COUNCIL IMPLEMENTING DECISION

of 7 December 2009

authorising the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland to apply a measure derogating from Article 167 of Directive 2006/112/EC on the common system of value added tax

(2009/938/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Directive 2006/112/EC [1], and in particular Article 395(1) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Kingdom of Sweden (hereinafter 'Sweden') and the United Kingdom of Great Britain and Northern Ireland (hereinafter 'the United Kingdom') were authorised, by Council Decision 2007/133/EC [2], by derogation from Article 167 of Directive 2006/112/EC, to postpone the right of deduction of value added tax (VAT) until it has been paid to the supplier of goods or of services, in respect of taxable persons applying an optional scheme under which, in accordance with Article 66(b) of that Directive, VAT on their supplies of goods and of services becomes chargeable on receipt of payment (referred to as the cash accounting scheme). In order to qualify for this scheme, their annual turnover must not exceed SEK 3 000 000 for Sweden and GBP 1 350 000 for the United Kingdom.

(2) Sweden and the United Kingdom have requested authorisation to extend this special derogating measure by letters registered by the Commission's Secretariat-General on 3 March 2009 for Sweden and on 15 January 2009 for the United Kingdom. The United Kingdom has also asked that the ceiling for the annual turnover for the scheme be raised to GBP 1 500 000.

(3) In accordance with Article 395(2) of Directive 2006/112/EC, by letters of 9 July 2009, the Commission informed the other Member States of the request made by Sweden and the United Kingdom and, by letters of 13 July 2009 the Commission notified Sweden and the United Kingdom that it had all the information it considered necessary for appraisal of the request.

(4) The cash accounting scheme is a simplified optional scheme intended for small undertakings which do not qualify for tax exemption. It enables such taxable persons to apply a simple rule based on the date of payment for their input and output transactions, to determine at what point they must exercise their right to deduct VAT and pay the tax to the revenue authorities. This scheme thus constitutes for those taxable persons a simplification measure which can, furthermore, create a cash-flow advantage for them.

(5) On 28 January 2009, the Commission presented a directive aimed at amending Directive 2006/112/EC as regards the rules on invoicing and enabling the Member States to postpone the right to deduct VAT arising until it has been paid to the supplier in respect of taxable persons with an annual turnover not exceeding a ceiling, which could be fixed by Member States at up to EUR 2 000 000, and accordingly entitled to use an optional scheme under which the VAT to which their transactions are liable does not become chargeable until they have received the payment.

(6) The special derogating measure does not affect the amount of VAT revenue collected by Sweden or the United Kingdom at the final consumption stage and has no impact on the European Union's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 167 of Directive 2006/112/EC, Sweden and the United Kingdom are authorised to postpone the right of deduction of value added tax (VAT) in respect of taxable persons, as defined in the second paragraph, until it has been paid to the supplier of goods or of services.

The taxable persons concerned must have opted for a scheme under which the VAT on their supplies of goods and of services becomes chargeable on receipt of the payment. Under the scheme, their annual turnover must not exceed SEK 3 000 000 for Sweden and GBP 1 500 000 for the United Kingdom.

(1) OJ L 347, 11.12.2006, p. 1.
(2) OJ L 57, 24.2.2007, p. 12.

Article 2

This Decision shall apply from 1 January 2010 until the date of entry into force of a directive authorising the Member States to postpone the right of deduction of VAT until it has been paid to the supplier of goods or of services in respect of taxable persons whose annual turnover does not exceed a certain ceiling and who therefore benefit from an optional scheme according to which the tax on their supplies of goods and of services becomes chargeable when they have received the payment. In any event, this Decision shall apply until 31 December 2012 at the latest.

Article 3

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

Done at Brussels, 7 December 2009.

For the Council

The President

C. MALMSTRÖM