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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION amending Implementing Decision (EU) 2018/1994 authorising Croatia to introduce a special measure derogating from point (a) of Article 26(1) and Article 168 of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2021/…

of …

amending Implementing Decision (EU) 2018/1994 authorising Croatia to introduce a special measure derogating from point (a) of Article 26(1) and Article 168 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 taxable persons' right to deduct value added tax (VAT) charged on supplies of goods and services received 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) 2018/1994[1] authorised Croatia, until 31 December 2021, to limit to 50 % the right to deduct VAT paid on the purchase and leasing of specified passenger cars with a maximum of eight seats in addition to the driver's seat, including the purchase of all goods and services supplied in relation thereto, when those cars are not wholly used for business purposes. The authorisation also relieved taxable persons from having to treat the non-business use of such passenger cars as a supply of services for consideration.

(3) By letter registered with the Commission on 31 March 2021, Croatia requested an authorisation to continue to apply the special measure derogating from Article 26(1), point (a), and Article 168 of Directive 2006/112/EC in order to restrict the right of deduction in relation to expenditure related to certain passenger cars not wholly used for business purposes ('the special measure').

[1] Council Implementing Decision (EU) 2018/1994 of 11 December 2018 authorising Croatia to introduce a special measure derogating from point (a) of Article 26(1) and Article 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 320, 17.12.2018, p. 35).

(4) Croatia applies Article 168a(1) of Directive 2006/112/EC in relation to VAT on expenditure related to other economic goods forming part of the business assets under Article 168a(2) of that Directive. Thus, Council Implementing Decision (EU) 2018/1994 should have included a reference to Article 168a of Directive 2006/112/EC.

(5) In accordance with Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission, by letter dated 22 April 2021, informed the other Member States of the request made by Croatia. By letter dated 23 April 2021, the Commission notified Croatia that it had all the information it considered necessary for appraisal of the request.

(6) As required by Article 6, third paragraph, of Implementing Decision (EU) 2018/1994, Croatia submitted a report including the review of the percentage laid down for the limitation of the right of deduction. Based on currently available information, Croatia confirmed that the limit of 50 % is still justifiable and remains appropriate.

(7) Given the positive impact of the special measure on the administrative burden of taxpayers and tax authorities alike by simplifying VAT collection and preventing tax evasion through incorrect record keeping, Croatia should therefore be authorised to continue to apply the special measure. The extension of the special measure should be limited in time, until 31 December 2024, to allow for an evaluation of its effectiveness and of the appropriate percentage.

(8) In the event that Croatia considers that a further extension of the special measure is necessary, it should submit the request for an extension, accompanied by a report that includes a review of the percentage applied, to the Commission by 31 March 2024.

(9) The special measure will 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.

(10) Implementing Decision (EU) 2018/1994 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2018/1994 is amended as follows:

(1) the title is replaced by the following:

‘Council Implementing Decision (EU) 2018/1994 of 11 December 2018 authorising Croatia 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’;

(2) Article 1 is replaced by the following:

‘*Article 1*

By way of derogation from Articles 168 and 168a of Directive 2006/112/EC, Croatia is authorised to limit to 50 % the right to deduct the value added tax (VAT) on expenditure related to passenger cars not wholly used for business purposes.’;

(3) Article 6 is replaced by the following:

‘*Article 6*

The Decision shall apply from 1 January 2019 until 31 December 2024.

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 that includes a review of the percentage set out in Article 1.’.

Article 2

This Decision is addressed to the Republic of Croatia.

Done at …,

For the Council
The President