

DECISIONS

COUNCIL IMPLEMENTING DECISION (EU) 2023/218

of 30 January 2023

amending Implementing Decision 2013/676/EU authorising Romania to continue to apply a special 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,

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,

Whereas:

- (1) Pursuant to Article 193 of Directive 2006/112/EC, value added tax (VAT) shall be, as a general rule, payable by the taxable person supplying the goods or services.
- (2) Council Implementing Decisions 2010/583/EU ⁽²⁾ and 2013/676/EU ⁽³⁾ authorised Romania to apply a special measure derogating from Article 193 of Directive 2006/112/EC to designate the taxable person, to whom supplies of wood products by taxable persons are made, as the person liable for the payment of VAT on those supplies (the 'special measure'). The application of the special measure was extended until 31 December 2022.
- (3) By letter registered with the Commission on 11 April 2022, Romania requested a further authorisation to continue to apply the special measure beyond 31 December 2022. By letter dated 28 June 2022, the Commission requested additional information. Romania provided it by letter registered with the Commission on 22 August 2022.
- (4) In accordance with Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission transmitted the request made by Romania to the other Member States, except Spain, by letter dated 1 September 2022. By letter dated 2 September 2022, the Commission transmitted that request to Spain. By letter dated 5 September 2022, the Commission notified Romania that it had all the information necessary for appraisal of the request.
- (5) According to the information provided by Romania, the factual situation which justified application of the special measure has not changed. Moreover, analysis provided by the Romanian authorities indicates that the special measure has proved to be effective in reducing tax evasion. In addition, the special measure has no adverse impact on the Union's own resources accruing from VAT.
- (6) The special measure is proportionate to the objectives pursued since it is confined to very specific operations in a sector which poses considerable problems with regard to tax evasion and avoidance. Furthermore, continued application of the special measure would not have any adverse impact on the prevention of fraud at the retail level, in other sectors or in other Member States.
- (7) Special measures are in general authorised for a limited period to allow an assessment of whether those measures are appropriate and effective. Special measures grant Member States time to introduce other conventional measures at national level in order to monitor the movement of materials, the payment of VAT, and the compliance of taxable persons. Special measures should address specific problems until they expire, thereby making an extension of their

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Implementing Decision 2010/583/EU of 27 September 2010 authorising Romania to introduce a special measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax (OJ L 256, 30.9.2010, p. 27).

⁽³⁾ Council Implementing Decision 2013/676/EU of 15 November 2013 authorising Romania to continue to apply a special measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax (OJ L 316, 27.11.2013, p. 31).

authorisation redundant. Authorisations for special measures that allow making use of the reverse charge procedure are granted only exceptionally for specific areas where fraud occurs, and such special measures constitute a means of last resort. Therefore, before the next expiry of the special measure, Romania should implement other conventional measures to fight and prevent VAT fraud in the timber market, so that another extension of the special measure would no longer be necessary.

- (8) Therefore, it is appropriate to extend the special measure. The extension of the special measure should be limited in time to allow the Commission to evaluate its effectiveness and appropriateness.
- (9) In order to ensure that the objectives pursued by the special measure are achieved, including the uninterrupted application of the special measure, and to provide legal certainty with regard to the tax period, it is appropriate to grant authorisation to extend the special measure with effect from 1 January 2023. As Romania requested authorisation on 11 April 2022 to continue to apply the special measure and has continued to apply the legal regime established under its national law on the basis of Implementing Decision 2013/676/EU from 1 January 2023, the legitimate expectations of the persons concerned are duly respected.
- (10) Implementing Decision 2013/676/EU should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In Article 1 of Implementing Decision 2013/676/EU, the date '31 December 2022' is replaced by the date '31 December 2025'.

Article 2

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

Article 3

This Decision is addressed to Romania.

Done at Brussels, 30 January 2023.

For the Council
The President
P. KULLGREN
