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

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

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) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By virtue of Council Decision 2006/42/EC[(2)] Latvia was authorised until 31 December 2009 to apply a special measure derogating from Article 21(1)(a) of Directive 77/388/EEC[(3)], to designate the recipient as the person liable to pay value added tax (VAT) in the case of timber transactions. By virtue of Council Implementing Decision 2009/1008/EU[(4)] Latvia was authorised until 31 December 2012 to apply a special measure derogating from Article 193 of Directive 2006/112/EC in order to continue to designate the recipient as the person liable to pay VAT in the case of timber transactions ('the special measure'). The authorisation to apply the special measure was subsequently extended by Council Implementing Decision 2013/55/EU[(5)] until 31 December 2015 and by Council Implementing Decision (EU) 2015/2396[(6)] until 31 December 2018.

(2) By letter registered with the Commission on 20 June 2018, Latvia requested authorisation to continue to apply the special measure. By letter registered with the Commission on 17 August 2018, Latvia submitted a report on the application of the measure as required by the second paragraph of Article 2 of Implementing Decision 2009/1008/EU.

(3) In accordance with 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 letters dated 7 September 2018. By letter dated 10 September 2018, the Commission notified Latvia that it had all the information necessary for the appraisal of the request.

(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 businesses involved has generated VAT fraud, which the Latvian tax authorities have

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Decision (EU) 2018/2006. (See end of Document for details)*

found difficult to control. In order to combat this abuse, they have introduced the reverse charge mechanism to timber transactions, which has proven to be very effective and has decreased fraud in this sector significantly.

(5) In order to prevent certain forms of tax evasion, Latvia should be authorised to apply the special measure for a further limited period of time until 31 December 2021.

(6) Derogations are in general authorised for a limited period of time to allow an assessment of whether the special measures are appropriate and effective. Derogations grant Member States time to introduce other conventional measures to tackle the problem in question until the expiry of the special measures, thus making an extension of a derogation redundant. A derogation allowing for use to be made of the reverse charge mechanism is only granted exceptionally for specific areas where fraud occurs and constitutes a means of last resort. Latvia should therefore implement other conventional measures to fight and prevent VAT fraud with regard to supplies of timber until the expiry of the special measure and consequently should no longer need to derogate from Article 193 of Directive 2006/112/EC with regard to such supplies.

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

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

HAS ADOPTED THIS DECISION:

Article 1

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

Article 2

This Decision shall apply until 31 December 2021.

Article 2

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

It shall apply from 1 January 2019.

Article 3

This Decision is addressed to the Republic of Latvia.

Done at Brussels, 11 December 2018.

For the Council

The President

G. BLÜMEL