

DECISIONS

COUNCIL IMPLEMENTING DECISION

of 18 January 2011

amending Decision 2007/884/EC authorising the United Kingdom to continue to apply a measure derogating from Articles 26(1)(a), 168 and 169 of Directive 2006/112/EC on the common system of value added tax

(2011/37/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 22 July 2010, the United Kingdom requested authorisation to extend a derogating measure in order to continue to restrict the right of deduction of VAT by the hirer or lessee on charges for the hire or lease of a passenger car where the car is not used entirely for business purposes.
- (2) The Commission informed the other Member States of the request made by the United Kingdom by letter dated 12 October 2010. By letter dated 15 October 2010, the Commission notified the United Kingdom that it had all the information necessary to consider the request.
- (3) Council Decision 2007/884/EC of 20 December 2007 authorising the United Kingdom to continue to apply a measure derogating from Articles 26(1)(a), 168 and 169 of Directive 2006/112/EC on the common system of value added tax ⁽²⁾, authorised the United Kingdom to restrict to 50 % the right of the hirer or lessee to deduct input VAT on charges for the hire or lease of a passenger car where the car is not used entirely for

business purposes. The United Kingdom was also allowed not to treat as supplies of services for consideration the private use of a car hired or leased by a taxable person for his business purposes. This simplification measure removed the need for the hirer or the lessee to keep records of private mileage travelled in business cars and to account for tax on the actual private mileage of each car.

- (4) According to the information provided by the United Kingdom, the restriction to 50 % still corresponds to the actual circumstances as regards the business and the non-business use by the hirer or lessee of the vehicles concerned. It is therefore appropriate that the United Kingdom be authorised to apply the measure for a further limited period, until 31 December 2013.
- (5) Where the United Kingdom considers a further extension beyond 2013 is necessary, a report which includes a review of the percentage applied should be submitted to the Commission together with the extension request no later than 1 April 2013.
- (6) On 29 October 2004, the Commission adopted a proposal for a Council Directive amending Directive 77/388/EEC, now Directive 2006/112/EC, that includes the harmonisation of the categories of expenses for which exclusions of the right of deduction may apply. Under this proposal, exclusions on the right to deduct may be applied to motorised road vehicles. The derogating measures provided for in this Decision should expire on the date of the entry into force of such 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 value added tax.
- (8) Decision 2007/884/EC should therefore be amended accordingly,

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ OJ L 346, 29.12.2007, p. 21.

HAS ADOPTED THIS DECISION:

Article 2

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

Article 1

Article 3 of Decision 2007/884/EC is replaced by the following:

This Decision shall apply as from 1 January 2011.

Article 3

This Decision shall expire on the date of entry into force of Union rules determining the expenditure relating to motorised road vehicles that is not eligible for full deduction of VAT, or on 31 December 2013, whichever is the earlier.

Article 3

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

Any request for the extension of the measures provided for in this Decision shall be submitted to the Commission by 1 April 2013.

Done at Brussels, 18 January 2011.

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 on the hire or lease of cars not entirely used for business purposes.’.

For the Council

The President

Gy. MATOLCSY
