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Proposal for a

COUNCIL IMPLEMENTING DECISION

**amending Decision 2007/441/EC authorising the Italian Republic to apply measures
derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common
system of value added tax**

EXPLANATORY MEMORANDUM

Pursuant to Article 395(1) of Directive 2006/112/EC of 28 November 2006 on the common system of value added tax¹ ('the VAT Directive'), the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to apply special measures for derogation from the provisions of that Directive, in order to simplify the procedure for collecting VAT or to prevent certain forms of tax evasion or avoidance.

By letter registered with the Commission on 31 March 2025, Italy requested an extension of the derogation from Article 26(1) point (a) and Article 168 of the VAT Directive in order to continue to limit to 40% the right to deduct input VAT charged on expenditure related to motorised road vehicles not wholly used for business purposes and not to treat as supplies of services for consideration the use for private purposes of vehicles included in the assets of a taxable person's business, where those vehicles have been subject to the aforesaid restriction of the right to deduct. Together with the request for extension, Italy submitted a report including a review of the percentage foreseen for the limitation of the right of deduction.

In accordance with Article 395(2) of the VAT Directive, the Commission informed the other Member States by letters dated 29 and 30 July 2025 of the request made by Italy. By letter dated 31 July 2025, the Commission notified Italy that it had all the information it considered necessary for the appraisal of the request.

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Article 168 of the VAT Directive provides that a taxable person is entitled to deduct the VAT charged on purchases made for the purpose of taxed transactions. Article 168a(1) of the VAT Directive provides that the VAT on expenditure related to immovable property forming part of the business assets of a taxable person and used both for business and non-business purposes shall be deductible only to the proportion of the property's use for purposes of the taxable person's business. Pursuant to Article 168a(2) of the VAT Directive Member States may also apply this rule in relation to expenditure related to other goods forming part of the business assets as they specify. Article 26(1)(a) of the same Directive requires the use of goods forming part of the assets of a business for private purposes of the taxable person or of his staff or, more generally, for purposes other than those of his business, to be treated as a supply of services for consideration if the VAT on such goods was wholly or partly deductible. This system allows for the recovery of initially deducted VAT in relation to the private use.

In the case of motorised road vehicles not wholly used for business purposes, this system is difficult to apply, because it is difficult to identify the split between private and business use. Where records are kept, they add an additional burden to both the business and the administration in maintaining and checking them. It could even lead to time-consuming and costly disputes. In practice, it is sometimes even impossible to verify the actual use of vehicles which may result in (attempted) VAT fraud (such as unreliable record keeping), and consequently a decrease in VAT revenue.

The economic fabric of Italy is dominated by small companies with low annual turnover and with very few or no employees (94.5% of the Italian enterprises are micro-enterprises) and

¹ OJ L 347, 11.12.2006, p. 1.

most of the company cars in circulation are owned by these kinds of enterprises. The fact that such vehicles are used in the exercise of the ordinary business activity does not preclude their private use. In such a situation, that is when these vehicles are to a certain extent used for private purposes, VAT shall be borne for the private use. In the Italian circumstances, where almost all the economic fabric is composed of micro-enterprises, the workload to assess and verify the allocation of use in the private sphere or in the business sphere would require disproportionately large outlays, including those resulting from the need to maintain detailed documentation.

For those reasons, Italy has been authorised to derogate from Article 168 of the VAT Directive by limiting to 40% the right to deduct VAT charged on the purchase of a vehicle, including contracts of assembly and the like, manufacture, intra-Community acquisition, importation, leasing or hire, modification, repair or maintenance, and expenditure on supplies or services performed in relation to vehicles and their use, including lubricants and fuel, provided that the vehicle in question is not used exclusively for business purposes. In addition, for vehicles subject to that 40 % limit, to avoid double taxation, Italy is authorised not to treat the use for private purposes of vehicles included in the assets of a taxable person's business as a supply of services for consideration in accordance with Article 26(1), point (a), of Directive 2006/112/EC. The special measures cover all motorised vehicles, other than agricultural or forestry tractors, which are normally used for carrying persons or goods by road with a maximum authorised mass not exceeding 3 500 kilograms and having not more than eight seats in addition to the driver's seat. The restriction of the right of deduction is not applicable to expenditure relating to vehicles falling into any of the following categories: the vehicle forms part of the taxable person's stock-in-trade in the exercise of his activity; the vehicle is used as a taxi; the vehicle is used for instruction by a driving school; the vehicle is used for hire or leasing; the vehicle is used by sales representatives.

The authorisation for the special measures mentioned above was first granted by the Council by means of Decision 2007/441/EC of 18 June 2007² until 31 December 2010. Subsequently, the special measures were prolonged five times following Italy's request: Council Implementing Decision 2010/748/EU of 29 November 2010³ extended them for the period 1 January 2011 until 31 December 2013; Council Implementing Decision 2013/679/EU of 15 November 2013⁴ for the period 1 January 2014 until 31 December 2016; Council Implementing Decision (EU) 2016/1982 of 8 November 2016⁵ for the period 1 January 2017 until 31 December 2019; Council Implementing Decision (EU) 2019/2138 of 5 December 2019 for the period 1 January 2020 until 31 December 2022⁶; and last Council Implementing

² 2007/441/EC: Council Decision of 18 June 2007 authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax, OJ L 165, 27.6.2007, p. 33-34.

