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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION amending Implementing Decision (EU) 2021/512 authorising the United Kingdom to apply, in respect of Northern Ireland, a special measure derogating from Articles 16 and 168 of Directive 2006/112/EC on the common system of value added tax as regards an extension of the authorisation

COUNCIL IMPLEMENTING DECISION (EU) 2023/...

of ...

**amending Implementing Decision (EU) 2021/512 authorising
the United Kingdom to apply, in respect of Northern Ireland,
a special measure derogating from Articles 16 and 168
of Directive 2006/112/EC on the common system of value added tax
as regards an extension of the authorisation**

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(1), first subparagraph, thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 347, 11.12.2006, p. 1.

Whereas:

- (1) Council Implementing Decision (EU) 2021/512² authorises the United Kingdom to apply, in respect of Northern Ireland, until 31 December 2023, a special measure derogating from Articles 16 and 168 of Directive 2006/112/EC in order to fix, on a flat-rate basis, the proportion of value added tax (VAT) relating to expenditure on fuel used for private purposes in business cars (the ‘special measure’).
- (2) Article 168 of Directive 2006/112/EC provides that a taxable person is entitled to deduct VAT charged on purchases made for the purposes of taxed transactions. However, Article 16 of that Directive requires the application by taxable persons of goods forming part of their business assets for their private use or for that of their staff to be treated as a supply of goods for consideration, where the VAT on those goods or the component parts thereof was wholly or partly deductible. This system allows for the recovery of initially deducted VAT in relation to the private use.
- (3) By letter registered with the Commission on 13 July 2023, the United Kingdom requested authorisation to continue to apply, in respect of Northern Ireland, the special measure beyond 31 December 2023.

² Council Implementing Decision (EU) 2021/512 of 22 March 2021 authorising the United Kingdom to apply, in respect of Northern Ireland, a special measure derogating from Articles 16 and 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 103, 24.3.2021, p. 4).

- (4) Pursuant to Article 395(2), second subparagraph, of Directive 2006/112/EC, by letters dated 7 August 2023, the Commission transmitted the request submitted by the United Kingdom to the Member States except for Cyprus, which was informed by letter dated 8 August 2023. By letter dated 8 August 2023, the Commission notified the United Kingdom that it had all the information necessary to consider the request.
- (5) According to the information provided by the United Kingdom in its request, the factual situation justifying the application of the special measure has not changed. Moreover, an explanation on the functioning of the special measure included in the request indicates that the special measure has proved to be effective in simplifying, both for taxable persons and the tax administration, the procedure for collecting VAT in relation to expenditure on fuel for business cars partly used for private purposes.
- (6) It is therefore appropriate to extend the application of the special measure. That extension should be limited in time to allow for a proper monitoring by the United Kingdom of whether the proportion of VAT, fixed on a flat-rate basis, still correctly reflects expenditure on fuel for business cars used for private purposes. The authorisation of the special measure should therefore expire on 31 December 2026.
- (7) In the event that the United Kingdom seeks a further extension of the special measure beyond 31 December 2026, it should submit a request, accompanied by a report, to the Commission by 31 March 2026.

- (8) In accordance with Article 8, second paragraph, of the Protocol on Ireland/Northern Ireland to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community³, revenues resulting from transactions that are taxable in Northern Ireland are not to be remitted to the Union. Therefore, the special measure will have no adverse impact on the Union's own resources accruing from VAT.
- (9) Implementing Decision (EU) 2021/512 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

³ OJ L 29, 31.1.2020, p. 7.

Article 1

Article 1 of Implementing Decision (EU) 2021/512 is replaced by the following:

‘Article 1

By way of derogation from Articles 16 and 168 of Directive 2006/112/EC, the United Kingdom is authorised, from 1 January 2021 until 31 December 2026, to fix, in respect of Northern Ireland, on a flat-rate basis, the proportion of VAT relating to expenditure on fuel used for private purposes in business cars.

Any request for an extension of the measure provided for in this Decision shall be submitted to the Commission by 31 March 2026 and shall be accompanied by a report which demonstrates the effectiveness of the special measure and the achievement of its objectives. The report shall include an assessment of whether the proportion of VAT still correctly reflects the expenditure on fuel for business cars used for private purposes.’.

Article 2

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

Article 3

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland, in respect of Northern Ireland.

Done at ...,

For the Council

The President
