

**Royal Decree no. 3, of December 10, 1969, relating to the deduction for the purposes of the tax on value added.**

*(Implementation of the articles 12, § 1, and 45 to 49 of the Code)*

(Unofficial Coordination)

**Amended, as of 02/01/2020 ( KB 11.12.2019 BS 23.11.2019, p. 116136)**

**Table of contents**

SECTION I. Conditions to which the exercise of the right is subject to deduction.

*( art. 1 - art. 4)*

SECTION II. Adjustment of the deduction in respect of other taxes than those levied

**assets. ( art. 5)**

SECTION III. Adjustment of the deduction in respect of taxes levied on business

**resources. ( art. 6 - art. 11)**

SECTION IV. Conditions with regard to the subcontractor in accordance with the general RELATIONSHIP

**number. ( art. 12 - art. 18)**

SECTION V. Provisions relating to the deduction in accordance with the actual use of the

**goods and services. ( art. 19 - art. 21)**

SECTION VI. Special provision. *( art. 21bis - art. 23)*

**SECTION**

**Conditions to the exercise of the right to deduct**

**has been subjected.**

**Article 1**

*(The text of Decree no. 3, Article 1, § 2, paragraph was amended with effect from 05/16/2014 (Art 6 KB 01.24.2015 BS 02/20/2015 - Ed. 2, pg 13872..))*

§ 1. Subject to the application of Article 45, §§ 1a, 2 and 3 of the Code of the tax value added, bringing the taxpayer, under the conditions laid down in Articles 2 to 4 of this decision, the tax deductions levied on goods and services that it designates to perform in article 45, § 1, 1° to 5°, acts referred to in the Code.

If the taxable person in the course of his economic activity other acts which are not entitled to deduction, he behaves, to determine the services to be deducted, to the provisions of Articles 46 and 48 of the Code and 12 to 21 this decision.

§ 2. deduction does not in any case considered the taxation of goods and services that a taxpayer earmarks for private purposes or for purposes other than those of his business.

When a good or a service intended to be used in part for such purposes, the right not deductible in proportion to such use. That relationship is entrusted by the taxpayer to be determined under the control of the administration of the tax on value added.

## Article 2

*(The text of Decree no. 3, Article 2 was replaced with effect from 01.01.2013 (Art. 4, KB 30.04.2013 BS 05.08.2013))*

The right to deduct:

- 1 ° regarding the tax levied on the taxable goods supplied and services rendered at the time the tax is payable under Article 16 § 1, 17, 22, § 1 and 22a of the Code;
- 2 ° regarding the tax levied on a transaction which the taxpayer for the needs of its economic activity and is treated as a supply by Article 12 § 1, first paragraph, 3 ° and 4 ° of the Code, or with a service by Article 19, § 2, first paragraph, 1 °, or § 3 of the Code, at the time when the load becomes due by virtue of articles 16, § 1, 17, 22, § 1 and 22a of the Code;
- 3 ° levied in respect of the taxation of imports, at the time when the tax is payable under Article 24 of the Code;
- 4 ° levied in respect of the taxation of intra-Community acquisition, at the time when the tax is payable under Article 25sexies of the Code;
- 5 ° regarding the tax levied on a transaction which the taxpayer for the needs of its economic activity and that is assimilated to an intra-Community acquisition by Article 25c of the Code, at the time the tax becomes due under Article 25sexies of the Code;
- 6 ° with respect to the load which is due or paid is referred to in the circumstances described in section 58, § 4, 7 °, the second member of the Code, determined at the point in time in the article 58, § 4, 7 °, the third paragraph of the Code;
- 7 ° regarding the tax levied on an act referred to in Article 7, § 3 of the Royal Decree no. 54 relating to the warehousing regime other than customs warehousing under Article 39quater of the Tax Code on the value added at the time when the tax becomes due under Article 9 of that decision.

