

Proposal for a twentieth Council Directive on the harmonization of the laws of the Member States relating to turnover taxes — common system of value added tax: derogations in connection with the special aids granted to certain farmers to compensate for the dismantlement of monetary compensatory amounts applying to certain agricultural products

COM(84) 391 final

(Submitted by the Commission to the Council on 17 July 1984)

(84/C 214/08)

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Council Regulation (EEC) No 855/84 of 31 March 1984 on the calculation and dismantlement of the monetary compensatory amounts applying to certain agricultural products ⁽¹⁾ provided for an adaptation of the representative rates which, in the case of the Federal Republic of Germany, must, when it takes place on 1 January 1985, entail lower prices when expressed in national currency and consequently lower farm incomes; whereas by way of compensation, the possibility of granting special national aids to which the Community would contribute on a temporary and degressive basis was provided for;

Whereas by way of compensation, Article 3 of Council Regulation (EEC) No 855/84 authorized the Federal Republic of Germany to grant a special aid, using value added tax as an instrument, of an amount not exceeding 3 per cent of the price excluding value added tax paid by the purchaser of the agricultural product;

Whereas Council Decision No ... authorized the Federal Republic of Germany to exceed this limit and to apply a percentage of 5 % for the period between 1 July 1984 and 31 December 1988, and whereas as a result, it is necessary that this Directive shall apply from 1 July 1984;

Whereas to avoid any distortion of the uniform basis of assessment of value added tax in the Community

as harmonized by 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 ⁽²⁾ and in particular to maintain the basis for making accurate calculations of the VAT own resources due from Member States, it was provided in Article 3 (2) of Regulation (EEC) No 855/84 that the payments of such special aids must be mentioned in the invoicing or the VAT declaration using the VAT as an instrument; whereas such aid may not exceed the percentage fixed by the aforesaid Council Regulation of the price exclusive of VAT paid by the purchaser for the agricultural product;

Whereas particular measures must be introduced for authorizing the Federal Republic of Germany to derogate from certain provisions of Directive 77/388/EEC to the extent necessary for carrying into effect the special aid authorized by Regulation (EEC) No 855/84 and by Decision No ...;

Whereas the granting of such special aid would, in the absence of special authorizing provisions, constitute a departure from the rules set out in Articles 17, 22 and 25 of Directive 77/388/EEC;

HAS ADOPTED THIS DIRECTIVE:

Article 1

By way of derogation from the provisions of Directive 77/388/EEC, the Federal Republic of Germany is authorized to use value added tax in order to grant the special aid permitted in Regulation (EEC) No 855/84 and Decision No ...

Article 2

1. Value added tax may be used as an instrument to grant the aid only within the limit of 3 % authorized in Article 3 of Regulation (EEC) No 855/84.

⁽¹⁾ OJ No L 90, 1. 4. 1984, p. 1.

⁽²⁾ OJ No L 145, 13. 6. 1977, p. 1.

2. However, in accordance with Decision No ..., this percentage may be increased up to 5 % until 31 December 1988.

3. The special aid using value added tax as an instrument may be granted by either of the two methods mentioned in Article 3 below.

Article 3

The Federal Republic of Germany may provide that:

- a flat-rate farmer, as defined in the third indent of Article 25 (2) of Directive 77/388/EEC, shall be entitled to add to the amount of his invoice on the sale of his agricultural products to a taxable person a sum not exceeding the percentage, stated in Article 2, of the price exclusive of value added tax mentioned as such in the invoice or other document serving as an invoice;
- an agricultural producer who is a taxable person subject to the normal system of value added tax shall be entitled to deduct from the tax which he is liable to pay when submitting his return a sum not exceeding the percentage, stated in Article 2, of the selling price exclusive of value added tax of his agricultural products for the period concerned.

Article 4

1. By way of derogation from Article 17 (2) of Directive 77/388/EEC a taxable person who purchases agricultural products from a flat-rate farmer may deduct, from the tax which he is liable to pay, the amount of the special aid charged to him by the relevant flat-rate farmer in conformity with this Directive and with the provisions of Council Regulation (EEC) No 855/84 and Decision No ...

2. In addition to the details required by Article 22 (3) (b) of Directive 77/388/EEC, the invoice of an agricultural producer subject to the normal system of value added tax, and the invoice in respect of the supply effected by a flat-rate farmer, must mention the percentage and amount of the special aid.

3. By way of derogation from Article 22 (4) of Directive 77/388/EEC a taxable person who purchases agricultural products from a flat-rate farmer shall mention, in his return, the amount of the special aid.

4. By way of derogation from Article 22 (5) of Directive 77/388/EEC an agricultural producer who is subject to the normal system of value added tax may be authorized to deduct, from the net amount of the value added tax due to be paid by him when submitting the return, the amount of the special aid.

5. By way of derogation from Article 25 (3) of Directive 77/388/EEC the Federal Republic of Germany may, in addition to the proper flat-rate compensation percentages, permitted under that Article, apply a further percentage corresponding to the amount of the special aid.

Article 5

The Federal Republic of Germany shall take the measures necessary to ensure that the calculation and levying of VAT own resources is done by reference to the details contained in the VAT returns provided for in Article 4 (3) and (4) and shall not be affected by the derogations from Directive 77/388/EEC permitted by the present Directive.

Article 6

The Federal Republic of Germany shall communicate to the Commission details of the measures which it adopts for the implementation of the provisions authorized by this Directive.

Article 7

This Directive is applicable with effect from 1 July 1984.

Article 8

This Directive is addressed to the Federal Republic of Germany.