

Brussels, 11 March 2025
(OR. en)

6238/25

Interinstitutional File:
2025/0014(NLE)

FISC 25
ECOFIN 148

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION authorising Estonia to apply a special measure derogating from Article 26(1), point (a), and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2025/...

of ...

**authorising Estonia to apply a special measure
derogating from Article 26(1), point (a), and Articles 168 and 168a
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) Articles 168 and 168a of Directive 2006/112/EC govern the right of taxable persons to deduct value added tax (VAT) charged on supplies of goods and services used by them for the purposes of their taxed transactions. Article 26(1), point (a), of that Directive contains a requirement to account for VAT when a business asset is put to use for private purposes of taxable persons or their staff or, more generally, for purposes other than those of their business.
- (2) Council Implementing Decision (EU) 2021/1998² authorised Estonia, until 31 December 2024, to limit to 50 % the right to deduct VAT on expenditure on passenger cars not wholly used for business purposes where that expenditure covered the purchase, leasing, intra-Community acquisition or importation of passenger cars not wholly used for business purposes, as well as on expenditure related to the maintenance and repair of such cars and to the purchase of fuel for them. It also authorised Estonia to not treat as a supply of services for consideration the use for non-business purposes of a passenger car included in the assets of a taxable person's business, where that car has been subject to a limitation authorised under Article 1 of that Implementing Decision (the 'special measure').

² Council Implementing Decision (EU) 2021/1998 of 15 November 2021 authorising Estonia to apply a measure derogating from Article 26(1), point (a), and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax (OJ L 408, 17.11.2021, p. 3, ELI: http://data.europa.eu/eli/dec_impl/2021/1998/oj).

- (3) By letter registered by the Commission on 28 March 2024, Estonia requested the Commission for an authorisation, in accordance with Article 395(2), first subparagraph, of Directive 2006/112/EC, to continue to apply the special measure (the ‘request’). By letter dated 3 April 2024, the Commission requested additional information. Estonia replied on 28 June 2024. By letter dated 28 August 2024, the Commission requested a further clarification, which Estonia provided by letter registered by the Commission on 24 September 2024.
- (4) In accordance with Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission transmitted the request to the other Member States by letter dated 17 October 2024. By letter dated 18 October 2024, the Commission notified Estonia that it had all the information necessary to consider the request.
- (5) In accordance with Article 4 of Implementing Decision (EU) 2021/1998, Estonia submitted, together with the request, a report including a review of the percentage set for the limitation of the right to deduct VAT referred to in Article 1 of that Implementing Decision. Based on currently available information, namely tax audit experience and statistical data relating to the private use of passenger cars, Estonia submits that the limit of 50 % is still justifiable and remains appropriate.

- (6) Given that the special measure, authorised by Implementing Decision (EU) 2021/1998, has had a positive impact with regard to the administrative burden of taxpayers and of tax authorities by simplifying VAT collection and preventing tax evasion through incorrect record keeping, the Commission considers it to be appropriate to grant the request.
- (7) The special measure should be limited to the time needed to evaluate the effectiveness and the appropriateness of the percentage limitation. Estonia should therefore be authorised to apply the special measure until 31 December 2027.
- (8) The special measure is proportionate to the objectives pursued, namely, to simplify the procedure for collecting VAT and to prevent certain forms of tax evasion or avoidance, since it is limited in time and scope. In addition, the special measure does not give rise to the risk that fraud would shift to other sectors or to other Member States.
- (9) In the event that Estonia considers an extension of the special measure beyond 2027 to be necessary, it should submit to the Commission a request for an extension by 31 March 2027. That request should be accompanied by a report on the application of the special measure, including a review of the percentage limitation applied.
- (10) The special measure will have only a negligible effect on 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.

- (11) In order to ensure that the objectives pursued by the special measure are achieved, including the uninterrupted application of the special measure, and to provide legal certainty with regard to the tax period, it is appropriate to grant authorisation to apply the special measure with effect from 1 January 2025. As Estonia requested authorisation on 28 March 2024 to continue to apply the special measure and has continued to apply the legal regime established in its national law on the basis of Implementing Decision (EU) 2021/1998 from 1 January 2025, the legitimate expectations of the persons concerned are duly respected,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Articles 168 and 168a of Directive 2006/112/EC, Estonia is authorised to limit to 50 % the right to deduct the value added tax on expenditure on passenger cars not wholly used for business purposes where that expenditure covers the purchase, leasing, intra-Community acquisition or importation of passenger cars not wholly used for business purposes, as well as on expenditure related to the maintenance and repair of such cars and to the purchase of fuel for them.

Article 2

By way of derogation from Article 26(1), point (a), of Directive 2006/112/EC, Estonia is authorised not to treat as a supply of services for consideration the use for non-business purposes of a passenger car included in the assets of a taxable person's business, where that car has been subject to a limitation authorised under Article 1 of this Decision.

Article 3

1. This Decision shall apply only to passenger cars with a maximum authorised weight not exceeding 3 500 kilograms and having not more than eight seats in addition to the driver's seat.

2. This Decision shall not apply to the following categories of passenger cars:
 - (a) cars purchased for resale, hire or lease;
 - (b) cars used for the transportation of passengers for a fee, including taxi services;
 - (c) cars used for the provision of driving lessons.

Article 4

1. This Decision shall take effect on the date of its notification.
2. This Decision shall apply from 1 January 2025 until 31 December 2027.
3. Any request for the extension of the authorisation provided for in this Decision shall be submitted to the Commission by 31 March 2027 and shall be accompanied by a report which includes a review of the percentage set out in Article 1.

Article 5

This Decision is addressed to the Republic of Estonia.

Done at ..., ...

For the Council

The President
