Council of the European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION amending Implementing Decision (EU) 2015/2429 authorising Latvia 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) 2015/2429
authorising Latvia 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) 2015/2429[2], as amended by Council Implementing Decisions (EU) 2018/1921[3] and (EU) 2021/1968[4], authorises Latvia, until 31 December 2024, to limit to 50 % the right to deduct VAT on expenditure on passenger cars not wholly used for business purposes, and authorises Latvia 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').

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2 Council Implementing Decision (EU) 2015/2429 of 10 December 2015 authorising Latvia 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 334, 22.12.2015, p. 15).

3 Council Implementing Decision (EU) 2018/1921 of 4 December 2018 amending Implementing Decision 2013/191/EU authorising Latvia 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 311, 7.12.2018, p. 36).

4 Council Implementing Decision (EU) 2021/1968 of 9 November 2021 amending Implementing Decision (EU) 2015/2429 authorising Latvia 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 401, 12.11.2021, p. 1).

(3) By letter registered by the Commission on 15 May 2024, Latvia 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').

(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 10 September 2024. By letter dated 11 September 2024, the Commission notified Latvia that it had all the information necessary for the appraisal of the request.

(5) In accordance with Article 6(2) of Implementing Decision (EU) 2015/2429, Latvia 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, Latvia 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 to the administrative burden for the 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. Latvia 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 a risk that fraud would shift to other sectors or to other Member States.

(9) In the event that Latvia considers an extension of the special measure beyond 2027 to be necessary, it should submit a request for such 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 Latvia, the special measure will have only negligible effect on the overall amount of tax revenue Latvia 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) 2015/2429 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Article 6 of Implementing Decision (EU) 2015/2429 is replaced by the following:

'*Article 6*

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 the Republic of Latvia.

Done at …, …

For the Council
The President