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European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION amending Implementing Decision (EU) 2019/310 as regards the authorisation granted to Poland to continue to apply the special measure derogating from Article 226 of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2025/...

of ...

**amending Implementing Decision (EU) 2019/310
as regards the authorisation granted to Poland
to continue to apply the special measure
derogating from Article 226 of Directive 2006/112/EC
on the common system of value added tax**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax¹, and in particular Article 395(1), first subparagraph, thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 347, 11.12.2006, p. 1, ELI: <http://data.europa.eu/eli/dir/2006/112/oj>.

Whereas:

- (1) Council Implementing Decision (EU) 2019/310² authorised Poland to introduce a special measure, derogating from Article 226 of Directive 2006/112/EC, that requires suppliers to apply a mandatory split payment mechanism (the ‘special measure’). The mandatory split payment mechanism obliges suppliers (taxable persons) to pay value added tax (VAT) on invoices issued in relation to the supplies of goods and services susceptible to fraud and which are generally covered by a reverse charge mechanism and by joint and several liability in Poland, to a separate and blocked bank account opened in Poland. Council Implementing Decision (EU) 2022/559³ extended the application of the special measure until 28 February 2025.
- (2) By letters registered with the Commission on 27 March 2024 and on 1 October 2024, Poland requested an authorisation, in accordance with Article 395(2), first subparagraph, of Directive 2006/112/EC, to continue to apply the special measure until 29 February 2028 (the ‘request’).

² Council Implementing Decision (EU) 2019/310 of 18 February 2019 authorising Poland to introduce a special measure derogating from Article 226 of Directive 2006/112/EC on the common system of value added tax (OJ L 51, 22.2.2019, p. 19, ELI: http://data.europa.eu/eli/dec_impl/2019/310/oj).

³ Council Implementing Decision (EU) 2022/559 of 5 April 2022 amending Implementing Decision (EU) 2019/310 as regards the authorisation granted to Poland to continue to apply the special measure derogating from Article 226 of Directive 2006/112/EC on the common system of value added tax (OJ L 108, 7.4.2022, p. 51, ELI: http://data.europa.eu/eli/dec_impl/2022/559/oj).

- (3) Pursuant to Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission transmitted the request to the other Member States by letter dated 9 October 2024. By letter dated 10 October 2024, the Commission notified Poland that it had all the information necessary for the appraisal of the request.
- (4) The special measure applies to the goods and services listed in the Annex to Implementing Decision (EU) 2019/310 in accordance with the Polish Classification of Goods and Services. Poland is currently replacing that classification system with the system of the Combined Nomenclature laid down in Council Regulation (EEC) No 2658/87⁴. The list in the Annex to Implementing Decision (EU) 2019/310 should therefore be replaced by a simplified list of categories of goods and services laid down in the Annex to this Decision. Poland has confirmed that the replacement of the list does not extend the scope of the special measure.
- (5) On 13 November 2023, Poland submitted a report pursuant to Article 2, second paragraph, of Implementing Decision (EU) 2019/310, on the overall impact of the extension of the special measure on the level of VAT fraud and on the taxable persons concerned. Poland reported that, since the special measure was extended, its continued application has resulted in the reduction of, in particular, carousel fraud in the sectors that are subject to it, such as steel, scrap, precious metals and fuels. Poland further reported that, in cases where a taxable person is entitled to a VAT refund, Polish authorities have managed to reduce the refund time to below twenty days, in order to enhance the impact on the taxable person's cash flow.

⁴ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1, ELI: <http://data.europa.eu/eli/reg/1987/2658/oj>).

- (6) Authorisations to apply a special measure are in general granted for a limited period of time to allow the Commission to evaluate whether the special measure is appropriate and effective. The authorisation to apply the special measure should therefore be extended until 29 February 2028. If Poland wishes to extend the special measure beyond 29 February 2028, it should submit a request to the Commission, together with a report on the special measure's overall impact on the level of VAT fraud and on the taxable persons concerned.
- (7) The special measure will not negatively affect the overall amount of tax revenue collected at the stage of final consumption and will have no adverse impact on the Union's own resources accruing from VAT.
- (8) Implementing Decision (EU) 2019/310 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2019/310 is amended as follows:

- (1) in Article 3, second paragraph, the date ‘28 February 2025’ is replaced by that of ‘29 February 2028’.
- (2) the Annex is replaced by the text appearing in the Annex to this Decision.

Article 2

This Decision shall take effect on the date of its notification.

Article 3

This Decision is addressed to the Republic of Poland.

Done at ..., ...

For the Council
The President

ANNEX

‘ANNEX

List of supplies of goods and services covered by Article 1

Article 1 shall apply to the following categories of supplies of goods and services:

- (1) transfer of allowances to emit greenhouse gases;
- (2) construction and assembly works;
- (3) steel and steel products;
- (4) metals and products made of these metals;
- (5) precious metals and products made of these precious metals, jewellery, pearls, precious stones;
- (6) certain electric products and devices and certain electronic products and devices (in particular: tablets, laptops, notebooks, mobile phones, digital cameras, processors, video game consoles and machines, memory devices);
- (7) fuels;
- (8) coal and coal energy products;
- (9) certain used materials, scrap, waste;

- (10) animal and vegetable oils and fats;
 - (11) cartridges for devices, including toners, inks and similar;
 - (12) plastics and plastic articles, in particular stretch films;
 - (13) parts and accessories for motor vehicles.’.
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