COUNCIL IMPLEMENTING DECISION

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

(2013/55/EU)

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 letter registered with the Secretariat-General of the Commission on 20 April 2012, Latvia requested authorisation to continue to apply a measure derogating from the provisions of Directive 2006/112/EC governing the person liable for the payment of the value added tax (VAT) to the tax authorities.

(2) In accordance with the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States of the request made by Latvia in letters dated 30 and 31 July 2012. By letter dated 2 August 2012, the Commission notified Latvia that it had all the information that it considered necessary for appraisal of the request.

(3) The timber market in Latvia remains dominated by small local companies and individual suppliers. The nature of the market and the businesses involved has given rise to tax fraud which the tax authorities have found difficult to control. In order to combat that fraud, a special provision was included in Latvian VAT legislation, such that, as regards timber transactions, the person liable to pay tax is the taxable person for whom the taxable supply of goods or services is carried out. That provision derogates from Article 193 of Directive 2006/112/EC, which provides that, under the internal system, the taxable person supplying goods or services is usually liable for the payment of the tax.

(4) The legal and factual situation which justified the application of the derogating measure under 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 [2] has not changed and continues to exist. On the basis of information provided by Latvia, it appears that the risk level for VAT fraud in the sector remains high. Latvia should therefore be authorised to apply the derogating measure during a further limited period.

(5) In case Latvia would consider another extension of the derogating measure beyond 2015, it should by 31 March 2015, submit a report on the application of the measure to the Commission together with its request for an extension.

(6) The derogating measure will have no adverse impact on the Union's own resources accruing from VAT.

(7) Implementing Decision 2009/1008/EU should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision 2009/1008/EU is hereby amended as follows:

(1) in Article 2, the date '31 December 2012' is replaced by that of '31 December 2015';

(2) the following article is inserted:

'*Article 2a*

Any request for the extension of the measure provided for in this Decision shall be submitted to the Commission by 31 March 2015 and shall be accompanied by a report on the application of that measure.'.

Article 2

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

It shall apply from 1 January 2013.

Article 3

This Decision is addressed to the Republic of Latvia.

Done at Brussels, 22 January 2013.

For the Council
The President
M. NOONAN

[1] OJ L 347, 11.12.2006, p. 1.
[2] OJ L 347, 24.12.2009, p. 30.