EIGHTEENTH COUNCIL DIRECTIVE

of 18 July 1989

on the harmonization of the laws of the Member States relating to turnover taxes — Abolition of certain derogations provided for in Article 28 (3) of the Sixth Directive, 77/388/EEC

(89/465/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas 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 (4), as last amended by the Act of Accession of Spain and Portugal, allows Member States to apply measures derogating from the normal rules of the common system of value added tax during a transitional period; whereas that period was originally fixed at five years; whereas the Council undertook to act, on a proposal from the Commission, before the expiry of that period, on the abolition, where appropriate, of some or all of those derogations;

Whereas many of those derogations give rise, under the Communities' own resources system, to difficulties in calculating the compensation provided for in 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 (5); whereas, in order to ensure that that system operates more efficiently, there are grounds for abolishing those derogations;

Whereas the abolition of those derogations will also contribute to greater neutrality of the value added tax system at Community level;

Whereas some of the said derogations should be abolished respectively from 1 January 1990, 1 January 1991, 1 January 1992 and 1 January 1993;

Whereas, having regard to the provisions of the Act of Accession, the Portuguese Republic may, until 1 January 1994 at the latest, postpone the abolition of the exemption of the transactions referred to in points 3 and 9 in Annex F to Directive 77/338/EEC;

Whereas it is appropriate that, before 1 January 1991, the Council should, on the basis of a Commission report, review the situation with regard to the other derogations provided for in Article 28 (3) of Directive 77/388/EEC, including the one referred to in the second subparagraph of point 1 of Article 1 of this Directive, and that it should take a decision, on a proposal from the Commission, on the abolition of these derogations, bearing in mind any distortion of competition which has resulted from their application or which may arise in connection with the future completion of the internal market,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/388/EEC is hereby amended as follows:

1. With effect from 1 January 1990 the transactions referred to in points 1, 3 to 6, 8, 9, 10, 12, 13 and 14 of Annex E shall be abolished.

   Those Member States which, on 1 January 1989, subjected to value added tax the transactions listed in Annex E, points 4 and 5, are authorized to apply the conditions of Article 13A (2) (a), final indent, also to services rendered and goods delivered, as referred to in Article 13A (1) (m) and (n), where such activities are carried out by bodies governed by public law.

2. In Annex F:

   (a) The transactions referred to in points 3, 14 and 18 to 22 shall be abolished with effect from 1 January 1990;

   (b) The transactions referred to in points 4, 13, 15 and 24 shall be abolished with effect from 1 January 1991;

   (c) The transaction referred to in point 9 shall be abolished with effect from 1 January 1992;

   (d) The transaction referred to in point 11 shall be abolished with effect from 1 January 1993.

(1) OJ No C 347, 29. 12. 1984, p. 3 and OJ No C 183, 11. 7. 1987, p. 9.
(2) OJ No C 125, 11. 5. 1987, p. 27.
(3) OJ No C 218, 29. 8. 1985, p. 11.
(4) OJ No L 145, 13. 6. 1977, p. 1.
(5) OJ No L 155, 7. 6. 1989, p. 9.