

COUNCIL DECISION

of 13 November 2007

authorising the Kingdom of the Netherlands to apply a measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax

(Only the Dutch version is authentic)

(2007/740/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) In a letter registered with the Secretariat-General of the Commission on 24 November 2006, the Kingdom of the Netherlands requested authorisation to apply a special tax measure in the ready-to-wear clothing industry as previously authorised for a limited period by Council Decision 1998/20/EC ⁽²⁾.

(2) In accordance with Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States by letter dated 10 July 2007 of the request made by the Kingdom of the Netherlands. By letter dated 17 July 2007, the Commission notified the Kingdom of the Netherlands that it had all the information it considered necessary for appraisal of the request.

(3) The arrangement would authorise the Kingdom of the Netherlands to apply in the ready-to-wear clothing industry a scheme for shifting the subcontractor's obligation to pay over VAT to the tax authorities from the subcontractor to the clothing firm (the contractor).

(4) These arrangements have proved in the past to be an effective fraud-prevention measure in a sector in which

collecting VAT is rendered awkward by the difficulty of identifying and supervising the activities of subcontractors. The requested measure is therefore to be considered as a measure to prevent certain types of tax evasion and avoidance in the ready-to-wear clothing industry.

(5) Since, however, the location for the manufacture of ready-to-wear clothes is influenced by low labour costs and subcontractors relocate easily from one country to another, the Kingdom of the Netherlands should monitor and evaluate the impact of these factors on the effectiveness of the derogation and inform the Commission accordingly.

(6) It is appropriate that the measure be limited in time in order to allow the Commission to evaluate it on the basis of the report provided by the Kingdom of the Netherlands.

(7) The derogation does not have an adverse effect on the Communities' own resources accruing from value added tax nor does it affect the amount of VAT charged at the final stage of consumption,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 193 of Directive 2006/112/EC, the Kingdom of the Netherlands is hereby authorised to apply a scheme until 31 December 2009 in the ready-to-wear clothing industry for shifting the subcontractor's obligation to pay over VAT to the tax authorities from the subcontractor to the clothing firm (the contractor).

Article 2

By 31 July 2009, the Kingdom of the Netherlands shall submit a report to the Commission on the overall evaluation of the operation of the measure concerned, in particular as regards the effectiveness of the measure and any other evidence of relocations of subcontractors in the ready-to-wear clothing industry to other countries.

⁽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 8, 14.1.1998, p. 16. Decision as last amended by Decision 2004/516/EC (OJ L 221, 22.6.2004, p. 17).

Article 3

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 13 November 2007.

For the Council
The President
F. TEIXEIRA DOS SANTOS
