COMMISSION DECISION

of 22 July 1980

concerning requests for authorization submitted by the Netherlands pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the Dutch text is authentic)

(80/822/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3) and Article 13 (2),

Having regard to the requests for authorization submitted by the Kingdom of the Netherlands,

Whereas the Netherlands applies the method laid down in Title III, Section B of Regulation (EEC, Euratom, ECSC) No 2892/77 for calculating the basis for value added tax own resources, hereinafter referred to as 'VAT resources', for a given year;

Whereas, with regard to the transactions referred to in Article 9 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, the Member States determine the VAT resources basis, in accordance with paragraph 1 of that Article, from returns to be furnished by taxable persons in accordance with Article 22 of 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 (3) (hereinafter called the 'Sixth Directive' and, when there is no return, or the return does not contain the necessary information, from appropriate data such as other tax returns, professional accounts and complete statistical series; whereas, under the first indent of the first subparagraph of Article 9 (3) of that Regulation, they may be authorized in certain circumstances not to take into account, in calculating the VAT resources basis, one or more of the categories of transaction listed in Annexes E, F and G to the Sixth Directive to which Article 9 (2) of that Regulation applies or, under the second indent of the first subparagraph of Article 9 (3) of that Regulation, to calculate the corresponding VAT resources basis by using approximate estimates;

Whereas the Netherlands has submitted to the Commission such requests for authorization for cases where it considers that precise calculations of the VAT own resources basis would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources base of that Member State;

Whereas the Netherlands is applying for a transitional period the immovable property system in existence before the Sixth Directive came into force; whereas this system concerns only a small number of cases, but whereas in these cases transfers of immovable property give rise to collection of the tax more often than if the new system based on the Sixth Directive were applied;

Whereas, as regards the services provided by writers, composers, journalists and press photographers, which are exempt in the Netherlands, a limited number of taxable persons are involved; whereas for a large number of them income from professional activities exempted from taxation is less than 10 000 EUA, as the activities in question are only of a secondary nature and may be, in part, on behalf of undertakings which are themselves exempt;

Whereas transactions carried out by workshops for the blind are exempt in the Netherlands, provided this exemption does not cause major distortions of competition; whereas only a very small number of undertakings are involved and part of their services are supplied to undertakings entitled to make deductions;

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 145, 13. 6. 1977, p. 1.

Whereas the services of experts in connection with insurance claim assessments are exempt in the Netherlands, but the number of experts involved is small;

Whereas in respect of services provided for their members by employers' associations which have opted to be regarded as taxable persons, taking action on the declarations made by such taxable persons would involve an amount of work out of all proportion to the result anticipated;

Whereas the Commission acknowledges that in respect of these requests by the Netherlands, accurate calculation of the VAT resources basis would mean an unjustified administrative burden in relation to the effect of the transactions in question on the total VAT resources basis of that Member State;

Whereas the Netherlands should be authorized, therefore, under the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77 not to take into account, when calculating the VAT own resources basis, the categories of transactions listed in Annexes E, F and G to the Sixth Directive, which would require the abovementioned calculation to be made;

Whereas the Netherlands undertakings, granted tax relief are not registered separately; whereas it is possible to calculate the tax revenue adjustment to compensate for the graduated relief reasonably accurately;

Whereas neither tax data nor statistical data are available in the Netherlands for the services supplied by undertakers and cremation services or for the goods related thereto; such services are exempt;

Whereas niether tax data nor statistical data are available in the Netherlands in respect of the treatment of animals by veterinary surgeons, and the services provided by veterinary surgeons are exempt;

Whereas for the transport by ferry-boat of passengers and goods accompanying passengers, which is exempt in the Netherlands, neither accurate tax data nor statistics are available;

Whereas neither tax nor statistical data are available in the Netherlands on the services of travel agents referred to in Article 26 of the Sixth Directive and those of travel agents acting on behalf and for the account of travellers, for journeys within the Community; whereas such services are exempt;

Whereas the Netherlands should be authorized, under the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates in respect of these requests for calculating its VAT resources basis;

Whereas in the early years of implementation of the Sixth Directive authorization should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report in which are recorded the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

When calculating the VAT resources basis for 1979, the Kingdom of the Netherlands is hereby authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions listed in Annexes E, F and G to the Sixth Directive:

1. The transactions referred to in Article 13 B (g) of the Sixth Directive:

   Acquisition of buildings or parts thereof and the ground on which they stand other than those referred to in Article 4 (3) (a), where these transactions are carried out by taxable persons entitled to deduction of input taxes for the buildings in question (Annex E, under point 11);

2. Services supplied by authors, artists, performers, lawyers and other members of the liberal professions, other than the medical and paramedical professions, in so far as these are not services specified in Annex B to the Second Council Directive of 11 April 1967 ([1]):

   Services supplied by writers, composers, journalists and press photographers (Annex F, under point 2);

3. Transactions carried out by blind persons or workshops for the blind provided these exemptions do not give rise to significant distortion of competition (Annex F, point 7);

4. Services of experts in connection with insurance claim assessments (Annex F, point 11);

([1]) OJ No L 71, 14. 4. 1967, p. 1303/67.

5. For taxable persons who make use, under Article 28 (3) (c) of the Sixth Directive, of the right of option for the taxation covered by paragraph 2 of Annex G to that Directive :

   Services provided for their members by employers' associations which have opted to be regarded as taxable persons (Annex G, point 2).

Article 2

When calculating the VAT resources basis for 1979, the Kingdom of the Netherlands is hereby authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates to calculate the basis for the following transactions referred to in Article 24 (2) of the Sixth Directive and Annex F to that Directive :

1. Transactions carried out by small traders granted graduated tax relief under Article 24 (2) of the Sixth Directive ;

2. Services supplied by undertakers and cremation services, together with goods related thereto (Annex F, point 6) ;

3. Treatment of animals by veterinary surgeons (Annex F, point 9) ;

4. The transport by ferry-boat of passengers and goods accompanying passengers (Annex F, under point 17) ;

5. Services by travel agents referred to in Article 26 of the Sixth Directive, together with those provided by travel agents acting in the name and for the account of a passenger for journeys within the Community (Annex F, point 27).

Article 3

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 22 July 1980.

For the Commission

Christopher TUGENDHAT

Member of the Commission