II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 25 September 2006

authorising the United Kingdom to introduce a special measure derogating from Articles 5(6) and 11(A)(1)(b) of Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes

(2006/659/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(1) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) By letter registered by the Secretariat-General of the Commission on 7 April 2005, the United Kingdom requested authorisation to derogate from Articles 5(6) and 11(A)(1)(b) of Directive 77/388/EEC.

(2) In accordance with Article 27(2) of Directive 77/388/EEC, the Commission informed the other Member States by letter dated 26 October 2005 of the request made by the United Kingdom. By letter dated 27 October 2005, the Commission notified the United Kingdom that it had all the information it considered necessary for appraisal of the request.

(3) The United Kingdom wishes to replace the derogation, provided for by Council Decision 86/356/EEC of 21 July 1986 authorising the United Kingdom to apply flat-rate measures in respect of the non-deductible value added tax charged on fuel expenditure in company cars [2], which authorised special simplification measures in order to determine on a flat-rate basis the proportion of value added tax (VAT) relating to expenditure on fuel in business cars partly used for private purposes. This procedure relieves taxable persons of the need to keep detailed mileage records in order to calculate, for each car, the exact amount of VAT related to private and business motoring. Like this system, the proposed new system will be optional for taxable persons.

(4) The current system is based on the type of fuel used and the engine size of the car. The United Kingdom wishes to amend this system and base it on the level of carbon dioxide (CO_2) emissions from the car, as there is a proportional correlation between emissions and fuel consumption and therefore with expenditure on fuel. This means that a flat-rate scale system based on CO_2 emissions could achieve the same objective of taxing fuel expenditure incurred by a business for private motoring. At the same time, the United Kingdom also expects to achieve greater accuracy in determining the charge for private consumption by increasing, and therefore refining, the number of scale bands in comparison with the existing bands.

(5) This arrangement has effectively enabled the United Kingdom to simplify the procedure for charging tax in relation to expenditure on fuel for business cars and the proposed system, based on CO_2 emissions, will have a similar effect. Private consumption should be more accurately reflected under the new system.

[1] OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2006/69/EC (OJ L 221, 12.8.2006, p. 9).

[2] OJ L 212, 2.8.1986, p. 35.

(6) The authorisation should be limited in time, so that in the light of the experience gained up to that date an assessment may be made as to whether or not the derogation is still justified.

(7) Decision 86/356/EEC should be repealed after a certain period but in any case at the entry into force of the national provisions introducing the new special measure, in order to avoid a situation in which authorisations for both systems exist at the same time.

(8) The United Kingdom should inform the Commission of the national provisions introducing the new special measure as soon as they have been adopted and should ensure that this measure will not enter into force before 30 April 2007.

(9) The derogation has no negative impact on the Community's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Articles 5(6) and 11(A)(1)(b) of Directive 77/388/EEC, the United Kingdom is authorised, from 1 May 2007 until 31 December 2015, to fix on a flat-rate basis the proportion of value added tax relating to expenditure on fuel used for private purposes in business cars.

Article 2

The proportion of the tax referred to in Article 1 shall be expressed in fixed amounts, established on the basis of the CO_2 emissions level of the type of vehicle, that reflect fuel consumption. The United Kingdom shall adjust these fixed amounts annually to reflect changes in the average cost of fuel.

Article 3

The system set up on the basis of this Decision shall be optional for taxable persons.

Article 4

Decision 86/356/EEC is repealed on 30 April 2007.

The United Kingdom shall inform the Commission of the national provisions referred to in Article 1 as soon as they have been adopted.

Article 5

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 25 September 2006.

For the Council
The President
M. PEKKARINEN