II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 9 March 1998

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

(98/198/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 harmonisation 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 previous Decision 95/252/EC [2],

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 authorise any Member State to introduce or extend 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 letter registered at the Commission on 6 October 1997, the United Kingdom requested authorisation to extend application of the derogation previously granted to it by Decision 95/252/EC;

Whereas the other Member States were informed on 23 October 1997 of the United Kingdom's request;

Whereas the United Kingdom was authorised by Decision 95/252/EC to apply until 31 December 1997 a measure derogating from Articles 6 and 17 of Directive 77/388/EEC;

Whereas the derogation in question is designed, firstly, to restrict to 50 % the right of the hirer or lessee of a car to deduct the VAT on the hire or leasing transaction where the car is used for private purposes and, secondly, to waive the VAT payable on the private use of the car in question;

Whereas the objective of this restriction of the right to deduct is to tax the private use of cars hired or leased by taxable persons at a flat rate;

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 tax within the meaning of Article 27 of Directive 77/388/EEC;

Whereas the Commission adopted on 10 July 1996 a work programme, accompanied by a schedule of proposals, providing for gradual, stage-by-stage progress towards a common VAT system for the internal market;

[1] OJ L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 96/95/EC (OJ L 338, 28. 12. 1996, p. 89).
[2] OJ L 159, 11. 7. 1995, p. 19.

Whereas the authorisation is being granted until 31 December 1998 so as to enable an assessment to be made at that time as to whether the derogation measure is consistent with the Community approach to limitations of the right to deduct VAT on certain expenditure, which will be adopted under that programme;

Whereas the derogation will not have an adverse impact on the Community's own resources accruing from VAT,

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 authorised to restrict to 50 % the right of the hirer or lessee of a car to deduct the VAT on the cost of hiring or leasing that car where it 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 authorised 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 authorisation shall expire on 31 December 1998.

Article 4

This Decision is addressed to the United Kingdom.

Done at Brussels, 9 March 1998.

For the Council

The President

G. BROWN