## Article 3

*(The text of Decree no. 3, Article 3, § 1, 1 ° and 7 °, was amended with effect from 01/07/2016 (Art. 4 KB 18/12/2015, 12/28/2015 BS, ed. 2, p. 79604))*

§ 1. To the right of deduction to exercise the taxpayer must:

- 1 ° concerning the tax levied on the held goods and services provided delivered to him an invoice issued in accordance with Articles 53, § 2 and 53decies, § 2 of the Code which the particulars are contained under Article 5, § 1 of the Royal Decree No 1 concerning the arrangements for payment of the tax on value added.;
- 2 ° regarding the tax levied on an act he performed for the needs of its economic activity and is treated as a supply by Article 12 § 1, first paragraph, 3 ° and 4 ° of the Code, or a service by Article 19 § 2, first paragraph, 1 °, or § 3 of the Code, in Article 3 of the Royal Decree no. 1

regarding the arrangements for payment of the tax on the added value provided document preparation and tax included in the declaration relating to the period in which it becomes due;

- 3 ° with respect to the load imposed on the other inputs than those referred to below 4 °, are in the possession of an input document that sets it as the addressee and designating that the payment of the load;
- 4 ° at raised with regard to the load of the entries made for the procedure of the reverse charge to the interior, the amount of tax record in the declaration with regard to the period in which it is due;
- 5 ° concerning the tax levied on intra-Community acquisitions of goods handed in possession of an invoice in accordance with the legal provisions in the State of force from which goods are dispatched or transported, or in the absence of such a bill, the piece referred to in Article 9, § 1 of the royal Decree no. 1 concerning the arrangements for payment of the tax on value added and whether the tax included in the declaration relating to the period in which they are due or in the cases referred to in articles 1 and 2 of the royal Decree.46 regulating the declaration of intra-Community acquisitions of means of transport and the payment of the relevant VAT in possession of the special declaration referred to in Article 1 of that Decision;
- 6 ° regarding the tax levied on a transaction which the taxpayer for the needs of its economic activity and in possession is treated by Article 25c of the Code, with an intra-Community acquisition of transfertdocument accordance with the legal provisions in force his piece and provided in the Member State from which the goods are dispatched or transported or, failing that, in Article 9, § 3 of the royal Decree no. 1 concerning the arrangements for payment of the tax on the value added the tax included in the declaration relating to the period in which it becomes due;
- 7 ° concerning the tax levied on the acts for which he, in accordance with article 51, § 2, first paragraph, 1 °, 2 °, 5 ° and 6 ° of § 4 or Article 55, § 6 of the Code, obliged himself to pay the payable tax, awarded in possession of an invoice in accordance with Article 53, § 2 and 53decies, § 2 of the Code or, in the absence of such a bill, the intended piece Article 9, §

1, relating to the implementation modalities of the Royal Decree no. 1 concerning the arrangements for payment of the tax on the added value of Article 5 § 2 of the Royal Decree no. 31 of April 2, 2002 of the added tax value in respect of the transactions carried out by non-established taxable in Belgium and the tax included in the declaration relating to the period in which they are due.

§ 2. Notwithstanding § 1, in cases provided for in Article 13 of Royal Decree no. 1 concerning the arrangements for payment of the tax on the value added to make the deduction subject to the by or on behalf the Minister of Finance conditions.

#### Article 4

*(The text of Decree no. 3, Article 4 shall apply from 07/07/2003 (Art. 1, KB 16.06.2003 BS 27.06.2003))*

The taxpayer shall exercise his right to deduct from global owed by the total amount of tax for a tax period, the total amount accrued from the

tax which such entitlement to deduct during the same period and can be exercised under Article 3.

When the formalities governing the exercise of the right to deduct is subject, are not timely fulfilled and, in particular, where Article 3, § 1, 1<sup>o</sup>, shall invoice was issued after the expiry of the period prescribed by Article 4 § 1 of the royal Decree no. 1 of december 29, 1992, which is exercised in the declaration relating to the period during which the formalities of a declaration regarding a subsequent period, before the expiry of the third calendar following that in which the pulling off tax became payable.

## SECTION II

### **Adjustment of the deduction in respect of other taxes than levied on assets.**

#### **Article 5**

*(The text of Decree no. 3, 5, was replaced with effect from 01.01.2011 (Art. 2, KB 19.12.2010 BS 24.12.2010))*

§ 1. The taxpayer shall review the initial investigation deduction:

- 1<sup>o</sup>, when the subtraction is greater or less than that which he might carry out on the  
when the formalities were dealt with in Article 4;
- 2<sup>o</sup> in the case provided for in Article 79 § 1, second paragraph, of hetWetboek;
- 3<sup>o</sup>, when there are changes in the factors in the calculation of the incurred  
deduction underlie such changes provided for in Articles 15 and 19 or changes in the event that a taxpayer only acts performed  
which can be deducted granted, then carries out operations for which there is no right to deduction;
- 4<sup>o</sup> if he loses any right to deduct as regards not yet alienated physical  
movables and yet unused services at the time of the loss.

