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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

in accordance with Article 395 of Council Directive 2006/112/EC

1. BACKGROUND

Pursuant to Article 395 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax[1] (the VAT Directive), the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce special measures for derogation from the provisions of this Directive, in order to simplify the procedure for collecting VAT or to prevent certain forms of tax evasion or avoidance. As this procedure provides for a derogation from the general principles of VAT, in accordance with the case-law of the Court of Justice of the European Union (CJEU), the national derogating measures referred to in Article 395 of the VAT Directive which are allowed 'in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance', must be interpreted strictly and those measures must also be necessary and appropriate for realising the specific objective which they pursue and have as little effect as possible on the objectives and principles of the VAT Directive[2].

By letter registered at the Commission on 28 May 2026, Latvia requested an authorisation to further extend the authorisation to apply, by derogation of Article 193 of the VAT Directive, the reverse charge mechanism in relation to the supply of timber or the provision of related services, as initially granted upon Latvia's accession to the Union on 1 May 2004, extended by Council Decision 2006/42/EC in 2006, and prolonged on six further occasions since, most recently until 31 December 2026 by Council Implementing Decision (EU) 2024/3207.

In accordance with the second paragraph of Article 395 of the VAT Directive, the Commission informed the other Member States by letter dated 21 August 2026 of the request made by Latvia. By letter dated 25 August 2026, the Commission notified Latvia that it had all the information it considered necessary for appraisal of the request.

2. THE REQUEST

Latvia requests, under Article 395 of the VAT Directive, that the Council, acting upon a proposal of the Commission, would extend the application of a special measure derogating from Article 193 of the VAT Directive as regards the application of the reverse charge mechanism in relation to the supply of timber or the provision of related services.

As a rule, the person liable for the payment of VAT, pursuant to Article 193 of the VAT Directive, is the taxable person supplying the goods (or services). The purpose of the reverse charge mechanism is to shift that liability onto the taxable person to whom the supplies are made in order to avoid that the supplier would have the possibility to disappear with the VAT received (missing trader fraud).

The derogation was first granted to Latvia in Chapter 7, point 1(b) of Annex VIII to the 2003 Act of Accession[3], until 30 April 2005, and was subsequently extended for the

[1] OJ L 347, 11.12.2006, p. 1

[2] See judgment of 27 January 2011 in case *Vandoorne* C-489/09, EU:C:2011:33, paragraph 27.

[3] Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the

first time, in relation to Article 21 of Sixth Council Directive 77/388/EEC, by Council Decision 2006/42/EC of 24 January 2006[4] until 31 December 2009. It was subsequently authorised, by way of derogation from Article 193 of the VAT Directive, by Council Implementing Decision 2009/1008/EU of 7 December 2009[5] until 31 December 2012, and was extended on five further occasions, by Council Implementing Decisions 2013/55/EU of 22 January 2013[6], (EU) 2015/2396 of 10 December 2015[7], (EU) 2018/2006 of 11 December 2018[8], (EU) 2022/81 of 18 January 2022[9] and, most recently, (EU) 2024/3207 of 12 December 2024[10], which extended the special measure until 31 December 2026. The special measure has therefore been in continuous application for more than two decades and has already been prolonged seven times.

3. THE COMMISSION'S VIEW

When the Commission receives requests in accordance with Article 395 of the VAT Directive, these are examined with a view to ensure that the basic conditions for granting a derogation are fulfilled, i.e. whether the proposed specific measure simplifies procedures for taxable persons and/or the tax administration or whether the proposal aims to prevent certain types of tax evasion or avoidance. In this context, the Commission has always taken a restrictive, cautious approach to ensure that derogations do not undermine the operation of the general VAT system, are limited in scope and time, and necessary and proportionate. Any derogation from the system of fractioned payment can, therefore, not be more than a last resort for a limited time and must offer guarantees as to its necessity and exceptional nature.

