

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 22 November 1979

on requests for authorization submitted by the Kingdom of Belgium pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 on own resources accruing from VAT

(Only the French and Dutch texts are authentic)

(80/31/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources⁽¹⁾,

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources⁽²⁾, and in particular the first subparagraph of Article 9 (3) and Article 13 (2),

Having regard to the request for authorization submitted by the Kingdom of Belgium,

Whereas the Kingdom of Belgium, in order to determine the VAT resources assessment basis for a given financial year, applies the method defined in

Section B of Regulation (EEC, Euratom, ECSC) No 2892/77;

Whereas, in the cases referred to in Article 9 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, the Member States shall, under the terms of paragraph 1 of that Article, determine the basis of the own resources accruing from value added tax, hereinafter referred to as 'VAT resources', from returns to be furnished by taxable persons in accordance with Article 22 of the 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⁽³⁾, hereinafter referred to as the 'Sixth Directive' and, when there is no return or the return does not contain the necessary information from appropriate data such as other tax returns, professional accounts and complete statistical series; whereas under the first indent of Article 9 (3) of that Regulation they may, under certain circumstances, be authorized not to take into account, in calculating the VAT resources basis, one or more of the categories of transactions listed in Annexes E, F and G to the Sixth Directive to which Article 9 (2) of that Regulation applies or, pursuant to the second indent of Article 9 (3), to calculate the VAT resources basis by using approximate data;

Whereas Belgium has submitted to the Commission such requests for authorization for cases where it considers that precise calculation of the VAT

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 19.

⁽²⁾ OJ No L 336, 27. 12. 1977, p. 8.

⁽³⁾ OJ No L 145, 13. 6. 1977, p. 1.

resources basis would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of this Member State;

Whereas Belgium exempts only independent groups of a medical or paramedical nature (Article 44 (2) (1) *bis*) of the Belgian VAT Code), possesses no information on other groups which might not be exempted and in respect of which it might request application for its benefit of Article 9 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77; whereas it has waived its right to do so;

Whereas, under Article 44 (2) (8) of the Belgian VAT Code, Belgium continues to exempt services rendered to conference organizers by lecturers, services rendered to show and concert organizers, to publishers of records and other sound recording media and to makers of films and other image-recording media by actors, conductors, musicians and other artists in the context of theatrical, choreographical, cinematographical or musical production or circus, music-hall or artistic cabaret performances, and the services rendered to organizers of sporting competitions or events by persons taking part in such competitions or events, but whereas the number of actors or other artists providing such services who are self-employed or would provide such services to organizers with no right to a deduction is limited; whereas Belgium requests authorization to omit such services from its calculations;

Whereas Belgium has, under Article 103 of the Belgian VAT Code, given taxable persons qualifying for exemption under Article 44 (2) (11) of the said Code who had opted to be taxable before 1 January 1978 the possibility of remaining taxable; whereas this option mainly concerns groups of self-employed persons or employers; whereas this concerns only a limited number of taxable persons in any case; whereas Belgium requests authorization to leave such persons out of account;

Whereas the Commission accepts that, in relation to these requests from Belgium, such a calculation would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of this Member State;

Whereas authorization should therefore be granted to Belgium under the first indent of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77 not to take into account the categories of transactions listed in Annexes E, F and G to the Sixth Directive in calculating the VAT own resources basis;

Whereas under Article 20 (2) (2) of the Belgian VAT Code, Belgium taxes the services of travel agents as

provided for in Article 26 of the Sixth Directive without making a distinction between journeys within the Community and journeys outside the Community; whereas this distinction cannot be made at present, but whereas statistical data will be used to estimate the VAT basis in respect of services relating to journeys made outside the Community;

Whereas Belgium exempts services supplied by members of the liberal professions (Article 44 of the Belgian VAT Code) such as 'avocats' (barristers); whereas, at present, it possesses tax statistics only for the 1974 financial year, which therefore have to be extrapolated; whereas such services come within the scope of Article 28 (3) (b) of the Sixth Directive; whereas an assessment, however approximate, will have to be made of this part of the VAT basis with effect from the first year;

Whereas Belgium exempts the services supplied by members of the liberal professions (Article 44 of the Belgian VAT Code) such as 'notaires' (notaries) and 'huissiers de justice' (process servers); whereas, at present, it possesses tax statistics only for the financial year 1974 which therefore have to be extrapolated; whereas such services come within the scope of Article 28 (3) (b) of the Sixth Directive; whereas an assessment — however approximate — will have to be made of this part of the VAT basis with effect from the first year;

