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Contents

II *Non-legislative acts*

DECISIONS

- ★ **Council Implementing Decision (EU) 2020/1260 of 4 September 2020 amending Implementing Decision (EU) 2017/1855 authorising Romania to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax** 1
- ★ **Council Implementing Decision (EU) 2020/1261 of 4 September 2020 amending Implementing Decision (EU) 2017/2408 authorising the Republic of Latvia to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax** 4
- ★ **Council Implementing Decision (EU) 2020/1262 of 4 September 2020 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** 6

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

II

(Non-legislative acts)

DECISIONS

COUNCIL IMPLEMENTING DECISION (EU) 2020/1260

of 4 September 2020

amending Implementing Decision (EU) 2017/1855 authorising Romania to apply a special measure derogating from Article 287 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 the first subparagraph of Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Pursuant to Article 287 of Directive 2006/112/EC, Romania is able to exempt from value added tax ('VAT') taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 35 000 at the conversion rate on the day of its accession to the Union.
- (2) By means of Council Implementing Decision 2012/181/EU ⁽²⁾, Romania was authorised to introduce a special measure derogating from Article 287 of Directive 2006/112/EC ('the derogating measure') to exempt from VAT taxable persons whose annual turnover was no higher than the equivalent in national currency of EUR 65 000 at the conversion rate on the day of its accession to the Union. The derogating measure expired on 31 December 2014.
- (3) By means of Council Implementing Decision 2014/931/EU ⁽³⁾, Romania was authorised to continue to apply the derogating measure until 31 December 2017.
- (4) By means of Council Implementing Decision (EU) 2017/1855 ⁽⁴⁾, Romania was authorised to apply a special measure derogating from Article 287 of Directive 2006/112/EC to exempt from VAT taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 88 500 at the conversion rate on the day of its accession. The derogating measure was authorised until 31 December 2020, or until the entry into force of a directive amending the provisions of Articles 281 to 294 of Directive 2006/112/EC, whichever date is the earlier.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Implementing Decision 2012/181/EU of 26 March 2012 authorising Romania to introduce a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 92, 30.3.2012, p. 26).

⁽³⁾ Council Implementing Decision 2014/931/EU of 16 December 2014 extending the application of Implementing Decision 2012/181/EU authorising Romania to introduce a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 365, 19.12.2014, p. 145).

⁽⁴⁾ Council Implementing Decision (EU) 2017/1855 of 10 October 2017 authorising Romania to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 265, 14.10.2017, p. 19).

- (5) On 18 February 2020, the Council adopted Directive (EU) 2020/285 ⁽⁵⁾, amending Articles 281 to 294 of Directive 2006/112/EC as regards the special scheme for small enterprises. Directive (EU) 2020/285 also allows Member States to exempt taxable persons whose Member State annual turnover does not exceed a threshold of EUR 85 000 or the equivalent in national currency.
- (6) By letter registered with the Commission on 14 January 2020, Romania requested authorisation to continue to apply the derogating measure after 31 December 2020.
- (7) Pursuant to the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission transmitted the request made by Romania to the other Member States by letter dated 18 February 2020. By letter dated 19 February 2020, the Commission notified Romania that it had all the information necessary for appraisal of the request.
- (8) From the information provided by Romania, it appears that the reasons for the derogating measure remain largely unchanged. The derogating measure is a simplification measure that reduces VAT-related obligations for a number of small enterprises. It also reduces the burden on tax authorities by removing the need to monitor the collection of a small volume of revenues from a larger number of small enterprises. Maintaining the current exemption threshold appears to be an effective way of saving administrative resources and reducing tax evasion.
- (9) The derogating measure is and will remain optional for taxable persons. Taxable persons can still opt for the normal VAT arrangements pursuant to Article 290 of Directive 2006/112/EC.
- (10) According to information provided by Romania, the derogating measure will only have a negligible effect on the overall amount of the tax revenue of Romania collected at the stage of final consumption.
- (11) The derogating measure will not adversely affect the Union's own resources accruing from VAT because Romania will carry out a compensation calculation in accordance with Article 6 of Council Regulation (EEC, Euratom) No 1553/89 ⁽⁶⁾.
- (12) Given the potential positive impact of the derogating measure in reducing the administrative burden and compliance costs for small enterprises and for the tax authorities, and the lack of any major impact on the total VAT revenue generated, Romania should be authorised to continue applying the derogating measure.
- (13) The authorisation to apply the derogating measure should be limited in time. The time limit should be sufficient to allow the effectiveness and appropriateness of the threshold to be evaluated. Moreover, pursuant to Article 3(1) of Directive (EU) 2020/285, Member States are to adopt and publish, by 31 December 2024, the laws, regulations and administrative provisions necessary to comply with Article 1 of that Directive, and apply those provisions from 1 January 2025. It is therefore appropriate to authorise Romania to apply the derogating measure until 31 December 2024.
- (14) Implementing Decision (EU) 2017/1855 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In Article 2 of Implementing Decision (EU) 2017/1855, the second paragraph is replaced by the following:

