VAT Comment - Chapter 7. Tax rates (Update on 01.04.2020)

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B OEKWERK II: Determination of the tax base and the applicable fare

Chapter 7 : Tax rates

Updated according to the state of the legislation applicable on **01.04.2020**

[version 01.07.2018]

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Section 2 - Introduction

The following is an explanation of the main rules regarding the application of VAT rates in Belgium. The aim is to communicate the most important information regarding the application of VAT rates to the widest possible audience, using the main VAT sources that can be consulted on the tax database www.fisconetplus.be .

1. Structure of the Belgian VAT rate regulations

The legal provisions with regard to VAT rates are included in the Belgian VAT Code under Articles 37 to *38a* .

Article 37 of the VAT Code reads as follows (version 01.01.2019):

§ 1. By decree deliberated in the Council of Ministers, the King determines the tariffs and gives the classification of the goods and services at those tariffs, taking into account the regulations issued by the European Communities in this regard.

In the same procedure, He may change the classification and rates if the economic or social circumstances so require.

§ 2. The King shall submit to the House of Representatives, immediately if it is in session, if not at the opening of the next session, a draft law ratifying the decisions taken in implementation of paragraph 1 of this article. These decisions are deemed to have had effect until 12 months after

the date of their publication in the Belgian Official Gazette if they have not been ratified by law within this period . '

Pursuant to Article 37, Royal Decree No 20 of 20.07.1970 establishing the rates of value added tax and classifying the goods and services at those rates (ratified by the law of 27.05.1971 (Moniteur belge, 20.10.1971), sets the rates for VAT and classifies the goods and services at those rates.

Pursuant to Article 1 of the Royal Decree no. 20, aforementioned, the **standard VAT rate** of value added tax for goods and services referred to in the Code is **21%** .

By way of derogation, the tax will be levied at the reduced rate of:

- **6% for the goods and services included in table A** of the annex to the Royal Decree No. 20. However, this reduced rate may not be applied if the services referred to in Table A are ancillary to a complex contract that mainly concerns other services. has.
- **12% for the goods and services included in table B** of the annex to Royal Decree No. 20.
- **0% for the goods and services included in table C** of the annex to Royal Decree No. 20.

From the foregoing, it appears that:

- the introduction and determination of a VAT rate must take into account the European VAT regulations on VAT rates (see Title 2, below) (see also written parliamentary question No. 2.157 by Ms deputy representative Isabelle Galant of 22.03. 2018).
- Article 1 of the Royal Decree No 20, aforementioned, introduces a hierarchy when determining the VAT rate to be applied (see also circular AFZ No 3/2007 of 15.02.2007 , marginal 71 to 73). The normal VAT rate is 21%. The reduced VAT rate of 6%, 12% and 0%, respectively, will only apply if a good or service is envisaged by Table A, Table B or Table C of the Annex to Royal Decree No. 20. The burden of proof lies with the person requesting the application of the reduced VAT rate (see also Oral Parliamentary Question No. 10,991 by Mr Representative Jacques Chabot of 28.03.2006).

The goods and services included in Table A and Table B of the Annex to Royal Decree No. 20 and thus benefiting from the reduced VAT rate of 6% or 12% are discussed under Sections 3 to 5, after this.

The goods and services subject to a **zero rate** are discussed under Section 6 below. These are, on the one hand, the **daily and weekly newspapers** listed in Table C of the annex to Royal Decree No 20, and on the other, the special regulations that amount to the application of an exemption while retaining the right to deduct. These special arrangements relate to certain **recovery products** and **pro bono services** of lawyers and bailiffs.

Articles 38 and *38a* of the VAT Code are discussed under Section 10.

2. The European VAT regulations on VAT rates

Pursuant to Article 37 of the Belgian VAT Code, when determining a VAT rate, account must be taken of the regulations issued by the European Communities in this regard. Below is a brief overview of the main provisions in European VAT regulations that must be taken into account when determining a VAT rate.

The European VAT regulation on the application of VAT rates is included under Articles 93 to 129 and Annex III of Council Directive 2006/112 / EC of 28.11.2006 on the common system of value added tax value (hereinafter 'Directive 2006/112 / EC').

Under Articles 96 and 97 of Directive 2006/112 / EC, Member States are required to apply a **standard VAT rate** , which may **not be less than 15%** .

Under Articles 98 and 99 of Directive 2006/112 / EC, Member States have the option of **one or two reduced rates** apply to which **not less** should be **5%** for the goods and services **listed in Annex III**of Directive 2006/112 / EC. In addition, Member States which, on 01.01.2017, applied reduced rates in accordance with Union law below the minimum provided for in Article 99 of the Directive, may grant exemptions with a right of deduction of input tax on the supply of certain items listed in point 6 of Annex III, of the goods referred to in the Directive, also apply the same VAT treatment when that supply is made by electronic means, as referred to in point 6 of Annex III.

It follows from the wording of Article 98 of Directive 2006/112 / EC that the application of one or two reduced VAT rates is not compulsory. It is a possibility for Member States to derogate from the principle that the standard rate applies. It is settled law that provisions which constitute a derogation from a principle must be interpreted strictly (see, for example Court of Justice of the European Union Judgment Oxycure Belgium, Case C-573/15, of 03.09.2017, paragraph 25 and Judgment Commission v France , Case C-492/08, 17.06.2010, paragraph 35 and the case-law cited there).

The Court of Justice of the European Union has repeatedly stated that the possibility for Member States to apply a reduced VAT rate to certain supplies of goods and services under Annex III to Directive 2006/112 / EC is based on the underlying objective of making essential goods and services meeting, inter alia, objectives of social (or societal) interest more accessible to end-users (1).

(1) *See, for example, Court of Justice of the European Union, European Commission v. Kingdom of the Netherlands, Case C-41/09, 03.03.2011, paragraph 52 , European Commission, v. French Republic, Case C-479/13, 05.03. 2015, paragraph 32 and European Commission, v United Kingdom and Northern Ireland, Case C-161/14, 04.06.2015, paragraph 25 .*

With regard to the application of reduced VAT rates to the categories of goods and services listed in Annex III to Directive 2006/112 / EC, it is clear from the case-law of the Court of Justice of the European Union that it is for the Member States provided that they respect the principle of **fiscal neutrality** inherent in the common VAT system , in order to determine more precisely the supplies of goods and services listed in the categories listed in Annex III, referred to above, which will be subject to the reduced VAT rate (2).

(2) *See for example Court of Justice of the European Union Judgment Zweckverband zur TRINKWASSERVERSORGUNG und Abwasserbeseitigung Torgau-Westelbien , Case C-442/05 of 03.04.2008, paragraphs 42-43 , Judgment PML and EP, Joined Cases C-454/12 and C-455/12, 27.02.2014, paragraph 44 and K O. Case C-219/13, 11.09.2014, paragraph 23 .*

With regard to the principle of fiscal neutrality, it is recalled that this principle precludes the treatment of similar goods or services, which therefore compete with each other, differently for the levying of VAT (see, for example, Parliament 's Written Question No 1.120 Member of Parliament Leen Dierick from 14.07.2016). Whether supplies of goods or services are similar should be determined primarily from the **perspective of the average consumer**. Goods supplies and services are similar when they have similar characteristics and meet the same consumer needs - where comparable use is the measure - and when the differences they show are the consumer's decision to choose one good or one or involve the other service significantly (3).

(3) *See, for example, Court of Justice of the European Union, Judgment K O., Case C-219/13, 11.09.2014, paragraphs 24-25 and the case-law cited there.*

Finally, it should be noted that the European Commission has expressed its will to thoroughly reform the provisions of the VAT rates Directive 2006/112 / EC (see oral parliamentary questions No P2556 by Mr Representative Benoît Dispa and no. P2557 by Ms deputy representative Griet Smaers of 18.01.2018 , no 25.233 by mrs. Deputy representative Griet Smaers of 22.05.2018 and no. 27.649 by mrs. Deputy representative Griet Smaers of 28.11.2018) .

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Section 3 - Goods subject to the VAT rate of 6%

Preliminary remarks:

For the sake of legibility of this text, we will only refer to 'deliveries' below. Unless otherwise stated, the reduced VAT rate also applies to **intra-Community acquisitions** or **imports** of the goods in question.

Moreover, if it is stated that a certain good is 'not intended / intended by a relevant section', it can be checked whether the good is not referred to in another section of Tables A, B or C and is still subject to a reduced VAT. rate.

1. Live animals

Pursuant to **Section I** of **Table A** of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 6% applies to the supply of:

1 ° *Cattle, pigs, sheep, goats, donkeys, mules and hinnies; horses of breeds commonly used as draft, heavy or medium horse; deer; horses sold, acquired intra-Community or imported for slaughter.*

2 ° *Poultry; tame pigeons; domestic rabbits. "*

With regard to **horses** in particular , it is noted that only the following horses are subject to the VAT rate of 6%:

- horses of breeds commonly used as draft horses, heavy or medium heavy, or
- horses that are sold, acquired intra-Community or imported for slaughter.

Examples of breeds of **draft horses** intended: Belgian draft horse, Dutch draft horse, Percheron , Augeron , Nivernais , Ardenner , Auxois , Brabander, Boulonnais , Shire , Clydesdale , Suffolk , Rijnlander, and so on.

In addition, the **normal rate of 21%** applies, without any dispute, to horses of breeds commonly used as **riding horses** (thoroughbreds, half- breeds , including light draft horses, ponies), even if those horses are never ridden because they are intended to be used as broodmare, stallion or trotter. However, the **6% rate** applies to such horses when they are sold, acquired intra-Community or imported **for slaughter** .

Regarding the **other animals listed in section I, point 1 °,** the reduced VAT rate of 6% applies to the supply of these live animals, regardless of whether they are intended to be kept as livestock or as pets . The supply of the aforementioned animals intended for living in the wild or in a zoo or the like is also envisaged under heading I.

For example, ' **poultry** ' within the meaning of item 2 ° of heading I includes: live chickens, roosters, ducks, geese, pheasants, partridges, turkeys, guinea fowl, ostriches, emus, etc., as well as the young of these animals whether they are bred or kept for laying, meat, feathers or any other purpose (for example, to serve as ornamental birds).

Only **domestic pigeons** (regardless of their destination, such as slaughter pigeons, fancy pigeons, carrier pigeons) and **domestic rabbits** (bred for meat, hair or coat or any other purpose) can enjoy the VAT rate of 6%. Wild pigeons, wild rabbits and hares are excluded from the reduced VAT rate of 6%.

The application of the VAT rate of 6% is limited to the **live animals** which **explicitly are listed** in section I. Thus, for example, the supply of dogs, cats, bees (see written parliamentary question no. 387 Madam Congressman Thérèse Snoy et d'Oppuers from 16.05.2011), parakeets, canaries, etc., subject to the normal VAT rate of 21%. The supply of **guide dogs and assistance dogs** can, however, benefit from the VAT rate of 6% under Section XXIII of Table A of the Annex to Royal Decree 20, referred to above (see Section 3, Title 23).

2. Meat and offal

Under **section II** of **Table A** of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 6% applies to the supply of:

1 ° Meat and edible meat offal of all kinds, whether or not prepared or preserved.

2 ° Guts, bladders and stomachs of animals, whole or in pieces. "

The supply of live animals intended for meat production is not intended here. The supply of live animals is, in fact, envisaged by Section I of Table A of the Annex to Royal Decree No 20 (see Title 1 above).

In order to assess whether or not a particular product is covered by the aforementioned heading, the corresponding classification is respectively in Chapter 2, heading 16.01, heading 16.02 or heading 05.04 of

the Customs Tariff determines.

Consequently, meat and edible meat offal are only intended in section II, 1 ° if they are suitable for human consumption, while the intestines, bladders and stomachs of animals referred to in section II, 2 ° can be suitable for both human consumption and animal consumption. .

However, for the purposes of heading II, no distinction should be made as to whether or not the product comes from an animal subject to the VAT rate of 6% (for example, the supply of frog legs, kangaroo meat, etc., is subject to VAT rate of 6% although the supply of these live animals is subject to the normal VAT rate of 21%). Furthermore, it is of no importance whether this is presented in one piece, chopped, ground, whether or not in sausage form or as a mix of meats. The preparations of meat and offalare intended by this heading II only if the amount of meat exceeds 20% by weight. If this quantity of meat is not reached, the 6% rate may still apply under another heading of Table A, for example heading X (when the preparation is intended for human consumption).

It should be noted, for example, that a cadaver (being a dead animal as a whole) of a chicken or day-old rooster is not considered to be meat or edible offal within the meaning of Section II at that stage.

- **Meat and edible meat offal consumed by animals**

When products intended by section II, 1 ° are not offered for sale as intended for an animal (in other words, when, among other things, the packaging nor the label presents it as intended for an animal and that they are not prepared *a priori* for an animal) and that they are suitable for human consumption, the application of the reduced VAT rate of 6% can be accepted.

Meat and offal preparations (for example, meat mixed with rice / vegetables and minerals), for animal feed, can only be classified under the aforementioned section II depending on the amount of meat (in particular more than 20% by weight) and whether this preparation is fit for human consumption and is not presented as intended for animal feed.

In case such meat and offal preparations are intended for animal feed and are classified under heading 23.09 of the usage tariff, reference is made to item XII, item 7, of Table A.

With regard to the goods presented as animal feed, reference is also made to published decision no. ET 108.901 of 15.02.2005 . However, the regulations mentioned in marginal 3 of this decision should be replaced by those on the website of the FPS Health, Food chain safety and Environment (https://www.health.belgium.be → Animals and plants → Animals → Animal food) listed feed legislation. Insofar as they are placed on the market in accordance with the said feed legislation, it is accepted to regard them as prepared animal food within the meaning of Section XII, item 7, of Table A. Consequently, the reduced VAT rate of 6% applies if such products are offered as food for animals other than pet animals and the normal VAT rate of 21% if such products are offered as food for pet animals (see also Title 7, section D , after this).

3. Fish, crustaceans and molluscs

Under **Section III** of **Table A** of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 6% applies to the supply of:

'Fish, crustaceans and molluscs, for human consumption, whether or not prepared or preserved, except:

(a) caviar and caviar substitutes (4);

(b) crawfish, lobsters, crabs, crayfish and oysters, fresh (both live and dead), boiled in water, chilled, frozen, dried, salted, in brine, whether or not shelled;
(c) prepared and prepared meals for crawfish, lobsters, crabs, crayfish and oysters, in shell or shell, whether or not in whole state. '

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(4) Caviar substitutes are products consumed as caviar prepared with roe other than the sturgeon (such as salmon, trout, rump fish , etc.).

First of all, it is emphasized that, for the purposes of this heading III, only goods **intended for human consumption** can benefit from the application of the reduced VAT rate of 6%. Live as well as dead fish, crustaceans and molluscs are intended.

For example, are **not included** in item III of Table A:

- fish offal and dead fish, apparently not suitable for human consumption
- fish, crustaceans and molluscs intended for animal consumption
- the supply of ornamental fish (see Written Parliamentary Question No. 219 by Ms deputy representative Magda De Meyer of 15.01.2004)
- marine mammals, as well as their meat
- the supply of crustaceans, molluscs and molluscs which are intended for ornamental purposes (for example because of their color or shape and in particular are kept in an aquarium) and not for human consumption.

The goods listed under **points a), b) and c) of heading III** are subject to the VAT rate of **21%** .

On the other hand, the products referred to in point (b) which,

stripped of the shell or shell (meat), other than boiled in water (or steamed), chilled, frozen, dried, salted or in brine. This concerns, for example:

- products pickled in vinegar or in wine and spices
- canned pasteurized or sterilized crawfish, lobster, crab or crayfish meat
- crab salad , lobster salad and seafood salad
- sandwiches with crab

- crab mousses, crawfish or lobsters

To the extent that they are intended for human consumption, the supply of the following goods is also subject to the VAT rate of 6% under heading III (see Note No 7/1980 of 05.08.1980):

- all shrimp (gray shrimp, pink shrimp, scampis)
- Norway lobsters , also called Norwegian lobsters
- Mussels
- strandgapers (clams)
- squids
- shells
- wulk
- snails
- scallops
- vineyard snails.

4. Milk and dairy products; Eggs; honey

Under **Section IV** of **Table A** of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 6% applies to the supply of:

1 ° Milk and dairy products (yogurt, cream, butter, cheese, curd, milk drinks, etc.).

2 ° Bird eggs and egg yolks.

3 ° Natural honey. "

In principle, ' **dairy products** ' within the meaning of this section means goods in which milk is the main ingredient. This is the case when the product contains **85% or more standardized or skimmed milk** .

As a simplification, it may also be considered that yogurt, milk, cottage cheese, buttermilk, curd, kefir or other fermented or acidified milk, to which flavorings, fruits (juices) or other additives have been added, retain the character of dairy products as intended. in this section IV, item 1, insofar as they are not drinks with a nutritional value of less than two grams of protein per 100 ml (see decision no. ET 95.802 of 30.05.2000).

For example, also fall under the application of heading IV, item 1, the aforementioned:

- milk whey

- powdered milk and dairy products

Figure 2 of this heading IV subjects bird eggs and egg yolks to the VAT rate of 6%. On the other hand, the white of an egg is subject to the VAT rate of 6% under item X, item 17 ° of Table A of the Annex by Royal Decree 20, aforementioned, when it is intended for human consumption.

Natural honey is subject to the VAT rate of 6% in accordance with item 3 of this section IV. Artificial honey and mixtures of artificial honey and natural honey are also subject to the VAT rate of 6%, but under Section X, item 4, of Table A.

5. Vegetables, plants, roots and tubers, for food purposes

Under **Section V** of **Table A** of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 6% applies to the supply of:

"Vegetables, plants, roots and tubers, for food, whether or not prepared or preserved, and seedlings thereof."

Mushrooms and truffles intended for food are also included in this section V. The same applies to culture media or growing substrates inoculated with a mycelium of mushrooms or oyster mushrooms intended for food.

6. Fruit, citrus peel and melon peels

Under **Section VI** of **Table A** of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 6% applies to the supply of:

1 ° Fruit, whether or not prepared or preserved.

2 ° Peelings of citrus fruits and melons, whether or not prepared or preserved. '

Examples:

- the delivery of frozen fruit pulp intended for making fruit juices, among other things, is subject to the VAT rate of 6%.
- goji berries are subject to the VAT rate of 6%.

7. Vegetable products

Pursuant to **Section VII** , of **Table A** , of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 6% applies to the supply of:

1 ° Cereals.

2 ° Oil seeds and oleaginous fruits, whether or not broken.

3 ° Seeds, including traces.

4 ° Sugar beets, whether or not cut; sugar cane.

5 ° Chicory roots.

6° Hop.

7 ° Plants, parts of plants, seeds and fruits, mainly used in the perfume industry, in medicine or for insect or parasite control or for such purposes.

8 ° St. John's bread; fruit seeds and vegetable products, mainly used for human food.

9 ° Cereal straw and chaff, unworked, whether or not minced.

10 ° fodder beet and other fodder roots; hay, clover, feed cabbage and other similar fodder.