Whereas, under Article 44 (1) (3) of the Belgian VAT Code, Belgium exempts services supplied by veterinary surgeons; whereas it possesses at present in respect of these taxable persons tax statistics relating only to the 1974 financial year; whereas only a proportion of the services provided are rendered to customers without the right to deduction; whereas this proportion may increase; whereas a major part of their professional expenses attracts a deductible tax, although this proportion may vary; whereas an assessment, however approximate, should be made of this part of the VAT basis;

Whereas under Article 44 (2) (1) of the Belgian VAT Code, Belgium exempts services supplied by hospitals; whereas an approximate estimate should nevertheless be made of the activities which are not carried out under the social conditions referred to in Article 13 A (1) (b) of the Sixth Directive, and which may have an effect on the total VAT resources basis of this Member State;

Whereas, under Article 44 (3) (4) of the Belgian VAT Code, Belgium exempts supplies and imports of gold for normal investment purposes, unless the acquirer or importer is a central bank or a processor or consumer of gold; whereas there are no statistics

relating to these operations as such ; whereas an assessment, however approximate, should nevertheless be made of part of the basis when it affects the total VAT resources basis of this Member State ;

Whereas authorization should be granted to Belgium under the second indent of Article 9 (3), of Regulation (EEC, Euratom, ECSC) No 2892/77, in respect of such requests to use estimates in calculating the VAT own resources basis of this Member State ;

Whereas in the early years of implementation of the Sixth Directive, annual authorizations should be granted ;

Whereas the Advisory Committee on Own Resources has approved the report containing the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION :

Article 1

For the purpose of calculating the VAT own resources basis for the 1979 financial year, the Kingdom of Belgium is hereby authorized, pursuant to the first indent of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to leave out of account the following categories of transactions referred to in Annexes E, F and G to the Sixth Directive :

1. *Transactions referred to in Article 13 A (1) (f) of the Sixth Directive other than those of groups of a medical or paramedical nature :*

Services supplied by independent groups of persons whose activities are exempt from or are not subject to value added tax, for the purpose of rendering their members the services directly necessary for the exercise of their activity, where these groups merely claim from their members exact reimbursement of their share of the joint expenses, provided that such exemption is not likely to produce distortion of competition (Annex E, ex point 3).

2. *Services supplied by authors, artists, performers, in so far as these are not services specified in Annex B to the Second Council Directive 67/228/EEC of 11 April 1967⁽¹⁾ :*

Services rendered to conference organizers by lecturers, services rendered to show and concert organizers, to publishers of records and other sound-recording media and to makers of films and other image-recording media by actors, conductors,

(¹) OJ No L 71, 14. 4. 1967, p. 1303/67.

musicians and other artists in the context of theatrical, choreographical, cinematographical or musical productions or circus, music-hall or artistic cabaret performances, and the services rendered to organizers of sporting competitions or events by persons taking part in these competitions or events (Annex F, ex point 2).

3. *For taxable persons who have the right of option under Article 28 (3) (c) of the Sixth Directive for taxation covered by point 2 of Annex G to that Directive :*

Supply of services and goods closely linked thereto for the benefit of their members in return for a subscription fixed in accordance with their rules by non-profit-making organizations with aims of a political, trade-union, religious, patriotic, philosophical, philanthropic or civic nature, provided that this exemption is not likely to cause distortion of competition (Annex G, ex point 2).

Article 2

For the purposes of calculating the VAT own resources basis for the 1979 financial year, the Kingdom of Belgium is hereby authorized, pursuant to the second indent of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates in calculating the basis relating to the following categories of transaction listed in Annexes E and F to the Sixth Directive :

1. *The services of travel agents referred to in Article 26 of the Sixth Directive, and those of travel agents acting in the name and on account of a traveller, for journeys outside the Community (Annex E, point 15).*

2. *Services supplied by 'avocats' (barristers), in so far as these are not services specified in Annex B to the Second Council Directive of 11 April 1967 (Annex F, ex point 2).*

3. *Services supplied by 'notaires' (notaries) and 'bureaux de justice' (process servers) (for all activities), in so far as these are not services specified in Annex B to the Second Council Directive of 11 April 1967 (Annex F, ex point 2).*

4. *Treatment of animals by veterinary surgeons (Annex F, point 9).*

5. *Transactions of hospitals not covered by Article 13 A (1) (b) of the Sixth Directive (Annex F, point 10).*

6. *Transactions concerning gold other than gold for industrial use (Annex F, point 26).* Done at Brussels, 22 November 1979.

Article 3

This Decision is addressed to the Kingdom of Belgium.

For the Commission

Christopher TUGENDHAT

Member of the Commission