‘This Decision shall apply from 1 January 2018 until 31 December 2024.’

⁽⁵⁾ Council Directive (EU) 2020/285 of 18 February 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Regulation (EU) No 904/2010 as regards the administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small enterprises (OJ L 62, 2.3.2020, p. 13).

⁽⁶⁾ Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ L 155, 7.6.1989, p. 9).

Article 2

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

Article 3

This Decision is addressed to Romania.

Done at Brussels, 4 September 2020.

For the Council
The President
M. ROTH

COUNCIL IMPLEMENTING DECISION (EU) 2020/1261**of 4 September 2020****amending Implementing Decision (EU) 2017/2408 authorising the Republic of Latvia to apply a special measure derogating from Article 287 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 the first subparagraph of Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Pursuant to Article 287 of Directive 2006/112/EC, Latvia is able to exempt from value added tax ('VAT') taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 17 200 at the conversion rate on the day of its accession to the Union.
- (2) By means of Council Implementing Decision 2010/584/EU ⁽²⁾, Latvia was authorised to apply a special measure derogating from Article 287 of Directive 2006/112/EC ('the derogating measure') to exempt from VAT taxable persons whose annual turnover was no higher than the equivalent in national currency of EUR 50 000 at the conversion rate on the day of its accession to the Union until 31 December 2013. The derogating measure was extended by means of Council Implementing Decision 2014/796/EU ⁽³⁾ until 31 December 2017.
- (3) By means of Council Implementing Decision (EU) 2017/2408 ⁽⁴⁾, Latvia was authorised to further extend the derogating measure until 31 December 2020, and the exemption threshold was decreased from EUR 50 000 to EUR 40 000.
- (4) By letter registered with the Commission on 17 April 2020, Latvia requested authorisation to continue to apply the derogating measure until 31 December 2024, which is the date by which Member States are to transpose Council Directive (EU) 2020/285 ⁽⁵⁾, which lays down simpler VAT rules for small enterprises. That Directive also allows Member States to exempt taxable persons whose Member State annual turnover does not exceed a threshold of EUR 85 000 or the equivalent in national currency.
- (5) Pursuant to the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission transmitted the request made by Latvia to the other Member States by letter dated 19 May 2020. By letter dated 20 May 2020, the Commission notified Latvia that it had all the information necessary for appraisal of the request.
- (6) The derogating measure is in line with Directive (EU) 2020/285, which seeks to reduce VAT compliance costs for small enterprises, distortions of competition at both national and Union level, and the negative impact of transition from exemption to taxation (the 'threshold effect'). It also seeks to facilitate compliance by small enterprises as well as monitoring by tax authorities. The threshold of EUR 40 000 is consistent with Article 284 of Directive 2006/112/EC.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Implementing Decision 2010/584/EU of 27 September 2010 authorising the Republic of Latvia to apply a measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 256, 30.9.2010, p. 29).

⁽³⁾ Council Implementing Decision 2014/796/EU of 7 November 2014 authorising the Republic of Latvia to apply a measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 330, 15.11.2014, p. 46).

⁽⁴⁾ Council Implementing Decision (EU) 2017/2408 of 18 December 2017 authorising the Republic of Latvia to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 342, 21.12.2017, p. 8).

⁽⁵⁾ Council Directive (EU) 2020/285 of 18 February 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Regulation (EU) No 904/2010 as regards the administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small enterprises (OJ L 62, 2.3.2020, p. 13).

