

COUNCIL IMPLEMENTING DECISION

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

(2010/748/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 of 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) In a letter registered by the Commission's Secretariat-General on 18 February 2010, Italy requested an 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) By letter dated 13 July 2010, the Commission informed the other Member States of Italy's request. By letter dated 15 July 2010, the Commission notified Italy that it had all the information necessary to consider the request.
- (3) 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 ⁽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 provides that the use for private purposes of vehicles which have been subject to a right of deduction restriction under that Decision is not to be considered as a supply of services for consideration. Decision 2007/441/EC contains definitions of the vehicles and the expenditure included in the scope of that Decision and a list of vehicles which are explicitly excluded from the scope of that Decision.
- (4) In accordance with Article 6 of Decision 2007/441/EC, Italy submitted a report to the Commission covering the two first years of application of the Decision which

included a review of the percentage restriction. The information provided by Italy shows that a restriction of the right of deduction to 40 % still corresponds to the actual circumstances as regards the use for business or non-business purposes of the vehicles concerned. Italy should therefore be authorised to apply the measure during a further limited period, until 31 December 2013.

- (5) In the event Italy were to request a further extension beyond 2013, a new report should be submitted to the Commission together with that extension request by 1 April 2013.
- (6) On 29 October 2004, the Commission adopted a proposal for a Council Directive amending Directive 77/388/EEC with a view to simplifying value added tax obligations. The derogating measures provided for in this Decision should expire on the date of entry into force of that amending Directive, if that date is earlier than the date of expiry of the derogation measure set out in this Decision.
- (7) The derogation has no impact on the Union's own resources accruing from value added tax.
- (8) Decision 2007/441/EC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2007/441/EC is hereby 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 2013.

Any request for 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.;

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ OJ L 165, 27.6.2007, p. 33.

2. Article 7 is replaced by the following:

It shall apply from 1 January 2011.

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 VAT, but on 31 December 2013 at the latest.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 29 November 2010.

Article 2

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

For the Council

The President

K. PEETERS
