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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION amending Implementing Decision (EU) 2015/2429 authorising Latvia to introduce a special measure derogating from point (a) of Article 26(1) and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2021/....

of ...

amending Implementing Decision (EU) 2015/2429 authorising Latvia to introduce a special measure derogating from point (a) of Article 26(1) 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 tax[1], 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.

Whereas:

(1) Articles 168 and 168a of Directive 2006/112/EC establish a right for taxable persons to deduct value added tax (VAT) due in respect of supplies to them of goods and services that are used for the purposes of their taxed transactions. Pursuant to Article 26(1), point (a), of that Directive, the use of business assets for private use of taxable persons or their staff or, more generally, for purposes other than those of their business is to be treated as a supply of services.

(2) Council Implementing Decision (EU) 2015/2429[1] authorised Latvia, until 31 December 2018, to limit to 50 % the right to deduct the VAT on the purchase, leasing, intra-Community acquisition and importation of 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, as well as on expenditure related to the maintenance, repair, and fuel of such passenger cars. The authorisation also relieves taxable persons from having to treat the non-business use of such passenger cars as a supply of services.

[1] Council Implementing Decision (EU) 2015/2429 of 10 December 2015 authorising Latvia to introduce a special measure derogating from point (a) of Article 26(1) and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax (OJ L 334, 22.12.2015, p. 15).

(3) Council Implementing Decision (EU) 2018/1921[1] extended the validity of Implementing Decision (EU) 2015/2429 to 31 December 2021.

(4) By letter of 21 April 2021, Latvia submitted a request to the Commission to continue to apply the special measure derogating from Article 26(1), point (a), and Articles 168 and 168a of Directive 2006/112/EC in order to restrict the right of deduction in relation to expenditure on certain passenger cars not wholly used for business purposes ('the request').

(5) In accordance with Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission transmitted the request to the other Member States, by letters of 10 June 2021. By letter of 14 June 2021, the Commission notified Latvia that it had all the information it considered necessary for the appraisal of the request.

(6) As required by Article 6(2) of Implementing Decision (EU) 2015/2429, Latvia submitted a report including the review of the percentage set for the VAT deduction.
Based on currently available information, namely tax audit experience and statistical data relating to private use of passenger cars, Latvia claims that the limit of 50 % is still justifiable and remains appropriate.

[1] Council Implementing Decision (EU) 2018/1921 of 4 December 2018 amending Implementing Decision 2015/2429 authorising Latvia to introduce a special measure derogating from point (a) of Article 26(1) and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax (OJ L 311, 7.12.2018, p. 36).

(7) Given the positive impact of the special measure on the administrative burden of the taxpayers and of tax authorities by simplifying VAT collection and preventing tax evasion through incorrect record keeping, Latvia should be authorised to continue to apply the special measure.

(8) The extension of the special measure should be limited in time to allow for an evaluation of its effectiveness and of the appropriate percentage.

(9) In the event that Latvia considers that a further extension of the special measure is necessary beyond 2024, it should submit to the Commission a report that includes a review of the percentage applied, together with the extension request, by 31 March 2024.

(10) The special measure will only have 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) Implementing Decision (EU) 2015/2429 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Article 6 of Implementing Decision (EU) 2015/2429 is replaced by the following:

‘*Article 6*

1. This Decision shall apply from 1 January 2016. It shall expire on 31 December 2024.

2. Any request for the extension of the authorisation provided for in this Decision shall be submitted to the Commission by 31 March 2024 and shall be accompanied by a report which includes a review of the percentage set out in Article 1.’.

Article 2

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

It shall apply as from 1 January 2022.

Article 3

This Decision is addressed to the Republic of Latvia.

Done at...,

For the Council
The President