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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 37/2009

of 16 December 2008

amending Regulation (EC) No 1798/2003 on administrative cooperation in the field of value added tax, in order to combat tax evasion connected with intra-Community transactions

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Whereas:

(1) To combat VAT evasion more effectively, it is imperative that the Member States collect and exchange information on intra-Community transactions as rapidly as possible. A period of one month is the most appropriate response to this need, taking account of businesses' accounting and financial periods and the objectives of reducing the administrative burden on businesses.

(2) In view of the amendments to the period for declaring intra-Community transactions made by Council Directive 2008/117/EC of 16 December 2008 amending Directive 2006/112/EC on the common system of value added tax to combat tax evasion connected with intra-Community transactions ⁽³⁾, it is necessary to amend the references to that period in Council Regulation (EC) No 1798/2003 ⁽⁴⁾.

(3) Since the objectives of the proposed action to tackle VAT evasion cannot be sufficiently achieved by the Member States, whose action in the matter depends on information collected by the other Member States, and can therefore, by reason of the need to involve all Member States, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(4) Since the amendments contained in this Regulation are necessary to adapt Regulation (EC) No 1798/2003 to the measures provided for in Directive 2008/117/EC, with which the Member States have to comply by 1 January 2010, this Regulation must enter into force on the same date.

(5) Regulation (EC) No 1798/2003 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1798/2003 is hereby amended as follows:

1. in Article 23, the second paragraph shall be replaced by the following:

'The values referred to in point 2 of the first paragraph shall be expressed in the currency of the Member State providing the information and shall relate to the periods for submission of the recapitulative statements specific to each taxable person which are established in accordance with Article 263 of Directive 2006/112/EC.;

⁽¹⁾ Opinion of 4.12.2008 (not yet published in the Official Journal).

⁽²⁾ Opinion of 22.10.2008 (not yet published in the Official Journal).

⁽³⁾ See page 7 of this Official Journal.

⁽⁴⁾ OJ L 264, 15.10.2003, p. 1.

2. In Article 24, the second paragraph shall be replaced by the following:

‘The values referred to in point 2 of the first paragraph shall be expressed in the currency of the Member State providing the information and shall relate to the periods for submission of the recapitulative statements specific to each taxable person which are established in accordance with Article 263 of Directive 2006/112/EC.’;

3. Article 25(1) and (2) shall be replaced by the following:

‘1. Where the competent authority of a Member State is obliged to grant access to information under Articles 23 and

24, it shall do so as soon as possible and, at the latest, within one month of the end of the period to which the information relates.

2. By way of derogation from paragraph 1, where information is added to a database in the circumstances provided for in Article 22, access to such additional information shall be granted as quickly as possible and no later than one month after the end of the period in which it was collected.’.

Article 2

This Regulation shall enter into force on 1 January 2010.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 December 2008.

For the Council
The President
R. BACHELOT-NARQUIN