Given more than two decades of application, it is the Commission's view that Latvia has had ample time to introduce conventional measures, for which no derogation from the VAT Directive is required, to control the timber sector, which consists of rather high-volume tangible goods that should allow for an adequate auditing and follow-up.

Republic of Poland, the Republic of Slovenia and the Slovak Republic, and the adjustments to the Treaties on which the European Union is founded, Annex VIII, Chapter 7, point 1(b), OJ L 236, 23.9.2003, p. 33.

[4] Council Decision 2006/42/EC of 24 January 2006 authorising Latvia to extend the application of a measure derogating from Article 21 of the Sixth Council Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes, OJ L 25, 28.1.2006, p. 31.

[5] Council Implementing Decision 2009/1008/EU of 7 December 2009 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, OJ L 347, 24.12.2009, p. 30.

[6] Council Implementing Decision 2013/55/EU of 22 January 2013 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, OJ L 22, 25.1.2013, p. 16.

[7] Council Implementing Decision (EU) 2015/2396 of 10 December 2015 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, OJ L 332, 18.12.2015, p. 142.

[8] 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, OJ L 322, 18.12.2018, p. 20.

[9] Council Implementing Decision (EU) 2022/81 of 18 January 2022 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, OJ L 13, 20.1.2022, p. 49.

[10] Council Implementing Decision (EU) 2024/3207 of 12 December 2024 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, OJ L, 23.12.2024.

Moreover, Latvia has been reminded to take appropriate measures to fight against fraud as, more particularly,

recital 5 of Council Implementing Decision (EU) 2024/3207, which granted the extension currently in force, recalled that *"(…) Special measures are in general granted for a limited period of time to allow an assessment of whether those special measures are appropriate and effective. Special measures grant Member States time to introduce other conventional measures at national level to monitor the movement of materials, the payment of VAT, and the compliance of taxable persons, which should tackle the respective problem until the expiry of the special measure, thus making an extension of the special measure redundant. A special measure allowing the making use of the reverse charge mechanism is granted only exceptionally for specific fraudulent areas and constitutes a means of last resort"*.

recital 6 of that Decision indicated that *"(…) before the expiry of the extension of the special measure under this Implementing Decision, Latvia should implement other conventional measures to fight and prevent VAT fraud in the timber market, so that a further extension of the special measure would no longer be needed"*.

The request submitted by Latvia does not identify any new conventional measure introduced since the adoption of Decision (EU) 2024/3207. Latvia states that work is under way to strengthen the measures already in place and expresses an intention to return to the standard VAT regime in the timber sector "in a planned manner and within a reasonable timeframe", without specifying that timeframe or presenting measurable results. It also points to the continued use of a pre-existing corporate rating system operated by its tax administration.

Nonetheless, Latvia argues that a further extension should be granted, referring in particular to the decision of the Latvian Parliament (Saeima) to postpone the entry into force of mandatory business-to-business electronic invoicing from 1 January 2026 to 1 January 2028, which it describes as a sufficient reason for the reverse charge mechanism to continue. As the postponement of domestic e-invoicing reflects a choice within Latvia's own control and is not a constraint imposed by Union law, it cannot in itself justify a further Union-level derogation under Article 395.

Furthermore, Lithuania and Romania, which held comparable derogations for the timber sector under Council Implementing Decisions (EU) 2018/1920 and (EU) 2023/218 respectively, did not have those measures extended beyond 2021 and 2025, in application of the same conditions under Article 395 of the VAT Directive.

In light of the above and taking into account that the Commission already informed Latvia in 2024 that conventional measures should be implemented, and taking into account that the special measure has already been in place since 2004 and prolonged seven times, respectively in 2006, 2009, 2013, 2015, 2018, 2022 and 2024, it can no longer be justified to grant a further extension.

4. CONCLUSION

Based on the above-mentioned arguments, the Commission objects to the request made by Latvia.