11° Teen.

12 ° Standing timber; wood, unworked, whether or not debarked or roughly chopped or stripped of sapwood; firewood; wood waste.

13 ° Living forest trees, living fruit trees, shrubs and shrubs, as well as seedlings thereof, also when these goods are supplied for the construction and maintenance of gardens.

14 ° Live ornamental trees, shrubs, shrubs and other living ornamental plants; bulbs, tubers, roots and other planting material for floriculture, including when these goods are supplied for the construction and maintenance of gardens; fresh cut flowers and fresh cut greenery.

15° Vlas.

From this section, the goods are offered for sale as food for dogs, cats, cage birds such as parrots and songbirds, for aquarium fish, for hamsters, guinea pigs and other pet animals. '

A. Wood

The term ' **wood waste'** as referred to in item 12 of heading VII, mentioned above, is further explained in decision no. ET 85.164 of 09.01.1997 and 08.05.2001 and in decision no. ET 104.297 of 18.09.2007 .

The supply of wood pellets that serve as a heating source for pellet stoves also falls under this heading VII.

Certain ground covers are made from wood waste (for example from tree bark) and can therefore qualify for the VAT rate of 6%. However, such ground covers should not have undergone any treatment (such as coloring, varnishing, moistureproofing, etc.).

Depending on the circumstances, **transactions relating to trees and timber are** subject to the reduced VAT rate of 6% (under heading VII or heading XXIV (agricultural services), of table A of the annex to the royal decree no. 20 , aforementioned, or in application of Article 38, § 4, of the VAT Code) or at the VAT rate of 21%. Reference is made to Written Parliamentary Questions No. 510 by Mr MP Philippe Seghin of 17.11.2000 and No. 516 by Mr MP Philippe Seghin from 24.11.2000. These parliamentary questions deal, for example, with the VAT rate to be applied to felling trees, chopping or sawing into planks, pruning, clearing the stumps and dragging the wood.

B. Trees, shrubs, shrubs, ornamental plants and flowers

Figures 13 and 14 of section VII, aforementioned, are the subject of circular 2019 / C / 92 of 19.09.2019 on the VAT rate applicable to trees and plants supplied in the construction and maintenance of gardens (ET135,324) , referenced.

As of 01.04.2019, figures 13 and 14 have been amended to allow certain trees and plants included in the **construction and maintenance of gardens** to benefit from the reduced VAT rate of 6%. This rate change is also discussed in the aforementioned circular 2019 / C / 92. In addition, this circular replaces notification No. 4/1997 of 13.05.1997.

With regard to the delivery of **composite floricultural products** , reference is made to written parliamentary question No. 137 by Ms de Volksvert Representative Leen Dierick of 08.01.2020 , as well as to circular 2020 / C / 41 of 09.03.2002 regarding the VAT rate on the delivery of floricultural products. (no. ET 136.886) , which partially replaces the aforementioned circular 2019 / C / 92.

The VAT rate of 6% applies to the delivery of **Christmas trees** that are sold (or imported) with live roots, whether or not with clod. Christmas trees, offered in a state clearly no longer suitable for planting (sawed-through trunk, roots killed in boiling water, etc.) can be considered cut green. When they are fresh, ie when they have not undergone any treatment for storage, these trees are subject to the VAT rate of 6% under item 14 of heading VII (see decision No ET 65.064 of 26.03 1996).

Only **fresh cut flowers and fresh cut greens** that have not undergone any treatment for storage are intended under heading VII, item 14. **Flowers and cut greens** that have been **dried, bleached,**

dyed or otherwise treated are subject to normal VAT rate of 21% (see Written Parliamentary Question No 119 by Mr Representative François-Xavier de Donnea of 07.03.2013 , as well as Circular 2020 / C / 41 , mentioned above).

Grafting of fruit trees, ornamental trees, shrubs, bushes or other ornamental plants are subject to the VAT rate of 6% on the basis of figure 14, under heading VII (see decision no. ET 87.565 of 21.01.1997 , written parliamentary question no. 907 by Mr Senator De Meyer of 02.12.1994 and Circular 2019 / C / 92 , aforementioned).

C. Vlas

' **Flax** ', within the meaning of item 15 of Section VII, means: flax, raw or processed but not spun, in other words flax, raw, rooted, broken, swaddled, flawed or otherwise worked but not spun (see decision no. ET 77.289 of 10.06.1993). Under administrative tolerance, **flax work and waste from** raw, rooted, broken, scrambled, satirised or otherwise primarily treated flax, but not spun, is subject to the VAT rate of 6%. On the other hand, waste from spinning, winding and weaving, as well as flax fraying, remains subject to the standard rate of 21% (see decision No ET 77.289 / 2 of 21.01.1994).

Scented flax is referred to in item 15 of Section VII, the aforementioned and therefore subject to the VAT rate of 6%. In accordance with Article 38, § 4, of the VAT Code, the service consisting of the scabbing of straw flax is subject to the VAT rate applicable to the good considered in the state in which it is after the execution of the transaction.

D. Pet food exclusion

When the goods listed in Section VII are offered for sale as food for dogs, cats, cage birds such as parrots and songbirds, for aquarium fish, for hamsters, guinea pigs and other pet animals, they are excluded from the VAT rate of 6% and thus subject at the VAT rate of 21%.

This exclusion for goods offered for sale as ' *food for dogs (...) and other pet animals* ' (last paragraph of sections VII, VIII and XII of table A of the annex to the Royal Decree no. 20, aforementioned) is also included. discussed in decision No. ET 108.901 of 15.02.2005 (which relates in particular to food supplements and additives intended for animal nutrition).

In order to determine whether the exclusion applies, it is necessary to consider whether the good is put up for sale as specific food for such animals. In practice, such an offer presupposes that the

food is prepared or packaged for this precise destination or even that it is offered to customers for that destination. The ultimate destination that the buyer gives to the good, on the other hand, is not important in determining the VAT rate. When the packaging states that the good is intended for both a pet and other animals, the normal VAT rate applies.

The administration, however, agree that the **food is intended for laboratory animals** not covered by the aforementioned exclusion when the composition of the food, which, under the particular destination is to be given differs from that of the traditional food for pets. In addition, such food should be supplied to a laboratory in a specific packaging indicating its special destination for laboratory animals and thus excluding any marketing through ordinary food traders.

In addition, the goods put up for sale as **food for ornamental fish are** also excluded from Sections VII, VIII and XII, mentioned above (see decision No ET 69.076 of 21.04.1993).

Vegetable bedding for pet animals , including the kind obtained by compressing into pellets of very finely chopped or ground straw, is also subject to the standard VAT rate of 21% (see decision No ET 82709 of 23.08.1995).

8. Products of the flour industry, malt, starch

Under **Section VIII** of **Table A** of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 6% applies to the supply of:

1 ° Flour, groats, groats, meal and flakes, of cereals, of leguminous vegetables, of fruit, of potatoes or of other roots and tubers; barley and pearl barley and other hulled, pearled, broken or crushed grains; grain germ, whether or not ground.

2 ° Malt, whether or not roasted.

3 ° Starch, with the exception of soluble, roasted or glued products, as well as products processed or formulated as perfumery or toilet articles and preparations for dressing.

The goods in this section are not offered for sale as food for dogs, cats, cage birds such as parrots and songbirds, for aquarium fish, for hamsters, guinea pigs and other pet animals. '

When the goods listed in Section VIII are offered for sale as food for dogs, cats, cage birds such as parrots and songbirds, for aquarium fish, for hamsters, guinea pigs and other pet animals, they are excluded from the VAT rate of 6% and thus subject at the VAT rate of 21%.

This exclusion for goods offered for sale as ***'food for dogs (...) and other pet animals'*** (last paragraph of sections VII, VIII and XII of table A of the annex to the Royal Decree no. 20,

aforementioned) is also included. discussed in decision no. ET 108.901 of 15.02.2005 (which concerns in particular food supplements and additives intended for animal nutrition).

In order to determine whether the exclusion applies, it is necessary to consider whether the good is put up for sale as specific food for such animals. In practice, such an offer presupposes that the food is prepared or packaged for this precise destination or even that it is offered to customers for that destination. The ultimate destination that the buyer gives to the good, on the other hand, is not important in determining the VAT rate. When the packaging states that the good is intended for both a pet and other animals, the normal VAT rate applies.

The administration, however, agree that the **food is intended for laboratory animals** not covered by the aforementioned exclusion when the composition of the food, which, under the particular destination is to be given differs from that of the traditional food for pets. In addition, such food should be supplied to a laboratory in a specific packaging indicating its special destination for laboratory animals and thus excluding any marketing through ordinary food traders.

In addition, the goods put up for sale as **food for ornamental fish are** also excluded from Sections VII, VIII and XII, mentioned above (see decision No ET 69.076 of 21.04.1993).

9. Fats and oils

Pursuant to **section IX** , of **table A** , of the annex to the Royal Decree no. 20, the aforementioned, the VAT rate of 6% applies to the supply of:

1 ° Animal fats and oils, crude, melted, pressed or refined.

2 ° Vegetable fatty oils, crude, purified or refined.

3 ° Animal and vegetable oils and fats, hydrogenated, hardened or solidified, whether or not purified, but not further prepared.

4 ° Prepared edible fats with the exception of margarine. '

For example, are intended: olive oil, rapeseed oil (including pure rapeseed oil used as motor fuel provided that it has not undergone any chemical modification), baking mold lubricants (see decision no. ET 35.025 of 05.10.1988), etc.

French fries , as well as waste from French fries sold as such, are also subject to the VAT rate of 6% under heading IX.

However, fats and oils which are transformed into **perfumery or beauty products** , as well as fats and oils that are offered as such products (as evidenced by the packaging or label, for example) or which clearly show that they are intended for such purpose, are subject to the VAT rate of 21%. The same also applies to essential oils and solutions of those oils, except when they are exclusively intended for human (oral) consumption (in the latter case they are envisaged by heading X, Table A, item 17).

Margarine is also excluded from the application of the reduced VAT rate of 6%, but is subject to the **VAT rate of 12%** under section VI of Table B of the Annex to Royal Decree 20, mentioned above.

10. Other foods

Under **section X** of **Table A** of the Annex to Royal Decree 20, the VAT rate of 6% applies to the supply of:

1 ° Coffee, including decaffeinated coffee, whether or not roasted; tea; extent; spices.

2 ° Pectin and liquid or powdered substances based on pectin, intended for the manufacture of jam and jelly.

3 ° Meat extracts and meat juices.

4 ° Sugar, syrup and molasses, whether or not caramelized , flavored or with added coloring matter; confectionery; artfully.

Cocoa beans, cocoa mass (cocoa paste), cocoa powder, cocoa butter; chocolate and other foods containing cocoa.

6 ° Malt extract; preparations for infant nutrition, for diet or for kitchen use; pasta; tapioca; cereal preparations made by puffing or by roasting; bakers' wares, cakes and biscuits; wafers, wafers for medicines and similar products.

7 ° Jam, jelly, marmalade, fruit puree and fruit paste.

8 ° Roasted chicory, other roasted coffee substitutes, and extracts thereof.

9 ° Extracts and essences, of coffee, tea or maté; preparations of these extracts and essences.

10 ° Mustard flour and prepared mustard.

11 ° Sauces; compound seasonings and the like.

12 ° preparations for soups or broths; ready-to-use soups and broths.

13 ° Natural yeast, whether or not inactive; compound baking powders; cultures of micro-organisms for the manufacture of foodstuffs.

14 ° Table vinegar (natural and artificial).

15 ° Salt intended for human consumption.

16 ° Gelatin for food, in thin sheets.

17 ° Products for human consumption not mentioned above.

This section excludes beers with an actual alcoholic strength by volume of more than 0.5% vol. and other drinks with an actual alcoholic strength by volume exceeding 1.2% vol. "

With regard to item 4 of this section X, it is clarified that **syrups are** thick sticky sugar solutions infused with flavoring substances. In order to qualify as syrup, the sugar solution must consist of at least 50% sugar (see decision no. ET 84.818 of 06.10.1997).

With regard to item 15 of this section X, it is pointed out that ' ***salt intended for human consumption*** ' must be indicated by the designation 'salt', 'table salt' or 'table salt' and no less than 98% NaCl and no more than 1 % moisture content. However, if the name 'table salt' is used alone, the NaCl content may be at least 95% and the moisture content at most 5%. Salts intended for other uses are subject to the VAT rate of 21% (for example, salt for spreading on roads, for descaling, bath salts, etc.).

With regard to item 16 of this section X, it is noted that powdered **gelatin is** also subject to the 6% rate (see decision No T. 4.477 of 29.04.1971).

Regarding figure 17 ' ***products for human consumption not mentioned above*** ', of this section X, the following is noted. Under this provision, all products **offered for sale to be consumed orally by humans are** taxable against

the VAT rate of 6%, insofar as they are not already referred to elsewhere in tables A or B of the annex to Royal Decree No. 20 or are explicitly excluded from the rate of 6% (for example: caviar, lobsters, oysters, etc. (see section III of table A) and margarine (expressly mentioned in section VI of table B)).

Therefore, in order to qualify for the VAT rate of 6% under heading X, point 17, a product must fulfill **two conditions** : it must be **intended for human consumption** and it must be taken **orally** (via mouth) to happen. However, not all oral products can be classified as food intended for human consumption. It is a matter of fact that must be assessed on a case-by-case basis. In any event, products which are inhaled or sprayed into the nose are not intended by Section X, item 17, above.

Human tube feeding, on the other hand, is subject to the VAT rate of 6%.

Are also subject to the rate of 6%:

- **food supplements and preparations containing vitamins and / or minerals** , offered for sale for oral human consumption, in the form of tablets, pills, capsules, pearls, ampoules, lozenges , dragees, cachets , powders (whether or not to be dissolved before consumption), herbal mixtures for making infusions to drink.

- the **liquid nutritional supplements and similar products** commonly sold in natural boutiques or diet and health food stores (for example, certain plant tinctures, herbal extracts and vitamins or minerals containing preparations). However, when these dietary supplements have an effective alcoholic strength by volume of more than 1.2% vol. the VAT rate of 6% can only be applied insofar as the food supplement is offered in small ampoules or in packaging that shows that they may be taken in quantities of 1 tablespoon or 15 ml per day (see decision no. ET 58,251 of 21.09.1987 and decision No. ET 84.818 of 06.10.1997).
- **preparations for sauces** , consisting of truffles boiling water, to which salt has been added (see decision no. ET 63.649 of 01.09.1988)
- ice (frozen drinking water, in solid or flake ice form) offered for sale to be consumed orally by humans (eg ice for soft drinks). Ice cream that is not intended for human oral consumption (for example to cool fish, bottles, etc.) is subject to the standard VAT rate of 21%.
- ice creams (such as sorbets and popsicles), for use in frozen form, whether or not they are alcoholic.
- on products that are not intended as such to be consumed by humans but that are used as an **ingredient or additive** (so-called **semi - finished products**) in the domestic or industrial preparation of products for human consumption, as well as inedible *coatings* , please refer to the decision No. ET 109.424 of 07.12.2005 .

11. Deleted heading

Section XI of **Table A** of the Annex to Royal Decree No 20, referred to above, was removed by Royal Decree of 11.08.1972.

12. Food for animals; fertilizers; animal products

Pursuant to **heading XII** , of **Table A** , of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 6% applies to the supply of:

1 ° Dried blood.

2 ° Flour and powder of meat, offal , fish or crustaceans or molluscs; greaves.

3 ° Bran, sharps and other residues of the sifting, milling or other processing of cereals or of leguminous vegetables.

4 ° Beet pulp, pressed sugar cane (ampas) and other sugar industry waste; bostel (brewery waste); waste from roasters; waste from starch factories and the like.

5 ° Press cakes, including those of olives, and other residues from the extraction of vegetable oils, with the exception of lees or sediment.

6 ° Vegetable products of a kind used as animal food (lees of apples and other fruits, etc.))

7 ° Fodder formulated with molasses or sugar and other prepared animal food; other preparations used for animal feeding (animal feed supplements, etc.)

8 ° Fertilizers

9 ° Animal products used for reproduction

10 ° Wool, not carded or combed

From this section, the goods are offered for sale as food for dogs, cats, cage birds such as parrots and songbirds, for aquarium fish, for hamsters, guinea pigs and other pet animals. '

A. Animal food and exclusion food for pet animals

In principle, the goods listed in section XII, with the exception of numbers 8 to 10, are products intended for animal feed. Reference is made in particular to decision no. ET 108.901 of 15.02.2005 .

When the goods listed in section XII are offered for sale as food for dogs, cats, cage birds such as parrots and songbirds, for aquarium fish, for hamsters, guinea pigs and other pet animals, they are excluded from the VAT rate of 6% and thus subject at the VAT rate of 21%.

This exclusion for goods offered for sale as ' ***food for dogs (...) and other pet animals'*** (last paragraph of sections VII, VIII and XII of Table A of the Annex to Royal Decree No. 20, aforementioned) is also included. discussed in decision no. ET 108.901 of 15.02.2005 (which concerns in particular food supplements and additives intended for animal nutrition).

In order to determine whether the exclusion applies, it is necessary to consider whether the good is put up for sale as specific food for such animals. In practice, such an offer presupposes that the food is prepared or packaged for this precise destination or even that it is offered to customers for that destination. The ultimate destination that the buyer gives to the good, on the other hand, is not important in determining the VAT rate.

When the packaging states that the good is intended for both a pet and other animals, the normal VAT rate applies.

The administration, however, agree that the **food is intended for laboratory animals** not covered by the aforementioned exclusion when the composition of the food, which, under the particular destination is to be given differs from that of the traditional food for pets. In addition, such food should be supplied to a laboratory in a specific packaging indicating its special destination for laboratory animals and thus excluding any marketing through ordinary food traders.

In addition, the goods put up for sale as **food for ornamental fish are** also excluded from Sections VII, VIII and XII, mentioned above (see decision No ET 69.076 of 21.04.1993). The goods put up for sale as fish baits (excluding ornamental fish and garden pond fish) may, if intended by heading XII, be subject to the VAT rate of 6% (e.g. baits composed of fodder, offal) from bakeries, etc.).

B. Fertilizers

The applicable rate of VAT to the supply of **fertilizers and soil improvement agents** is discussed in Circular 2018 / C / 32 of 08.03.2018 on the VAT rate on fertilizers (ET 127 568) , which reference is made.

It is noted that **potting soil is** subject to the normal VAT rate of 21%. Potting soil, peat or mixtures thereof to which fertilizers have been added in such proportions that the composition obtained derives its essential character from the fertilizers, fertilizers are subject to the VAT rate of 6%.

Worm manure obtained after worm digestion of either 100% farmyard manure, or a mixture containing at least 50% by weight of farmyard manure, is subject to the VAT rate of 6% (see Written Parliamentary Question No. 271 by Ms de Volkskrant Mieke Vogels of 19.05.1989).

The Administration furthermore accepts that fertilizers or soil improvers derived from the **natural products of the farm** , provided that they are placed on the market or used in their natural state and that they are supplied as fertilizers or soil improvers , the reduced VAT rate of 6% can enjoy. This mainly concerns feces from farm animals, such as raw horse manure.

