Commission Implementing Decision (EU, Euratom) 2018/1886 of 30 November 2018 amending Decision 90/184/Euratom, EEC authorising Denmark not to take into account certain categories of transactions and to use certain approximate estimates for the calculation of the VAT own resources base (notification under document C(2018) 7854) (Only the Danish text is authentic)

COMMISSION IMPLEMENTING DECISION (EU, Euratom) 2018/1886

of 30 November 2018

amending Decision 90/184/Euratom, EEC authorising Denmark not to take into account certain categories of transactions and to use certain approximate estimates for the calculation of the VAT own resources base

(notification under document C(2018) 7854)

(Only the Danish text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 the first indent of Article 6(3) thereof,

After consulting the Advisory Committee on Own Resources,

Whereas:

(1) Under Article 371 of Council Directive 2006/112/EC[(2)], Denmark may, in accordance with the conditions applying in that Member State on 1 January 1978, continue to exempt the transactions listed in Part B of Annex X to that Directive. In accordance with that Article, those transactions are to be taken into account for the determination of the value added tax (VAT) own resources base.

(2) By Commission Decision 90/184/Euratom, EEC[(3)], Denmark was authorised, inter alia, not to take into account transactions now referred to in point 2 of Part B of Annex X to Directive 2006/112/EC, namely services supplied by authors, artists and performers in order to calculate the VAT own resources base. However, subsequently by Commission Implementing Decision 2012/814/EU[(4)], Euratom this authorisation was repealed.

(3) In 2012, the Commission carried out a review exercise of authorisations granted to Member States in order to remove those which were no longer required. As part of that exercise, Denmark inadvertently omitted to include the authorisation in respect of those transactions referred to in point 2 of Part B of Annex X to Directive 2006/112/EC in a list of authorisations furnished to the Commission. The Commission interpreted this omission as an implicit confirmation by Denmark that the authorisation could be

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Decision (EU, Euratom) 2018/1886. (See end of Document for details)*

repealed and it subsequently adopted Implementing Decision 2012/814/EU deleting the authorisation granted in Article 1 of Decision 90/184/Euratom, EEC. If the Commission had been in possession of correct information, that authorisation would not have been deleted.

(4) In its letter of 30 April 2018, Denmark stated that the authorisation granted in Decision 90/184/Euratom, EEC was repealed due to a misunderstanding. Implementing Decision 2012/814/EU, Euratom incorrectly recited that Denmark taxed those transactions referred to in point 2 of Part B of Annex X to Directive 2006/112/EC, and that therefore the authorisation granted by Decision 90/184/Euratom, EEC should be repealed. However, Denmark has confirmed that it has never taxed the supply of services by authors, artists and performers and these supplies belong to the transactions referred to in point 2 of Part B of Annex X to Directive 2006/112/EC, which Member States may continue to exempt. Given that the basis for the repeal of the authorisation never in fact existed, Denmark requests the Commission to reinstate the authorisation granted in Decision 90/184/Euratom, EEC.

(5) On the basis of an analysis of the documents submitted by Denmark in 2012 and based on information received from Denmark in 2018, the Commission considers that the authorisation should be reinstated in order to correct the terms of Decision 90/184/Euratom, EEC and that it should apply from that date.

(6) For reasons of transparency and legal certainty, it is appropriate to limit the applicability of this authorisation in time.

(7) Decision 90/184/Euratom, EEC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In Decision 90/184/Euratom, EEC the following Article 2a is inserted:

Article 2a

For the purposes of calculating the VAT own resources base from 20 December 2012 to 31 December 2022, Denmark is authorised not to take into account the transactions referred to in Point 2 of Part B of Annex X to Council Directive 2006/112/EC[(5)] insofar as they apply to services supplied by authors, artists and performers.

Article 2

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 30 November 2018.

For the Commission

Günther OETTINGER

Member of the Commission