II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION
of 18 January 1999
amending Article 3 of Decision 98/198/EC

(1999/79/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 Decisions 95/252/EC [2] and 98/198/EC [3],

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 with the Commission's Secretariat-General on 20 July 1998, the United Kingdom Government requested authorisation to extend application of the derogation previously granted to it by Decision 95/252/EC and Decision 98/198/EC;

Whereas the other Member States were informed on 22 September 1998 of the United Kingdom's request;

Whereas the derogation in question is designed, firstly, to restrict to 50 % the right of the hirer or leasee of a passenger 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 legal and factual circumstances which justified granting authorisation to apply a derogation have not changed and still obtain;

Whereas on 17 June 1998 the Commission presented a proposal for a Council Directive amending the Sixth Directive as regards the rules governing the right to deduct VAT [4];

Whereas the objective of that proposal is to bring about an approximation of the limitations of the right to deduct VAT in order to reduce the disparities between the rules applicable in the Community, particularly where expenditure on passenger cars is concerned;

Whereas it is appropriate, therefore, to extend the period of the authorisation granted until the entry into force of the abovementioned Directive; whereas, however, the authorisation will expire on 31 December 2000 at the latest if the Directive has not entered into force by that date, enabling an assessment to be made at that time of the expediency of the derogation in the light of the discussions held within the Council on the proposal for a Directive;

[1] OJ L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 98/80/EC (OJ L 281, 17. 10. 1998, p. 31).
[2] OJ L 159, 11. 7. 1995, p. 19.
[3] OJ L 76, 13. 3. 1998, p. 31.
[4] OJ C 219, 15. 7. 1998, p. 16.

Whereas the derogation has no adverse impact on the European Communities' own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

Article 3 of Decision 98/198/EC shall be replaced by the following:

'Article 3

This authorisation shall expire on the date of the entry into force of the Community rules determining what expenditure is not to be eligible for the deduction of value-added tax, in accordance with the first subparagraph of Article 17(6) of Directive 77/388/EEC, but on 31 December 2000 at the latest.'

Article 2

This Decision shall apply from 1 January 1999.

Article 3

This Decision is addressed to the United Kingdom.

Done at Brussels, 18 January 1999.

For the Council

The President

O. LAFONTAINE