Compost activating products are not intended for this item XII, item 8 and are thus subject to the VAT rate of 21% unless they are intended for another item of Table A or B of the annex to the Royal Decree No. 20, mentioned above. In that case, the rate of 6% or 12% may apply.

From 01.04.2018, the supply of **pesticides for agricultural use mixed with a fertilizer is** subject to the VAT rate of 12% under heading III of Table B of the Annex to Royal Decree No. 20 (see also the circular 2018 / C / 32 of 03/08/2018 , mentioned above, marginal 3.2.)

C. Animal products used for reproduction

The supply of animal semen used for reproduction is subject to the reduced VAT rate of 6%. This is the case, for example, for the delivery of horse semen, regardless of whether it comes from or is intended for riding horses or draft horses, heavy or semi-heavy.

However, if the semen is supplied on the occasion of an **artificial insemination service** , this service is subject to the VAT rate of 6% only if it concerns an agricultural service as intended by heading XXIV of Table A. The artificial insemination service can therefore only qualify for the VAT rate of 6% if it relates to animals included in heading I of Table A. Artificial insemination of riding horses is therefore subject to the standard VAT rate of 21 % as opposed to insemination of draft horses, heavy or semi-heavy.

D. Wool

The expression " ***wool, not carded or combed*** ", intended by item 10 of heading XII, is to be understood (see decision No ET 77.289 of 10.06.1993):

- the natural fiber obtained from the fur of sheep and lambs, unwashed, degreased or carbonised, even bleached or colored, but neither combed nor carded.
- fine hair, not carded or combed, whether or not rough, defatted or even colored, of alpaca, of llama, of vigogne , of camel, of yak , of angora goat, of tibet goat, of cashmere goat and similar goats (except common goats) or angora rabbit.

Wool waste is subject to the VAT rate of 6% by administrative tolerance if that waste comes from wool at the stage that it is itself subject to the 6% rate. Only waste obtained during sorting and washing is subject to the 6% rate. As a result, waste generated by combing, riding, spinning, twisting, winding, weaving, knitting, etc., as well as the fraying of wool, remains subject to the normal VAT rate of 21% (see decision no. ET 77.289 / 2 of 21.01.1994).

13. Water distribution

Pursuant to **heading XIII** , of **table A** , of the annex to the royal decree no. 20, the VAT rate of 6% applies to the supply of:
"Ordinary natural water supplied through water distribution."

For the purposes of heading XIII, it is immaterial whether the water is supplied by a water supply company (for example, an intermunicipal company) or by another taxable person. Essential for

the application of the rate of 6% is that it concerns **ordinary natural water (cold or warm) that is supplied by means of pipes** (see decision no. ET 98.997 of 10.11.2000).

The supply of plain natural water in bottles or other containers is not intended under this heading XIII but, instead, if the water is intended for human consumption, it is intended under heading X, point 17, of Table A of the Annex to the Royal Decree No. 20, aforementioned.

The costs of **connecting to the water network** are considered in the relationship between the distribution company and the owner of the building as costs which, although charged separately, are necessary and inherent in the supply of water, so that they are an element of the price of that delivery forms. In that case, the connection to the water network is subject to the VAT rate of 6%, since ordinary natural water supplied by means of water distribution when applying section XIII, the aforementioned, is subject to this rate (see decision no. ET 100.909 of 28.01. 2002). In the same sense, reference is also made to Written Parliamentary Question No. 313 by Mr. Representative Hendrik Bogaert dated 19.02.2009concerning the connection or disconnection to the sewerage network and to the written parliamentary question no. 353 by Mr. Representative Dirk Van der Maelen of 10.03.2009 regarding the charging of a contribution for the collection and removal of waste water.

The **inspection of a private water discharge** can be done by institutions responsible for drinking water supply and sewer management, but also by other recognized inspectors. If the **inspection is carried out by an institution responsible for drinking water supply and sewer management** , the amounts charged for this to the subscriber / water consumer form an element of the price of the supply of drinking water (being the main operation), in accordance with Article 26 of the VAT Code and are therefore charged with applying the reduced rate of 6% in accordance with section XIII of Table A. However, if **the inspection is carried out by an independent inspector** (not a drinking water supplier and sewer manager), this act cannot be regarded as an element of the price of the supply of drinking water, but should be considered in itself. The mere conducting of an inspection of the private water discharge is not meant anywhere in tables A, B or C of the annex to the Royal Decree No. 20, so the normal VAT rate of 21% applies (see also the Written Parliamentary Question No. 6-2,072 by Mr Senator Lode Vereeck of 10.01.2019).

14. Deleted heading

Section XIV , of **Table A** , of the Annex to Royal Decree No 20, referred to above, was removed by Royal Decree of 17.03.1992.

15. Deleted heading

Section XV of Table A of the Annex to Royal Decree No 20, aforementioned, was removed by Royal Decree of 29.12.1992.

16. Removed heading

Section XVI of Table A of the Annex to the Royal Decree No 20, referred to above, was removed by Royal Decree of 17.03.1992.

17. Medicines and medical devices

Pursuant to heading XVII , of table A , of the annex to the royal decree no. 20, the VAT rate of 6% applies to the supply of:

1. a) Any simple or compound substance referred to in Article 1 of the Law of 25.03.1964 on medicines and registered as a medicine by the Minister who has public health under his authority or for whom the marketing authorization referred to in Article 1, § 1, first paragraph, 1) of the Royal Decree of 03.07. 1969 concerning the registration of medicines has been notified to the Minister who is responsible for public health.

(b) Blood, platelets, plasma, and white and red blood cells, to be administered to humans or animals for therapeutic or prophylactic uses, other than those referred to in point (a) above.

c) medicinal products for human and veterinary use, by the pharmacist in his pharmacy may be prepared and sold.

2 ° (...)

3 ° Cotton wool, gauze, bandages and similar articles (bandages, plasters, etc.) containing a medicine with an additional activity in relation to the device or put up for retail sale for medical or surgical purposes; bags, boxes, drums, and the like, filled with first aid items.

4 ° Condomen.

5 ° Sterile disposable hypodermic syringes for the injection of insulin, with the necessary graduations in international insulin units; sterile disposable insulin pen needles.

6 ° Blood collection bags containing anticoagulants.

7 ° Bone cement containing antibiotics with additional activity to the device.

8 ° Sterile viscoelastic substances intended only for human or veterinary medical or surgical purposes. '

With regard to figures 1, 3, 4, 6 and 8 of this section, the following clarifications can be provided.

A. Medicines

The following may be added with regard to **item 1 of heading XVII** above:

- To check whether a substance is registered or licensed as a medicinal product in accordance with the legislation referred to in Section XVII, item 1, the website of the Federal Agency for Medicines and Health Products (FAMHP) can be consulted. The FAMHP makes a database available to check whether a medicine has been authorized or registered (https://www.fagg.be/nl/public_information/medicament_autorise).
- **gaseous medical oxygen** is a registered medicine subject to the reduced VAT rate of 6%. The amount charged by the supplier of that oxygen for the provision at home to the patient of the reservoir (cryogenic vessel) containing such type of products is part of the taxable amount for the supply of the product and is therefore also subject to the 6% rate. Reference is also made to decision No. ET 97.817 of 10.01.2001 .
- **contraceptives and contraceptives** (the contraceptive pill, IUD, patch, etc.) can benefit from the reduced VAT rate of 6% if they are intended by section XVII, item 1 (a) or item 4 of Table A of the Annex to Royal Decree No. 20. For more information, reference is made to Decision No. ET 129.926 of 19.09.2016 .
- where a product is not intended under the above heading XVII, item 1, a) or c), and the product is put up for sale for human consumption **only orally** , the administration accepts that in accordance with item X, item 17 of Table A, of the Annex to Royal Decree No. 20, the reduced VAT rate of 6% applies, provided that:
  - it does not concern beers with an actual alcoholic strength by volume of more than 0.5% and other drinks with an effective alcoholic strength by volume of more than 1.2%

    in
  - the product is not intended by another section of Table A or B of the Annex to the aforementioned Royal Decree or is explicitly excluded from the application of a reduced VAT rate.

  For the sake of completeness, reference is made to Title 10 above.

B. Cotton wool, gauze, bandages and the like

The following may be added with regard to **item 3 of heading XVII** above:

- **Cotton, gauze, bandages and the like** are subject to the 6% rate when **impregnated or covered with pharmaceutical substances** .

If not impregnated or covered with pharmaceutical substances, the 6% rate applies only when these goods are **put up for retail sale and are intended for medical or surgical purposes** . The two conditions must be fulfilled together.

" **Retail sale for medical or surgical purposes** " means that the goods appear in their final packaging in which they are sold to consumers and when from that packaging, from the advertising surrounding the product (brochures, etc.) and - more general - the manner in which they are offered for sale clearly shows their use for medical or surgical purposes. Use for medical or surgical purposes implies a surgical operation, illness or ailment on the part of the user (see decision no. ET 60.792 of 06.06.2005).

- The Administration accepts that **thermoplastic material put up** for sale in the form of a narrow coiled strip which, when warmed, is wound around an arm or leg like a normal bandage or bandage is subject to the reduced VAT rate of 6% under this Section XVII , digit 3 (see decision no. ET 80.898 of 29.08.1995).

- **Medical surgical support bandages**

  Insofar as they are not referred to in section XXIII, number 2, of table A, of the annex to the Royal Decree no. 20, the aforementioned, certain aid bandages (bandages, and such supporting articles, certain support stockings) can be 6% benefit from item 3, first part, of heading XVII, provided that they are put up for retail sale for medical or surgical purposes. For further explanation, reference is made to decision no. ET 60.792 of 06.06.2005, which also relates to the applicable VAT rate on the supply of orthopedic belts (see Title 23, below) and lists a number of examples of goods that are subject to at the normal VAT rate of 21%.

- **Certain non- medicated liquid preparations, gels, powders, pastes** and similar products, which are applied to open wounds or around stomata, may be classified as bandages within the meaning of paragraph 3 of Section XVII. These are 'primary' dressings that are used for open wounds in combination with a secondary 'fixed' dressing. That second dressing therefore completely covers the wound and the primary dressing. However, it is noted that not all wound care products can be classified as primary wound dressings. For more information, reference is made to decision no. ET 52.092 of 28.06.2002 .

- The administration accepts that **white cellulose cotton balls** put up for retail sale are subject to the reduced VAT rate of 6%, if the packaging clearly states that these cotton wool is exclusively intended for medical or surgical purposes (see decision no. ET 80.163 of 18.04.1994).

  Cotton and similar items intended for hygiene purposes are subject to the normal VAT rate of 21%, even if they are used in hospitals or clinics.

- The administration accepts that **nose** strips, which are self-adhesive strips, consisting of two layers of adhesive plasters with two feathers in between, which are presented in a package put up for retail sale for medical purposes (used to improve breathing with a blocked nose). an allergic nose cold and to prevent or reduce snoring), which are envisaged by item 3 of heading XVII and can thus benefit from the reduced VAT rate of 6% (see decision no. ET 91.745 of 14.05.1998).

- **Drapes** intended to cover the patient's body in surgical procedures, such that the surgical site is left free, which are packaged sterile and put up for retail sale for medical or surgical purposes, regardless of the material from which they are manufactured (non-woven material, cellulose, textile, etc.) are classified as goods subject to the 6% rate (see decision no. ET 80.957 of 01.08.1994).

  The administration also accepts that disposable cloths of paper or cellulose (disposables) for covering operating tables, examination tables and stretchers are subject to the VAT rate of 6% (see decision no. ET 23.580 of 22.03.2001).

  However, underpads, stitch sheets, under sheets, mattress protectors and similar aids for use in bed by persons suffering from incontinence remain subject to the normal VAT rate of 21%. Certain disposable sheets (protective sheets) are used both for covering operating tables, examination tables and stretchers as well as for bed protection (disposable bed protective bottom sheet). In view of the multipurpose use of certain disposable sheets (both for covering stretcher berries and examination or operating tables, as well as for bed protection), it is accepted that they will be charged with the application of the reduced VAT rate of 6% in accordance with the aforementioned decision no. ET 23.580 of 22.03.2001. For additional explanation, in particular with regard to the latter administrative tolerance, reference is made to decision no. ET 81.473 of 05.11.2002 .

- **Bags, boxes, drums and the like, filled with first aid items,** are subject to the 6% VAT rate. The bags, boxes, drums and the like which are filled with a small amount of usual medicines (disinfectant, iodine tincture, arnica , etc.), bandages and possibly also some instruments such as scissors or forceps are intended as first aid in case of an accident. Attention: the separate sale of a product that can be found in a first aid kit (for example, the separate sale of rubbing alcohol , arnica ointment, etc.), is subject to the VAT rate applicable for that good. For example, the separate supply of rubbing alcohol is subject to the VAT rate of 21%, except if it were registered as a medicinal product within the meaning of heading XVII, item 1. The delivery of an empty box is subject to the VAT rate of 21 %.

- **Cold or heat packs for Hot / Cold therapy** (being, in principle, compresses filled with a type of gel that can be cooled or heated and applied to an injury to reduce swelling and / or pain) are not intended for section of table A, B or C of the annex to the royal decree no. 20, aforementioned, and therefore subject to the VAT rate of 21% (written parliamentary question no. 176 by Mr Representative Jo Vandeurzen of 01.12.1995) . Heat patches or

warming patches that are stuck to the skin to treat an injury, however, are subject to the VAT rate of 6% under heading XVII, item 3.

C. Condoms

With regard to **item 4, under heading XVII** , reference is made to decision no. ET 129.926 of 19.09.2016 concerning contraceptives and contraceptives and written parliamentary question no. 441 by Mr MP Xavier Winkel of 19.02.1993 .

D. Blood collection bags

Regarding **item 6 of heading XVII** , it is noted that only **blood collection bags containing anticoagulants are** subject to the VAT rate of 6%. These are bags intended for either the collection or storage of human blood, the packaging of which clearly shows that they contain anticoagulants (anticoagulants).

E. Visco- elastic substances

Finally, **item 8 of heading XVII** , mentioned above, is intended only for **sterile viscoelastic substances** intended for human or veterinary medical or surgical purposes. For example, products containing **hyaluronic** acid and intended for the aforementioned medical or surgical purposes are subject to the VAT rate of 6%. Polylactic acid based products are not intended here.

18. Deleted heading

Section XVIII , of **Table A** , of the Annex to Royal Decree No 20, referred to above, was removed by Royal Decree of 17.03.1992.

19. Newspapers, magazines and books

Pursuant to **heading XIX** , of **Table A** , of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 6% applies to the supply of:

1 ° Books, brochures, leaflets and similar publications, including atlases;

2 ° Newspapers and magazines, whether or not illustrated, at which the reduced rate of 0 pc. referred to in Table C, section I, does not apply;

3 ° Picture albums, picture books, drawing books and coloring books for children;

4 ° music scores, also if illustrated.

The reduced rate applies to the publications referred to in the first paragraph, regardless of the way in which they are made available to the reader, in particular:

1 ° on paper or cardboard, or on any other physical medium;

2 ° electronically.

This section excludes publications that:

1 ° consist exclusively or mainly of advertising material;

2 ° consist exclusively or mainly of video content or listenable music.

Section XIX, of table A, was amended with effect from 01.04.2019 (see Law of 13.04.2019 amending Royal Decree No. 20 of 20 July 1970 determining the rates of value added tax and classifying of the goods and services at those rates as regards certain publications (Belgian Official Gazette of 26.04.2019)).

The **printing** of newspapers or magazines referred to in item 2 of heading XIX is, on the one hand, a service whose object is the printing of a newspaper or magazine, if the person giving the order also provides the paper necessary to complete the work. or, alternatively, a sale when the printer supplies the paper himself.

In both cases, this transaction is subject to tax at the rate of 6%, either in application of Article 38, § 4, of the VAT Code in the case of custom work or in application of section XIX in the case of a delivery. (see decision no. T. 4,952 of 09.03.1971).

The **graphic design** of printed matter in full or in part is generally a service within the meaning of Article 18 of the VAT Code and is in principle subject to the normal VAT rate of 21%. In certain circumstances, however, the reduced rate of 6% may apply. This is the case, for example, for the performance of the layout of printed matter when the service provided consists of the transfer of copyrights or the granting of copyrights (section XXIX of Table A of the Annex to Royal Decree No. 20). and does not relate to the layout of advertising printed matter.

The printer who supplies a quantity of printed matter as referred to in section XIX of table A of the annex to the Royal Decree no. 20 on VAT rates on behalf of a client and supplies the latter with goods, within the meaning of Article 10 of the VAT - Code and that delivery is subject to the

reduced VAT rate of 6%. The costs of the graphic design of that printed matter, which the printer has provided himself or which he has outsourced to a specialized company, form part of the tax base of the printed matter supplied and are therefore applied in accordance with Article 26 of the VAT Code against the tax rate for printed matter (see oral parliamentary question no. 4-921 by Mr Senator André Van Nieuwkerke of 19.05.2009).

The custom work that consists of **binding** a collection of non-handwritten official reports from a CPAS council is subject to the VAT rate of 6% under the application of Article 38, § 4 of the VAT Code (see decision No. ET 118.312 of 23.05.2011).

20. Deleted heading

Section XX of **Table A** of the Annex to the Royal Decree No 20, referred to above, was removed by Royal Decree of 29.12.1992.

21. Works of art, collectors' pieces and antiques

Section XXI of **Table A** of the Annex to Royal Decree No 20, aforementioned, provides as follows:

' § 1. The reduced rate, is applied to the input of the art described in § 2 below, objects and antiques.

The reduced rate also applies:

1 ° to the deliveries of works of art described in § 2, 1 °, below:

(a) carried out by the author or his rightful claimants;

(b) which are occasionally carried out by a taxable person other than a taxable reseller when those works of art have been imported by that taxable person himself or have been supplied to him by the author or his rightful claimants or where he is entitled to the full deduction of the value added tax have created value;

2 ° to intra-Community acquisitions of works of art defined in § 2, 1 ° below, when the seller in the Member State of departure of the dispatch or transport of the acquired goods:

(a) is the maker or a rightholder of the maker;

(b) whether it is a taxable person other than a taxable dealer, who acts incidentally, when those works of art have been imported by that taxable person himself or have been supplied to him by the author or his rightful claimants or when he is entitled to the full deduction of the tax on have created added value.

