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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 Council 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 Council 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 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, as a general rule, is liable for the payment of value added tax (VAT) to the tax authorities.
- (2) Pursuant to point (h) of Article 199a(1) of Directive 2006/112/EC, Member States may provide that the person liable for the payment of VAT on supplies of game consoles is the taxable person to whom the supply is made ('reverse charge mechanism'). Latvia does not avail itself of this option, although it applies the reverse charge to supplies of tablet PCs and laptops based on point (h) of Article 199a (1) of that Directive.
- (3) Due to increased fraud in the game consoles sector in Latvia, Latvia would like to introduce the reverse charge mechanism to domestic supplies of game consoles.
- (4) Pursuant to Article 199a(1) of Directive 2006/112/EC, the reverse charge mechanism may be applied until 31 December 2018, for a minimum period of two years. Because the condition of a two year period is not fulfilled, Latvia cannot apply the reverse charge mechanism based on point (h) of Article 199a(1) of Directive 2006/112/EC.
- (5) By letter registered with the Commission on 15 November 2017, Latvia requested authorisation to apply a special measure derogating from Article 193 of Directive 2006/112/EC in order to make the recipient of the supply of game consoles liable for the payment of VAT.

- (6) In accordance with Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States of the request made by Latvia by letter dated 23 November 2017. By letter dated 24 November 2017, the Commission notified Latvia that it had all the information necessary to consider the request.
- (7) According to the information provided by Latvia, VAT fraud increased in relation to the supply of game consoles following the introduction of the reverse charge mechanism for the supply of mobile phones, tablet PCs, laptops and integrated circuit devices. Games consoles are particularly susceptible to VAT fraud as they are relatively small in size, have a relatively high value and have a well-developed market on the Internet. According to the information submitted by Latvia, a number of conventional measures have been introduced by Latvia to combat the VAT fraud. Nevertheless, Latvia considers that it is necessary to introduce the reverse charge mechanism for the supply of game consoles in order to prevent the loss of VAT revenue to the public budget.
- (8) Therefore, in order to prevent tax evasion, Latvia should be authorised to apply the reverse charge mechanism to supplies of game consoles 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, in the case of the supply of game consoles, Latvia is authorised to designate the recipient of the supply as the person liable to pay VAT.

Article 2

This Decision shall take effect on the day 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
