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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION amending Implementing Decision 2009/1008/EU authorising the Republic of Latvia to extend the application of a measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2024/…

of …

amending Implementing Decision 2009/1008/EU
authorising the Republic of Latvia
to extend the application of a measure
derogating from Article 193 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) Council Decision 2006/42/EC[2] authorised Latvia to apply a special measure derogating from Article 21(1), point (a), of Council Directive 77/388/EEC[3], to designate the recipient as the person liable to pay value added tax (VAT) on the supply of timber or on the provision of related services until 31 December 2009. By Council Implementing Decision 2009/1008/EU[4] Latvia was, by way of derogation from Article 193 of Directive 2006/112/EC, authorised to continue to designate the recipient of timber or related services as the person liable to pay VAT in the case of timber transactions until 31 December 2012 (the 'special measure').

2 Council Decision 2006/42/EC of 24 January 2006 authorising Latvia to extend the application of a measure derogating from Article 21 of the Sixth Council Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes (OJ L 25, 28.1.2006, p. 31).

3 Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes - Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1).

4 Council Implementing Decision 2009/1008/EU of 7 December 2009 authorising the Republic of Latvia to extend the application of a measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax (OJ L 347, 24.12.2009, p. 30).

The special measure was subsequently extended by Council Implementing Decisions 2013/55/EU[5], (EU) 2015/2396[6], (EU) 2018/2006[7] and (EU) 2022/81[8], and is due to expire on 31 December 2024.

(2) By letter registered with the Commission on 2 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'). That request was accompanied by a report on the application of the special measure.

(3) In accordance with Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission transmitted the request to 25 Member States by letter dated 3 September 2024, and to Italy on 4 September 2024. By letter dated 5 September 2024, the Commission notified Latvia that it had all the information necessary for the appraisal of the request.

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5 Council Implementing Decision 2013/55/EU of 22 January 2013 amending Implementing Decision 2009/1008/EU authorising the Republic of Latvia to extend the application of a measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax (OJ L 22, 25.1.2013, p. 16).

6 Council Implementing Decision (EU) 2015/2396 of 10 December 2015 amending Implementing Decision 2009/1008/EU authorising the Republic of Latvia to extend the application of a measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax (OJ L 332, 18.12.2015, p. 142).

7 Council Implementing Decision (EU) 2018/2006 of 11 December 2018 amending Implementing Decision 2009/1008/EU authorising the Republic of Latvia to extend the application of a measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax (OJ L 322, 18.12.2018, p. 20).

8 Council Implementing Decision (EU) 2022/81 of 18 January 2022 amending Implementing Decision 2009/1008/EU authorising the Republic of Latvia to extend the application of a measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax (OJ L 13, 20.1.2022, p. 49).

(4) According to Latvia, the timber market, which is one of the most important sectors of its economy, is particularly sensitive to VAT fraud, because it is dominated by a great number of small local operators and individual suppliers. The nature of the market and of the businesses involved has generated VAT fraud, which the Latvian tax authorities have found difficult to control. In order to combat that abuse, the Latvian tax authorities have introduced the reverse charge mechanism for the payment of VAT in timber transactions, which has proven to be very effective and has decreased fraud in that market significantly.

(5) Special measures are in general granted for a limited period of time to allow an assessment of whether those special measures are appropriate and effective. Special measures grant Member States time to introduce other conventional measures at national level to monitor the movement of materials, the payment of VAT, and the compliance of taxable persons, which should tackle the respective problem until the expiry of the special measure, thus making an extension of the special measure redundant. A special measure allowing the making use of the reverse charge mechanism is granted only exceptionally for specific fraudulent areas and constitutes a means of last resort.

(6) Therefore, before the expiry of the extension of the special measure under this Implementing Decision, Latvia should implement other conventional measures to fight and prevent VAT fraud in the timber market, so that a further extension of the special measure would no longer be needed.

(7) Latvia should therefore be authorised to apply the special measure only until 31 December 2026.

(8) The special measure will have no adverse impact on the Union's own resources accruing from VAT.

(9) Implementing Decision 2009/1008/EU should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Article 2 of Implementig Decision 2009/1008/EU is replaced by the following:

'*Article 2*

This Decision shall expire on 31 December 2026.'

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