- (7) The derogating measure is and will remain optional for taxable persons. Taxable persons can still opt for the normal VAT arrangements pursuant to Article 290 of Directive 2006/112/EC.
- (8) According to the information provided by Latvia, the derogating measure will only have a negligible effect on the overall amount of the tax revenue of Latvia collected at the stage of final consumption.
- (9) The derogating measure will not adversely affect the Union's own resources accruing from VAT because Latvia will carry out a compensation calculation in accordance with Article 6 of Council Regulation (EEC, Euratom) No 1553/89 ⁽⁶⁾.
- (10) Given the potential positive impact of the derogating measure in reducing the administrative burden and compliance costs for small enterprises and for the tax authorities, and the lack of any major impact on the total VAT revenue generated, Latvia should be authorised to continue applying the derogating measure.
- (11) The authorisation to apply the derogating measure should be limited in time. The time limit should be sufficient to allow the effectiveness and appropriateness of the threshold to be evaluated. Moreover, pursuant to Article 3(1) of Directive (EU) 2020/285, Member States are to adopt and publish, by 31 December 2024, the laws, regulations and administrative provisions necessary to comply with Article 1 of that Directive, and apply those provisions from 1 January 2025. It is therefore appropriate to authorise Latvia to apply the derogating measure until 31 December 2024.
- (12) Implementing Decision (EU) 2017/2408 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In Article 2 of Implementing Decision (EU) 2017/2408, the second paragraph is replaced by the following:

‘This Decision shall apply until 31 December 2024.’.

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 Brussels, 4 September 2020.

For the Council
The President
M. ROTH

⁽⁶⁾ Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ L 155, 7.6.1989, p. 9).

COUNCIL IMPLEMENTING DECISION (EU) 2020/1262**of 4 September 2020****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 ⁽¹⁾, and in particular Article 395 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 168 of Directive 2006/112/EC establishes, inter alia, a right for taxable persons to deduct the value added tax ("VAT") due or paid in the relevant Member State from the VAT charged on supplies to them of goods and services that are used for the purposes of their taxed transactions. Pursuant to point (a) of Article 26(1) of that Directive, the use of goods forming part of the assets of a business for the private use of taxable persons or their staff or, more generally, for purposes other than those of their business, where the VAT on such goods was wholly or partly deductible, is to be treated as a supply of services for consideration.
- (2) By means of Council Implementing Decision 2012/232/EU ⁽²⁾, Romania was authorised, until 31 December 2014, to limit to 50 % the right to deduct the VAT on the purchase, intra-Community acquisition, importation, hire or leasing of certain motorised road vehicles as well as the VAT charged on expenditure related to those vehicles, where the vehicles are not used exclusively for business purposes, and to relieve taxable persons from having to treat the use of such vehicles for purposes other than those of their business as a supply of services for consideration pursuant to point (a) of Article 26(1) of Directive 2006/112/EC. By means of Council Implementing Decision (EU) 2015/156 ⁽³⁾, the period of validity of Implementing Decision 2012/232/EU was extended until 31 December 2017. By means of Council Implementing Decision (EU) 2017/2012 ⁽⁴⁾, Romania was authorised to apply the derogating measures until 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 until 31 December 2020, whichever is the earlier.
- (3) By letter registered with the Commission on 13 March 2020, Romania requested authorisation to continue to apply a measure derogating from point (a) of Article 26(1), and Article 168, of Directive 2006/112/EC in order to continue restricting 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) Pursuant to the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission transmitted the request made by Romania to the other Member States by letter dated 2 April 2020. By letter dated 3 April 2020, the Commission notified Romania that it had all the information necessary for appraisal of the request.
- (6) Pursuant to 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 currently available information, Romania states that the limit of 50 % is still justifiable and remains appropriate.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ 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).

⁽³⁾ 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 Article 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).

⁽⁴⁾ Council Implementing Decision (EU) 2017/2012 of 7 November 2017 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 (OJ L 292, 10.11.2017, p. 57).

- (7) The extension of the derogating measures should be limited to the time needed to evaluate the effectiveness of those measures and the appropriateness of the percentage limitation. Romania should therefore be authorised to continue to apply the derogating measures until 31 December 2023.
- (8) In the event that Romania considers that an extension of the authorisation beyond 2023 is necessary, it should submit an extension request to the Commission by 31 March 2023, together with a report which includes a review of the percentage restriction applied on the right to deduct VAT on the basis of Implementing Decision 2012/232/EU.
- (9) The derogation measures will only have a negligible effect on the overall amount of tax revenue of Romania 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 2023, 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 2023. 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 date of its notification.

Article 3

This Decision is addressed to Romania.

Done at Brussels, 4 September 2020.

For the Council
The President
M. ROTH

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