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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION authorising the Republic of Latvia to introduce a special measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2018/...

of ...

**authorising the Republic of Latvia to introduce a special measure
derogating from Article 193 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) thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 347, 11.12.2006, p. 1.

Whereas:

- (1) Pursuant to Article 193 of Directive 2006/112/EC, any taxable person carrying out a taxable supply of goods or services is, as a general rule, liable for payment of value added tax (VAT) to the tax authorities.
- (2) Pursuant to point (j) of Article 199a(1) of Directive 2006/112/EC, Member States may provide that the person liable for payment of VAT on supplies of ferrous and non-ferrous semi-finished metals is the taxable person to whom the supplies are made ('reverse charge mechanism'). Latvia has not availed itself of this option.
- (3) Latvia has recently discovered a high risk of VAT fraud in the sector of ferrous and non-ferrous semi-finished metals and would therefore like to introduce the reverse charge mechanism to domestic supplies of those products.
- (4) Pursuant to Article 199a(1) of Directive 2006/112/EC, the reverse charge mechanism may be applied until 31 December 2018 and for a minimum period of two years. As the condition of the two-year period can no longer be fulfilled, Latvia cannot apply the reverse charge mechanism based on point (j) of Article 199a(1) of that Directive.
- (5) By letter registered with the Commission on 9 April 2018, Latvia requested in accordance with Article 395(2) of Directive 2006/112/EC an authorisation to introduce a special measure derogating from Article 193 of that Directive in order to make the recipient liable for payment of VAT for the supplies of ferrous and non-ferrous semi-finished metals.

- (6) In accordance with the second subparagraph of Article 395(2) of Directive 2006/112/EC, by letter dated 4 May 2018, the Commission transmitted the request made by Latvia to other Member States. By letter dated 7 May 2018 the Commission notified Latvia that it had all the information necessary to consider the request.
- (7) According to information provided by Latvia, VAT fraud schemes have been identified in the sector of metal products. Although a number of conventional measures have been introduced by Latvia to combat the VAT fraud, Latvia considers that it is necessary to introduce the reverse charge mechanism for the supplies of ferrous and non-ferrous semi-finished metals in order to prevent VAT revenue losses to the public budget.
- (8) Latvia should therefore be authorised to apply the reverse charge mechanism to supplies of ferrous and non-ferrous semi-finished metals for a limited period.
- (9) The special measure has no adverse impact on the Union's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 193 of Directive 2006/112/EC, Latvia is authorised to designate the recipient of the supplies as the person liable for payment of VAT in the case of supplies of ferrous and non-ferrous semi-finished metals.

Article 2

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

This Decision shall expire on 31 December 2018.

Article 3

This Decision is addressed to the Republic of Latvia.

Done at Brussels,

For the Council

The President
