Commission Implementing Regulation (EU) 2019/1129 of 2 July 2019 amending Implementing Regulation (EU) No 79/2012 laying down detailed rules for implementing certain provisions of Council Regulation (EU) No 904/2010 concerning administrative cooperation and combating fraud in the field of value added tax

COMMISSION IMPLEMENTING REGULATION (EU) 2019/1129

of 2 July 2019

amending Implementing Regulation (EU) No 79/2012 laying down detailed rules for implementing certain provisions of Council Regulation (EU) No 904/2010 concerning administrative cooperation and combating fraud in the field of value added tax

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax[(1)], and in particular Article 17(2) and (3), Article 21(3) and Article 21a(3) thereof,

Whereas:

(1) Article 17(1)(f) and Article 21(2a) of Regulation (EU) No 904/2010 require Member States to store information on VAT exempted importations collected by them under Article 143(2) of Council Directive 2006/112/EC[(2)] and to grant other Member States automated access to that information, with a view to helping Member States identify discrepancies in VAT reporting and potential VAT frauds.

(2) Information on such VAT exempted importations is already collected by national customs authorities under Regulation (EU) No 952/2013 of the European Parliament and of the Council[(3)] and forwarded to the Commission using the electronic system referred to in Article 56(1) of Commission Implementing Regulation (EU) 2015/2447[(4)]. The storage of and automated access to information on VAT exempted importations required by Article 17(1)(f) and Article 21(2a) of Regulation (EU) No 904/2010 should take place using that same electronic system for the sake of efficiency. In order to guarantee uniform implementation of those Articles of Regulation (EU) No 904/2010, it is necessary to specify the data elements of customs information collected under Regulation (EU) No 952/2013 that correspond to the information referred to in Article 17(1)(f) of Regulation (EU) No 904/2010.

(3) The technical details concerning the automated enquiry of the information referred to in Article 17(1)(f) of Regulation (EU) No 904/2010 should allow for national tax authorities and Eurofisc liaison officials to have automated access to the electronic system referred to in Article 56(1) of Implementing Regulation (EU) 2015/2447.

(4) Article 21a of Regulation (EU) No 904/2010 grants Eurofisc liaison officials automated access to certain vehicle registration information. Automated enquiry of that information should be conducted via a version of the European Vehicle and

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/1129. (See end of Document for details)*

Driving Licence Information System (EUCARIS) especially designed for the purposes of Article 21a of that Regulation. In the context of VAT, Eurofisc liaison officials should be in a position to request precise identification data relating to vehicles and their owners and holders. To this end, the data as well as the means that will be used to retrieve the data from the system should be specified. It is also necessary to define the availability and reliability of the system, how exchanges will be secured, and which communication network will be used.

(5) At national level, incoming requests to access vehicle registration data for VAT purposes will usually be processed by each Member State's national vehicle registration authorities. Nevertheless, Member States should be free to decide to entrust that responsibility to another authority if they wish. As regards outgoing requests, Member States should again be free to decide whether to entrust responsibility for the processing of such requests to their national vehicle registration authorities or to another authority, such as their tax authorities.

(6) Article 21(2)(e) and (2a)(d) and Article 21a(2) of Regulation (EU) No 904/2010 lay down the conditions under which access to certain information is to be granted. In order to implement those conditions, Member States should be required to allocate a unique personal user identification to each of their Eurofisc liaison officials and to make a list of those personal user identifications available to the other Member States and to the Commission. They should also make sure that each automated outgoing request for information sent out by their Eurofisc liaison officials contains the Eurofisc liaison official's personal user identification.

(7) Articles 17(1)(f), 21(2a) and 21a of Regulation (EU) No 904/2010 are to apply from 1 January 2020, in accordance with Article 3 of Council Regulation (EU) 2018/1541[(5)]. Application of the measures provided for in this Regulation should therefore apply from 1 January 2020 too.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Administrative Cooperation,

HAS ADOPTED THIS REGULATION:

Article 1

Commission Implementing Regulation (EU) No 79/2012[(6)] is amended as follows:

(1) Article 1 is replaced by the following:

Article 1

Subject matter

This Regulation lays down detailed rules for implementing Articles 14, 17(1)(f), 21(2)(e), 21(2a)(d), 21a(1) and (2), 32, 48, 49 and Article 51(1) of Regulation (EU) No 904/2010.;

(2) the following Articles are inserted:

Article 5a

Exchange of customs information

1 The storage of and automated access by competent authorities to the information referred to in Article 17(1)(f) of Regulation (EU) No 904/2010 shall take place using the electronic system referred to in Article 56(1) of Commission Implementing Regulation (EU) 2015/2447[(7)].

