TENTH COUNCIL DIRECTIVE

of 31 July 1984

on the harmonization of the laws of the Member States relating to turnover taxes, amending Directive 77/388/EEC — Application of value added tax to the hiring out of movable tangible property

(84/386/EEC)

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 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 (1),

Having regard to the proposal from the Commission (2),

Having regard to the opinion of the European Parliament (3),

Having regard to the opinion of the Economic and Social Committee (4),

Whereas, pursuant to Article 4 (2) of the aforementioned Directive, the hiring out of movable tangible property may constitute an economic activity subject to value added tax ;

Whereas application of Article 9 (1) of the aforementioned Directive to the hiring out of movable tangible property may lead to substantial distortions of competition where the lessor and the lessee are established in different Member States and the rates of taxation in those States differ ;

Whereas it is therefore necessary to establish that the place where a service is supplied is the place where the customer has established his business or has a fixed establishment for which the service has been supplied or, in the absence thereof, the place where he has his permanent address or usually resides ;

Whereas, however, as regards the hiring out of forms of transport, Article 9 (1) should, for reasons of control, be strictly applied, the place where the supplier has established his business being treated as the place of supply of such services,

HAS ADOPTED THIS DIRECTIVE :

Article 1

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

1. Article 9 (2) (d) is deleted ;

2. in Article 9 (2) (e) the following indent is added :

   '— the hiring out of movable tangible property, with the exception of all forms of transport.' ;

3. in Article 9 (3), 'and the hiring out of movable tangible property' is replaced by 'and the hiring out of forms of transport'.

Article 2

1. Member States shall bring into force the measures necessary to comply with this Directive by 1 July 1985.

2. Member States shall inform the Commission of the provisions which they adopt for the purpose of applying this Directive. The Commission shall inform the other Member States thereof.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 31 July 1984.

For the Council

The President

J. O'KEEFFE

(1) OJ No L 145, 13. 6. 1977, p. 1.
(2) OJ No C 116, 9. 5. 1979, p. 4.
(3) OJ No C 4, 7. 1. 1980, p. 63.
(4) OJ No C 297, 28. 11. 1979, p. 16.