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COMMISSION DECISION

of 23 March 1990

authorizing the Federal Republic of Germany to use statistics for years earlier than the last year but one and not to take into account certain categories of transactions or to use certain approximate estimates for the calculation of the VAT own resources base

(Only the German text is authentic)

(90/179/Euratom, EEC)

(OJ L 99, 19.4.1990, p. 28)

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authorizing the Federal Republic of Germany to use statistics for years earlier than the last year but one and not to take into account certain categories of transactions or to use certain approximate estimates for the calculation of the VAT own resources base

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(90/179/Euratom, EEC)

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 Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax⁽¹⁾, and in particular Article 13 thereof,

Whereas 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⁾ ceased to be applicable on 31 December 1988; whereas the authorizations given under Article 13 thereof must be renewed from 1 January 1989 pursuant to Article 13 of Regulation (EEC, Euratom) No 1553/89;

Whereas, under Article 28 (3) 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 called 'the Sixth Directive', as last amended by Directive 84/386/EEC⁽⁴⁾, the Member States may continue to exempt or tax certain transactions; whereas these transactions must be taken into account for the determination of the VAT resources base;

Whereas, for the purposes of the breakdown of transactions by statistical category, Germany is unable to use definitive figures from the national accounts for the last year but one before the financial year for which the VAT resources base has to be calculated; whereas Germany should therefore be authorized to use figures taken from the national accounts for years earlier than the last year but one;

Whereas Germany is unable to make a precise calculation of the VAT own resources base for three categories of transactions listed in Annexes E and F to the Sixth Directive; whereas such calculation is likely to involve an unjustified administrative burden in relation to the effect of these transactions on Germany's total VAT resources base; whereas Germany should therefore be authorized not to take these transactions into account for the calculation of the VAT base;

Whereas Germany is able to make a calculation using approximate estimates for tax not collected because of the graduated tax relief granted under Article 24 (2) of the Sixth Directive and four categories of transactions listed in Annexes E and F to the Sixth Directive; whereas it should therefore be authorized to calculate the VAT base using approximate estimates;

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

⁽¹⁾ OJ No L 155, 7. 6. 1989, p. 9.

⁽²⁾ OJ No L 336, 27. 12. 1977, p. 8.

⁽³⁾ OJ No L 145, 13. 6. 1977, p. 1.

⁽⁴⁾ OJ No L 208, 3. 9. 1984, p. 58.

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HAS ADOPTED THIS DECISION:

Article 1

In order to perform breakdown by rate referred to in Article 4 (4) of Council Regulation (EEC, Euratom) No 1553/89 Germany is hereby authorized from 1 January 1989 to use figures obtained from the national accounts for the last year but two or the last year but three before the financial year for which the VAT resources base has to be calculated.

Article 2

For the purpose of calculating the VAT own resources base from 1 January 1989, Germany is authorized not to take into account the following categories of transactions referred to in Annexes E and F to the Sixth Directive:

1. The services of travel agents acting in the name and on account of the traveller for journeys outside the Community (Annex E, ex point 15);
2. Transactions carried out by blind persons or workshops for the blind (Annex F, point 7);
3. Management of credit and credit guarantees by a person or body other than the one which granted the credits (Annex F, point 13);

Article 3

For the purpose of calculating the VAT own resources base from 1 January 1989, Germany is authorized to use approximate estimates to calculate the tax not collected because of the graduated tax relief granted under Article 24 (2) of the Sixth Directive and for certain categories of transactions referred to in Annexes E and F to the Sixth Directive:

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2. Supplies of dental prostheses and the provision of services relating thereto by dental technicians and supplies of dental prostheses by dentists when these prostheses are made by dentists themselves (Annex E, ex point 2);
3. Telecommunications services and supplies of goods incidental thereto supplies by public postal services, excluding the supply and maintenance of secondary telephone installations by the Federal Post Office (Annex F, ex point 5);
4. The safekeeping and management of securities (Annex F, ex point 15);
5. Supplies of those buildings and land described in Article 4 (3) of the Sixth Directive (land with new buildings and building land) (Annex F, ex point 16).

Article 4

This Decision is addressed to the Federal Republic of Germany.