COUNCIL IMPLEMENTING DECISION

of 15 November 2013

amending Decision 2007/441/EC authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax

(2013/679/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2006/112/EC on 28 November 2006 on the common system of value added tax ([1]), and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By a letter registered with the Secretariat-General of the Commission on 2 April 2013 Italy requested authorisation to extend a measure derogating from Article 26(1)(a) and Article 168 of Directive 2006/112/EC in order to continue to restrict the right of deduction in relation to expenditure on certain motorised road vehicles not wholly used for business purposes.

(2) The Commission informed the other Member States of the request made by Italy by letter dated 10 June 2013. By letter dated 14 June 2013, the Commission notified Italy that it had all the information necessary to consider the request.

(3) Council Decision 2007/441/EC ([2]) authorises Italy to limit the right of deduction of value added tax (VAT) charged on expenditure on motorised road vehicles not wholly used for business purposes to 40 %. Decision 2007/441/EC also provides that the use for private purposes of those vehicles which had been subject to a right of deduction restriction under that Decision was not to be considered as a supply for a consideration. In addition, Decision 2007/441/EC contains definitions of the vehicles and expenditure included in the scope of that Decision, and a list of vehicles which are explicitly excluded from it. Decision 2007/441/EC was amended by Council Implementing Decision 2010/748/EU ([3]), setting the expiry date to 31 December 2013.

(4) In accordance with Article 6 of Decision 2007/441/EC, Italy submitted a report to the Commission covering the application of that Decision which included a review of the percentage restriction. The information provided by Italy still shows that a restriction of the right of deduction to 40 % corresponds to the actual circumstances as regards the ratio of business to non-business use of the vehicles concerned. Italy should therefore be authorised to apply the measure for a further limited period, until 31 December 2016.

(5) In the event that Italy requires a further extension beyond 2016, a report together with the extension request should be submitted to the Commission no later than 1 April 2016.

(6) On 29 October 2004, the Commission adopted a proposal for a Council Directive amending Directive 77/388/EEC ([4]) with a view to simplifying the value added tax obligations. The derogating measures provided for in this Decision should expire on the entry into force of such an amending Directive, if that date is earlier than the date of expiry provided for in this Decision.

(7) The derogation has no impact on the Union's own resources accruing from VAT.

(8) Decision 2007/441/EC should therefore be amended accordingly,

([1]) OJ L 347, 11.12.2006, p. 1.

([2]) Council Decision 2007/441/EC of 18 June 2007 authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 165, 27.6.2007, p. 33).

([3]) Council Implementing Decision 2010/748/EU of 29 November 2010 amending Decision 2007/441/EC authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 318, 4.12.2010, p. 45).

([4]) 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 (OJ L 145, 13.6.1977, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

Decision 2007/441/EC is amended as follows:

(1) Article 6 is replaced by the following:

'*Article 6*

Any request for the extension of the measures provided for in this Decision shall be submitted to the Commission by 1 April 2016.

Any request for the extension of those measures shall be accompanied by a report which includes a review of the percentage restriction applied on the right to deduct VAT charged on expenditure on motorised road vehicles not wholly used for business purposes.';

(2) Article 7 is replaced by the following:

'*Article 7*

This Decision shall expire on the date of entry into force of Union rules determining the expenditure relating to motorised road vehicles which is not eligible for a full deduction of value added tax, and on 31 December 2016 at the latest.'.

Article 2

This Decision shall take effect on the day of its notification.

It shall apply from 1 January 2014.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 15 November 2013.

For the Council
The President
R. ŠADŽIUS