§ 2. For the purposes of this section, the following are considered:

1 ° 'art objects':

a) paintings, collages and similar decorative plates, paintings and drawings entirely by the artist, with the exception of:

- construction drawings and other drawings for industrial, commercial, topographic and similar purposes;

- hand-decorated objects;

- painted canvas being theatrical scenery, studio backcloths or the like;

b) original engravings, original etchings and original lithographs;

c) original statues and original sculptures entirely by the artist, regardless of the material from which they are made; casts of sculptures in an edition of a maximum of eight copies that are checked by the artist or his entitled persons;

(d) tapestries and wall textiles, hand-made to the original designs of artists, provided that there are no more than eight copies of each;

e) unique ceramic objects, entirely by the artist and signed by him, excluding utensils;

f) enamel work on copper, entirely handmade by hand, up to a maximum of eight numbered copies signed by the artist or workshop, excluding jewelery, jewelery, goldsmith's work and utensils;

g) photographs taken by the artist, printed, signed and numbered by him or under his supervision, with a maximum circulation of thirty copies for all formats and supports combined;

2 ° 'objects for collections':

(a) stamps, revenue stamps, franked envelopes and postcards, first day envelopes and the like, stamped or, if not stamped, insofar as they are not valid or will not be valid;

(b) collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, paleontological, ethnographic or numismatic interest;

3 ° "antiquities": objects other than works of art and objects for collections referred to in 1 ° and 2 ° above, older than a hundred years. "

The application of the reduced VAT rate envisaged by heading XXI depends on the **nature of the transaction** (import, supply of goods or intra-Community acquisition) and varies according to the **category of the goods concerned** (works of art, collectors' items or antiques).

A. Imports

Imports from third countries of works of art, collectors' items and antiques are subject to the VAT rate of 6% regardless of the capacity of the consignee or of the seller or supplier established in the third country.

B. Delivery of goods

The supply of solely in Section XXI, § 2, 1 °, the above described artifacts are reduced to the VAT rate of 6% when:

- performed by the author or his / her rightful claimants

of

- which are occasionally performed by a taxable person other than a taxable reseller when those works of art have been imported by that taxable person himself or have been supplied to him by the author or his rightful claimants or where they have the right to full deduction of value added tax in his favor create.

The VAT rate of 6% of heading XXI therefore does not apply to the delivery in Belgium of objects for collections and antiques. Deliveries of such goods in Belgium are in principle subject to the normal VAT rate of 21%.

The term 'deliveries made by the maker or his entitled party or parties' means only the deliveries made by the artist, who has created the artwork himself, or by the heir / heirs of this artist. In this regard, for the purposes of applying VAT rates, the Administration accepts provisionally that the status of creator or his rightful claimants may be conferred on legal persons in respect of works of art made by their own artists, which presupposes that the latter are working members, working partners, administrators or staff members who are themselves artists. In the same vein, the administration accepts that the studio that has made a tapestry or wall textile can be regarded as the maker of the work.

As regards supplies 'by a taxable person other than a taxable dealer', only those supplies are made by a taxable person whose economic activity does not consist in the regular purchase or import for the resale of used goods, works of art, collectors 'and antiquities' objects and who happen to sell an art object:

- that he entered himself or
- that was supplied to him by the maker or his entitled party or parties
- for which he was able to deduct the input tax in full when it was acquired.

C. Intra-Community acquisition

Intra-Community acquisitions of in § 2, 1 °, listed artifacts are at the reduced VAT rate of 6% when subjected to the seller in the Member State of dispatch or transport of the goods acquired:

- is the maker or a rightful claimant of the maker.
- or is a taxable person other than a taxable dealer, acting incidentally, when those works of art have been imported by that taxable person himself or have been supplied to him by the author or his rightful claimants or when he is entitled to the full deduction of the value added tax have created value.

The reduced VAT rate of 6% envisaged by heading XXI does not therefore apply to intra-Community acquisitions of collectors 'and antiques' objects.

D. Intended goods

The goods which, depending on the nature of the relevant VAT transaction (see sections A, B and C above), are eligible for the reduced VAT rate of 6% are:

- works of art (heading XXI, § 2, 1 °)
- objects for collections (heading XXI, § 2, 2 °)
- antiques (heading XXI, § 2, 3 °)

For an additional explanation regarding those goods, please refer to the appropriate paragraph in section XXI.

In addition, the following can be added:

- concerning **motor vehicles and motorcycles** that qualify as collectors' items and the import of which may qualify for the 6% VAT rate, reference is made to decision no. ET 118.301 of 07.02.2013 which issued decision no. ET 88.085 of 22.09.1997 replaces and cancels. For the sake of completeness, reference is also made to circular 2018 / C / 87 of 05.07.2018 on motor vehicles for collections of historical or ethnographic interest (General Administration of Customs and Excise) .
- only the sculptures described in heading XXI, § 2, 1 °, c, of Table A, which are provided by the maker (being the one who creates the image) or his rightful claimant, can benefit from the reduced rate of 6%. The **bronze caster** who casts bronze in the hollow form or mold designed by the sculptor on the orders of the sculptor cannot be regarded as the creator of the sculpture. The issue by the bronze-caster to the artist of the bronze-cast sculpture is therefore subject to the standard VAT rate of 21% (see decision no. ET 45.758 of 27.02.1997).

- **coins and commemorative medals** may be subject to the VAT rate of 6% if they are objects for collections of interest from a numismatic point of view. More information can be found in decision no. ET 41.569 of 05.07.1989 . However, these are not coins that are held as an investment, mounted in jewelery or that fall under the application of Article 44, § 3, 9 ° of the VAT Code.
- on the **import of objects for zoological collections** , reference is made to decision no. ET 52.601 of 31.05.1985 .
- the **input of game trophies** that are considered collections and collectors of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaetological, ethnographic or numismatic interest, are subject to the reduced rate of 6%. Imports of hides and skins, on the other hand, cannot be classified as collectors' items and are therefore subject to the standard VAT rate of 21% (see Written Parliamentary Question No 405 by Mr People's Representative Stef Goris of 22.06.2000).
- **stained glass windows** are not envisaged by heading XXI (see Written Parliamentary Question No 350 by Mr MP Richard Fournaux of 23.05.2000). The object of the supply with the placement of glass windows in a building in such a way that these glass windows become immovable by their nature and thus involve a work in immovable state within the meaning of Article 19, § 2 of the VAT Code, may, however , under certain conditions, be subject to the reduced VAT rate of 6% under items XXXI, XXXII, XXXIII, XXXVI, XXXVII, XXXVIII, XL of Table A of the Annex to the aforementioned Royal Decree No 20, or rate of 12% under heading X or XI of table B of the annex to the same Royal Decree.
- a **tattoo** is not intended under heading XXI (see Written Parliamentary Question No. 397 by Mr Senator Olivier de Clippele , 04.02.2000).
- **photographs taken by the artist** , printed, signed and numbered by him or under his supervision, with a print run of up to thirty copies for all sizes and carriers combined, are considered to be works of art.

  Photos are signed within the meaning of heading XXI when the artist who took the photos has drawn them by name, either in a handwritten manner, or by means of his name stamp, the signature stamp of his signature or similar identification mark.

  A unique photograph can only be considered numbered within the meaning of section XXI, insofar as it was marked by or under the supervision of the artist who took the photograph, stating that it is a single copy (see written parliamentary question no. 1,523 by Mr Representative Stefaan De Clerck of 26.10.1998).

  Reference is also made, by way of information, to the Court of Justice of the European Union, judgment in Regards Photographiques , Case C-145/18, 05.09.2018 .

- **however, the other sections of Table A** of the Annex to Royal Decree No. 20, referred to above, take **precedence** over Section XXI. In other words, if one is dealing with goods that are targeted without restriction by a specific provision of Table A (which is the case, for example, for books, which are targeted by heading XIX (see Title 19), the rate is 6% applicable to the supply, intra-Community acquisition, and imports of these goods.
- For the **sake of** completeness, reference is also made to the **special scheme of taxation of the profit margin as referred to in Article 58, § 4 of the VAT Code and the Royal Decree No. 53 of 23.12.1994** regarding the special scheme of taxation of the profit margin. for used goods, works of art, collectors' pieces and antiques, which are the subject of Note No 1/1995 of 02.01.1995 . For more information, see Book V: 'Special arrangements'.

22. Automobiles for passenger transport for the disabled. Parts, equipment and accessories for these vehicles.

Pursuant to **heading XXII** of Table A of the Annex to the Royal Decree no. 20, the aforementioned, the VAT rate of 6% applies to the supply of:

*" **First division. - Passenger cars for the disabled.***

§ 1. Provided that the conditions set out below are met and subject to the regularization provided for in § 5, the reduced rate of 6% applies to motor vehicles for road passenger transport, which are imported, acquired intra-Community or obtained here by one of the following persons to be used by them as a personal means of transport:

1 ° military and civil war invalids, who receive an invalidity pension of at least 50%;

2 ° persons who are completely blind, completely paralyzed in the upper limbs or whose upper limbs have been amputated, and persons with permanent disability that is directly attributable to the lower limbs and amounts to at least 50%.

§ 2. The benefit of the reduced rate can only be claimed for one single vehicle at a time and presupposes the use of the imported, intra-community acquired or landed vehicle by the acquirer as a personal means of transport for a period of three years, starting from the first day of the month in which the import, intra-Community acquisition or delivery of the vehicle takes place.

§ 3. The vehicle is considered to be used for purposes other than for his personal transport:

1 ° the disabled or disabled person who pays the traffic tax, despite the fact that he can benefit from the exemption from that tax;

2 ° the disabled or disabled person whose vehicle is registered in a name other than his own or, where applicable, that of his legal representative;

3 ° the disabled or handicapped person who, while still using a vehicle that has been imported, acquired intra-Community or acquired here in application of the tax advantages on value added tax, asks for the benefit of the same regime for another vehicle;

§ 4. The advantage of the reduced rate on the import, the intra-Community acquisition or the acquisition here on land of a passenger car is only granted if the following formal conditions are fulfilled together :

1 ° the disabled or disabled person must, before the import, the intra-Community acquisition or the delivery of the vehicle take place, submit a certificate to the head of the control office in the district of which he is domiciled, to which category of disabled or disabled persons, intended in § 1, he belongs and that has been awarded:

(a) for the war disabled, by the government which has granted the invalidity pension;

b) for persons who receive a pension, benefit or reimbursement through the Service for allowances for the disabled, by or on behalf of the Minister who is responsible for this service;

c) for persons who receive a compensation pension or a military pension due to an invalidity incurred during peacetime, by or on behalf of the Minister of Finance;

d) for the other persons, by or on behalf of the Minister who is responsible for public health;

2 ° after examination of the certificate and subject to receipt of a written undertaking from the disabled or disabled person to use the vehicle exclusively as a personal means of transport, the inspection office will issue a document, drawn up in the form determined by or on behalf of the Minister of Finance, that authorization grants the import, intra-Community acquisition or delivery of the vehicle at the reduced rate;

3 ° the disabled or disabled person must, at the latest at the time of import, submit the special VAT return concerning the intra-Community acquisition of new means of transport or the delivery of the vehicle, to customs or to the seller, submit the document intended under 2 °;

4 ° the import document, the special VAT declaration concerning the intra-Community acquisition of new means of transport or the purchase invoice and its duplicate must be drawn up in the name of the invalid or disabled person or, where applicable, in the name of his legal representative, and must be notified making the date of the document referred to in 2 °, its reference number and the name of the control office that issued it;

5 ° the document referred to under 2 ° is added by the customs authorities to the import document or section C of the special VAT declaration concerning the intra-Community acquisition of new means of transport that is kept at the customs office, or by the seller in double the invoice , which he keeps.

§ 5. If during the three-year period, counting from the first day of the month in which the import, the intra-Community acquisition or the delivery of the vehicle took place, this vehicle is used for

purposes other than the personal transport of the invalid or disabled person, or is being relinquished by the disabled or disabled person, he is obliged to pay the difference between the tax payable at the rate provided for under the normal regime for the acquisition, the intra-Community acquisition or import of the vehicle and the tax paid at the reduced rate rate, to be paid to the State in the amount of so many thirty-sixth if there are still months to run between the change of destination or the date of the surrender and the expiry of the three-year period.

However, this deposit should not be made:

1 ° in the event of the death of the disabled or disabled person or for any justified cause, irrespective of his will, which permanently prevents him from using the vehicle for his personal transport, even if he has this vehicle driven by a third party;

2 ° in the event of complete loss of the vehicle and its sale as a wreck as a result of a serious accident;

3 ° more generally, in any case of force majeure that is properly justified.

The payment of the tax as a result of the regularization is made on the basis of a declaration, drawn up in the form determined by or on behalf of the Minister of Finance, which is the disabled or disabled person, within one month from the date of the change of destination or of the distance of the vehicle, must submit to the control office in the jurisdiction where his residence is located.

The tax to be paid is paid within one month from the date of the payment notification sent by the service designated by the Minister of Finance or his authorized representative to the disabled or disabled person. Payment is made in accordance with the provisions of Chapter 1 of the Royal Decree of 17 February 2019 implementing various laws and adapting various Royal Decrees with a view, inter alia, to the harmonization of payment methods within the administration of the Federal Public Service for Finance taxed with the collection and recovery of tax and non-tax claims.

Section II - Parts, appliances and accessories for disabled vehicles.

The reduced rate of 6% applies to parts, equipment and accessories that are imported, intra-Community acquired or land-acquired by persons designated in the first section above for the benefit of the automobiles referred to there.

The advantage of the reduced rate of 6% depends on the issue of an invoice to the buyer and the presentation by the latter, to the customs or to the seller, of a certificate drawn up in the form determined by or on behalf of the Minister of Finance, which identifies the vehicle for which the favor arrangement is invoked. In addition, the import document or invoice and its duplicate must indicate the date and reference number of the above-mentioned certificate and the control office which issued the certificate. '

Preliminary remarks

Under Directive 2006/112 / EC, a reduced VAT rate may only be applied if it is intended by Annex III to the above Directive (see Article 98 of Directive 2006/112 / EC).

Vehicles intended for disabled and disabled people are not intended in the aforementioned Annex III. However, in 1992, in the context of the abolition of tax limits, the European Commission authorized Belgium, in the context of its social policy, to retain the favorable tax regime (introduced on 01.01.1970) on an express condition that Belgium does not change this scheme (*standstill* clause). An extension of the existing favor scheme to, for example, other categories of disabled people is excluded. If one wants to change the favor scheme, this can only be done in the direction of a restriction or cancellation of the scheme (see for exampleMerged oral parliamentary questions No. 6,235 and 7,354 by Ms deputy representative Griet Smaers of 17/11/2015 and oral parliamentary question No 9,333 by Ms deputy representative Griet Smaers of 09/03/2016).

Pursuant to **Article 77, § 2 of the VAT Code** , certain categories of disabled and disabled persons can obtain a **refund** of the reduced VAT of 6% levied on the purchase, intra-Community acquisition or import into Belgium of a vehicle, intended as their personal means of transport, on which the favor arrangement applies. This refund is discussed in 'Book IV: Tax Satisfaction - Chapter 14: Tax Refund'.

The website of the FPS Finance contains a list of frequently asked questions (FAQ) with regard to this favorable arrangement.

A. Which disabled or handicapped persons can qualify for this benefit scheme?

Provided that all conditions are met, the reduced VAT rate of 6% applies to road passenger cars, which are imported, acquired intra-Community or acquired here by one of the aforementioned persons to be used as a personal means of transport by them. used (it must of course be a taxable and taxable transaction in Belgium):

- military and civilian **war invalids** who receive an invalidity pension of at least 50%
- persons **completely blind** are
- people **completely paralyzed** his **upper limb**
- persons whose **upper limbs** have been **amputated** (including persons whose hands have been amputated from the wrist)
- persons with **permanent disability that is directly attributable to the lower limbs and is at least 50%** .

The following persons are considered as **war invalids** :

- the invalids of the world wars 1914-1918 and 1940-1945
- persons who became disabled during the mobilization period from 25.08.1939 to 09.05.1940
- persons whose invalidity is due to their internment for political reasons during the two world wars
- persons whose invalidity is attributable to their activity outside Belgian territory as a member of the expedition corps for Korea
- persons whose invalidity is the result of injuries sustained during the events that occurred in Congo, Burundi and Rwanda and who receive a pension under the laws of 06.08.1962 and 06.07.1964

B. What is meant by 'transferee's personal means of transport'?

It is apparent from the provisions of the favorable scheme itself (sections XXII and XXVI of Table A and Article 77, § 2 of the VAT Code on VAT refunds) that the tax benefits in favor of certain categories of disabled and disabled use a car for road passenger transport, which is a **strictly personal right** that is only **granted to the disabled person or the disabled person himself** .

The favor scheme can only be granted for one vehicle at a time per beneficiary. In principle, the vehicle must be registered with the DIV in the name of the disabled or disabled person.

Nothing prevents the disabled or disabled person from moving the vehicle in the company of other persons or, in his presence, entrusting the driving to a relative or even to a third party.

In principle, the vehicle may not be used without the disabled or disabled person. After all, the tax benefits are only granted to meet the travel difficulties of the disabled or disabled person.

The circular 2019 / C / 23 of 13.03.2019 regarding the concept of 'use as a personal means of transport' in the context of the favored VAT scheme for motor vehicles of certain disabled and disabled persons (ET 122.470) elaborates on the concept of 'use as a personal means of transport and in particular to the cases in which a person other than the invalid uses the means of transport for which the favor scheme was invoked. The aforementioned circular 2019 / C / 23 replaces circular AOIF No. 15/2004 (No. ET 100.223) and No. AINV 3/2004 (IR / IV-4 / 48.165) of 10.03.2004 and integrates the Judgment of the Constitutional Court No. 148/2007 of 28.11.2007 .

The benefit of the reduced rate can only be claimed **for a single vehicle at a time** and presupposes the use of the imported, intra-Community acquired or land-acquired

vehicle by the transferee as **personal transport throughout a period of three years** counting, **from the first day of the month of imports, intra-Community acquisition takes place or the delivery of the vehicle** .

In addition, in order to qualify for the favorable tax regime for a dual-use car, a minibus or a light truck, the beneficiary must undertake in writing that it will never use the car for freight transport (excluding its own luggage) and paid passenger transport.

For example, is the vehicle intended to be used for **purposes other than personal transportation** :

- the disabled or handicapped person who pays the traffic tax, despite the fact that he can benefit from the exemption from that tax.
- the disabled or disabled person whose vehicle is registered in a name other than his own or, where applicable, that of his legal representative.
- the disabled or handicapped person who, while still using a vehicle that has been imported, acquired intra-Community or acquired here by applying the tax advantages of value added tax, applies for the benefit of the same regime for another vehicle.

Special case: the disabled or disabled person is a minor child or a child who is placed in a state of extended minority.

This issue is also discussed in circular 2019 / C / 23 , aforementioned.

Disabled or handicapped children always depend on an adult to use the vehicle. The vehicle will therefore usually be driven by the **legal representative** of the disabled or disabled person who is a **minor** or has been placed under the **extended minor status** (see decision no. ET 116.207 of 05.05.2009).

Moreover, that legal representative is responsible for carrying out all legal acts relating to the vehicle which the disabled or disabled person cannot carry out on his own due to his legal incapacity.

In case the disabled or disabled person is a minor child or a child who is in an extended state

If a minor has been placed, the aforementioned favorable VAT arrangement must be applied for

by the child's legal representative (for example, the parent (s)). Although, in principle, both parents have the right to benefit from the favorable VAT arrangement for their aforementioned disabled or disabled person

child , the aforementioned favorable arrangement can only be granted for one vehicle at a time per beneficiary (the minor child).