³ 2010/748/EU: Council Implementing Decision of 29 November 2010 amending Decision 2007/441/EC authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax, OJ L 318, 4.12.2010, p. 45 - 46.

⁴ 2013/679/EU: Council Implementing Decision of 15 November 2013 amending Decision 2007/441/EC authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax, OJ L 316, 27.11.2013, p. 37-38.

⁵ Council Implementing Decision (EU) 2016/1982 of 8 November 2016 amending Decision 2007/441/EC authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax, OJ L 305, 12.11.2016, p. 30-31.

⁶ Council Implementing Decision (EU) 2019/2138 of 5 December 2019 amending Decision 2007/441/EC authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax, OJ L 324, 13.12.2019, p. 7-8.

Decision (EU) 2022/2411 of 6 December 2022 for the period 1 January 2023 until 31 December 2025⁷.

The present request from Italy to prolong further the special measures until 31 December 2028 is based on the same grounds as those presented in the previous requests. The request is accompanied by a report including a review of the percentage limitation applied on the right of deduction, as required by Article 6 of Council Decision 2007/441/EC. Italy considers that the conditions for the application of the special measures continue to apply and that the currently applied 40% input VAT deduction limit remains appropriate and reflects the current Italian economic circumstances.

Given the positive impact of the special measures on the administrative burden of taxpayers and tax authorities alike, it is proposed, to authorise the extension of the current special measures. The authorisation should be valid for another limited period, i.e. until 31 December 2028, in order to allow for a review of the necessity and effectiveness of the special measures and whether the 40% restriction is still a correct reflection of the overall apportionment between business and private use. Any further extension request should be accompanied by a report which includes a review of the percentage applied and should be sent to the Commission by 31 March 2028.

- **Consistency with existing policy provisions in the policy area**

Similar derogations, although at the rate of 50%, in relation to the right of deduction have been granted to other Member States (Estonia⁸, Hungary⁹, Croatia¹⁰, Poland¹¹, Latvia¹² and Romania¹³).

Article 176 of the VAT Directive stipulates that the Council shall determine the expenditure on which the VAT is not deductible. Until it does, Member States can maintain exclusions that were in place under national laws on 1 January 1979. On this basis, there are a number

⁷ Council Implementing Decision (EU) 2022/2411 of 6 December 2022 amending Decision 2007/441/EC authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax, OJ L 317, 9.12.2022, p. 120-121.

⁸ Council Implementing Decision (EU) 2025/539 of 18 March 2025 authorising Estonia to apply a measure derogating from Article 26(1), point (a), and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax, OJ L 2025/539, 21.3.2025.

⁹ Council Implementing Decision (EU) 2024/3205 of 10 December 2024 amending Implementing Decision (EU) 2018/1493 authorising Hungary to introduce a special 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 2024/3205, 19.12.2024.

¹⁰ Council Implementing Decision (EU) 2024/2884 of 5 November 2024 amending Implementing Decision (EU) 2018/1994 authorising Croatia to introduce a special 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, 2024/2884, 13.11.2024.

¹¹ Council Implementing Decision (EU) 2022/2385 of 6 December 2022 amending Implementing Decision 2013/805/EU authorising the Republic of Poland to introduce measures derogating from point (a) of Article 26(1) and Article 168 of Directive 2006/112/EC on the common system of value added tax, OJ L 315, 7.12.2022, p. 87–88.

¹² Council Implementing Decision (EU) 2024/3206 of 10 December 2024 amending Implementing Decision (EU) 2015/2429 authorising Latvia to introduce a special 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, 2024/3206, 19.12.2024.

¹³ Council Implementing Decision (EU) 2024/1641 of 24 May 2024 authorising Romania to apply special measures derogating from Article 26(1), point (a), and Article 168 of Directive 2006/112/EC on the common system of value added tax, OJ L, 2024/1641, 6.6.2024.

of ‘stand still’ provisions restricting the right to deduct VAT in relation to motorised road vehicles not wholly used for business purposes.

Previous initiatives to establish rules on which categories of expenditure may be subject to a restriction on the right to deduct have failed¹⁴. Until those rules are harmonised at EU level, special measures such as the present ones are considered appropriate.

The proposed special measures are therefore consistent with the provisions of the VAT Directive.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 395 of the VAT Directive.

- **Subsidiarity (for non-exclusive competence)**

Considering the provision of the VAT Directive on which the proposal is based, the subsidiarity principle does not apply.

- **Proportionality**

The Decision concerns an authorisation granted to a Member State upon its own request and does not constitute any obligation.

Given the limited scope of the derogation, the special measures are proportionate to the aim pursued, i.e. to simplify tax collection and to prevent certain forms of tax evasion or avoidance. In particular, given the potential for businesses to under declare their liability and the burdensome check of mileage data for tax authorities, the 40% restriction would simplify the VAT collection procedure and would prevent tax evasion inter alia through incorrect record keeping.

