

COUNCIL IMPLEMENTING DECISION (EU) 2017/1854**of 10 October 2017****amending Implementing Decision 2014/797/EU authorising the Republic of Estonia to apply a measure derogating from point (a) of Article 26(1) and Articles 168 and 168a 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 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Articles 168 and 168a of Directive 2006/112/EC establish a taxable person's right to deduct value added tax (VAT) charged on supplies of goods and services received by him for the purposes of his taxed transactions. Point (a) of Article 26(1) of that Directive contains a requirement to account for VAT when a business asset is put to use for private purposes of the taxable person or his staff or, more generally, for purposes other than those of his business.
- (2) Council Implementing Decision 2014/797/EU ⁽²⁾ authorised Estonia to restrict the right to deduct VAT on the purchase, leasing, intra-Community acquisition and importation of certain passenger cars and to relieve the taxable person from accounting for VAT on the non-business use of vehicles covered by the restriction.
- (3) By letter registered with the Commission on 18 April 2017, Estonia requested an authorisation to continue to apply special measures concerning the purchase, leasing, intra-Community acquisition, and importation of certain passenger cars, derogating from the provisions laid down in Directive 2006/112/EC which govern a taxable person's right to deduct VAT paid on the purchase of goods and services and those which require tax to be accounted for on business assets used for non-business purposes.
- (4) In accordance with Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States by letter dated 14 June 2017 of the request made by Estonia. By letter dated 15 June 2017, the Commission notified Estonia that it had all the information it considered necessary for appraisal of the request.
- (5) In accordance with Article 6(2) of Implementing Decision 2014/797/EU Estonia submitted, together with the extension request, a report to the Commission on the application of that Implementing Decision, including a review of the percentage restriction applied on the right of deduction. Based on currently available information, Estonia submits that a rate of 50 % is still justifiable and remains appropriate.
- (6) The extension of these derogating measures should be limited in time to allow for an evaluation of their effectiveness and of the appropriate percentage. Estonia should therefore be authorised to continue to apply the measure for a limited period, until 31 December 2020.
- (7) Where Estonia considers that an extension of the authorisation beyond 2020 is necessary, it should submit to the Commission a report which includes a review of the percentage limit applied together with the request for an extension no later than 31 March 2020.
- (8) The derogation will only have a negligible effect on the overall amount of tax revenue collected at the stage of final consumption and will have no adverse impact on the Union's own resources accruing from VAT.
- (9) Implementing Decision 2014/797/EU should therefore be amended accordingly,

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Implementing Decision 2014/797/EU of 7 November 2014 authorising the Republic of Estonia to apply a measure derogating from point (a) of Article 26(1) and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax (OJ L 330, 15.11.2014, p. 48).

HAS ADOPTED THIS DECISION:

Article 1

Article 6 of Implementing Decision 2014/797/EU is replaced by the following:

'Article 6

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

It shall expire on 31 December 2020.

2. Any request for the extension of the authorisation provided for in this Decision shall be submitted to the Commission by 31 March 2020 and accompanied by a report which includes a review of the percentage set out in Article 1.'

Article 2

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

It shall apply from 1 January 2018.

Article 3

This Decision is addressed to the Republic of Estonia.

Done at Luxembourg, 10 October 2017.

For the Council
The President
T. TÕNISTE