§ 2. As regards the tax levied on the services related to the goods referred to in Article 1, § 9 of the Code, which did not deductible at the time when the tax was due, the taxpayer reviews the deduction when services are subsequently used to carry out transactions giving entitlement to deduction.

§ 3. The purpose of this article is regulated by or on behalf of the Minister of Finance.

### SECTION III

#### Adjustments of deductions levied on tax of assets.

##### Article 6

*(The text of Decree no. 3, Article 6 shall apply from 18.05.2007 (Art. 125, W 27.04.2007) BS 08.05.2007)*

Under assets, for which the deduction of tax is subject to review under Article 48 § 2 of the Code must be understood, the physical property, the property rights under Article 9, paragraph 2, of the Code and services intended to be used in a sustainable manner as working tools or operating assets. In the first paragraph shall not be designed containers, small equipment, small tools and stationery, which comply with the criteria set by the Minister of Finance.

The provisions of this Article shall also apply to the application of Article 12, § 1 and 19 § 2 of the Code.

##### Article 7

*(The text of Decree no. 3, Article 7 shall apply from 18.05.2007 (Art. 126 W 27.04.2007, BS 08.05.2007))*

Under the tax which the deduction is subject to review under Article 48 § 2 of the Code, should the tax be understood levied on the purchase, intra-Community acquisition, importation or acts intending or contribute to the formation, transform or improve in Article 6, paragraph referred assets. For the purposes of the preceding paragraph is not a tax deduction which is subject to revision:

- 1 ° the tax levied on repairs or maintenance work on assets, and the tax imposed on the purchase, intra-Community acquisition or importation of spare parts intended for such work;
- 2 ° the tax levied on the rental of equipment and, more generally, the transfer of the enjoyment of assets or grant rights to that enjoyment.

##### Article 8

*(The text of Decree no. 3, section 8, paragraph 2 °, shall apply from 01.01.2011 (Art. 3, KB 19.12.2010 BS 24.12.2010))*

The taxpayer reviews the initial investigation deduction for assets:

- 1 °, when the subtraction is greater or less than that which he might carry out on the when the formalities were referred to in Article 4;
- 2 ° in the case provided for in Article 79 § 1, second paragraph, of the Code.

The purpose of this article is regulated by or on behalf of the Minister of Finance.

## Article 9

*(The text of Decree no. 3, Article 9, § 2, paragraph 2 ° and 3 °, was amended with effect from 01/02/2020 (Art. 5, KB 12.11.2019 BS 23.12.2019, p. 116136)) (1)*

§ 1. With regard to the tax levied on assets, the deduction originally performed by the taxpayer was subject to revision for a period of five years in accordance with Article 48, § 2, first paragraph, of the Code, with effect from 1 January of the year in which the assets were put into operation.

§ 2. As regards the tax levied on property assets, this period shall be put on fifteen years according to Article 48 § 2, second paragraph, of the Code.

Under load levied of real assets is understood to mean the load charged on:

- 1 ° the acts intending or contribute to the creation of goods referred to in Article 1, § 9, first paragraph, 1 °, of the Code;
- 2 ° the acquisition of goods referred to in Article 1, § 9, first paragraph, of the Code;
- 3 ° obtaining an Article 9, paragraph 2, of the Code meant business right to property under Article 1, § 9, first paragraph, of the Code.

§ 3. Notwithstanding paragraphs 1 and 2, is the review period twenty-five years in respect of the tax levied on buildings or parts of buildings, possibly with the associated land, which are rented under the terms of Article 44 § 3, 2 °,

d), of the code.

For the purposes of subsection referred to the taxation of:

- 1 ° the acts intending or contributing to the construction of a building or part of a building;
- 2 ° the acquisition of goods referred to in the first paragraph;
- 3 ° obtaining an Article 9, paragraph 2, of the Code referred to in rem to goods referred to in the first paragraph.

§ 4. The period referred to in paragraph 3 shall apply notwithstanding any subsequent changes in the use of the said goods when the goods have been the subject of a lease referred to in Article 44, § 3, 2 ° d) of the Code :

- 1 ° from their first use;
- 2 ° after their first time but within a period of fifteen years from January 1 of the year of their first use.

In the situation described in the first paragraph, 2 °, replace the period referred to in paragraph 3, the period referred to in paragraph 2 from 1 January of the year in which those goods are leased under the terms of Article 44 § 3, 2 °, d), of the code. To calculate the amount of tax revision from that time subject is the period referred to in paragraph 3 deemed commenced taken to have effect from 1 January of the year in which the goods in question have been the subject of initial installation.

