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2026/0291 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

amending Implementing Decision (EU) 2021/512 as regards an extension of the authorisation for the United Kingdom to apply, in respect of Northern Ireland, a special measure derogating from Articles 16 and 168 of Directive 2006/112/EC on the common system of value added tax

EXPLANATORY MEMORANDUM

Pursuant to Article 395(1) of Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ('the VAT Directive'[1]), the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to apply special measures derogating from the provisions of that Directive in order to simplify the procedure for collecting VAT or to prevent certain forms of tax evasion or avoidance.

Under the Protocol on Ireland/Northern Ireland (now referred to as the 'Windsor Framework[2]) to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[3], the provisions of EU law in the area of VAT concerning goods apply to and in the United Kingdom in respect of Northern Ireland.

Under Council Implementing Decision (EU) 2021/512[4], the United Kingdom was granted, under Article 395(1) of the VAT Directive, authorisation to apply, in Northern Ireland, a special VAT measure, which provides for flat-rate measures in respect of non-deductible VAT charged on fuel expenditure in company cars, and which deviates from the general rules laid down in the VAT Directive.

By letter registered with the Commission on 25 March 2026, the United Kingdom requested authorisation to continue to apply, in respect of Northern Ireland, the above-mentioned special measure beyond 31 December 2026.

The Commission transmitted the request submitted by the United Kingdom to the Member States on 24 July 2026. By letter dated 29 July 2026, the Commission notified the United Kingdom that it had all the information necessary to consider the request.

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The VAT Directive provides, as a rule, that VAT on purchases is deductible by taxable persons insofar used for the purpose of taxed transactions. VAT, related to the private use of a business good, is therefore not deductible. Subsequently, VAT on the private use is to be accounted for if, in relation to a mixed-use good (a good used for both business and private purposes), the total amount of VAT was deducted at the time of purchase.

In the case of company cars, partly used for private (non-business) purposes, it is often difficult and burdensome to calculate precisely the private use and would require detailed mileage records.

In this context, the United Kingdom is operating, in respect of Northern Ireland, a special VAT scheme to tax the private use, based on the average private mileage (as determined by the Department for Transport's National Travel Survey and the Vehicle Certification Agency)

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1 OJ L 347, 11.12.2006, p. 1, ELI: http://data.europa.eu/eli/dir/2006/112/oj.

2 OJ L 102, 17.4.2023, p. 87.

3 Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 7, ELI: http://data.europa.eu/eli/treaty/withd_2020/sign.

4 Council Implementing Decision (EU) 2021/512 of 22 March 2021 authorising the United Kingdom to apply, in respect of Northern Ireland, a special measure derogating from Articles 16 and 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 103, 24.3.2021, p. 4, ELI: http://data.europa.eu/eli/dec_impl/2021/512/oj).

in combination with the fuel consumption per kilometre, which is calculated on the basis of CO_2 emission ratings, and the retail price of road fuel.

This flat-rate based scheme was authorised, in relation to Northern Ireland, by Council Implementing Decision (EU) 2021/512, until 31 December 2023. Council Implementing Decision (EU) 2023/2907[5] extended the authorisation until 31 December 2026.

The special scheme is optional for taxable persons who could, instead, choose to deduct VAT on fuel on the basis of detailed mileage records.

According to the United Kingdom, this scheme is still accurate and has led to substantial simplifications for both the businesses in Northern Ireland and the tax administration as, in practice, it is burdensome to keep detailed mileage records as well as to have these records audited.

Against this background, the United Kingdom, in respect of Northern Ireland, has requested to be authorised to continue the application of the derogation from 1 January 2027. However, the derogation should be limited in time to 31 December 2029 in order to enable an assessment whether the special scheme would still be a correct reflection of the overall apportionment between business and private use.

- **Consistency with existing policy provisions in the policy area**

Article 176 of the VAT Directive stipulates that the Council shall determine the expenditure in respect of which VAT is not deductible. Until then, it authorises Member States to maintain the exclusions provided for under their national laws on 1 January 1979. There are therefore a number of 'standstill' provisions restricting the right to deduct in relation to passenger cars.

Notwithstanding previous initiatives to establish rules on which categories of expenditure may be subject to a restriction on the right to deduct[6], such special scheme is appropriate in the awaiting of a harmonisation of these rules at EU level.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 395(1), first subparagraph, of the VAT Directive.

- **Subsidiarity (for non-exclusive competence)**

Considering the provision of the VAT Directive on which it is based, the subsidiarity principle is respected at the level of the VAT Directive.

- **Proportionality**

The Decision concerns an authorisation granted to the United Kingdom in respect of Northern Ireland upon its own request and does not constitute any obligation.

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5 Council Implementing Decision (EU) 2023/2907 of 21 December 2023 amending Implementing Decision (EU) 2021/512 authorising the United Kingdom to apply, in respect of Northern Ireland, a special measure derogating from Articles 16 and 168 of Directive 2006/112/EC on the common system of value added tax as regards an extension of the authorisation (OJ L, 2023/2907, 27.12.2023, ELI: http://data.europa.eu/eli/dec_impl/2023/2907/oj).

6 Proposal for a Council Directive amending Directive 77/388/EEC with a view to simplifying value added tax obligations (COM (2004) 728, OJ C 24, 29.1.2005, p.10), withdrawn on 21 May 2014 (OJ C 153, 21.05.2014, p. 3).