- **Choice of the instrument**

The instrument proposed is a Council Implementing Decision.

Under Article 395 of the VAT Directive, a derogation from the common VAT provisions is only possible upon authorisation of the Council acting unanimously on a proposal from the Commission. A Council Implementing Decision is the most suitable instrument since it can be addressed to an individual Member State.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

No stakeholder consultation has been conducted. This proposal is based on a request made by Italy and concerns only this particular Member State.

¹⁴ COM (2004) 728 final – Proposal for a Council Directive amending Directive 77/388/EEC with a view to simplifying value added tax obligations (OJ C 24, 29.1.2005, p. 10) withdrawn on 21 May 2014 (OJ C 153, 21.05.2014, p.3).

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

The proposal aims to simplify the procedure for collecting VAT and to prevent VAT evasion. The proposed special measures have, therefore, a potential positive impact for both businesses and tax administration. The special measures have been identified by Italy as the most appropriate solution and are comparable to other past and present derogations granted to other Member States.

4. BUDGETARY IMPLICATIONS

The proposal will not adversely affect the Union's own resources from VAT.

5. OTHER ELEMENTS

The proposal is limited in time and includes a sunset clause set at 31 December 2028.

In case Italy would consider a further extension of the special measures beyond 2028, it should submit to the Commission an extension request accompanied by a report including a review of the percentage restriction no later than 31 March 2028.

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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 tax¹, and in particular Article 395(1), first subparagraph, thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 168 of Directive 2006/112/EC establishes a right for taxable persons to deduct value added tax ('VAT') charged on supplies of goods and services that they use for the purposes of their taxed transactions. Article 26(1), point (a), of that Directive treats the use of business assets by taxable persons or their staff for private use or, more generally, for purposes other than those of their business as a supply of services for consideration which, subsequently, is subject to VAT.
- (2) Council Decision 2007/441/EC² authorises Italy, until 31 December 2025, to limit to 40% the right to deduct VAT on the purchase of certain motorised road vehicles, including contracts of assembly and the like, manufacture, intra-Community acquisition, importation, leasing or hire, modification, repair or maintenance, and related expenditure, including lubricants and fuel, where the vehicle in question is not entirely used for business purposes. For vehicles to which that 40% limit applies, Italy is required not to treat their private use as supplies of services for consideration.
- (3) By letter registered with the Commission on 31 March 2025, Italy requested authorisation to continue to apply the special measures authorised by Decision 2007/441/EC ('the special measures') for a further period until 31 December 2028.
- (4) In accordance with Article 6 of Decision 2007/441/EC, Italy submitted, together with the request, a report including the review of the percentage restriction applied to the right to deduct VAT referred to in Article 1 of that Decision. Based on currently available information, Italy claims that the limit of 40% is still justifiable and remains appropriate.

¹ OJ L 347, 11.12.2006, p. 1, ELI: <http://data.europa.eu/eli/dir/2006/112/oj>.

² Council Decision 2007/441/EC of 18 June 2007 authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 165, 27.6.2007, p. 33, ELI: <http://data.europa.eu/eli/dec/2007/441/oj>).

- (5) In accordance with Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission transmitted the request made by Italy to the other Member States by letters dated 29 and 30 July 2025. By letter dated 31 July 2025, the Commission notified Italy that it had all the information necessary for the appraisal of the request.
- (6) Given the positive impact of the special measures on the administrative burden of the taxpayers and of tax authorities by simplifying VAT collection and preventing tax evasion through incorrect record keeping, the Commission therefore considers it appropriate to authorise Italy to continue to apply the special measures.
- (7) It is appropriate to limit the extension of the special measures in time to allow for an evaluation of its effectiveness and the appropriateness of the percentage restriction applied to the right to deduct VAT. Italy should therefore be authorised to continue to apply the special measures until 31 December 2028.
- (8) The special measures are proportionate to the objectives pursued, namely, to simplify the procedure for collecting VAT and to prevent certain forms of tax evasion or avoidance, since it is limited in time and scope. In addition, the special measures do not give rise to the risk that fraud would shift to other sectors or to other Member States.
- (9) In the event that Italy considers that a further extension of the special measures is necessary beyond 2028, it should submit to the Commission a report that includes a review of the percentage applied, together with the extension request, by 31 March 2028.
- (10) The application of the special measures beyond 31 December 2025 will only have a negligible effect on the overall amount of tax revenue that Italy collects at the stage of final consumption and will not adversely affect the Union's own resources accruing from VAT.
- (11) Decision 2007/441/EC should be therefore amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2007/441/EC is amended as follows:

- (1) Article 6 is replaced by the following:

‘Article 6

Any request for an extension of the authorisation provided for in this Decision shall be submitted to the Commission by 31 March 2028. Such request shall be accompanied by a report including a review of the percentage limitation applied on the right to deduct VAT on the basis of this Decision.’.

- (2) Article 7 is replaced by the following:

‘Article 7

This Decision shall expire on 31 December 2028.’.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels,

*For the Council
The President*