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(1) Article 9, § 1, applies to the assets for which the right to deduct VAT charged that assets at the earliest on January 1, 2019 arose for the first time.

The assets of which the right to deduct the VAT levied on the assets originated before January 1, 2019, remains subject to Article 9, § 1, in the version in force before the entry into force of this Decision. (Art. 9 KB 05/12/2019)

## Article 10

*(The text of Decree no. 3, Article 10 shall apply from 01.04.2007 (Art 103 W 27.04.2007.) BS 08.05.2007 - Erratum BS 23.05.2007*

§ 1. The review must be carried out under the previous article, if, during the period referred to in that article:

- 1 ° the holding means by the taxpayer in whole or in part is used for private purposes, or for the attainment of actions that are not entitled to deduct grant, or a right to grant deduction in a different proportion than that which has served as a basis for the initial deduction; This provision shall not apply if the entire private use gives rise to a taxable supply within the meaning of Article 12 § 1, 1 ° or 2 ° of the Code;
- 2 ° any change has occurred in the factors that, taking into account the economic activity pursued done to the calculation of the deduction for the holding means are located at the root;
- 3 ° The asset is the subject of an act which grants right to deduct and the extent to which the deduction of the tax levied on the estate has undergone a restriction other than those arising from Article 45 § 2 of the Code;
- 4 ° the asset resides in the enterprise to exist or when no longer used for the VAT unit following the retirement of one of the members it, unless it is proved that this is the result of an act that entitles to deduction or destroyed asset or stolen was;
- 5 ° someone loses the status of taxable person or if he joins a VAT group, or only provides services which grant no right to deduct as regards the real property subject to review by their nature and the real rights unless those goods have been the subject a provision which entitles to deduction of those interests by applying the tax were transferred or re-transmitted.

In the case of 3 °, the amount of tax that may be due to the revision deduction limited to the amount obtained by multiplying the taxable amount for the supply to the rate at which the tax, which deduction shall be adjusted, was calculated.

§ 2. The review should also be conducted during the period referred to in the previous article:

- the asset that has been subject to in § 1, paragraph 4 °, referred to revision, used by the outgoing member of the VAT unit in pursuit of acts entitled to grant deduction;
- the asset that has been subject to in § 1, paragraph 5 ° referred to revision by the VAT group is used to achieve acts entitled to grant deduction.

§ 3. In the context of the system of the VAT unit, the amounts may be due to the result of in § 1, first paragraph, 4 ° and 5 °, referred to revisions, are calculated with the amount of the load that can be deducted according to the review referred to in § 2.

The settlement requires the written consent of the member and the representative of the VAT unit.

The settlement must be made in respect of the VAT unit.

To that end, the VAT control offices including the VAT unit, attached to the member concerned, an inventory be made of the subject to revision property, which the model is determined by or on behalf of the Minister of Finance, and a copy of the said agreement .

## Article 11

*(The text of Decree no. 3, Article 11, § 1, was replaced, §§ 2 and 3 are amended and replaced § 4, from 05/27/2019 (Art. 2, KB 12.05.2019 BS 27.05.2019, p. 50443))*

§ 1. The revision referred to in Article 10, § 1, 1 °, which is calculated in the manner defined in Article 1, § 2 is carried out up to an amount of one-fifth, one-fifteenth or twenty-fifth, according to the distinction made in the article 9, depending on the nature or make use of the good, the amount of the originally in deduction transmitted load, for each year in which a change occurs in the use.

In the case of Article 9, § 4, first paragraph, 2 °, the review referred to in the first paragraph for the period is from January 1 of the year in which the change in use occurred up to the twenty-fifth year following the commissioning of the property, carried out yearly to the extent of an amount resulting from the break with:

- 1 ° in the numerator: the total amount of tax deducted that has not been subject to review at the time of the change in use;
- 2 ° in the denominator the number of years have not yet elapsed from the review period of twenty-five years at the time of the change in use.

When the asset is used wholly for private purposes or to achieve actions that no right to grant deduction, once the review is being carried out for the year in which the change occurs in the use and still run for years.

§ 2. The data in article 10, § 1, 2 °, referred to revision shall be carried out every year, up to an amount of one-fifth, one-fifteenth or twenty-fifth according to the case, of the amount of the originally in deduction transmitted load, in accordance with the control by or pursuant to articles 12 to 21 of this decision.

