II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 27 April 1981

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

(Only the English text is authentic)

(81/368/Euratom, ECSC, EEC)

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 Article 5 (3) (b), the first subparagraph of Article 9 (3) and Article 13 (2),

Having regard to the requests for authorization submitted by Ireland,

Whereas Ireland applies the method laid down in Title III, Section A, 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, when the information contained in the returns of taxable persons does not enable the VAT resources basis to be determined with precision, and if the margin of error is not negligible, the Member States may, under Article 5 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77 and in accordance with the procedure laid down in Article 13 of that Regulation, be authorized to apply to the information obtained from the returns a correcting factor calculated from appropriate data in order to determine the VAT resources basis in a way which will permit only a negligible margin of error;

Wheras in Ireland the margin of error as regards the information contained in returns relating to zero-rated transactions is not negligible; whereas, therefore, a correcting factor should be applied to it;

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

[1] OJ No L 94, 28. 4. 1970, p. 19.
[2] OJ No L 336, 27. 12. 1977, p. 8.

added tax : uniform basis of assessment [1] (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 transactions 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 the Regulation, to calculate the corresponding VAT resources basis by using approximate estimates ;

Whereas Ireland has submitted to the Commission such requests for authorization in cases where it considers that precise calculations of the VAT 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 basis of that Member State ;

Whereas in Ireland the services supplied by dental technicians and dental prostheses supplied by dental technicians are taxed, but the Irish authorities are not in possession of accurate data concerning the taxation of such supplies ;

Whereas in Ireland the supply of buildings or parts thereof and of the land on which they stand, other than supplies specified in Article 4, paragraph 3 (a), of the Sixth Directive, by taxable persons who are entitled to deduction of imput taxes is taxed, but the transactions cannot be identified ; whereas in Ireland the supply of goods to approved bodies which export them as part of their humanitarian, charitable or teaching activities abroad is taxed but generally involves small quantities the value of which is difficult to assess ;

Whereas in Ireland the services supplied by accountants are exempt, but, services of this kind supplied to persons other than taxable persons entitled to deduction of imput taxes must be very rare ;

Whereas in Ireland debt collection is exempt, but is mainly connected with the activities of taxable persons entitled to deduction of imput taxes ;

Whereas the Commission acknowledges that, as regards these requests by Ireland, accurate calculation of the VAT resources would be likely to involve burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of that Member State ;

Whereas Ireland 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 resources basis, the categories of transactions listed in Annexes E and F to the Sixth Directive, which would require the abovementioned calculation to be made ;

Whereas in Ireland the supply of goods dispatched or transported to a destination outside the territory of the country, as defined in Article 3 of the Sixth Directive, by or on behalf of a purchaser not established within the territory of the country is taxed ; whereas, however, the Irish authorities may assess the relevant basis from statistics available to the Irish Tourist Board ;

Whereas in Ireland admission to sporting events is exempt, but it is possible to constitute the relevant VAT resources basis from approximate data supplied by the Central Statistics Office, sporting federations and taxation authorities ;

Whereas in Ireland the services supplied by lawyers and actuaries are exempt, but the value of these services may be obtained from professional associations ;

Whereas in Ireland the supply of greyhounds is exempt, but it is possible to use national statistics to constitute the relevant VAT resources basis ;

Whereas in Ireland the services supplied by undertakers and cremation services, together with goods related thereto, are exempt, but the Central Statistics Office can provide the necessary data for constituting the relevant VAT resources basis ;

Whereas in Ireland the treatment of animals by veterinary surgeons is exempt, but it is possible to constitute the relevant VAT resources basis from a survey conducted by the National Prices Commission ;

Whereas in Ireland the services of travel agents referred to in Article 26 of the Sixth Directive and those of travel agents acting in the name and on account of the traveller for journeys within the Community are exempt, but it is possible to constitute the relevant VAT resources basis from trade figures ;

[1] OJ No L 145, 13. 6. 1977, p. 1.

Whereas Ireland 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 of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

In order to enable a VAT resources basis for 1980 to be calculated with only a negligible margin of error, Ireland is hereby authorized, pursuant to Article 5 (3) (b) of Regulation (EEC, Euratom, ECSC) No 2892/77, to apply to the information contained in the returns referred to in Article 22 (4) of the Sixth Directive a correcting factor relating to inputs and outputs relating to transactions which are eligible for exemption with refunds of input taxes.

Article 2

When calculating the VAT resources basis for 1980, Ireland 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 and F to the Sixth Directive:

1. transactions by dental technicians referred to in Article 13 A (1) (e) of the Sixth Directive (Annex E, ex point 2);
2. supplies covered by Article 13 (B) (g) in so far as they are made by taxable persons who are entitled to deduction of input tax on the building concerned (Annex E, point 11);
3. supplies referred to in Article 15, point 12, of the Sixth Directive (Annex E, point 14);
4. services supplied by accountants (Annex F, ex point 2);
5. debt collection (Annex F, point 14).

Article 3

When calculating the VAT resources basis for 1980, Ireland 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 categories of transactions referred to in Annexes E and F to the Sixth Directive;

1. supplies of goods referred to in Article 15, point 2, of the Sixth Directive (Annex E, point 12);
2. admission to sporting events (Annex F, point 1);
3. services supplied by lawyers and actuaries (Annex F, ex point 2);
4. supply of greyhounds (Annex F, ex point 4);
5. services supplied by undertakers and cremation services, together with goods related thereto (Annex F, point 6);
6. treatment of animals by veterinary surgeons (Annex F, point 9);
7. the services of travel agents referred to in Article 26 of the Sixth Directive and those of travel agents acting in the name and on account of the traveller, for journeys within the Community (Annex F, point 27).

Article 4

This Decision is addressed to Ireland.

Done at Brussels, 27 April 1981.

For the Commission

Christopher TUGENDHAT

Vice-President