

**COUNCIL DECISION**

of 23 November 1992

**authorizing the French Republic to apply measures derogating from Article 17 and Article 22 (3), (4) and (5) of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes**

(92/544/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value-added tax : uniform basis of assessment<sup>(1)</sup>, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant to Article 27 (1) of the aforementioned Directive, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance;

Whereas the French Republic, by letter received by the Commission on 12 March 1992, applied for authorization to introduce arrangements for the tax payable by authors to be withheld at source, with deductible input tax calculated on a flat-rate basis, and an option for authors to waive expressly their inclusion in this scheme;

Whereas these arrangements constitute a derogation from Article 17 of the aforementioned Directive concerning the origin and scope of the right to deduct and from Article 22 (3), (4) and (5) of the Directive concerning the obligations of persons liable for payment;

Whereas the other Member States were informed of the French Republic's application on 10 April 1992;

Whereas the proposed simplification of the arrangements for charging the tax will make it easier for authors to accept the status of taxable person;

Whereas the application may be granted on certain conditions;

Whereas the authorization should be temporary, so that the effects of application of the arrangements can be assessed;

Whereas the Commission will submit a report to the Council by 31 December 1996 on the application of the derogations, accompanied, where appropriate, by a proposal for a Decision to extend the authorization;

Whereas this derogation should have no effect on the Community's own resources accruing from value-added tax,

HAS ADOPTED THIS DECISION :

*Article 1*

By way of derogation from Article 17 and Article 22 (3), (4) and (5) of Directive 77/388/EEC, the French Republic is hereby authorized from 1 January 1992 to 31 December 1996 :

- to introduce arrangements for withholding at source the tax payable by authors where the royalties they receive are paid publishers, royalty collection and distribution companies or producers,
- to calculate authors' deductible input tax by applying a flat rate of 0,80 % to their royalties. The amount determined in this way shall be exclusive of any other deduction.

*Article 2*

In the light of a report from the Commission on the application of the authorization referred to in Article 1, accompanied, where appropriate, by a proposal for a Decision, the Council, acting on the basis of that proposal, shall decide before 31 December 1996 whether the said authorization is to be extended.

*Article 3*

This Decision is addressed to the French Republic.

Done at Brussels, 23 November 1992.

*For the Council*

*The President*

N. LAMONT

(<sup>1</sup>) OJ No L 145, 13. 6. 1977, p. 1, as last amended by Directive 981/680/EEC (OJ No L 376, 31. 12. 1991, p. 1).