

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**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 291(2) thereof,

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) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By letters registered at the Commission on 8 April 2015 and 30 July 2015, Latvia requested authorisation to continue to apply, with certain modifications, a measure derogating from point (a) of Article 26(1) and Articles 168 and 168a of Directive 2006/112/EC in order to restrict the right to deduct value added tax (VAT) in relation to expenditure on certain passenger cars not wholly used for business purposes.
- (2) In accordance with the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States, by letters dated 21 and 24 August 2015, of the request made by Latvia. By letter dated 24 August 2015, the Commission notified Latvia that it had all the information necessary to consider the request.
- (3) Articles 168 and 168a of Directive 2006/112/EC establish the right of a taxable person to deduct VAT charged on supplies of goods and services received by him for use in his taxed transactions. Point (a) of Article 26(1) of that Directive requires taxable persons to account for VAT when a business asset is put to non-business use.
- (4) Council Implementing Decision 2013/191/EU ⁽²⁾ authorised Latvia to introduce a derogating measure pursuant to Article 395(1) of Directive 2006/112/EC to limit the right of deduction of input VAT to 80 % as regards the purchase, leasing, intra-Community acquisition and importation of specified passenger cars and related expenditure, including the purchase of fuel, when those passenger cars are not wholly used for business purposes. That Implementing Decision is due to expire on 31 December 2015.
- (5) Pursuant to Article 6 of Implementing Decision 2013/191/EU, Latvia also submitted a report which includes a review of the percentage foreseen for the limitation of the right of deduction. That review indicates that, based on statistical figures derived from a special tax on light vehicles owned or held by commercial operators that are used for private and business activities, the 80 % rate of deduction should be reduced to 50 %.
- (6) The limitation of the right of deduction under the measure should apply to VAT paid on the purchase, leasing, intra-Community acquisition and importation of specified passenger cars and on expenditure related thereto, including the purchase of fuel.
- (7) The measure should only apply to passenger cars with a maximum authorised weight not exceeding 3 500 kilograms and having not more than eight seats in addition to the driver's seat. Any non-business use of passenger cars exceeding 3 500 kilograms or having more than eight seats in addition to the driver's seat is negligible due to their nature or the type of business they are used for. A detailed list of specific passenger cars excluded from that authorisation should also be provided, based on their particular use.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Implementing Decision 2013/191/EU of 22 April 2013 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 113, 25.4.2013, p. 11).

- (8) Latvia should therefore be authorised to apply the derogating measure for a limited period, until 31 December 2018.
- (9) Where Latvia considers that a further extension of the derogating measure beyond 2018 is necessary, it should submit to the Commission a report which includes a review of the applicable percentage, together with the extension request, by 31 March 2018.
- (10) The derogation will only have negligible effect on the overall amount of tax revenue collected at the stage of final consumption and will have no adverse impact on the Union's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Articles 168 and 168a of Directive 2006/112/EC, Latvia is authorised to limit to 50 % the right to deduct the value added tax (VAT) on expenditure on passenger cars not wholly used for business purposes.

Article 2

By way of derogation from point (a) of Article 26(1) of Directive 2006/112/EC, Latvia shall 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 this Decision.

Article 3

The expenditure referred to in Article 1 shall cover the purchase, leasing, intra-Community acquisition and importation of such cars as well as expenditure related to the maintenance, repair and fuel for such cars.

Article 4

This Decision shall only apply to passenger cars with a maximum authorised weight not exceeding 3 500 kilograms and having not more than eight seats in addition to the driver's seat.

Article 5

Articles 1 and 2 shall not apply to the following categories of passenger cars:

- (a) cars purchased for resale, hire or lease;
- (b) cars used for transportation of passengers for a fee, including taxi services;
- (c) cars used for the provision of transportation of goods;
- (d) cars used for the provision of driving lessons;
- (e) cars used for the provision of guard services;
- (f) cars used as emergency vehicles;
- (g) cars used as car sales demonstration vehicles.

Article 6

1. This Decision shall apply from 1 January 2016. It shall expire on 31 December 2018.
2. Any request for the extension of the authorisation provided for in this Decision shall be submitted to the Commission by 31 March 2018. Such request shall be accompanied by a report which includes a review of the percentage set out in Article 1.

Article 7

This Decision is addressed to the Republic of Latvia.

Done at Brussels, 10 December 2015.

For the Council
The President
F. BAUSCH
