

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 30 January 2007

extending the application of Decision 2000/91/EC authorising the Kingdom of Denmark and the Kingdom of Sweden to apply a measure derogating from Article 17 of the Sixth Council Directive (77/388/EEC) on the harmonisation of the laws of the Member States relating to turnover taxes

(2007/132/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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 Commission,

Whereas:

- (1) By letters registered by the Secretariat-General of the Commission on 22 March 2006, Denmark and Sweden requested authorisation to extend the application of the derogation granted to them by Council Decision 2000/91/EC of 24 January 2000 authorising the Kingdom of Denmark and the Kingdom of Sweden to apply a measure derogating from Article 17 of the Sixth Council Directive (77/388/EEC) on the harmonisation of the laws of the Member States relating to turnover taxes ⁽²⁾.
- (2) In accordance with Article 27(2) of the Sixth Council Directive (77/388/EEC) of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax:

uniform basis of assessment ⁽³⁾, the Commission informed the other Member States by letter dated 4 October 2006 of the requests made by Denmark and Sweden. By letter dated 5 October 2006, the Commission notified Denmark and Sweden that it had all the information it considered necessary for appraisal of the requests.

- (3) These applications relate to the recovery of value added tax (hereinafter: VAT) paid on tolls for the use of the Öresund fixed link between Denmark and Sweden. Under the VAT rules on the place of supply of immovable property, part of the VAT on tolls for the Öresund fixed link is payable part to Denmark and part to Sweden.
- (4) By way of derogation from the provisions of Article 17 of Directive 77/388/EEC, in the version set out in Article 28f thereof, requiring taxable persons to exercise their right to deduct or obtain a refund of VAT in the Member State where it was paid, Denmark and Sweden were authorised until 31 December 2006 to introduce a special measure enabling taxpayers to recover VAT from a single administration.
- (5) Since it was not possible to adopt rules under the Commission proposal for a Council Directive amending Directive 77/388/EEC as regards the rules governing the right to deduct VAT on the basis of the first subparagraph of Article 17(6) of Directive 77/388/EEC and considering that the legal situation and the facts which justified the authorisation granted by Decision 2000/91/EC have not changed, that authorisation should be extended for a new time period.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1. Directive as amended by Directive 2006/138/EC (OJ L 384, 29.12.2006, p. 92).

⁽²⁾ OJ L 28, 3.2.2000, p. 38. Decision as last amended by Decision 2003/65/EC (OJ L 25, 30.1.2003, p. 40).

⁽³⁾ OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2006/98/EC (OJ L 363, 20.12.2006, p. 129).

(6) Directive 77/388/EEC has been recast and repealed by Directive 2006/112/EC. References to the provisions of the former are to be construed as references to the latter.

'Article 2

This authorisation shall expire on 31 December 2013.'

(7) The derogation has no negative effect on the Communities' own resources accruing from VAT.

Article 2

This Decision shall apply from 1 January 2007.

(8) Given the urgency of the matter, in order to avoid a legal gap, it is imperative to grant an exception to the six-week period mentioned in point I(3) of the Protocol on the role of national Parliaments in the European Union, annexed to the Treaty on European Union and to the Treaties establishing the European Communities,

Article 3

This Decision is addressed to the Kingdom of Denmark and the Kingdom of Sweden.

Done at Brussels, 30 January 2007.

HAS ADOPTED THIS DECISION:

Article 1

Article 2 of Decision 2000/91/EC is replaced by the following:

For the Council

The President

P. STEINBRÜCK