The Administration accepts the use of the vehicle without the disabled or disabled child who is a minor or is placed under the extended minor status, provided that:

- the vehicle is used by the legal representative of the disabled or disabled person and
- it is the only vehicle of the family.

The combination of these two conditions is necessary and sufficient for the right to the aforementioned tax benefits to arise. No additional evidence regarding the nature of the movements for which the vehicle is used by the legal representative can be required.

This relaxation will be maintained until the disabled person in question qualifies for either the income replacement allowance or the integration allowance referred to in the Act of 27.02.1987 on the allowances for people with disabilities (Moniteur belge of 01.04.1987). .

In view of the condition of personal use by the disabled or handicapped person of the vehicle concerned, it is inherent in the application of the favor scheme that, in the event of **divorce** , only the parent with whom the handicapped child has his domicile address and where the handicapped child in question is in principle resides, can apply for the benefit scheme.

However, if the child's housing is evenly distributed between both parents, while the child is at one of them is domiciled, the VAT administration has decided that when applying for the favor scheme, an agreement or a court decision must be submitted to the administration which determines which of them can apply for the favor scheme with regard to VAT. Otherwise, the VAT administration assumes that the VAT benefit scheme can only be requested by the parent with whom the invalid child has his domicile address (see decision no. ET 121.528 of 22.07.2013).

In accordance with the statutory provisions on VAT, and in contrast to the provisions on road tax, the favorable tax arrangement is subject, inter alia, to the condition that the vehicle must be registered in the name of the disabled or disabled person or in the name of his legal representative if the disabled person is younger than 18 or is placed under the status of the extended minor.

If the vehicle is registered in the name of the legal representative of the minor child, unless the child has been placed under the extended minor status, the vehicle must be registered in the child's name as soon as the child reaches the age of majority. However, the administration tolerates retaining the registration in the name of the legal representative until the vehicle is replaced (see decision no. ET 116.207 of 05.05.2009).

C. Which cars are eligible for the favor scheme?

Only cars for road passenger transport can enjoy the tax benefit. This
is to say, passenger cars, cars for dual use (type station wagon or *break*), mini-buses and slow vehicles (so-called "car without a driver's license").

In exceptional situations, the tax credit can be granted for a **light truck with side windows** as well as for light trucks that do not have side windows (see decision no. ET 113.117 of 13.07.2011). This is the case if the use of a light truck is **justified by the needs of the personal transport of the disabled or disabled person** . A **doctor's certificate** must confirm this (for example: the state of health of the disabled or disabled person does not allow him or her to leave the wheelchair during his movements).

For example, the following vehicles are **not** entitled to the tax benefit:

- vehicles used for paid passenger transport (taxis, *uber* , etc.)
- vehicles used for the carriage of goods
- motor homes, campers, caravans, camping cars , and so on
- mopeds and motorcycles (even if they are fitted with a body).

D. What steps must be taken to benefit from the favored arrangement?

The advantage of the reduced VAT rate on **imports, intra-Community acquisitions or acquisitions** of a passenger car in this country is only granted if the following formal conditions are fulfilled together:

a. Stap 1

The disabled or disabled person concludes the purchase agreement (written or verbal) of his car so that he knows the essential characteristics of his car (brand, model, year, engine displacement, etc.) and the identity of the seller.

b. Stap 2

The disabled or disabled person must, before effective import, intra-Community acquisition or delivery of the vehicle, have submitted to the office of the administration in the territory of which he is domiciled, a certificate of **invalidity** stating which **category of disabled or disabled person** he belongs to and which has been issued :

- for war invalids: by the Federal Pension Service or the FPS Social Security, Service for the War Victims.
- for persons who receive a retirement pension or a military pension due to an invalidity incurred during peacetime: by the Federal Pension Service
- for other persons: by the FPS Social Security - Directorate-General for Persons with Disabilities

The certificate must, as the case may be, state that the person concerned:

- is war-disabled and an invalidity pension enjoys '...%'
- is completely blind
- is completely paralyzed in his upper limbs
- his upper limbs are fully or partially amputated
- has a permanent disability of at least 50% which is directly attributable to his lower limbs

c. Step 3

After examination of the invalidity certificate, the office of the administration under which the disabled or disabled person falls (based on his place of residence) will issue a **form No 716 free** of charge.

The disabled or disabled person must complete, date and sign box I of form 716.

By filling in this box, the disabled or handicapped formally undertakes:

- register the vehicle in its name or the name of its legal representative
- use the vehicle only for personal transport
- for this use the exemption from road tax, the tax on the entry into and possibly the excise compensating in call load
- only one vehicle at a time that falls under the favorable VAT regime

d. Step 4

The disabled or disabled person must submit the form No. 716 to the aforementioned office. The disabled or disabled person must be able to present his invalidity certificate. If the certificate is

valid, the administration will agree to the application of the reduced VAT rate of 6% by completing box II of form No 716.

e. Step 5

The disabled or disabled person must at the latest at the time of

- the import
- of the submission of the special VAT return on the intra - Community acquisition of new means of transport or
- of the delivery of the vehicle

present document No. 716 to customs or the seller.

The import document, the special VAT declaration concerning the intra - Community acquisition of new

transport or purchase invoice and to double it **up** are **the name of the disabled or handicapped** or, where applicable, the name of his **legal representative** , and must mention the **date of the Form 716** , the **reference** of it and **name of the 'management' team of the administration** that issued it.

Note 1

If the seller requests an advance from the invalid or disabled person at the time of the conclusion of the vehicle sales contract without the invalid or disabled person already having the agreement of the administration (using form no. 716), the VAT rate is of 21% due on the requested advance.

However, for practical reasons, the administration accepts that the VAT on the advance is levied at 6% if the disabled or disabled person can present his invalidity certificate. The seller states this on all copies of the contract, on the order form, on the invoice and on the double thereof, which are delivered when the advance is paid.

Note 2

If the disabled or disabled **conversion works and / or modifications** to the purchased vehicle have to be carried out by a specialized company before he can use the vehicle as a disabled person, the reduced VAT rate of 6% applies. The administration issues **attestation no. 717A** at the time of the agreement via form no. 716 for the application of the reduced VAT rate for the delivery, intra-Community acquisition or import into Belgium of the vehicle concerned.

In this case, the already paid VAT of 6% for the conversion works is not eligible for refund.

This is in contrast to the purchase of an already converted or modified vehicle. In that case, the purchase is entirely subject to the VAT rate of 6%. This also applies to the import / intra-Community acquisition in Belgium of an already converted and / or modified vehicle. In that case, all formalities are arranged with the form no. 716. The VAT paid is also eligible for refund.

E. What should the disabled or disabled person do to get a refund of the 6% VAT on the purchase, intra-Community acquisition or import of the vehicle?

The disabled or disabled person (or his legal representative) must apply for a refund application by registered letter to the office of the administration that houses the disabled or disabled person (based on his place of residence). He may also issue the application or have it delivered at the aforementioned office.

The application must be submitted in two copies. This is done on the basis of box III of form no. 716. The purchase invoice, the special VAT declaration or the import document must be enclosed with this application.

With this submission, the administration will issue **certificate no. 717B** . This certificate identifies the vehicle and allows the disabled or disabled person to purchase or import **parts and accessories** for the vehicle at the VAT rate of 6%. He can also have **maintenance and repair work** carried out on the basis of this certificate at the VAT rate of 6% .

Please note: the disabled or disabled person cannot receive a VAT refund if he buys his vehicle from a reseller subject to VAT who applies the special taxation scheme on the profit margin.

F. Regularization to be carried out by the disabled or disabled person

If during the **three-year period** starting from the first day of the month in which the import, intra-Community acquisition or delivery of the vehicle took place, this vehicle is **used for purposes other than the personal transport of the disabled or disabled person** , or **ceded** by the disabled or disabled person, the latter is obliged to pay the difference between the tax payable at the rate provided for under the normal regime for the acquisition, the intra-Community acquisition or

import of the vehicle and the tax paid at the reduced rate, to deposit the State in the amount of so many thirty-sixth if there are still months to run between the change of destination or the date of the surrender and the expiry of the three-year period.

As soon as one of these events occurs, the disabled or disabled person is no longer entitled to the VAT rate of 6% for the purchase of car parts or for maintenance and repair work. It is irrelevant whether this changed situation occurs within or outside the three-year review period. He loses the right to the benefit rate anyway.

If the use for purposes other than personal transport or the distance of the vehicle occurs after the expiry of the three-year revision period, no VAT should be regularized.

If the disabled or disabled person wants to apply for the favor scheme for a new vehicle while using another vehicle for which the three-year review period has not expired, he can choose between:

- apply for the VAT revision for the old vehicle so that he is entitled to the benefit scheme for his new vehicle, or
- not apply for a favor scheme for the new vehicle so that he retains the favor scheme for his old vehicle.

Example:

A passenger car was delivered to an invalid or handicapped person on 15.02.2017 under the favorable VAT scheme. The disabled or disabled person sells his vehicle and delivers it on 15.06.2018 to a buyer established in Belgium, who has it registered in his name the same day.

The revision period starts on 01.02.2017 and ends on 31.01.2020. Since the change of destination occurs in June 2018, the number of full months from July 2018 to January 2020 must be counted, ie 6 months for 2018, 12 months for 2019 and 1 month for 2020. The total number of months is therefore 19 (these are the counter). The revision coefficient is thus 19/36.

Since the vehicle in question has benefited from the VAT advantage scheme, it was subject to the reduced rate of 6% instead of on delivery to the disabled or disabled person, on importation by the person concerned, or on intra-Community acquisition by the person concerned. of the normally payable VAT at the rate of 21%.

Within one month of the sale, the donation, the registration in another name or the changed use of the vehicle, the disabled or disabled person must send the competent SME management team (based on his place of residence) a letter stating and enclosing:

- his name and address

- a reference to the form No 716 issued to him to benefit from the favorable regime
- an accurate description of the vehicle
- a description of the nature and date of the event giving rise to the revision
- proof of the change in the use of the car (for example, a copy of the sales invoice)
- (a copy of) the purchase invoice of the car

The disabled or disabled person also attaches certificate no. 717B to this letter.

From the date of sale, registration in another name or changed use of the vehicle, this document no longer entitles you to the advantageous VAT rate of 6% for the purchase of car parts or for maintenance and repair work.

The payment of the tax as a result of the regularization is made on the basis of a **declaration** , which the disabled or disabled person must submit to the team management **within one month from the date of the change of destination or the distance of the vehicle** . of the office of the jurisdiction in which his residence is situated.

The tax to be paid must be paid within one month of the date of the
payment message that the recipient will send to the disabled or disabled person.

However, the refund should not be made in certain circumstances :

- in the event of the death of the disabled or disabled person or for any justified cause, irrespective of his will, which permanently prevents him from using the vehicle for his personal transport, even if he has this vehicle driven by a third party.
- in the event of complete loss of the vehicle and its sale as a wreck as a result of a serious accident.
- more generally, in any case of force majeure which is duly justified (for example, the unfavorable evolution of the health status of the disabled or disabled person).

Reference is also made to Written Parliamentary Question No. 576 by Mr Representative Dirk Van der Maelen dated 12.10.2011 .

Nevertheless, the invalid or his next of kin must inform the competent SME management team of the force majeure situation that applies in order to avoid a revision of the favored regime.

G. Parts, appliances and accessories for disabled vehicles

The reduced rate of 6% applies to parts, appliances and accessories that are imported, intra-Community acquired or landed here by the above-mentioned disabled or disabled persons for the purpose of the aforementioned cars. However, the reduced VAT rate does not apply to the purchase of fuels, engine oil, antifreeze, paint products ...

Maintenance and repair work on the vehicle can also be carried out at this rate (application of heading XXVI, of Table A, see Section 4, Title 3, below).

However, no refund of the VAT paid can be obtained.

The advantage of the reduced rate of 6% depends on the issue of an invoice to the disabled or disabled person and the presentation by the latter, to the customs or the seller, of a **certificate No 717B** (the disabled or disabled person). receives this attestation from the administration, together with document No 716) which identifies the vehicle for which the favor arrangement is invoked.

In addition, the import document or invoice and its duplicate must indicate the date and reference number of attestation No 717B and the 'management' team of the office of the administration which issued this attestation.

23. Miscellaneous

Pursuant to **heading XXIII** of **Table A** of the Annex to the Royal Decree no. 20, the VAT rate of 6% applies to the supply of:

1 ° Coffins

2 ° Orthopedic appliances (including medical-surgical belts); fracture splints and other fractures and articles for the treatment of fractures in the skeleton; dentures, artificial teeth, artificial eyes, artificial limbs and the like; hearing aids for the hearing impaired and others for the repair or relief of deficiencies or ailments, which are held by the patient or are otherwise worn or implanted; individual material specially designed to be worn by stoma patients and those suffering from incontinence, with the exception of diapers for children under six years of age; the individual accessories that are part of an artificial kidney including the trousses used .

3 ° Walking frames, wheelchairs and the like for the disabled and the sick, whether or not with a motor or other propulsion mechanism; parts and accessories for these cars.

4 ° Aerosol equipment and accessories; individual material for the administration of mucomyst .

5 ° Anti-decubitus material included in the appendix to the Royal Decree of 14 September 1984 establishing the nomenclature of medical benefits in respect of compulsory sickness and invalidity insurance.

6 ° Devices specially designed for the visually impaired and blind, with the exception of frames, spectacle lenses and contact lenses.

7 ° Infusion pumps for pain relief.

8 ° Glucose meters and accessories.

9 ° Assistance dogs that assist persons with disabilities or illness and who are trained in an assistance dog school recognized by the competent authority and the specially designed equipment for such dogs, such as harnesses.

Assistance dogs are: guide dogs for the blind, service dogs, hearing dogs, reporting dogs and therapy dogs.

10. Sanitary towels, tampons, panty liners and similar products intended for the hygienic protection of women and intimate tissues intended for the hygienic protection of the genital area of persons other than babies.

11. External defibrillators. "

In addition, the law of 13.04.2019 introducing a reduced VAT rate for the purchase of bicycles and electric bicycles (Moniteur belge of 29.04.2019) has introduced the 6% VAT rate on the delivery of certain bicycles. This was done by supplementing this section XXIII, of table A, of the annex to the Royal Decree 20 mentioned above, with a number 12 which reads as follows:

" *12 ° The bicycles, motorized bicycles and speed pedelecs , as stipulated in the general regulations on the police of road traffic, on the understanding that with regard to motorized bicycles and the speed pedelecs , the regulation only applies if they are electrically powered*".

However, the entry into force of the rate reduction for bicycles depends on a prior amendment of the European regulations on VAT rates. As long as this change has not happened, the tariff reduction cannot take effect in Belgium. In concrete terms, this means that the entry into force of the VAT rate of 6% on the supply of (electric) bicycles has been postponed indefinitely.

The delivery of (electric) bicycles therefore currently remains subject to the normal VAT rate of 21% (see circular 2019 / C / 64 of 08.07.2019 on the reduction of the VAT rate on the delivery of bicycles and on the sterilization of cats (ET 135663)). Therefore, figure 12 of heading XXIII of Table A has no effect.

A. Coffins (item 1 of heading XXIII)

In accordance with item 1 of heading XXIII, the supply of coffins is subject to the VAT rate of 6%. This rate applies regardless of the material from which the coffins are made and applies, inter alia, to zinc coffins intended to be placed in coffins of another material . It also applies to the accessory, that is supplied along with the coffin (crucifix, and so on).

For the sake of fairness, it is accepted that from 01.01.2006 the delivery of a funeral urn can also benefit from the reduced VAT rate of 6% (see decision no. ET 110.516 of 30.01.2006).

Boxes or urns designed for animals are subject to the standard VAT rate of 21% (see decision no. ET 111.433 of 04.07.2006 which also concerns the VAT treatment of the organization of the funeral of animals).

B. Orthopedic appliances and other medical devices or equipment specified in item 2 of heading XXIII

Below are a number of additions for each type of goods envisaged by item 2 of heading XXIII. However, the additions and examples given are not exhaustive.

It should be noted, however, that Section XXIII, item 2 of Table A applies only where the goods listed therein are **intended for human medical use** . Accordingly, orthopedic appliances and other medical devices or equipment referred to in item 2 of the above heading which are intended for animals are not intended. Since these are also not envisaged in any of the other provisions of Royal Decree 20, mentioned above, which are subject to a reduced VAT rate, their supply is subject to the normal VAT rate of 21%.

a. Orthopedic appliances (including medical-surgical belts)

Orthopedic devices are devices that are specifically / exclusively intended for either preventing or remedying physical malformations, or supporting or holding organs after illness or surgery.

As ***orthopedic devices*** may be mentioned: appliances for hip diseases, dental braces to correct deformity of teeth, gears against crooked scoliosis and other curvatures of the spine , customized insoles designed for orthopedic diseases and surgical belts.

Stand up devices for the disabled, who can no longer remain upright in an appropriate upright posture, and who incorporate the disabled in such a way that the body parts involved are supported appropriately and in this way are remedied or prevented (further) physical malformations. enjoy 6%. For additional explanations, reference is made to decision no. ET 95.923 of 13.02.2002.

With regard to **orthopedic belts** , reference is made in particular to decision No. ET 60.792 of 06.06.2005, which also discusses **the medical-surgical support** bandages envisaged by item XVII, item 3, of Table A.

Orthopedic shoes and **special insoles designed to cure orthopedic conditions** are subject to the VAT rate of 6% provided they:

- are custom made or
- are manufactured in series, individually and are not offered in pairs, and are not designed to fit every foot.

b. fracture splints and other articles and devices for the treatment of fractures in the skeleton

Fracture splints and other similar items, referred to in item 2 of Section XXIII, are articles and devices for the treatment of fractures in the bone (limbs, chest, etc.), of dislocations and of joint disorders and which serve either to immobilize or stretch the injured parts of the body. keep and protect, or to put fractures. Also subject to the reduced VAT rate of 6% are plates, pens, etc., which are surgically inserted into the body by surgeons to join the two ends of a broken leg or for similar treatment of fractures in the body. bone structure.

Regarding the applicable VAT rate on **thermoplastic plates** that are sold, especially to clinics, **for immobilization of body parts during radiotherapy or for the manufacture of splints** , and for ' precuts ' (thermoplastic material pre-cut according to the shape of a specific body part), reference is made to the decision no. ET 80.898 of 29.08.1995 .

c. dentures, artificial teeth, artificial eyes, artificial limbs and the like

The delivery of these goods is subject to the VAT rate of 6%.

d. hearing aids and other hearing aids for remedying or alleviating defects or ailments, which are held by the patient, or otherwise worn, or implanted

Hearing aids for the hearing impaired are, for example, electric hearing aids consisting of one or more microphones (with or without amplifier), a receptor and a battery. Item 2 of Section XXIII refers only to devices designed to remedy hardness of hearing.

The administration accepts that batteries offered for sale for specific use with hearing aids (as shown in particular by the packaging of those batteries) can benefit from the reduced VAT rate of 6%.

