EUROPEAN COMMISSION

PRESS RELEASE

Brussels, 17 October 2012

State aid: Commission investigates Italian measures reducing taxes and social contributions in areas affected by natural disasters

The European Commission has opened an in-depth investigation to examine whether Italian measures to reduce taxes and contributions due by companies in areas affected by natural disasters, mainly earthquakes and floods, are in line with EU state aid rules. These rules allow Member States to make good damages caused by natural disasters. The Commission is concerned that these measures granted may have gone beyond compensating the actual damage suffered. The opening of a formal investigation allows the Commission to examine these measures more closely and gives interested parties the possibility to submit comments. It does not prejudge the outcome of the procedure.

In 2011, after receiving a request from an Italian Court, the Commission became aware of the existence of measures introduced by Italy since 2002 to reduce taxes and compulsory social and occupational insurance contributions due by companies in areas affected by natural disasters. Italy has not notified these measures to the Commission, breaching its obligations under Article 108(3) of the Treaty on the Functioning of the European Union (TFEU).

Moreover, the Commission doubts that the measures are compatible with state aid rules requiring that public support to make good damage caused by natural disasters does not go beyond the actual damage suffered (Article 107(2)(b) of the TFEU). The Commission is concerned that all aid beneficiaries may not be companies that effectively suffered damage as a consequence of natural disasters, that in some cases the damage may not have been caused exclusively by natural disasters and that the aid may not always be limited to compensating such damage.

If the Commission, following this in-depth investigation, finds that the measures are incompatible with EU State aid rules, Italy may need to recover the aid paid out to beneficiaries. In order to avoid more public spending that would have to be recovered afterwards, the Commission has also ordered Italy to stop implementing these measures until the Commission has taken a final decision on their compatibility (suspension injunction).

IP/12/1111

Background

After the earthquake of 1990 in Sicily and the floods in Northern Italy in 1994, Italy adopted laws allowing the suspension and deferral of taxes and contributions due by companies located in the affected areas. In 2002-2003, Italy adopted amnesty measures which reduced by 90% the outstanding tax and contribution debts of these companies.

In 2007, 2010 and 2012 the Italian Supreme Court of Cassation ruled that everybody who was affected by the natural disasters in Sicily and Northern Italy had a right to the 90% rebate on taxes and social contributions, even if they had already paid them. This led hundreds of companies to claim back amounts they had duly paid, and hundreds of cases are currently pending in front of Italian courts.

In 2007-2011, Italy adopted further similar legal provisions reducing by 60% amounts due by companies located in areas affected by other earthquakes: Umbria and Marche (1997), Molise and Puglia (2002), Abruzzi (2009). A similar measure allowed a 50% reduction of amounts due by companies located in the area affected by the volcanic eruption and earthquake in Sicily (2002).

For some of the affected areas, the Commission has approved in the past schemes aimed at making good the damage suffered as a consequence of a specific natural disaster (see, for example, N 174a/2004 and N 459a/2009).

However, the measures under assessment reduce taxes and social contributions by 90% (50-60% in more recent laws), without establishing a direct link with a specific natural disaster or a correlation to the amount of effective damage suffered by a company as a consequence of that disaster.

Article 107(2)(b) of the TFEU allows Member States to grant aid to make good damages caused by natural disasters. Such aid must compensate for the damage actually suffered, cannot be more than 100% of the damage, and the damage needs to be caused by the disaster.

The non-confidential version of the decision will be made available under the case numbers SA.33083 and SA.35083 in the State Aid Register on the DG Competition website once any confidentiality issues have been resolved. It will be also published in the Official Journal, as listed in the State Aid Weekly e-News.

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