



Council of the  
European Union

Brussels, 20 October 2017  
(OR. en)

12967/17

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**Interinstitutional File:**  
**2017/0233 (NLE)**

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**FISC 216**  
**ECOFIN 797**

## **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL IMPLEMENTING DECISION amending Implementing Decision 2012/232/EU authorising Romania to apply measures derogating from Article 26(1)(a) and Article 168 of Directive 2006/112/EC on the common system of value added tax

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**COUNCIL IMPLEMENTING DECISION (EU) 2017/...**

**of ...**

**amending Implementing Decision 2012/232/EU  
authorising Romania to apply measures  
derogating from Article 26(1)(a) 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<sup>1</sup>, and in particular Article 395 thereof,

Having regard to the proposal from the European Commission,

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<sup>1</sup> OJ L 347, 11.12.2006, p. 1.

Whereas:

- (1) Article 168 of Directive 2006/112/EC establishes a taxable person's right to deduct value added tax (VAT) charged on supplies of goods and services received by him for the purposes of his taxed transactions. Article 26(1)(a) of that Directive contains a requirement to account for VAT when a business asset is put to use for private purposes of the taxable person or his staff or, more generally, for purposes other than those of his business.
- (2) Council Implementing Decision 2012/232/EU<sup>1</sup> authorised Romania to apply derogating measures pursuant to Article 395(1) of Directive 2006/112/EC until 31 December 2014, in order to implement a measure to limit the right of deduction of input VAT to 50 % as regards the purchase, intra-Community acquisition, importation, hire or leasing of motorised road vehicles, and VAT on expenditure related to such vehicles, including fuel, when the vehicles are not used exclusively for business purposes. Council Implementing Decision (EU) 2015/156<sup>2</sup> extended the period of validity of Implementing Decision 2012/232/EU until 31 December 2017.

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<sup>1</sup> Council Implementing Decision 2012/232/EU of 26 April 2012 authorising Romania to apply measures derogating from Article 26(1)(a) and Article 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 117, 1.5. 2012, p. 7).

<sup>2</sup> Council Implementing Decision (EU) 2015/156 of 27 January 2015 extending the period of validity of Implementing Decision 2012/232/EU authorising Romania to apply measures derogating from Articles 26(1)(a) and Article 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 26, 31.1.2015, p. 27).

- (3) By letter registered with the Commission on 5 April 2017, Romania requested authorisation to continue to apply a measure derogating from Article 26(1)(a) and Article 168 of Directive 2006/112/EC in order to restrict the right of deduction in relation to expenditure on certain motorised road vehicles not used exclusively for business purposes.
- (4) The application of a flat percentage rate for the amount of VAT on expenditure eligible for deduction concerning motorised road vehicles which are not used exclusively for business purposes simplifies the procedure for collecting VAT.
- (5) In accordance with the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States by letter dated 28 June 2017 of the request made by Romania. By letter dated 29 June 2017, the Commission notified Romania that it had all the information it considered necessary for appraisal of the request.
- (6) In accordance with Article 4(2) of Implementing Decision 2012/232/EU Romania submitted, together with the extension request, a report to the Commission on the application of that Implementing Decision. Based on information currently available, Romania submits that the limit of 50 % is still justifiable and remains appropriate.

- (7) The extension of the derogating measures should be limited in time to allow for an evaluation of their effectiveness and of the appropriate percentage. Romania should therefore be authorised to continue to apply the measures for a limited period, until 31 December 2020.
- (8) In the event that Romania considers that an extension of the authorisation beyond 2020 is necessary, it should submit a request for an extension to the Commission by 31 March 2020, together with a report which includes a review of the percentage limit applied.
- (9) The derogation 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.
- (10) Implementing Decision [2012/232/EU](#) should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

Article 4 of Implementing Decision 2012/232/EU is replaced by the following:

*"Article 4*

1. This Decision shall expire on the date of entry into force of Union rules determining the expenditure relating to motorised road vehicles that is not eligible for full deduction of VAT, or on 31 December 2020, whichever is the earlier.
2. Any request for the extension of the measures provided for in this Decision shall be submitted to the Commission by 31 March 2020. Such request shall be accompanied by a report which includes a review of the percentage restriction applied on the right to deduct VAT on the basis of this Decision."

*Article 2*

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

This Decision shall apply from 1 January 2018.

*Article 3*

This Decision is addressed to Romania.

Done at ...,

*For the Council*

*The President*

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