§ 3. Article 10, § 1, 3 ° to 5 ° and § 2 shall adjustment shall be made once for the year in which the cause of the revision occurred and still running years of the review period to course , according to the case, of a fifth, a fifteenth or twenty-fifth per year:

- 1 ° in the cases referred to in Article 10, § 1, 3 °, the amount of the load which has been subjected to the limitation of the reduction referred to in that article;
- 2 ° in the cases referred to in Article 10, § 1, 4 ° and 5 °, and § 2, of the amount of the originally transmitted in deduction load.

§ 4. The taxpayer who performed the deduction of the tax levied on property assets, is bound books, documents, invoices, contracts, bank statements and other documents referred to in Article 60, §§ 1 and 4, of the Code concerning the acts listed in Article 9, § 2, subsection keep for fifteen years.

The period shall be twenty-five years for the books, documents, invoices, contracts, documents, bank statements and other documents relating to the transactions listed in Article 9, § 3.



The retention periods referred to in the first and second paragraph shall run from January 1 of the year following their conclusion regarding books, their date regarding documents or last year in which a computerized system referred to in Article 60, § 4, third member of the Code, is used.

The retention period shall begin to run from January 1 of the year in which the asset was put into use, if that date is later than those defined in paragraph.

§ 5. The taxpayer holds a table of its assets, which allows the deduction and the revisions he made to control.

For the purposes of Article 60 of the Code, the table of a particular asset to be maintained for a period of seven years provided for review period from the end of the Article 9 of this Decision.

§ 6. The purpose of this article is regulated by or on behalf of the Minister of Finance.

## SECTION IV

### Conditions with regard to the subcontractor in accordance with the overall ratio.

#### Article 12

*(The text of Decree no. 3, Article 12 shall apply with effect from 01/01/1971  
(KB 12.10.1969))*

The overall ratio is a break as referred to in Article 46, § 1, of the Code:

- 1 ° with the numerator, the total fixed per calendar year of operations,  
who are entitled to deduction;
- 2 ° with the denominator, the total amount set per calendar year, both the  
transactions included in the numerator of the transactions for which no entitlement to deduct.

The operations of the lifted load is not included in the amounts mentioned in 1 ° and 2 °.

The overall ratio is expressed as a percentage. The method of calculation, and its completion will be determined by or on behalf of the Ministry of Finance.

#### Article 13

*(The text of Decree no. 3, Article 13, paragraph 1, 2 ° shall apply from 01.01.1993  
(Art. 10, KB 29.12.1992))*

Notwithstanding the preceding article for the calculation of the ratio generally not taken into account:

- 1 ° the yield of the divestiture of assets that were used by the taxpayer in its operation;
- 2 ° revenues and income from immovable and from financial operations except those operations belonging to a particular economic activity such;

- 3 ° the amount of operations abroad, if they are performed by a business which is separate from the seat based in Belgium and the expenses related to these transactions are not supported directly by the latter office.

#### Article 14

*(The text of Decree no. 3, 14, was raised from 01/01/1978 (Art. 19 KB 31.03.1978))*

*( lifted)*

#### Article 15

*(The text of Decree no. 3, Article 15 shall apply from 18.09.2001 (Art. 3, KB 05.09.2001))*

On an annual general ratio is provisionally determined on the basis of the amount of the transactions completed during the previous year. When such a reference is missing or is not relevant, the ratio is provisionally by the taxpayer is estimated on the basis of the operation perspective.

The final ratio is determined for each year by 20 April of the following year.

When the final ratio is higher than the provisional ratio, the taxpayer may carry an additional deduction equal to the calculated difference between the deduction in accordance with the final ratio

and the deduction calculated according to the preliminary ratio. In the opposite case, the taxpayer must have a tax refund amount equal to the difference.

Each ratio has to be accounted for in a calculation sheet in which all of the elements set out in Articles 12 and 13 taken into consideration for the determination of that number may be incorporated. The taxpayer is the calculation sheet in at the designated tax office, no later than the date of filing of the declaration under Article 18, §§ 1 and 2 of the Royal Decree no. 1 of December 29, 1992, in which the ratio is first used. The calculation sheet should refer to that declaration.

#### Article 16

*(The text of Decree no. 3, 16, was replaced with effect from 05/27/2019 (Art. 3, KB 12/05/2019, 05/27/2019 MB, Ed. 1, p. 50443))*

As regards the tax levied on assets, the initial deduction is made on the basis of the provisional ratio of the year in which the entitlement to deduct. That deduction shall be adjusted in the manner specified in Article 15 on the basis of the final ratio of the year in which the asset was put into use. That first revision relates to the total amount of the deduction originally charged tax.