Given the limited scope of the special scheme, it is proportionate to the aim pursued, i.e. to simplify VAT obligations and VAT collection in a specific sector. The scheme remains optional for taxable persons.

- **Choice of the instrument**

The proposed instrument is a Council Implementing Decision.

Under Article 395(1), first subparagraph, of the VAT Directive, a derogation from the common VAT rules is only possible upon authorisation by the Council, which is acting unanimously on a proposal from the Commission. A Council Implementing Decision is the most suitable instrument since it can be addressed individually.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

No stakeholder consultation has been conducted. The present proposal is based on a request made by the United Kingdom in respect of Northern Ireland and concerns only Northern Ireland.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

The proposed Decision aims to allow the United Kingdom, in respect of Northern Ireland, to continue a system to simplify the VAT collection and related obligations in relation to fuel expenditure for company cars partly used for non-business purposes and has, therefore, a potential positive impact.

For taxable persons who would opt for this system, it reduces administrative burden and compliance costs by removing the need to keep detailed mileage records on each company car for VAT purposes. Such record keeping requirements are likely to be time consuming and often impose significant administrative burdens for relatively small amounts of tax. The simplification method also reduces burdens for the tax authorities, which would otherwise be required to audit numerous individual cases.

Furthermore, because of the narrow scope of the derogation and the limited application in time, the impact will in any case be limited.

4. BUDGETARY IMPLICATIONS

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

In this context, it is recalled that, in accordance with the of Article 8, second paragraph, of the Windsor Framework, revenues resulting from transactions that are taxable in Northern Ireland are not to be remitted to the EU.

5. OTHER ELEMENTS

The proposal includes a ‘sunset clause’: an automatic time limit which is set at 31 December 2029.

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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,

Whereas:

(1) Council Implementing Decision (EU) 2021/512[2] authorises the United Kingdom to apply, in respect of Northern Ireland, until 31 December 2026, a special measure derogating from Articles 16 and 168 of Directive 2006/112/EC in order to fix, on a flat-rate basis, the proportion of value added tax (VAT) relating to expenditure on fuel used for private purposes in business cars (the 'special measure').

(2) By letter registered with the Commission on 25 March 2026, the United Kingdom requested authorisation to continue to apply, in respect of Northern Ireland, the special measure beyond 31 December 2026.

(3) Pursuant to Article 395(2), second subparagraph, of Directive 2006/112/EC, by letters dated 24 July 2026, the Commission transmitted the request submitted by the United Kingdom to the Member States. By letter dated 29 July 2026, the Commission notified the United Kingdom that it had all the information necessary to consider the request.

(4) According to the information provided by the United Kingdom in its request, the special and, for taxable persons, optional measure has provided an efficient simplified procedure for collecting VAT in relation to expenditure on fuel for business cars partly used for private purposes, for both taxable persons and the tax authority. According to the United Kingdom, the factual situation that justifies the application of the special measure has not fundamentally changed.

(5) It is therefore appropriate to extend the application of the special measure. That extension should be limited in time to allow for a proper monitoring, by the United Kingdom, of whether the proportion of VAT, fixed on a flat-rate basis, still correctly

[1] OJ L 347, 11.12.2006, p. 1, ELI: http://data.europa.eu/eli/dir/2006/112/oj.

[2] Council Implementing Decision (EU) 2021/512 of 22 March 2021 authorising the United Kingdom to apply, in respect of Northern Ireland, a special measure derogating from Articles 16 and 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 103, 24.3.2021, p. 4, ELI: http://data.europa.eu/eli/dec_impl/2021/512/oj).

reflects expenditure on fuel for business cars used for private purposes. The authorisation of the special measure should therefore expire on 31 December 2029.

(6) If the United Kingdom seeks a further extension of the special measure beyond 31 December 2029, it should submit a request, accompanied by a report, to the Commission by 31 March 2029.

(7) In accordance with Article 8, second paragraph, of the Protocol on Ireland/Northern Ireland (now referred to as the Windsor Framework[3]) to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[4], revenues resulting from transactions that are taxable in Northern Ireland are not to be remitted to the Union. Therefore, the special measure will have no adverse impact on the Union's own resources accruing from VAT.

(8) Implementing Decision (EU) 2021/512 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Article 1 of Implementing Decision (EU) 2021/512 is replaced by the following:

‘Article 1

By way of derogation from Articles 16 and 168 of Directive 2006/112/EC, the United Kingdom is authorised, until 31 December 2029, to fix, in respect of Northern Ireland, on a flat-rate basis, the proportion of VAT relating to expenditure on fuel used for private purposes in business cars.

Any request for an extension of the measure provided for in this Decision shall be submitted to the Commission by 31 March 2029 and shall be accompanied by a report which demonstrates the effectiveness of the special measure and the achievement of its objectives. The report shall include an assessment of whether the proportion of VAT still correctly reflects the expenditure on fuel for business cars used for private purposes.’.

Article 2

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

Article 3

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland, in respect of Northern Ireland.

Done at Brussels,

For the Council
The President

[3] OJ L 102, 17.4.2023, p. 87.
[4] OJ L 29, 31.1.2020, p. 7, ELI: http://data.europa.eu/eli/treaty/withd_2020/sign.