COUNCIL DECISION

of 29 June 1995

authorizing the United Kingdom to apply a measure derogating from Articles 6 and 17 of the Sixth Council Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes

(95/252/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European 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 (1), and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant to Article 27 (1) of Directive 77/388/EEC, 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, by registered letter to the Commission dated 22 March 1995, the United Kingdom requested authorization to introduce a measure derogating from Articles 6(2) and 17 of the said Directive ;

Whereas, in accordance with Article 27 (3) of the said Directive, the other Member States were informed on 20 April 1995 of the request made by the United Kingdom ;

Whereas the derogation in question, which forms part of a thorough recasting of the legislation governing the deduction of input tax on cars, aims, firstly, to restrict to 50 % the right of the hirer or lessee to deduct input tax on passenger car hire or leasing transactions where the car is used for private purposes and, secondly, to waive the value added tax payable on the private use of the car in question ;

Whereas the objective of this input tax restriction is to introduce a flat-rate tax for the private use of cars hired or leased by taxable persons ;

Whereas the measure, by reducing the administrative burden on traders, who are not required to keep records of private mileage, constitutes a simplification of the procedure for charging the tax within the meaning of Article 27 of Directive 77/388/EEC ;

Whereas the authorization requested by the United Kingdom can be granted only temporarily, either until the entry into force of the Community rules determining what expenditure will not be eligible for a deduction of value added tax pursuant to the first subparagraph of Article 17 (6) of the said Directive or by 31 December 1997 at the latest ;

Whereas the derogation in question has no adverse impact on the European Communities' own resources accruing from value added tax,

HAS ADOPTED THIS DECISION :

Article 1

By way of derogation from Article 17 (2) and (3) of Directive 77/388/EEC, the United Kingdom is hereby authorized to restrict to 50 % the right of the hirer or lessee to deduct input tax on charges for the hire or lease of a passenger car where the car is used for private purposes.

Article 2

By way of derogation from Article 6 (2) (a) of Directive 77/388/EEC, the United Kingdom is hereby authorized not to treat as supplies of services for consideration the private use of a business car hired or leased by a taxable person.

Article 3

This authorization shall expire on the date of the entry into force of the Community rules determining what expenditure is not to be eligible for a deduction of value added tax, pursuant to the first subparagraph of Article 17 (6) of Directive 77/388/EEC, but not later than 31 December 1997.

(1) OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 95/7/EC (OJ No L 102, 5. 5. 1995, p. 18).

Article 4

This Decision is addressed to the United Kingdom.

Done at Luxembourg, 29 June 1995.

For the Council
The President
J. BARROT