2 Automated access pursuant to Article 21(2a) of Regulation (EU) No 904/2010 shall be granted at the level of the goods item of a customs declaration as provided for in Section 3 of Chapter 2, and Column H1 of Section 1 of Chapter 3, in Title I of Annex B to Commission Delegated Regulation (EU) 2015/2446[(8)].

3 Each goods item shall be identified by the following information as required in accordance with Article 226 of Implementing Regulation (EU) 2015/2447:

a the Master Reference Number; and

b the customs declaration acceptance date.

4 Annex VII to this Regulation sets out which piece of information referred to in Article 17(1)(f) of Regulation (EU) No 904/2010 corresponds to which data element of the customs system as defined in Annex B to Implementing Regulation (EU) 2015/2447.

Article 5b

Exchange of vehicle registration information

1 Automated enquiry of the information referred to in Article 21a(1) of Regulation (EU) No 904/2010 (“vehicle registration data”) shall be conducted using a version of the European Vehicle and Driving Licence Information System (EUCARIS) software application especially designed for the purposes of Article 21a of that Regulation, and amended versions of that software.

Automated enquiry of vehicle registration data shall take place within a decentralised structure.

The vehicle registration data exchanged via the EUCARIS system shall be transmitted in encrypted form.

The specific version of the software application developed by the EUCARIS nominated party for operation for the automated enquiry of vehicle registration data for the purposes of Article 21a of Regulation (EU) No 904/2010 shall be separate from other versions of that software application available in EUCARIS. Automated enquiries shall be conducted in compliance with the requirements for data security and technical conditions of the data exchange referred to in points 2 and 3 of Chapter 3 of the Annex to Council Decision 2008/616/JHA[(9)]. The data elements of the vehicle registration data to be exchanged and the types of enquiry that are permitted shall be as specified in Annex VIII to this Regulation.

2 Automated access to vehicle registration data shall take place using the Trans European Services for Telematics between Administrations (TESTA) communications network and further developments thereof.

3 Member States shall take all necessary measures to ensure that automated enquiry of and automated access to vehicle registration data is possible 24 hours a day and seven days a week. In the event of a technical fault, the Member States' national contact points shall immediately inform each other with the support of the EUCARIS nominated party for operations, if needed. Automated data exchange shall be re-established as quickly as possible.

4 Each Member State shall designate one national authority as a national contact point responsible within that Member State for processing incoming requests for vehicle registration data for VAT purposes provided for in Article 21a of Regulation (EU) No 904/2010 and one for processing outgoing requests. The same authority may be responsible for processing both exchanges. It shall inform the other Member States and the Commission thereof.

Article 5c

Identification of Eurofisc Liaison Officials accessing information collated by the customs authorities, the recapitulative statements collected pursuant to Chapter 6 of Title XI of Directive 2006/112/EC and vehicle registration data

To enable a Member State to identify a Eurofisc liaison official accessing information provided by that Member State under the conditions set out in Article 21(2)(e) or (2a)(d) or Article 21a(2) of Regulation (EU) No 904/2010, the following arrangements shall be implemented:

(a) each Member State shall allocate a unique personal user identification to each of its Eurofisc liaison officials;

(b) each Member State shall keep and update promptly a list of the names and unique personal user identifications of each of its Eurofisc liaison officials and shall make the up-to-date list available to the other Member States and the Commission;

(c) each Member State shall ensure that any automated enquiry that it makes of the information referred to in Article 21(2)(e) or (2a)(d) or Article 21a(1) of Regulation (EU) No 904/2010 contains the unique personal user identification of the Eurofisc liaison official accessing the information.;

(3) in the Annexes, the Annexes set out in the Annex to this Regulation are added.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2020.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 July 2019.

For the Commission

The President

Jean-Claude JUNCKER