The group of ' **other deficiencies or ailments or other ailments which are held by the patient, or otherwise worn, or implanted** ' includes, for example:

- devices to facilitate vocal formation in persons who have lost the use of their vocal cords due to injuries or surgery. They mainly consist of an electronic pulse generator. For example, when pressed against the neck, they generate vibrations in the pharynx which are modulated by the patient and converted into intelligible language.
- cardiac stimulators (pacemakers) that are used to stimulate inadequate functioning of the heart muscles.
- crutches
- radioactive sources that are placed in the body for a long time to treat a tumor and that provide internal radiation
- artificial heart valves and stents that remain permanently in the body after surgery

For the sake of simplicity , the Administration accepts the application of the VAT rate of 6% for **sets containing an implant** as referred to in Section 2 of Section XXIII and small implants for inserting the implant, insofar as those sets meet all of the following conditions (see decision no. ET 105.111 of 21.05.2003):

- said small supplies are specially designed for implanting the enclosed device, excluding any other use, and can otherwise be used only once.
- the implant and the small supplies for its insertion are thus presented in one hermetically sterile package.
- the value of the whole of the small implants for implantation is less than half the value of the complete set (implant + small accessories).

Examples of goods subject to the **standard VAT rate of 21%** :

- **oxygenators** , which are disposable medical supplies, which are used for an individual patient during a specific period during which the patient's own lungs are unable to ensure normal gas exchange (see also Judgment of the Court of Cassation no. C.04.0071.N from 14.02.2008).
- (portable) INR devices (see written parliamentary question no. 82 by Mr Representative Hendrik Daems of 28.04.2008)

- the supply of **oxygen concentrators** for oxygen treatment is subject to the VAT rate of 21% (see also to that effect: Court of Justice of the European Union, judgment OBN, case C-573/15, 09.03.2017). Certain oxygen concentrators can be used mobile and are hand held or otherwise worn on the body by the patient. The latter oxygen concentrators can enjoy the VAT rate of 6%.
- **catheters** used only for puncturing a patient (for example, during surgery). Conversely, cathedrals specially designed and indispensable for the operation of infusion pumps for pain relief or equipment designed to remedy or alleviate defects or ailments held by the patient or otherwise worn or implanted, subject to the VAT rate of 6%. The same is true for specific cathedrals that are already individual material specially designed to be worn by stoma patients or patients suffering from incontinence. For the sake of completeness, reference is also made to the above-mentioned decision no. ET105.111 of 21.05.2003 with regard to sets containing an implant.
- **wigs** , even if their use is the result of medical treatment or illness (written parliamentary question No. 1.232 by Ms deputy representative Nathalie Muylle of 12.10.2016).

e. individual material specially designed to be worn by stoma patients and those suffering from incontinence, except sanitary towels, panty liners and diapers for children under six

"Individual material" means that the intended material is in principle only used by one person.

- Incontinentiemateriaal

The incontinence material intended by item 2 of heading XXIII includes certain mechanical receptacles. The material envisaged here that can benefit from the reduced rate of 6% are collection means such as urinals , urine collection bags (attached to the leg, the wheelchair or the bed) and the catheters (urine probes) and condom catheters (rubber sleeve that surrounds the penis) connected to these bags attached and connected with a tube to a collection bag attached to the leg, wheelchair or bed).

It is accepted that individual self-catheterization material is also intended by this section XXIII, item 2. Persons with incontinence can use this to empty their bladders at home.

For example, are also envisaged by section XXIII, item 2: urethral occlusive devices (penile clamp or urethral stopper) and the anal plug for persons suffering from bowel incontinence.

Body- bound absorbent absorbents (such as diapers) intended for **persons with mild or severe incontinence problems** , disposable or washable, are also subject to the VAT rate of 6%, with the exception of diapers for children under the age of six who pay the normal VAT rate of 21% are subject. Goods specially designed for the fixation of inserts for incontinent persons are also intended and subject to the VAT rate of 6%.

When the packaging of a product and the advertising surrounding its sale clearly indicate that this product is normally intended for persons with mild or severe incontinence problems, this product is classified as an individual material specially designed to be worn by persons who suffer from incontinence as referred to in Section 2 of Section XXIII even if this product can be used for purposes other than those for which it was originally manufactured and shows significant similarities with certain sanitary napkins or panty liners, in particular regarding their absorbency (see decision No. ET 107.737 of 21.12.2006).

Only body-based absorbent material is intended and can benefit from the VAT rate of 6%. Accordingly, underpads, stitch sheets, under sheets, mattress protectors and similar aids for use in bed by persons suffering from incontinence are subject to the VAT rate of 21%.

- Ostomy material

The ambulatory equipment, which is specially designed for persons with an artificial outlet of the bladder or bowel and which can benefit from the VAT rate of 6%, consists of one or two parts.

The one-piece system consists of a collection bag with a fastening system, integrated in the bag, to apply to the stoma.

The two-part system consists of a mounting plate (support plate) with belt on which the bag is applied. The collection bag is glued directly to the mounting plate or clicked over a ring.

It is accepted that individual irrigation equipment for colostomy patients can also benefit from the VAT rate of 6%. There is, however, a clear distinction between such irrigation material and the material subject to the normal VAT rate of 21% to set ordinary lavements (see VAT revue no. 134, page 306).

Material for people with a tracheal ostomy, being ambulatory material such as tracheal cannulas and special bandages and similar products for fixation around those cannulas, are also subject to the VAT rate of 6% (see VAT revision no. 134, page 307).

However, deodorizing powders or filters, deodorants, sprays, emollient or cleansing lotions for the skin care of ostomy patients or persons suffering from incontinence are not included in section XXIII.

f. the individual accessories that are part of an artificial kidney including the trousses used

These are certain accessories used in kidney dialysis.

An **individual accessory** that is part of an artificial kidney, including the trousses intended for its use , is subject to the reduced VAT rate of 6%. It concerns the accessories that are in principle only used once. Here, for example, it is meant: the dialyzer or hemofilter , the bloodlines for transporting the blood from the patient to the dialyzer and vice versa, the *fistula* needles (needles specially designed for kidney dialysis) and the dialysis catheders (being catheders specially designed for kidney dialysis).

The actual 'artificial kidney' (the dialysis machine, also sometimes referred to as a generator) is a medical device subject to the VAT rate of 21%.

Kidney dialysis concentrates are not referred to in section XXIII of Table A. Unless they are intended in another section of Table A or Table B of the Annex to the Royal Decree No. 20, mentioned above (for example as a registered medicine within the meaning of Section XVII, item 1 (a) of Table A), these goods are subject to the standard VAT rate of 21% (see also Parliamentary Written Question No. 2.529 by Ms deputy representative Nathalie Muylle of 07.02.2019).

C. Walkers, wheelchairs and similar vehicles for the disabled and the sick (item 3 of heading XXIII)

A seat can only benefit from the reduced VAT rate of 6% if it can be regarded as a wheelchair or similar trolley for the disabled and sick within the meaning of item 3 of heading XXIII. This is only the case if the following conditions are met:

- the chair must be **designed and equipped for a disabled or sick person** (for example, equipped with a special footrest, push bar, hand pedals, leg rest, shoulder rest, orthopedic seat scoop, etc.) and

- the chair must also be designed and equipped for the **mobility** of the disabled or sick person, that is to say it must be a trolley (wheelchair) in which the disabled or sick person is driven (for example by means of a push bar) or can move by himself. he can actively participate in social, community or family life.

Such carts in which the disabled, the sick are driven or are self-propelled are equipped with at least three wheels and are either pushed or driven by direct action of the hands on the wheels or propelled by a light motor (explosion motor or electric motor) or a manual force mechanism (for example, by means of a lever or pedals).

In any case, wheelchairs and similar trolleys within the meaning of item 3 of heading XXIII, are those intended as wheelchairs and scooters respectively in the main groups 1, 2 and 3 of Article 28, § 8, item II of the Annex to the Royal Decree of 14.09.1984 establishing the nomenclature of medical benefits in respect of compulsory insurance for medical care and benefits.

The so-called standing devices for invalids who can no longer remain upright in an appropriately erected position can benefit from the reduced VAT rate of 6% when applying figure 2 of heading XXIII, mentioned above (see decision no. ET 95.923 of 13.02.2002).

D. Aerosol equipment and individual equipment for mucomyst administration (item 4 of section XXIII)

The goods contemplated here are aerosol therapy inhalers . These are devices with which a liquid (for example an antibiotic or other medicine) is finely atomized so that the product can be inhaled by the patient through a nosepiece, mouthpiece or mask connected to a device for the treatment of respiratory diseases, asthma, bronchitis, cystic fibrosis, and so on.

Certain types of hospital aerosol dispensers also serve for the administration of narcotics for the local anesthesia of the respiratory tract and for the inhalation of a radioactive fluid to provide a medical diagnosis. These appliances are also subject to the VAT rate of 6% (see decision no. ET 97.817 of 10.01.2001).

The accessories of the aforementioned devices are also intended and can therefore benefit from the VAT rate of 6%, even if delivered separately (for example: inhalation mask, mouthpiece, connecting hose, filter, etc.) (see VAT revue no. 134, pages 307 to with 308).

E. Anti-decubitus material (item 5 of heading XXIII)

Only the supply of anti-decubitus material (anti-pressure ulcer material) included in the annex to the Royal Decree of 14.09.1984 establishing the nomenclature of medical benefits in respect of compulsory illness and invalidity insurance is intended under item 5 of heading XXIII and thus enjoy a reduced VAT rate of 6%.

F. Devices specially designed for the visually impaired and blind (item 6 of heading XXIII)

Required devices must be specifically designed to alleviate visual impairment. These are in principle the goods that are **specifically intended for the personal use of the visually impaired and are generally only bought by them** . The mere use of a certain good by a blind or partially sighted person is therefore not sufficient to benefit from the reduced rate of 6%.

Are intended inter alia by item 6 of heading XXIII when they are specially designed for the visually impaired and blind: optical reading machines, software designed to control braille decoders and printers, braille clocks and braille compasses, certain items of clothing marking, certain magnifiers, television screens (see Written Parliamentary Question No. 153 by Mr Representative Hendrik Bogaert of 07.05.2008). Other examples include: speech displays, braille keyboard, braille tape gauges, white and yellow sticks for the blind and partially sighted.

Frames, glasses and contact lenses are explicitly excluded from the application of the 6% VAT rate. They are also not included in any other section of Table A, B or C and are therefore subject to the VAT rate of 21%.

The supply of a specifically trained **guide dog** is subject to the VAT rate of 6% under figures 6 and 9 of heading XXIII. The services provided by veterinarians with regard to specifically trained guide dogs for the blind can also benefit from the reduced rate of 6% by applying Section XXVI of Table A of the Annex to Royal Decree No 20. For additional information reference is made to decision no. ET 101.232 of 03.09.2009 . Certain assistance dogs, other than guide dogs for the blind, can also benefit from the reduced VAT rate of 6%, but only on the basis of figure 9 of heading XXIII (see section I, below).

G. Infusion pumps for pain relief (figure 7, of section XXIII)

Infusion pumps for pain relief are pumps designed for the administration of the pain relief drugs in the hospital or ambulatory home. This also includes devices that can administer other medicines in addition to the medication for pain relief (chemotherapy, antibiotics and the like).

However, the infusion pumps which are used exclusively for the administration of antibiotics or for chemotherapy are not intended under item 7 of section XXIII.

The administration accepts that an accessory **specially designed** for a pain relief infusion pump within the meaning of item 7 of heading XXIII **and essential** for its operation is subject to the VAT rate of 6%. For example, cathedrals specially designed and indispensable for the operation of infusion pumps for pain relief are subject to the VAT rate of 6% (see Written Parliamentary Question No. 234 by Mr MP Alfons Borginon of 21.02.2000). However, an accessory (eg hose systems) that can be used universally (ie not only for infusion pumps for pain relief within the meaning of item 7 of heading XXIII) is subject to the normal VAT rate of 21%.

H. Glucose meters and accessories (item 8 of heading XXIII)

A glucose meter is a meter that measures the level of sugar in the blood.

The starter pack is usually composed of a glucose meter, finger prickers, lancets, test strips and glucose control solution . The administration accepts that the accessories of the glucose meter specially designed for the use of that meter, even if sold separately, can also benefit from the VAT rate of 6% (see VAT revue no. 134, page 313).

I. Assistance dogs (item 9 of heading XXIII)

In accordance with item 9 of heading XXIII, supplies of assistance dogs assisting persons with disabilities or illness trained in an assistance dog school recognized by the competent authority, as well as specially designed equipment for such dogs, such as harnesses, are subject to the VAT rate of 6%.

Assistance dogs are: guide dogs for the blind, service dogs, hearing dogs, reporting dogs and therapy dogs.

The training of assistance dogs within the meaning of item 9 of heading XXIII, as well as the training of those dogs and the services of veterinarians with regard to those dogs, are subject to the reduced VAT rate of 6% under item 3 of heading XXXIV of Table A, of the Annex to Royal Decree No. 20 mentioned above.

For more information, reference is made to decision no. ET 128.840 of 02.02.2016 .

J. Hygienic protection products (item 10 of heading XXIII)

From 01.01.2018, the VAT rate of 6% applies to the supply, intra-Community acquisition and import of:

- sanitary towels, tampons, panty liners and similar products intended for the hygienic protection of women
- intimate tissues intended for the hygienic protection of the genital area of persons other than babies

For more information, reference is made to circular 2018 / C / 19 of 12.02.2018 regarding the reduced VAT rate on hygiene protection products and on external defibrillators, marginal II (ET 132.671) .

K. External defibrillators (item 11 of heading XXIII)

From 01.01.2018, the VAT rate of 6% applies to the supply, intra-Community acquisition and import of external defibrillators.

The administration accepts that the VAT rate of 6% applies not only to the external defibrillator itself, but also to (replacement) parts and supplies that are product-specific , even if supplied separately.

The ' product-specific ' means parts and supplies:

- are specifically designed for the supplied or rented defibrillator and
- indispensable for its operation

For more information, reference is made to circular 2018 / C / 19 of 12.02.2018 regarding the reduced VAT rate on hygiene protection products and on external defibrillators, marginal III (ET 132.671).

It is recalled that implantable defibrillators and pacemakers (pacemakers) are subject to the VAT rate of 6% under Section XXIII, item 2 of Table A.

L. (Electric) bicycles (item 12 of heading XXIII - not yet entered into force)

The entry into force of the rate reduction for certain bicycles depends on a prior amendment of the European regulations on VAT rates. As long as this change has not happened, the tariff reduction can not take effect in Belgium. The delivery of (electric) bicycles is currently still subject to the VAT rate of 21% (see circular 2019 / C / 64 of 08.07.2019 regarding the reduction of the VAT rate on the delivery of bicycles and on the sterilization of cats. (ET 135663)).

Reference is also made to Written Parliamentary Question No. 56 by Mr Kurt Ravyts, Member of Parliament, dated 30.09.2019, and to merged Oral Parliamentary Questions Nos . 55003037C and 55003038C of Mr. People's Representative Georges Gilkinet from 04.02.2020 .

24. Supply of goods by institutions with a social purpose

Section XXIII *bis* , of Table A , of the Annex to Royal Decree No. 20, mentioned above, provides the following.:

" § 1. The reduced rate of 6% is applicable to the supply of goods, excluding goods envisaged in Article 1, § 8, of the Code of goods listed in Article 35 of this Code, the goods subject to the tax as referred to in Article 44, § 3, 1 °, of the same Code, of the goods obtained for use as investment goods, of the works of art or the objects of collectors' or antiques, which the institutions intended in § 2 carry out within the conditions provided in § 3, subject to the provisions contained in §§ 4 and 5.

§ 2. The application of the reduced rate of 6% is reserved for the institutions:

1 ° under Belgian law or under the law of another Member State of the European Economic Area;

2 ° that in no way have the objective of the systematic pursuit of the pursuit of profit. To this end, the articles of association stipulate, inter alia, that the profit, if any, may not be distributed, but must be entirely intended to maintain or improve the transactions provided. The articles of association also provide that in the event of liquidation, the total of the net assets is reinvested in another institution of the same nature;

3 ° that are mainly managed and managed voluntarily by persons who have no direct or indirect interest in the operating result, either for themselves or via intermediaries;

4 ° whose purpose in the sense :

- of the decision of the Flemish government of 16.11.1994 concerning the implementation of experiments in connection with insertion companies and island learning projects , or of Chapter 3, Section 3.5, of the decision of the Flemish government, of 17.12.1997, establishing the Flemish regulations on waste prevention and management;

- of the Royal Decree of 30.03.1995 implementing Chapter II of Title IV of the Law of 21.12.1994 laying down social provisions for recruitment companies;

- of the Decree of the French Community Commission of Brussels-Capital of 27.04.1995 on the recognition of organisms for socio- professional involvement and the subsidization of their vocational training activities for unemployed and low-skilled jobseekers aimed at increasing their chances of finding or retrieving of work in the context of coordinated facilities for socio-professional involvement;

- of the Decree of the Walloon Regional Council and of the Walloon Government of 16.07.1998 concerning the conditions under which the recruitment companies are recognized and subsidized;

- of the decision of the Flemish government of 10.11.1998 regarding the conduct of experiments in connection with insertion companies;

- of the ordinance of the Council of the Brussels-Capital Region and the Government of the Brussels-Capital Region of 22.04.1999 on the approval and financing of recruitment firms;

- of the decision of the Flemish government of 08.06.1999 amending the decision of the Flemish government of 08.12.1998 implementing the decree on social workshops;

of

- of the decision of the Walloon government of 18.11.1999 amending the decision of the Walloon government of 06.04.1995 on the recognition of 'Enterprises de formation par le travail ',

consists in the employment as well as the employment of the low- or medium-skilled unemployed job-seekers who are excluded from traditional employment circuits or who are particularly difficult to mediate;

5 ° and which have been recognized for that purpose by the government that is authorized by those decrees, decisions or ordinances.

§ 3. The application of the reduced rate of 6% is also subject to the following conditions that must be met together:

1 ° the institution intended in § 2 must limit its activities exclusively to the sale of goods referred to in § 1, which it collects free of charge from private individuals or companies or in any other way;

2 ° this institution must apply prices that have been approved by the government, or prices that do not exceed the approved prices, or even for transactions for which no approval of prices takes place, prices that are lower than those for similar services in charged by commercial companies subject to value added tax;

3 ° the advantage of the reduced rate may not be such as to distort competition to the detriment of commercial enterprises subject to value added tax.

§ 4. The reduced rate shall no longer apply by operation of law from the moment that the institution that invokes the application of it no longer fulfills all the required conditions.

§ 5. The Minister of Finance shall inquire with the competent authorities referred to in § 2, 5 ° about the approvals granted, withdrawn or suspended by these authorities. He shall inform the same authorities of any findings made whereby the application of the reduced rate lapses or has lapsed due to non-compliance with one or more conditions set out in § 3. "

The provisions of the above section XXIII *bis* relating to supplies of goods effected by certain institutions for social promotion. Certain services provided by these institutions may benefit from the reduced VAT rate of 6% under the conditions of section XXXV of Table A of the Annex to Royal Decree No 20, cited above (see Section 4, Title 12, below).).

