Council of the European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION amending Implementing Decision (EU) 2018/1493 authorising Hungary 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) 2024/…

of …

amending Implementing Decision (EU) 2018/1493
authorising Hungary 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 govern taxable persons' right 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) 2018/1493[2], as amended by Council Implementing Decision (EU) 2021/1774[3], authorises Hungary, until 31 December 2024, to limit to 50 % the right to deduct VAT on expenditure related to passenger cars not wholly used for business purposes, and authorises Hungary to not treat as supplies of services for consideration the use for private 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 Decision (the 'special measure').

(3) By letter registered by the Commission on 26 March 2024, Hungary requested an authorisation, in accordance with Article 395(2), first subparagraph, of Directive 2006/112/EC, to continue to apply the special measure (the 'request').

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[2] Council Implementing Decision (EU) 2018/1493 of 2 October 2018 authorising Hungary 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 252, 8.10.2018, p. 44).

[3] Council Implementing Decision (EU) 2021/1774 of 5 October 2021 amending Implementing Decision (EU) 2018/1493 authorising Hungary 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 360, 11.10.2021, p. 108).

(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 29 May 2024. By letter dated 30 May 2024, the Commission notified Hungary that it had all the information necessary for the appraisal of the request.

(5) In accordance with Article 5, second paragraph, of Implementing Decision (EU) 2018/1493, Hungary submitted, together with the request, a report including the 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, Hungary submits that the limit of 50 % is still justifiable and remains appropriate.

(6) Given that the special measure has had a positive impact with regard tothe administrative burden for taxpayers and tax authorities by simplifying VAT collection and preventing tax evasion through incorrect record keeping, the Commission considers it to be appropriate to extend the special measure. Hungary should therefore be authorised to continue to apply the special measure until 31 December 2027.

(7) The special measure should be limited to the time needed to evaluate its effectiveness and the appropriateness of the percentage rate applied.

(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 Hungary considers an extension of the special measure beyond 2027 to be necessary, it should submit a request for an extension to the Commission 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 applied.

(10) According to information provided by Hungary, the special measure will have only a negligible effect on the overall amount of tax revenue Hungary collects at the stage of final consumption, and it will have no adverse impact on the Union's own resources accruing from VAT.

(11) Implementing Decision (EU) 2018/1493 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Article 5 of Implementing Decision (EU) 2018/1493 is replaced by the following:

‘*Article 5*

1. This Decision shall expire on 31 December 2027.

2. 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 2

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

Article 3

This Decision is addressed to Hungary.

Done at …, …

For the Council
The President