

COUNCIL DECISION

of 20 December 2007

authorising the United Kingdom to continue to apply a measure derogating from Articles 26(1)(a), 168 and 169 of Directive 2006/112/EC on the common system of value added tax

(2007/884/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾ (VAT), and in particular Article 395(1) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) By Decisions 95/252/EC ⁽²⁾ and subsequently 98/198/EC ⁽³⁾, the Council authorised the United Kingdom to restrict to 50 % the right of the hirer or lessee to deduct input VAT on charges for the hire or lease of a passenger car where the car is not used entirely for business purposes. The United Kingdom was also allowed not to treat as supplies of services for consideration the private use of a car hired or leased by a taxable person for his business purposes. This simplification measure removed the need for the hirer or the lessee to keep records of private mileage travelled in business cars and to account for tax on the actual private mileage of each car.

(2) By letter registered with the Secretariat-General of the Commission on 5 February 2007, the United Kingdom requested an extension of the period of validity of that derogation, which expires on 31 December 2007.

(3) In accordance with Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States by letter dated 15 October 2007 of the request made by the United Kingdom. By letter dated 17 October 2007, the Commission notified the United Kingdom that it had all the information necessary to consider the request.

(4) The legal and factual circumstances which justified granting the authorisation to apply a derogation have not changed and are still relevant.

(5) On 29 October 2004, the Commission presented a proposal for a Council Directive amending Directive 77/388/EEC, now Directive 2006/112/EC, that includes the harmonisation of the categories of expenses for which exclusions of the right to deduct may apply. Under this proposal, exclusions to the right to deduct may be applied to motorised road vehicles. It is therefore appropriate to extend the period of the authorisation until that Directive comes into force. However, the authorisation will in any case expire on 31 December 2010 at the latest if that Directive has not come into force by that date, to enable an assessment of the necessity of this Decision in the light of the percentage of the overall apportionment between business and private use.

(6) The derogation, as extended, will not have an adverse effect on the European Communities' own resources accruing from VAT.

(7) Given the urgency of the matter, it is imperative to grant an exception to the six-week period referred to in paragraph I(3) of the Protocol on the role of the national parliaments in the European Union, annexed to the Treaty on European Union and to the Treaties establishing the European Communities,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Articles 168 and 169 of Directive 2006/112/EC, the United Kingdom is hereby authorised to restrict to 50 % the right of the hirer or lessee of a car to deduct the VAT on the cost of the hiring or leasing of that car where it is not used entirely for business purposes.

Article 2

By way of derogation from Article 26(1)(a) of Directive 2006/112/EC, the United Kingdom is hereby authorised not to treat as supplies of services for consideration the private use of a business car hired or leased by a taxable person.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1. Directive as amended by Directive 2006/138/EC (OJ L 384, 29.12.2006, p. 92).

⁽²⁾ OJ L 159, 11.7.1995, p. 19.

⁽³⁾ OJ L 76, 13.3.1998, p. 31. Decision as last amended by Directive 2004/855/EC (OJ L 369, 16.12.2004, p. 61).

Article 3

This Decision shall apply with effect from 1 January 2008.

It shall expire on the date of entry into force of Community rules determining what expenditure relating to motorised road vehicles is not to be eligible for full deduction of VAT, but on 31 December 2010 at the latest.

Article 4

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 20 December 2007.

For the Council
The President
F. NUNES CORREIA