The following revisions have annual cover a fifth, fifteenth or twenty-fifth, according to the distinction made in Article 9, depending on the nature and use of the property, the amount of the corresponding first final ratio deduct tax effected. The taxable person to compare revisions by the ratio of the final ratio of each of the four, fourteen or twenty years to take into account.

## Article 17

*(The text of Decree no. 3, Article 17 shall apply from 01/01/1971  
(KB 12.10.1969))*

§ 1. The taxpayer is relieved of it by Articles 15 and 16 shall undertake to revision when the difference between the ratios take into account not reached ten percent.

This provision is not applicable in the case of a revision of the time being a ratio that has been estimated on the basis of the operation perspective.

§ 2. The taxpayer may waive the exemption from the review requirement which § 1 provides, provided he does so for at least five consecutive years and it notifies to the administration in the calculation sheet referred to in Article 15, last paragraph.

## Article 18

*(The text of Decree no. 3, Article 18, first paragraph shall apply from 01.01.2011  
(Art. 6 KB 19.12.2010 BS 24.12.2010))*

Due to or because of the Ministry of Finance may, in the determination by, or on behalf of him cases, be made from the articles 5, § 1, 4 DEG, 10, § 1, 5 °, 12 and 15 to 17.

The manner of adjustment of deductions is determined by or on behalf of the Minister of Finance:

- 1 ° When a person who carries out only transactions which confer the right to deduct, also action starts asking which grant no right to deduct all or part of its economic activity ceases;
- 2 ° when someone performs both actions entitled to grant deduction actions not deductible provision, starts asking only acts entitled to grant deduction;
- 3 ° when a person performs both actions entitled to grant deduction operations which are not entitled or providing net, transitions from the to the items 19 to 21 of this decision scheme referred to in which the subtraction is carried out according to the actual use of the goods and services, according to the scheme in which the subtraction is carried out according to the general ratio, and vice-versa ;

## SECTION V

### **Conditions with regard to the subcontractor in accordance with the actual use of goods and services.**

## Article 19

*(The text of Decree no. 3, Article 19 shall apply from 01/01/1971  
(KB 12.10.1969))*

The taxpayer deductions made in accordance with the actual use of the goods and services under Article 46 § 2 of the Code, that revised deduction when the goods and services are not used in the business unit for which they were intended.

This revision has the refund resulting from the initially deducted tax effected when the goods and services, in whole or in part, be transferred from one business unit which reflect the actions entitled to deduct a business unit whose actions give no right to deduct. She has an additional deduction resulted in the opposite case. As regards the tax levied on assets, the adjustment shall be made in accordance with Article 20.

## Article 20

*(The text of Decree no. 3, article 20, paragraphs 1, 2 and 3, was amended with effect from 01/02/2020 (Art. 6 KB 11.12.2019 BS 11.23.2019, p. 116136))*

The performed review under Article 19 when a change in use of assets occurs before the end of the fourth, fourteenth or twenty years after that in which the assets were put into operation, according to Article 9, depending on the nature or use of the good distinction.

When the asset becomes a business unit whose operations entitled to deduction give a business unit whose operations do not give right to deduct the amount to refund equal to the initially deducted tax effected reduced by a fifth, a fifteenth or twenty-fifth, in accordance with the same distinction, a year which has elapsed before the year in which the change has occurred in the use.

When the asset becomes a business unit whose operations do not entitle to deduct a business unit whose operations do give that right, the amount of the deduction is equal to the tax that originally could not be deducted, minus a fifth, fifteenth or one twenty-fifth as the above distinction.

## Article 21

*(The text of Decree no. 3, Article 21, paragraph 3 °, was lifted from 01.01.2012 (Art.1 KB 09.01.2012 BS 23.01.2012))*

The use of the Articles 19 and 20 is controlled by or on behalf of the Ministry of Finance.

By or on behalf of his state the method of adjustment of deductions:

- 1 ° when someone carrying out only the right to grant deduction, also  
action starts asking which grant no right to deduct all or part of its economic activity ceases;
- 2 ° when someone performs both actions entitled to grant deduction  
actions not deductible provision, starts asking only acts entitled to grant deduction;

## Section VI

### special provision

#### Article 21a

*(The text of Decree no. 3, Article 21bis, § 1, paragraph was amended with effect from 05/27/2019 (Art. 5, KB 12.05.2019, 05.27.2019 BS, Ed. 1, p. 50443))*

§ 1. Where a taxable person under Article 44 of the Code exempt supplies of goods or services which give no right to deduct, for the same acts taxpayer is entitled to deduction, he may, by revising its right to deduct exercise in front of:

- 1 ° the goods and services other than assets that were not used or consumed at the time of the change of the tax;
- 2 ° the assets associated with that change still exist, as far as those goods are used and the deadline set out in Article 48 § 2 of the Code has not yet expired.

