COUNCIL DECISION

of 19 March 2001

authorising the Republic of Austria to apply a measure derogating from Article 11 of the Sixth Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes

(2001/242/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Union,

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 proposal from the Commission,

Whereas:

(1) Under 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 the Directive in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance.

(2) By letter registered by the Secretariat-General of the Commission on 25 August 2000, the Republic of Austria requested authorisation to extend application of a special measure derogating from Article 11 of the said Directive.

(3) In accordance with Article 27 of the Directive, the other Member States have been notified of the Republic of Austria's request, by letter dated 4 December 2000.

(4) The special measure is a simplified tax regime for international passenger transport carried out by taxable persons not established in Austria by means of motor vehicles not registered in Austria. VAT is collected through payment at the border of an amount calculated on the basis of an average taxable amount per person and per kilometre.

(5) The Republic of Austria was authorised to apply this special measure until 31 December 2000 under the 1994 Act of Accession.

(6) The special measure is a simplification measure satisfying the conditions of Article 27 of Directive 77/388/EEC, provided that it applies to all operators not established in Austria that fulfil the same conditions, regardless of their country of establishment.

(7) The authorisation should be accorded, with the above-mentioned proviso, until 31 December 2005 when the appropriateness of the derogation will be reviewed,

HAS ADOPTED THIS DECISION:

Article 1

By derogation from Article 11 of Directive 77/388/EEC, the Republic of Austria is hereby authorised to tax, from 1 January 2001 to 31 December 2005, international passenger transport carried out by taxable persons not established in Austria by means of motor vehicles not registered in Austria under the following conditions:

— the distance covered in Austria shall be taxed on the basis of an average taxable amount per person and per kilometre;

— the system shall apply to all taxable persons not established in Austria, whatever the country in which their place of business is established;

— the system shall not involve fiscal controls at frontiers between Member States.

Article 2

This Decision is addressed to the Republic of Austria.

Done at Brussels, 19 March 2001.

For the Council

The President

A. LINDH

[1] OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2001/41/EC (OJ L 22, 24.1.2001, p. 17).