The application of the 6% rate depends on a number of conditions related to:

- the nature of the goods delivered
- the nature, object and management of the institution supplying the goods
- the nature of the acts performed by the institution.

A. Conditions regarding the delivered goods

The reduced VAT rate of 6% applies to the supply of goods, excluding:

- the goods referred to in Article 1, § 8 of the VAT Code
- of goods listed in Article 35 of the VAT Code
- of the goods subject to the tax as intended in Article 44, § 3, 1 ° of the VAT Code

- of the goods obtained to be used as investment goods
- of the art objects or the objects for collections or antiques.

In addition, it is required that institutions collect the goods free of charge from private individuals or companies or acquire them in some other way (see also below, section C).

B. Conditions relating to the nature, object and management of the intended institutions

The settings that are entitled to the application of the discussed VAT rate of 6% under heading XXIII *bis* , § 2, the above-mentioned. In summary, it is imperative that the institution:

- under Belgian law or the law of another Member State of the European Economic Area
- in no way aims at the systematic pursuit of profit-seeking. To this end, the articles of association stipulate, inter alia, that the profit, if any, may not be distributed, but must be entirely intended to maintain or improve the transactions provided. The articles of association also provide that in the event of liquidation, the total of the net assets is reinvested in another institution of the same nature.

  The notion of "not pursuing the systematic pursuit of profit seeking" means that the institution does not intend to provide, directly or indirectly, an immediate or deferred material gain to its shareholders, managers, associates and members.

  The profit, if any, may under no circumstances be distributed, but must instead be entirely devoted to the maintenance or improvement of the transactions provided.

  The said institution must take the form of either a non-profit association or a company with a social objective. However, the trading activity of a company with a social purpose may in no case be exercised with the aim of enriching its founders.
- which are mainly managed and controlled voluntarily by persons who have no direct or indirect interest in the operating result, either for themselves or through intermediaries.
- is listed in Section XXIII *bis* , § 2, 4 °, and its objective is to employ as well as in insuring the employment of the low or medium-skilled unemployed job seekers that are excluded from traditional circuits or labor are particularly difficult to place.
- and accredited by the government by those decrees, resolutions or ordinances (see section XXIII *bis* , § 2, 4 °) may be authorized.

C. Conditions regarding the nature of the acts carried out by the institutions

Only goods that the institution with a social purpose has collected free of charge from private homes or businesses, or in any other way, can qualify for the VAT rate of 6%. It follows that the application of that rate is excluded for any supply of goods which the institution would have acquired for consideration, even at a bargain price.

The institution should apply prices that have been approved by the government, or prices that never exceed the approved prices, or even, for transactions for which no price approval exists, prices lower than those charged for similar transactions by commercial companies.

Finally, the benefit of applying the reduced VAT rate should not lead to distortions of competition to the detriment of commercial undertakings. This distortion of competition should be assessed on a case by case basis, taking into account all factual and legal information.

The risks of distortion of competition to the detriment of VAT taxable commercial undertakings, whether they are supplies of goods or services, should be assessed on a case-by-case basis, taking into account all elements specific to each case, including the amount of the respective prices excluding VAT.

Therefore, for example, as regards the supply of goods, the assessment of the possible distortion of competition will take into account the possibility for the commercial undertaking, which is a competitor of the institution with a social purpose, to benefit from the special VAT scheme of the taxation of the apply profit margin. After all, this arrangement has no effect on the institutions envisaged here, since the goods they sell have been obtained free of charge (see Written Parliamentary Question No. 440 by Ms deputy representative Muriel Gerkens of 27.10.2008).

D. Important remark regarding heading XXIIIbis , § 4, aforementioned - Relaxation of certain conditions of heading XXIIIbis

As soon as the institutions referred to no longer meet all the conditions laid down for the application of the reduced VAT rate, they automatically lose the benefit of this special scheme for all the transactions they perform and which fall under the same heading (see § 4 of section XXIII *bis*).

This is particularly the case when these institutions no longer confine their activities to the relevant section XXIII *bis* planned deliveries (eg selling obtained free clothes) but also supplies

which are expressly excluded from § 1 of section XXIII *bis* (eg delivery mopeds) and / or supplies to provide goods that are meant but that were initially purchased and thus do not meet the condition set out in § 3, 1 ° of section XXIII *bis* (ie not free at home to individuals or companies picked up or otherwise).

With effect from 1.1.2016 accepts the administration which **in these cases** and that the other conditions of section XXIII *bis* are met, they will no longer lose the application of the reduced VAT rate for all alleged acts Heading XXIII *bis* belong.

The deliveries contemplated in section XXIII *bis* , provided the other conditions laid down in this section are met, can therefore now also enjoy the reduced VAT rate of 6% remain. Only the deliveries excluded in the aforementioned § 1, as well as the deliveries of goods not obtained free of charge, will then follow their own and separate regime (for example, 21% for the sale of mopeds, 21% for the sale of purchased clothing).

Reference is made to decision No. ET 125.040 of 17.11.2015 .

[Table of contents of this chapter] - [Table of contents of the VAT Comment]

Section 4 - Services subject to the 6% VAT rate

1. Agricultural services

Pursuant to **heading XXIV** , of **table A** , of the annex to the royal decree no. 20, the aforementioned, the VAT rate of 6% applies to:

Construction, harvesting and cultivation activities, except:

(a) animal services other than those referred to in Section I;

b) landscaping and maintenance of gardens.

The goods supplied on the occasion of those activities are taxed at the rate that would have applied to them had they been delivered separately. '

'Agricultural services' is understood to mean cultivation, harvesting and cultivation activities that contribute to the production of agricultural products. Agricultural services therefore have a twofold characteristic. By their nature, they should be part of the normal activity of farmers (including forest operators) or growers, and they should, on the other hand, contribute to the

production of agricultural (or forestry) or cultivation products. In order to contribute to the production of agricultural or cultivated products, these agricultural services must take place before or during production. Actions that take place after production do not contribute to the production of agricultural or cultivated products.

In addition, not all material operations required in the context of the operation of a farm can be regarded as cultivation, harvesting or cultivation.

The status of the recipient of the agricultural services referred to under heading XXIV is immaterial (see decision No ET 76.161 of 09.09.1992). An exception to this, however, are the intellectual services, which in certain cases can be classified as agricultural services. In that case, the quality of the customer does play a role.

In addition, reference is also made in particular to the following decisions and answers to parliamentary questions (non-exhaustive list) relating to the application of heading XXIV of Table A:

- the **suckler cow premium**is a surcharge granted on request to a farmer keeping a suckler cow stock used for rearing calves for meat production. Under certain conditions, that farmer acquires rights to that premium (premium rights) in accordance with the interest of his suckler cow stock. The farmer can transfer all or part of his premium rights to other farmers. Taking into account the nature of the premium rights, the transfer of those rights, regardless of their form and duration, is not a financial transaction exempted in accordance with Article 44, § 3, 5 ° to 10 ° of the VAT Code, but concerns it is the transfer of an incorporeal good. That service is subject to the standard VAT rate, which is currently 21%. For additional information, please refer to thedecision no. ET 122.945 of 29.03.2013 .
- for the VAT system on **transfers of beet delivery rights** , reference is made to decision No ET 112.314 of 20.03.2012 . The applicable rate for the transfer of these delivery rights is the normal VAT rate of 21%, since the delivery rights do not concern the cultivation of agricultural products but only the placing on the market.
- on the VAT rate applicable to the **removal and spreading of agricultural manure** and with regard to **manure processing** , please refer to Written Parliamentary Questions No. 488 by Mr. Representative Hendrik Bogaert of 12.11.2008 and No. 1.098 by Ms. Representative Nathalie Muylle from 19.01.2006 . Regarding the compensation paid by a pig manure farm to farmers for the dumping of manure on the latter's grounds, reference is made to decision no. ET 89.594 of 06.05.1997 .
- on the **transfer by a farmer of the nutrient content** allocated to his agricultural and / or livestock establishment and / or part thereof, reference is made to extended decision No ET 109.249 of 08.04.2005 . In accordance with the aforementioned decision, the transfer of the nutrient content may be subject to the VAT rate of 6% under heading XXIV, aforementioned.
- the **sorting and / or packaging of fruit** by fruit sorting companies is subject to the standard VAT rate of 21%. Indeed, those acts cannot be classified as an agricultural service within the meaning of heading XXIV. After all, they do not contribute to the production of agricultural

products (no cultivation, harvesting or cultivation work). However, they only take place after the production of agricultural products. However, the situation may be different if the fruit is sorted and / or packaged by the fruit auction (see Written Parliamentary Question No. 143 by Mrs Marleen Govaerts of 19.11.2003).

- the service consisting of the **measurement of agricultural parcels** is not an agricultural service within the meaning of heading XXIV, mentioned above and is subject to the standard VAT rate of 21% (see decision no. ET 99.942 of 24.08.2001).
- the works consisting of **the construction or repair of forest roads** cannot be classified as agricultural services within the meaning of this heading XXIV due to the fact that they do not form part of the normal activity of farmers and forest operators and do not contribute in any way to the production of agricultural products. These works are subject to the normal VAT rate of 21%. On the other hand, the works are like **preparatory earthworks of a site with a view to planting or cultivating them**(removal of tree stumps, plowing, smoothing, etc.), construction and maintenance of drainage channels for soil improvement (irrigation, draining, etc.) or making a fire passage (without specific provisions for use as a traffic road), in view of the fact that they contribute to the production of agricultural products, namely agricultural services as referred to in section XXIV (see decision no. ET 98.018 dated 14.12.2000).
- Certain acts of **planting, pruning or felling trees** can be classified as agricultural services subject to the VAT rate of 6%. For more explanation, reference is made to the detailed answer to written parliamentary question No. 510 by Mr People's Representative Philippe Seghin dated 17.11.2000 . When the conditions to qualify as an agricultural service within the meaning of heading XXIV are met, it is immaterial whether the services are provided to an agricultural or forestry undertaking or to a private person.
- the **charging beets before transportation** and transportation from the field to the sugar does not contribute to the production of agricultural products. After all, the transactions take place after the production of agricultural products, namely in the context of marketing. Such transactions therefore follow their own regime as regards VAT rates, and are subject to the standard rate of 21% (see Written Parliamentary Question No 1.572 by Mr Senator Pierre Hazette of 21.01.1999).
- regarding the transactions concerning the **transfer of milk quotas** , reference is made to decision no. ET 87.178 of 09.01.1998 .
- on the **management and keeping of accounts** of agricultural enterprises , reference is made to decision No ET 87.324 of 02.04.1996 .

  In summary, this decision provides that intellectual services consisting of the management and accounting of an agricultural undertaking are normally subject to the standard VAT rate of 21%. However, if the concept of farm management envisages a **total package** of services that are usually provided under a **complex contract and at a global price** and of **which certain benefits** , if they were provided to a farm under a separate contract and at a separate price. provided and billed, **undeniable if agricultural services were to be** charged **at 6%**(e.g. advice on insemination, advice on animal or plant disease control, advice on the nutritional status of the crops and the required contamination based on leaf, fruit or soil analyzes, fertility, milk production and meat production to the through exterior controls of the livestock on the farm and associated with the identification and registration of the livestock, etc.), such agreement

may qualify as an agricultural service within the meaning of heading XXIV and be taxed uniformly at 6% even if such service is provided would give rise to accounting operations or other administrative work.

For the sake of completeness, reference is also made to Oral Parliamentary Question No 96 / M01 by Mr Representative Josy Arens of 02.04.1996 concerning **agricultural management centers** .

- certain services provided by **veterinarians** can be classified as agricultural services such as heading XXIV and therefore benefit from the reduced VAT rate of 6%.

  Services provided by veterinarians, to the extent that they naturally **contribute to the breeding of animals referred to in Section I** of Table A, may be classified as agricultural services subject to the VAT rate of 6% without distinction depending on the recipient of the services, a farmer or a private individual (see decision no. ET 76.161 of 09.09.1992).

  In order for this rate to apply, the services must relate to the following animals as referred to in Section I of Table A of the Annex to Royal Decree No 20, referred to above: cattle, pigs, goats, donkeys, mules and mules ; horses of breeds commonly used as draft, heavy or medium horse; horses sold or imported for slaughter; poultry, domestic pigeons and domestic rabbits.

  Veterinary services related to deceased animals cannot be classified as agricultural services.

  The service invoiced by vets to the FASFC which consists of the inspection and control of fresh fish in fish mines is not an agricultural service under heading XXIV and is therefore subject to the standard VAT rate of 21%.

  Strictly speaking **checks and inspections** are not agricultural services within the meaning of heading XXIV. However, it was decided that **meat inspections in slaughterhouses** , **as well as inspections of animals in slaughterhouses immediately before slaughter** , can be considered as services which directly contribute to the production of agricultural products and can therefore be subject to the VAT rate of 6% under heading XXIV (see decision no. ET 71.919 of 30.09.1994).

- The activities that consist of **cleaning the walls of a house** by means of an corrosive product, and whitewashing those walls with a view to decontamination of that house, are generally subject to the VAT rate of 6% in accordance with section XXIV when the house in question is part of an agricultural enterprise (see decision no. ET 46,565 of 10.01.1984). However, it is noted that the goods delivered on the occasion of these works must be taxed at their own VAT rate under the provision of the second paragraph of the aforementioned heading XXIV (see decision no. ET 46,565 of 05.08.1988).
- concerning the second paragraph of heading XXIV: for the spreading of soil improvers, for example, the supply of soil improvers must generally be taxed at the rate of 21%. However, the second paragraph of heading XXIV does not apply to the excipients supplied on the occasion of a service provision. Sisal rope or other rope used to tie the

  binding sheaves at harvest should therefore not be taxed separately if it is supplied as part of a harvest.
- the **collection and destruction of** animal **carcasses** is not an agricultural service within the meaning of this Section XXIV. This service is subject to the normal VAT rate of 21%.

2. Transport

Pursuant to **heading XXV** of **Table A** of the Annex to the Royal Decree no. 20, the aforementioned, the VAT rate of 6% applies to:

"Passenger transport and transport of unchecked baggage and of animals accompanying travelers."

Passenger transport implies that persons with a vehicle are transported **from one** place to another **by a driver** . If a vehicle is made available without a driver, this is a rental of a vehicle that is subject to the normal VAT rate of 21%.

Examples of passenger transport intended by heading XXV, the aforementioned:

- the tour on the back of an animal accompanied by the owner of the animal or by a third party on behalf of the owner (see decision no. ET 100.817 of 30.07.2001)
- a boat trip with captain on a river
- a balloon flight with a driver (the mere provision of a balloon without a driver is subject to the VAT rate of 21%)
- taxidiensten
- public transport (train, metro, tram, etc.)

The Minister of Finance accepts, on a trial basis, that the service consisting of the rental of bicycles through a **public bicycle system** , which supplements public transport, is subject to the reduced VAT rate of 6% (see decision no. ET 131.027 of 16.12.2016 and Written Parliamentary Question No 2.602 by Mr Jef Van den Bergh, Member of Parliament, 29.03.2019)

3. Maintenance and repair

Pursuant to **heading XXVI** , of **table A** , of the annex to the Royal Decree 20, mentioned above, the VAT rate of 6% applies to:

Maintenance and repair work on the goods referred to under headings XXII and XXIII, numbers 2 to 8 and numbers 11.

The rate of 6% also applies to the supplies, parts and accessories used in the execution of those works.

For maintenance and repair work on motor vehicles carried out on behalf of persons designated in Section XXII, first section, for the motor vehicles referred to there, the benefit of the reduced rate depends on the issue of an invoice to the customer and on submission by the latter to the

service provider of a certificate, drawn up in the form determined by or on behalf of the Minister of Finance, which identifies the vehicle for which the favor scheme is invoked. In addition, the invoice and its duplicate must indicate the date and reference number of the above certificate and the audit office which issued the certificate. "

This heading XXVI is only intended for maintenance and repair work carried out on:

- motor vehicles for passenger transport for disabled persons intended by section XXII of Table A of the Annex to Royal Decree No. 20 (see Section 3, Title 22). The advantage of the reduced rate depends on the issue of an invoice to the customer and the presentation by the latter to the service provider of attestation no. 717B (issued by the administration together with document no. 716) that the vehicle identifies what the favor arrangement is invoked for. In addition, the invoice and its duplicate must indicate the date and reference number of attestation No 717B and the team management of the office of the administration which issued this attestation.
- orthopedic appliances (including medical-surgical belts); fracture splints and other fractures and articles for the treatment of fractures in the skeleton; dentures, artificial teeth, artificial eyes, artificial limbs and the like; hearing aids for the hearing impaired and others for the repair or relief of deficiencies or ailments, which are held by the patient or are otherwise worn or implanted; individual material specially designed to be worn by stoma patients and those suffering from incontinence, with the exception of diapers for children under six years of age; the individual accessories that are part of an artificial kidney including the trousses used(Section XXIII, item 2, of Table A - see Section 3, Title 23, Section B).
- walkers, wheelchairs and similar vehicles for the disabled and the sick, whether or not fitted with a motor or other locomotive mechanism; parts and accessories for these wagons (item XXIII, item 3, of Table A - see Section 3, Title 23, item C).
- aerosol equipment and accessories; individual material for the administration of mucomyst (section XXIII, digit 4, of Table A - see Section 3, Title 23, section D).
- anti-decubitus material included in the annex to the Royal Decree of 14.09.1984 establishing the nomenclature of medical benefits in respect of compulsory sickness and invalidity insurance (section XXIII, figure 5, of table A - see Section 3, title 23, section E).
- devices specially designed for the visually impaired and blind, except frames, spectacle lenses and contact lenses (Section XXIII, item 6 of Table A - see Section 3, Title 23, Section F).
- infusion pumps for pain relief (Section XXIII, item 7 of Table A - see Section 3, Title 23, Section G).
- glucose meters and accessories (section XXIII, item 8 of Table A - see Section 3, Title 23, section H).
- external defibrillators (item XXIII, item 11, of Table A - see Section 3, Title 23, item K).

With regard to this section XXVI, of Table A, reference can also be made to the following decisions.

- Towing a vehicle that will be repaired by the towing party should be considered as part of a single repair contract, the entire price of which is taxed at the rate of 6% for a **passenger car for the disabled** intended by item XXII of Table A (see decision no. ET 8.934 of 08.11.1971).

- Provided that all conditions and formalities of the favorable scheme for cars for people with a disability for the disabled (see section XXII, of table A), the VAT rate of 6% can be applied to the **washing** of this car (see decision no. ET 100,608 of 01.07.2001).

