

**COUNCIL IMPLEMENTING DECISION (EU) 2015/2395****of 10 December 2015****amending Implementing Decision 2010/99/EU authorising the Republic of Lithuania 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, 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 <sup>(1)</sup>, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By letter registered with the Commission on 1 April 2015, the Republic of Lithuania requested authorisation to continue to apply a measure derogating from Article 193 of Directive 2006/112/EC which governs the person liable for the payment of the value added tax (VAT) to tax authorities.
- (2) In accordance with Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States, by letter dated 18 May 2015, of the request made by Lithuania. By letter dated 20 May 2015, the Commission notified Lithuania that it had all the information necessary to consider the request.
- (3) Council Decision 2006/388/EC <sup>(2)</sup> authorised Lithuania, inter alia, to make the recipient liable for the VAT due on the supply of goods and services in the case of insolvency procedures or restructuring procedures subject to judicial oversight, and on the supply of timber.
- (4) The period for the application of the derogating measure was extended twice, by Council Implementing Decisions 2010/99/EU <sup>(3)</sup> and 2012/704/EU <sup>(4)</sup>.
- (5) The investigations and the analysis of the application of the mechanism carried out by the Lithuanian tax authorities have revealed the effectiveness of the derogating measure.
- (6) The Commission understands that the legal and factual situation which has justified the application of the derogating measure has not changed and continues to exist. Lithuania should therefore be authorised to apply the measure for a further limited period.
- (7) Where Lithuania considers that a further extension of the derogating measure beyond 2018 is necessary, it should submit to the Commission an evaluation report, together with the extension request, by not later than 31 March 2018 in order to allow sufficient time for the Commission to examine the request.
- (8) The derogating measure will have no adverse impact on the Union's own resources accruing from VAT.
- (9) Implementing Decision 2010/99/EU should therefore be amended accordingly,

<sup>(1)</sup> OJ L 347, 11.12.2006, p. 1.

<sup>(2)</sup> Council Decision 2006/388/EC of 15 May 2006 authorising the Republic of Lithuania to apply a measure derogating from Article 21 of the Sixth Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes (OJ L 150, 3.6.2006, p. 13).

<sup>(3)</sup> Council Implementing Decision 2010/99/EU of 16 February 2010 authorising the Republic of Lithuania 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 45, 20.2.2010, p. 10).

<sup>(4)</sup> Council Implementing Decision 2012/704/EU of 13 November 2012 amending Implementing Decision 2010/99/EU authorising the Republic of Lithuania 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 319, 16.11.2012, p. 7).

HAS ADOPTED THIS DECISION:

*Article 1*

In Article 2 of Implementing Decision 2010/99/EU, the second paragraph is replaced by the following:

‘It shall apply until 31 December 2018.

Any request for the extension of the measure provided for in this Decision shall be submitted to the Commission by 31 March 2018 and shall be accompanied by a report on the application of that measure.’

*Article 2*

This Decision is addressed to the Republic of Lithuania.

Done at Brussels, 10 December 2015.

*For the Council*

*The President*

F. BAUSCH

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