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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION authorising France to introduce a special measure derogating from Articles 218 and 232 of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2022/ ...

of ...

**authorising France 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
valued added tax¹, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 347, 11.12.2006, p. 1.

Whereas:

- (1) By letters registered with the Commission on 12 April 2021 and 20 September 2021, France requested authorisation to introduce a special measure derogating from Articles 218 and 232 of Directive 2006/112/EC ('the special measure') to introduce mandatory electronic invoicing to all taxable persons established in the territory of France. This obligation would cover invoices issued in transactions between taxable persons. The authorisation was requested for a period from 1 January 2024 to 31 December 2026.
- (2) The Commission transmitted the request made by France to the other Member States by letters dated 29 September 2021. By letter dated 30 September 2021, the Commission notified France that it had all the information necessary for the appraisal of the request..
- (3) France submits that the introduction of a generalised electronic invoicing obligation would provide benefits in combatting value added tax (VAT) fraud and evasion. The obligation to issue electronic invoices, coupled with the transmission of additional transaction data, would enable the tax administration to check in real time whether the VAT declared and collected and the invoices issued and received are consistent, improving the capacity of the administration to prevent and counter VAT fraud. It would also increase real-time knowledge of business activity, enabling economic policy to be steered as closely as possible to the economic reality.

- (4) France considers that the obligation to issue electronic invoices would facilitate voluntary compliance with tax legislation. It would allow the simplification of taxable persons' VAT reporting obligations by introducing pre-completion of their returns. Electronic invoicing would provide other advantages to taxable persons, such as the reduction of payment times, reduction of printing costs and postal charges, reduction of costs and delays in processing billing data or the reduction of storage costs. The savings and advantages that taxable persons would obtain from the implementation of electronic invoicing would largely compensate for initial investment that they will have to incur to adapt their systems.
- (5) Given the broad scope and the novelty of the special measure, it is important to evaluate the impact of the special measure on combatting VAT fraud and evasion and on taxable persons. Therefore, where France 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.
- (6) The special measure should not affect the right of taxable persons to receive paper invoices in case of intra-Community acquisitions.

- (7) The special measure should be limited in time to allow an assessment of whether it is appropriate and effective in light of its objectives.
- (8) The special measure is proportionate to the objectives pursued since it is limited in time and will be implemented gradually. As of 2024, an obligation to receive electronic invoices is to apply to all taxable persons. The obligation to issue electronic invoices is to apply in 2024 to large enterprises, in 2025 to enterprises with 250 to 4 999 employees and with a turnover below EUR 1,5 billion and in 2026 to small and medium-sized enterprises, including taxable persons benefitting from the exemption for small enterprises referred to in Article 282 of Directive 2006/112/EC. In addition, the special measure does not give rise to the risk that fraud would shift to other sectors or to other Member States.
- (9) The special measure will not negatively affect 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,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 218 of Directive 2006/112/EC, France is authorised to accept invoices which have been issued by taxable persons established in the French territory in the form of documents or messages only if those documents or messages are transferred in electronic format.

Article 2

By way of derogation from Article 232 of Directive 2006/112/EC, France is authorised to provide that the use of electronic invoices issued by taxable persons established in the French territory shall not be subject to a recipient established in the French territory accepting the use of electronic invoices.

Article 3

France shall notify the national measures implementing the special measures for derogations referred to in Articles 1 and 2 to the Commission.

Article 4

1. This Decision shall take effect on the day of its notification.
2. This Decision shall apply from 1 January 2024 until 31 December 2026.
3. Where France considers that the extension of the special measures for derogations referred to in Articles 1 and 2 is necessary, France 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 evaluate the impact of those measures on taxable persons and in particular whether those measures increase their administrative burdens and costs.

Article 5

This Decision is addressed to the French Republic.

Done at ...,

For the Council

The President