For assets, the amount of the revision equals the tax could not be deducted, net of one-fifth or one-fifteenth as the distinction depending on the nature of the goods in accordance with Article 9, a year from January 1 of the year Article 2 should be taken into account for the calculation of the deduction to 31 December of the year preceding the year in which the change in tax occurred.

This revision is done in application of Articles 45 and 49 of the Code and in accordance with the provisions of Article 3.

§ 2. The revision is subject to the submission to the supervising office of the tax value of the taxable governed by an inventory at the time of the change are not used or are consumed goods and services and a state of on that time still usable assets.

These pieces are made in two copies one of which is intended for the control office of the added tax value. They specify in detail the goods and services that are eligible for the review, the date and number of the invoice for the purchase or importation document, the taxable amount for which they were charged with tax added value and regularize amount.

§ 3. The revision to the amount of the appropriate amount made by attributing to the State amount of the tax in box 71 of part VI of the periodic declaration referred to in Article 53, § 1, paragraph 2, of the Code. If the end result of this allocation, an amount owed by the State, that amount to the next reporting periods transferred to appropriate course of section 71 of these declarations.

§ 4. or because the Minister of Finance to determine the application modalities of the review and how it is performed.

## Article 21b

*(The text of Article 21b was introduced with effect from 05/27/2019 (Art. 6 KB 05.12.2019, 05.27.2019 BS, Ed. 1, p. 50443) (2)*

§ 1. When a taxpayer a building or a portion of a building, rents in accordance with Article 44, § 3, 2<sup>o</sup>, d), of the code, he can exert his right of deduction by way of regularization for:

- 1<sup>o</sup> the tax levied on goods and services other than assets which have not been used or consumed and no full right of deduction granted at the time the tax became payable when goods and services are then used meant in operations in this paragraph;
- 2<sup>o</sup> the tax levied on the assets that are the subject of the transactions referred to in this paragraph and which did not have a full right of deduction at the time the tax became payable, provided that the period specified in Article 48 § 2 of the Code has not expired;
- 3<sup>o</sup> the tax levied on the assets which the taxable transactions carried out under this paragraph, and which did not have a full right of deduction at the time the tax became payable, provided that the period specified in Article 48 § 2 of the Code does not has expired.

For the tax levied on assets is the amount of the adjustment is equal to the tax could not be deducted, net of one-fifth or one-fifteenths as the distinction made in Article 9, depending on the nature or use of the goods by years from January 1 of the year in accordance with articles 2 and 9 must be taken into account for the calculation of the deduction to 31 December of the year preceding the year in which the lease referred to in subsection begins.

This adjustment is done in application of Articles 45 and 49 of the Code and in accordance with the provisions of Article 3.

§ 2. The adjustment is dependent upon the submission to the relevant department of the administration for the added tax value of the taxable governed by an inventory of the goods and services referred to in Section 1, subsection.

This inventory is drawn up in two copies one of which is destined for the service referred to in the first paragraph. He gives a detailed description of the goods and services that are eligible for regularization, the date and number of the invoice for the purchase or importation document, the taxable amount for which they were charged with tax added value and regularize amount.

§ 3. The adjustment is to the extent of the appropriate amount made by attributing to the State amount of the tax in box 71 of part VI of the periodic declaration referred to in Article 53, § 1, paragraph 2, of the Code. If the end result of this allocation, an amount owed by the State, that amount to the next reporting periods transferred to appropriate limit of the amount of the tax in box 71 of that declaration. The amount of the deductible tax referred to in paragraph 1 that could not be allocated in the first eleven months returns or the first three quarterly returns of the year 2019 is fully specified in the twelfth month declaration or fourth quarterly report of the year 2019.

Notwithstanding Article 81, § 3, third paragraph, of the Royal Decree no. 4 of December 29, 1969 relating to the refund of tax value added, takes no ordinance or transaction treated as a payment for the periods covered

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(2) Article 21b applies only to the tax became due before January 1, 2019 (§ 4)

first eleven months concerning declarations of the first three quarterly returns of the year 2019.

§ 4. This Article applies only to the tax became due before January 1, 2019.

§ 5. The Minister of Finance determines the procedures for implementing the regulation, and the way it is performed.

