

II

(Non-legislative acts)

DECISIONS

COUNCIL IMPLEMENTING DECISION (EU) 2021/2251

of 13 December 2021

amending Implementing Decision (EU) 2018/593 authorising the Italian Republic to introduce a special measure derogating from Articles 218 and 232 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 Council Implementing Decision (EU) 2018/593 ⁽²⁾, Italy was authorised to introduce a measure derogating from Articles 218 and 232 of Directive 2006/112/EC (the 'special measure') in order to implement mandatory electronic invoicing for all taxable persons established in the territory of Italy, except for taxable persons benefiting from the exemption for small enterprises referred to in Article 282 of that Directive.
- (2) By letter registered with the Commission on 31 March 2021, Italy requested authorisation to continue to derogate from Articles 218 and 232 of Directive 2006/112/EC in order to continue applying mandatory electronic invoicing. Furthermore, Italy requested permission to extend the scope of the special measure to cover also taxable persons benefiting from the exemption for small enterprises referred to in Article 282 of that Directive.
- (3) By letters dated 10 September 2021, the Commission informed the other Member States of the request made by Italy. By letter dated 13 September 2021, the Commission notified Italy that it had all the information necessary to consider the request.
- (4) Italy submits that the implemented mandatory electronic invoicing system, which channels all issued invoices through the system 'Sistema di Interscambio' managed by the Italian Revenue Agency, has fully achieved its objectives, namely to combat tax fraud and evasion, to simplify tax compliance and to make tax collection more efficient, thereby reducing administrative costs for businesses.
- (5) Italy considers that the extension of the scope of the special measure to cover also taxable persons benefiting from the exemption for small enterprises referred to in Article 282 of Directive 2006/112/EC would enhance the possibilities for the Italian Revenue Agency to fight value added tax (VAT) fraud and evasion, by providing a complete picture of the invoices issued by all taxable persons. Furthermore, it would allow the Italian Revenue Agency to monitor the compliance of those taxable persons with the requirements and conditions for benefiting from that exemption.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Implementing Decision (EU) 2018/593 of 16 April 2018 authorising the Italian Republic to introduce a special measure derogating from Articles 218 and 232 of Directive 2006/112/EC on the common system of value added tax (OJ L 99, 19.4.2018, p. 14).

- (6) Italy argues that the requested extension of the scope of the special measure would not imply substantial costs to taxable persons benefiting from the exemption for small enterprises referred to in Article 282 of Directive 2006/112/EC. To mitigate such costs, Italy has made available, free of charge, different solutions for the preparation and transfer of electronic invoices, such as a software package for installation on computers and an application for mobile devices. Furthermore, the implementation of electronic invoicing is accompanied by the removal of other requirements, such as the reporting of invoice data on domestic transactions, the filing of the statistical declaration on intra-EU purchases and the provision of details of contracts entered into by leasing, rental and hire companies. It has also allowed the provision of additional services to taxable persons, such as pre-filled purchase and sales records, scheduling of periodic VAT settlements, pre-filled annual VAT returns and pre-filled payment forms including the taxes to be paid, offset or claimed for refund, where priority is given to those taxable persons using e-invoicing. Those measures should ensure the proportionality of the special measure.
- (7) The special measure should be limited in time to monitor its impact on combatting VAT fraud and evasion and on taxable persons, in particular those benefiting from the exemption for small enterprises referred to in Article 282 of Directive 2006/112/EC.
- (8) If Italy considers that the extension of the special measure is necessary, it should submit to the Commission, together with the request for extension, a report including the assessment of the special measure concerning its effectiveness in fighting VAT fraud and evasion and in simplifying tax collection. That report should also evaluate the impact of the measure on taxable persons, in particular those benefiting from the exemption for small enterprises referred to in Article 282 of Directive 2006/112/EC.
- (9) The special measure should not affect the right of customers to receive paper invoices in the event of intra-Community transactions.
- (10) The special measure will have no adverse impact on the Union's own resources accruing from VAT.
- (11) Implementing Decision (EU) 2018/593 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2018/593 is amended as follows:

- (1) Article 1 is replaced by the following:

'Article 1

By way of derogation from Article 218 of Directive 2006/112/EC, Italy is authorised only to accept invoices in the form of documents or messages in electronic format if they are issued by taxable persons established in the Italian territory.';

- (2) Article 2 is replaced by the following:

'Article 2

By way of derogation from Article 232 of Directive 2006/112/EC, Italy is authorised to provide that the use of electronic invoices issued by taxable persons established in the Italian territory shall not be subject to an acceptance by the recipient.';

- (3) Article 4 is replaced by the following:

'Article 4

This Decision shall apply until 31 December 2024.

Where Italy considers that the extension of the derogations referred to in Articles 1 and 2 is necessary, it shall submit a request for extension to the Commission, together with a report assessing the extent to which the national measures referred to in Article 3 have been effective in combatting VAT fraud and evasion and in simplifying tax collection. That

report shall also evaluate the impact of those measures on taxable persons, in particular those benefiting from the exemption for small enterprises referred to in Article 282 of Directive 2006/112/EC, and shall in particular evaluate whether those measures increase their administrative burdens and costs.’.

Article 2

This Decision shall enter into force on the date of its adoption.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 13 December 2021.

For the Council
The President
J. BORRELL FONTELLES
