th of June 2021.

Temporary suspension of the safeguard in GBER against regional aid with relocation effects

According to the proposal the Commission intends to suspend the safeguard against relocation of undertakings and jobs in GBER article 14(16) from January 1st to June 30th 2021.

If follows from the draft, that in Article 14, paragraph 16, the following sentence is added: *“Any loss of jobs, in the same or similar activity in one of the initial establishments of the beneficiary in the EEA, occurring between 1 January 2020 and 30 June 2021, shall not be considered a transfer.”*

Thus, with the proposal it will in the period from January 1st 2020 to June 30th 2021 be possible to use regional investment aid to relocate the same or similar activity from one EU/EEA member state to another EU/EEA member state in which the aided investment takes place.

While the Danish Government acknowledge the economic and financial consequences that the COVID-19 outbreak has on undertakings across Europe, we do not agree that this should lead to a suspension of the GBER's safeguard against state aid being used to relocate jobs and undertakings in the EU/EEA.

The Danish Government finds that the clear message from the Commission should be that there is no European value added, if regional investment aid – or aid in general – is allowed to move jobs around Europe financed by the tax payers - be it national state aid or EU structural funds. The aim must be to create more innovation, economic growth and jobs based on fair competition on the single market. This fundamental policy should apply irrespective of the COVID-19 situation.

Therefore, the Danish Government strongly recommend that the relocation commitment in article 14(16) as a condition to receive regional investment aid should not be altered with reference to the exceptional circumstances of COVID-19.

If the intention with the amendment is that it will only relate to 'relocation commitments' already given, but which the company is unable to fulfil because of unexpected layoffs due to COVID-19, we believe that for the purpose of legal certainty this should be clear in the proposal of article 14 (16). We do not find that the proposal as it stands is isolated to only cover this particular situation.