### **Article 21quater**

*(The text of Decree no. 3, Article 21quater was inserted from 05/27/2019 (Art. 7 KB 05.12.2019, 27.05.2019 BS, Ed. 1, p. 50443))*

When a taxpayer a building or part of a building hires under Article 44, § 3, 2 ° d) of the Code, which transmits to the tax exemption or business law establishes or transfers that property free of the load for the purpose of a taxable, and the existing lease continues to run:

1 ° no revision is a result of the transfer of the goods used in  
under the transferor thereof;

2 ° can be any revisions with respect to the initially placed in deduction  
tax with respect to such property arising from use changes after the transfer of the property or after the transfer or re-transfer of a  
right in the property, carried out exclusively on the part of the purchaser of that property.

### **Article 22**

*(The text of Decree no. 3, Article 22 shall apply from 01/01/1971  
(KB 12.10.1969))*

This Decision shall enter into force on the same date as the law of July 3, 1969 establishing the Tax Code value added.

### **Article 23**

*(The text of Decree no. 3, Article 23 shall apply from 01/01/1971  
(KB 12.10.1969))*

Our Minister of Finance is responsible for the implementation of this decision.

## Appendix

### Recent changes - Royal Decree No 3.

Historical versions are available on [www.fisconetplus.be](http://www.fisconetplus.be)

- \* Royal Decree of 11/12/2019 - Royal Decree amending the Royal Decrees Nos 1, 3 and 44 in relation to the tax value added registers within the system of stock on demand, the revisions of immovable assets and non-proportional tax fines relating to offenses relating to the obligation to submit the VAT declaration of intra-Community transactions and the list of intra-Community supplies of new vehicles, concerning ( *KB 11.12.2019 BS 23.11.2019, p. 116136*)

#### Changes from 01.02.2020:

- **art. 9** ( § 2, paragraph 2 ° and 3 °, as amended)
- **art. 20** ( paragraphs 1, 2 and 3, as amended)

- \* Royal Decree of 12/05/2019 - Royal Decree amending the Royal Decrees Nos 3 and 14 relating to the tax value added regarding the revisions ( *. BS 05.27.2019, p. 50443*)

#### Changes from 27.05.2019:

- **art. 9** ( Replace article)
- **art. 11** ( § 1, replacing, §§ 2 and 3 are amended and replaced § 4)
- **art. 16** ( Replace article)
- **art. 20** ( Replace first paragraph)
- **art. 21bis** ( § 1, paragraph amended)
- **art. 21b** ( introduced new products)
- **art. 21quater** ( introduced new products)

- \* Royal Decree of 18/12/2015 - Royal Decree amending the Royal Decrees Nos 1, 3, 18 and 22 regarding the tax (value added. *BS 12/28/2015 - Ed. 2, pg. 79604*)

#### Changes from 01.07.2016:

- **art. 3** ( § 1, 1 ° and 7 °, as amended)

- \* Royal Decree of 01/24/2015 - Royal Decree amending the Royal Decrees Nos 1, 2, 3, 4, 7, 9, 10, 11, 15, 19, 23, 24, 27, 31, 46, 47, 48, 50, 54 and 56 with respect to the load on the added value and the Royal Decree of June 7, 2007 until execution of the articles to 84quinquies 84decies of the code of the value-added tax ( *BS 20/02/2015 - Ed. 2, pg. 13872, erratum BS 04.17.2015, p. 22342*)

#### Changes from 16.05.2014:

- **art. 1** ( § 2, paragraph amended)



- \* Decree of 30.04.2013 - Royal Decree amending the Royal Decrees Nos 1, 2, 3, 4, 7, 10, 13, 14, 18, 19, 20, 22, 23, 24, 31, 39, 46, 48, 51, 53, 54 and 56 with respect to the value-added tax ( *BS 05/08/2013*)

Changes from **01.01.2013**:

- **art. 2** ( Replace article)
- **art. 3** ( § 1, 1 °, 5 ° and 7 °, modified) [ *only the French text*]
- **art. 4** ( paragraph amended) [ *only the French text*]
- **art. 11** ( § 4, first and second paragraphs, as amended)

- \* Decree of 09.01.2012 - Royal Decree amending Royal Decree No. 3 of December 10, 1969 relating to the deduction for the purposes of VAT (value added. *BS 23.01.2012*)

Changes from **01.01.2012**:

- **art. 21** ( second member, 3 ° lifted)
- Title: "Section VI. - Special provision "(inserted)
- **art. 21bis** ( introduced new products)