- The supply of a **guide dog for the blind** is subject to the VAT rate of 6% pursuant to section XXIII, numbers 6 and 9 of Table A of the Annex to Royal Decree No. 20, referred to above. Consequently, the services provided by **veterinarians** with regard to specifically trained guide dogs for the blind under heading XXVI are subject to the reduced VAT rate of 6%. The normal rate of 21%, on the other hand, continues to apply to the supply of dogs that were not specifically trained at the time of that supply to serve as guide dogs, although it is a breed that would be suitable (usually Labradors, golden retrieverand German creators). However, such ex-post training of those dogs benefits from the reduced VAT rate of 6% on the basis of heading XXVI of Table A (see decision no. ET101.232 of 03.09.2009).

- With regard to maintenance and repair work with regard to external defibrillators, reference is made to circular 2018 / C / 19 of 12.02.2018 regarding the reduced VAT rate on hygienic protection products and on external defibrillators, marginal III (ET 132.671) .

The **maintenance and repair** work on the goods referred to in items XXII and XXIII, numbers 2 to 8 and figure 11 of Table A is not problematic, since the rate of 6% applicable to the maintenance and repair work of these goods also applies to the supplies and parts used in the execution of the work.

The difficulty arising from the existence of different rates, on the other hand, arises when maintenance and repair work is carried out on movable property not covered by the aforementioned headings XXII and XXIII, numbers 2 to 8 and figure 11. In In that case, the following rules must be taken into account when determining the applicable VAT rate for parts:

- if the value of the supplies and parts used is less than half of the total price requested from the customer, the transaction as a whole is a service subject to its own VAT rate.
- with the exception of the small repair services referred to under heading XXXIX which are subject to the 6% rate, the normal VAT rate of 21% applies in principle.
- in other cases, the transaction as a whole is a supply of goods which must be taxed at the VAT rate applicable to the goods (in principle the normal rate, which is 21%).

The foregoing provisions on the VAT rate for parts to be applied do not apply to work in immovable property which is entirely subject to the rate of 21% (or possibly 6% under items XXXI, XXXII and XXXIII, XXXVI, XXXVIII and XL of Table A, or 12% under Headings X and XI of Table B).

4. Deleted heading

Section XXVII , of Table A , of the Annex to Royal Decree 20, mentioned above, was removed by Royal Decree of 25.03.1977.

5. Establishments for culture, sports or entertainment

Under heading XXVIII of Table A of the Annex to Royal Decree 20, the VAT rate of 6% applies to:
" The granting of the right of access to cultural, sports or entertainment, as well as to the granting of the right to use, except for:
(a) granting the right to use automatic leisure devices;
b) the provision of movable property. '

In order for section XXVIII, of table A, to apply, there must first be an 'establishment'. This is a space or a place that users can access. This space or place does not have to be permanent but can also be temporary (for example: fairground attraction). Moreover, this establishment must be intended for culture, sports or entertainment.

When the service is provided on an undefined part of the public road or the public domain, in principle heading XXVIII does not apply. This is the case, for example, for the provision of kayaks for sailing down the Lesse . In this case, the operator of the grant kayaks no right of access to a device. This concerns the rental of movable property that is subject to the normal VAT rate of 21%.

Section XXVIII, of Table A, only aims at actions where the operator of the establishment limits himself, against payment of entrance fees, to grant access to the establishment and to grant the right to use the establishment, or as a spectator, or as a sports person.

The use as a sports practitioner presupposes a use of the infrastructure through own efforts, physical exercises and movements in which the operator of the establishment does not intervene in any way in connection with the various activities that can be practiced there. In some cases, the services provided by a sports center (for example, a fitness center) go beyond simply granting a right of access to the sports facility. This is the case, for example, when sports lessons, instruction of the physical movements to be performed or guidance, individually or in groups, are given (see, for example, oral parliamentary question No. 11,599 by Mr MP Jef Van den Bergh of

25.03.2009). With regard to the application of the correct VAT rate in such cases, reference is made in this regard to decision no. ET 45.941 of 24.07.1984 . Providing information sporadically about the use of sports equipment, without a price supplement, does not in principle exceed the mere granting of the right to access and use the hall or facility.

Note : in certain cases, granting access to establishments for culture, sports or entertainment may qualify for a VAT exemption from Article 44 of the VAT Code (in particular Articles 44, § 2, 3 °, 7 ° and 9 ° of the VAT Code). For additional explanation, reference is made to 'Book 2: Determination of the taxable basis and the applicable rate - Chapter 9: Exemptions envisaged by Article 44 of the VAT Code'.

The system of VAT applicable to **automatic relaxation** devices for VAT purposes is explained in Note 6/1994 of 09.03.1994 . The receipts found in the automatic relaxation devices, referred to under marginal 25, of this declaration are taxable at the VAT rate of 21%.

The mere **rental of movable property** is, without distinction, subject to the 21% rate. This applies for example to the rental of bicycles, roller skates, skateboards, boats, pedal boats, etc.

With regard to the **provision of movable property in establishments for culture, sports or entertainment** , reference is made to decision no. ET 113.196 of 10.04.2014 . This decision states, among other things, that:

- where the provision of movable property by the operator of an establishment is optional, and the visitor or user has the opportunity, for example, to bring his own material, the additional charge requested in the case of the provision of the movable property is to be charged with the application of the normal VAT rate in accordance with the exclusion of heading XXVIII.
- when the operator of an establishment charges a global price for the use of the establishment and for the provision of movable property and allows a price reduction for the user using his own equipment, that global price must be split so that the portion of the price which relates to the making available of movable property is taxed at the normal VAT rate.
- when the granting of the right of access to an establishment or of the right to use the establishment is automatically accompanied, at no additional cost, by the provision of movable property which, as a whole, forms an integral part of that establishment in such a way that access until the establishment or its use would not be possible without those goods, the price charged by the operator of the establishment shall be fully subject to the 6% rate in accordance with heading XXVIII. This is for example the case for the golf club and-ball made available by the operator of a mini golf, the fitness equipment from a sports hall (dumbbells for *body building* , multiple gymnastic equipment, such as skirting board, racks

attached to the wall, buck, and so forth. See alsodecision no. ET 45.941 of 24.07.1984 regarding fitness centers).

Examples:

- The granting of the right to access and the granting of the right to use a **sauna facility** can benefit from the reduced rate of 6%. Certain actions of a sauna facility are not intended by this section XXVIII. Reference is made to decision no. ET 126.122 of 26.08.2014 , which applies *mutatis mutandis* to the exploitation of a salt cave.

- Pursuant to Written Parliamentary Question No. 536 by Mr People's Representative Ortwin Depoortere of 16.11.2004 , when selling a **combination ticket** , at a single price, which **grants access to an entertainment facility** on the one hand and a **parking space on the other** , in that case where services, which are the subject of a joint offer at a single price, are subject to different rates, that single **price for the VAT charge to be broken down** . If this breakdown does not occur, the levy is only regular if the whole is taxed at the rate that applies to the part of the whole that is subject to the highest rate, in this case 21%.

  However, in view of the judgment of the Court of Justice of the European Union in the Amsterdam Stadium judgment, case C-463/16 of 18.01.2018 , the foregoing must be qualified. When admission to an entertainment establishment and the car park is offered **at a single price** , the VAT rate of 6% for the whole may be applied if the following conditions are cumulatively met:

  - on the customer's behalf, the parking space is only incidental to the right of access to the entertainment establishment. The parking lot is therefore for the customers an aim in itself, but a means to make the right of access to the establishment more attractive.
  - the parking space is included in the price for all customers of the establishment, regardless of whether or not the customers use the parking space

  If the customers can pay a separate price for the parking space, this is a separate service that is subject to the VAT rate of 21%. The same applies if customers can pay a reduced price if they do not use the parking lot. If the single price is not split, the whole is subject to the VAT rate of 21%.

- Provision of a berth for a boat in a marina cannot be regarded as conferring the right of access to a sports establishment within the meaning of heading XXVIII (see decision No ET 102.020 of 07.02.2002).

- With regard to the provision of **karts** by the circuit operator, reference is made to decision no. ET 100.917 of 03.09.2001 .

- Establishments providing body ***styling*** servicesofferings usually aim at a slimming cure or a figure correction. In principle, body styling is not limited to granting the right of access to an establishment for sports. In the context of a body styling program, a package of different performances is usually provided: in addition to the provision of, for example, heated tunnels for performing supervised exercise, body styling also includes ozone therapy, personal counseling, figure analysis and nutritional advice. That package of services constitutes a single service provision that is subject to the normal VAT rate of 21%. Indeed, such a composite service cannot be regarded as merely granting the right of access to a sports establishment and granting the right to use it.

- **Guided visits** of museums, monuments, parks, businesses, etc., are not envisaged under heading XXVIII of Table A, as these services go beyond simply granting access to an establishment for culture or entertainment (see also Oral Parliamentary Question No 23,323 by Ms deputy representative Sabien Lahaye-Battheu of 06.02.2018 regarding a brewery visit).

- **Riding lessons** provided in an equestrian center are not intended in the aforementioned section XXVIII, of table A, and are subject to the normal VAT rate of 21%, unless the exemption of Article 44, § 2, 3 ° or 4 ° (in the case of professional training) of the VAT Code can be invoked.

- When a **subscription for a fitness center** (if not intended by the exemption of Article 44, § 2, 3 ° of the VAT Code) in addition to the granting of the mere **right to access the sports facility** and the right to use the equipment as referred to in section XXVIII, which also includes the right to attend **group classes** type zumba , indoor cycling , yoga, etc., the subscription price must be broken down. After all, the aforementioned group lessons are not intended by heading XXVIII. If this breakdown does not occur, the levy is only regular if it becomes completetaxed at the rate applicable to the part of the whole that is subject to the highest rate, in this case 21%. The way in which the breakdown is to be done is a matter of fact.

- The Minister of Finance accepts, on a trial basis, that the service consisting of the **rental of bicycles** through a **public bicycle system** , which supplements public transport, is subject to the reduced VAT rate of 6% (see decision no. ET 131,027, 16.12.2016).

- The 6% VAT rate envisaged by heading XXVIII, table A, does not apply to the fee paid by a consumer to individually watch one or more films or film fragments in enclosed booths (see Court of Justice of the European Union, Judgment Erotic Center sprl, case C-3/09, 18.03.2010).

- The fee for participating in an **escape game** is fully subject to the VAT rate of 6% (see circular 2018 / C / 119 of 26.10.2018 regarding the VAT rate applicable for participating in an escape game (ET 132.379 / 2) and which repeals and replaces circular 2017 / C / 80 of 07.12.2017 on the VAT rate applicable to participation in an escape game (ET 132.379)).

6. Copyrights, performing concerts and performances

Pursuant to **heading XXIX** , of **table A** , of the annex to the Royal Decree 20, mentioned above, the VAT rate of 6% applies to:

1 ° The transfer of copyrights and the granting of copyrights, with the exception of those relating to computer programs.

2 ° The services which consist of the performance of plays, ballets, pieces of music, circus, variety or cabaret performances and similar activities and which are part of the normal activities of actors, orchestra leaders, musicians and other artists, even if these services are provided by a legal person or an actual association or grouping.

Services relating to advertising are excluded from this heading. '

A. Copyrights

In order for the reduced VAT rate of 6% envisaged by heading XXIX, number 1, of Table A to apply, the work must first of all be protected by copyright. Reference is made above to the law of 30.06.1994 on copyright and related rights.

Preliminary remark: in certain cases the exemption of Article 44, § 3, 3 ° of the VAT Code may apply. For more information, reference is made to 'Book II: Determination of the taxable basis and the applicable rate - Chapter 9: Exemptions envisaged by Article 44 of the VAT Code'.

In order for there to be a transfer of copyrights or the granting of copyrights, the contracting parties must expressly acknowledge the existence of copyrights and the purchaser must be entitled to transfer or be granted the right to reproduce, publish or publish the work. exploitation,

for consideration and in an express manner (which presupposes an appropriate statement in the agreement or on the invoice). Only agreements that meet the requirements imposed by copyright law can benefit from the reduced VAT rate of 6% under heading XXIX, number 1.

The transfer of copyrights and the granting of copyrights related to computer programs as well as the services related to advertising are explicitly excluded from the reduced VAT rate of 6% of heading XXIX.

Examples:

- The law of 30.06.1994 on copyrights and related rights grants compensation to authors and publishers of works that have been graphically or similarly reproduced when they are reproduced for private or educational use. The management company Reprobel is charged with collecting these fees. This issue is discussed in decision no. ET 91.692 of 22.04.1999 .

- The sums paid directly or through an association of authors to authors or composers for the performance or by spectacle, concert or entertainment organizers, drink operators, dance or *juke boxes* , radio and television institutes established here in the country or the performance in public or for the broadcasting of a literary, dramatic, dramatico- musical or musical work is envisaged by heading XXIX, aforementioned and can therefore benefit from the VAT rate of 6% (see Note No 142/1971 of 24.09. 1971).

- The cable companies owe specific copyrights to collecting societies for the programs whose programs they provide to the public. The relationship between the cable companies and the collecting societies involves the transfer or granting of copyrights in works protected by copyright laws. This act is subject to the reduced rate under heading XXIX, digit 1. However, the relationship between the cable companies and their subscribers does not involve the transfer or granting of copyrights of works protected by copyright law. After all, subscribers do not owe copyrights.

- The delivery of individual photos by a photographer to a private customer (for example, photo reportage of a communion party, wedding party, pets, etc.) is in principle subject to the normal VAT rate of 21%. As a rule, individuals do not intend to acquire copyrights, so that the photographer's action is not about granting copyrights, but about the delivery of a physical movable item referred to in Article 10 of the VAT Code. However, this does not detract from the fact that a photographer may own copyrights to his work.

- Layout performance, which consists of creating original drawings, page arrangements, embellishments, and the like for book and printed matter, is performance that is protected by copyright law. When the graphic artist transfers the copyrights to such a layout or grants copyrights (this must be reflected in the invoice, among other things), this transaction is

subject to the 6% VAT rate under heading XXIX of Table A. However, services related to advertising are explicitly excluded.

B. Conducting concerts and performances

Under heading XXIX, number 2, the services which consist of the performance of plays, ballets, pieces of music, circus, variety or cabaret performances and similar activities which are part of the normal activities of actors, orchestral conductors, musicians and other artists are subject to at the VAT rate of 6%, even if these services are provided by a legal person or an actual association or grouping.

If a performing artist acts in the form of a legal person and provides his service (for example acting as a singer) to another organizer of spectacles or concerts (for example a cultural center), the performance provided to the organizer (for example the cultural center) is subject to at the reduced VAT rate of 6% when applying heading XXIX of Table A.

In the event that an performing artist / legal person also calls upon another performing artist / natural person (for example, a musician-natural person) and the latter provides his performance to the performing artist / legal person, that performance must be invoiced to the legal person with application of the VAT rate of 6%. The legal person will then invoice the performance of that performing artist / natural person together with her own performance as performing artist , applying the VAT rate of 6% to the organizer (*in this case* the cultural center). The exemption of Article 44, § 2, 8 ° of the VAT Code could only apply to the performance of the natural person / performing artist (the musician) if this performing artist / natural person (the musician) performs his performance provided and invoiced directly to the organizer (*in this case* the cultural center) (see Written Parliamentary Question No. 828 by Mr People's Representative Francis Van den Eynde of 07.11.2001).

Note: for the performance of performances and concerts, for the sake of completeness, reference should also be made to the VAT exemptions in Article 44, § 2, 8 ° and 9 ° of the VAT Code (see 'Book II: Determination of the taxable basis and applicable rate - Chapter 9: Exemptions provided for by Article 44 of the VAT Code ').

C. Exclusion from advertising services

Advertising services exist when they contribute to the dissemination of a message aimed at promoting the marketing of goods or services (including real estate, rights and obligations) in the exercise of a commercial, financial, industrial or or craft activity.

It is noted that the concept of advertising here should be understood in the same sense as for the application of heading XIX of Table A. Therefore, for example, is not considered advertising for the application of the last paragraph of heading XXIX of Table A: campaign for institutions or non-profit organizations pursuing political, religious, philosophical, patriotic, philanthropic, or civic purposes, as well as social workers 'and employers' organizations (see VAT revues No. 137, pages 733 et seq. and 105), pages 855 and following).

The following services related to advertising are exempt from heading XXIX of Table A and are therefore subject to the standard VAT rate of 21%:

- to grant copyrights to advertising texts and advertising drawings
- the transfer by a publicity agency to a copyright company of an advertising film made by the advertising agency on behalf of the company
- the transfer of copyrights to an advertising agency with regard to the screenplay, dialogues and design of the sets for an advertising film
- the cooperation of an actor, singer, musician, orchestra leader, and the like performing artist in an advertising film or song (see, however, the possible application of the exemption of Article 44, § 2, 8 ° of the VAT Code)

7. Hotels, camping

Under **section XXX** of **Table A** of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 6% applies to:

1 ° Providing furnished accommodation with or without breakfast.

2 ° The provision of a place to camp. "

A. Hotels

The provision of **furnished accommodation is** when an establishment is organized in such a way that the reception and reception of customers is assured for at least a large part of the day and that systematic accommodation is offered to all customers for a single fixed price. and actually provides as well as at least one of the following services:

- regular cleaning of the rooms
- the provision and replacement of linen and
- the provision of breakfast in the rooms or in the establishment.

If, on the other hand, none of the aforementioned additional services are offered or that those services are only provided at the request of the customer on payment of a price surcharge or even when the customer has the option of opting out of a specific service or services for which he is offered a price reduction the provision of furnished accommodation is generally a VAT-exempt real estate rental, without any right of deduction on the part of the operator.

The VAT rate of 6% applies regardless of whether these establishments are operated under the conditions laid down in the legislation on hotel establishments or under another statute (see written parliamentary question no. 1.865 by Ms deputy representative Clotilde Nyssens of 04.02.2002). .

With regard to the provision of **guest rooms** in private houses, reference is made to decision no. ET 98.904 of 30.05.2002 .

If a hotelier asks a single price for full board or half board, the administration accepts that half of that price relates to the provision of furnished bed and breakfast and is therefore subject to the reduced VAT rate of 6%, provided that the coefficient of 50% does not deviate significantly from reality. The other half of the single price therefore relates to lunch and / or dinner and can therefore be fully subject to the rate of 12% (application of heading I of Table B of the Annex to Royal Decree No. 20) for insofar as the drinks for that lunch and / or dinner are not included in this single price. If lunch and / or dinner are included in the single price of full board or half board,oral parliamentary question No. 18,348 by Ms deputy representative Martine De Maght of 20.01.2010). Reference is made to Circular 2019 / C / 26 of 04.04.2019 regarding the VAT rate applicable to restaurant and catering services (ET 133.812)).

This 50% split is only an administrative tolerance from which the hotelier can deviate if he pursues a different pricing policy. The administration can also dispute this tolerance if the aforementioned split is clearly out of balance with reality.

In certain cases, in addition to providing furnished accommodation, additional services are provided **to a customer who stays in the establishment** . Here are a few examples, with the applicable VAT rate:

- telephone, fax: 6% if invoiced at the same time as the room
- parking: 6% if invoiced at the same time as the room
- rental of a safe: 6% if invoiced simultaneously with the room
- cleaning the clothes of a hotel guest: 6% if invoiced simultaneously with the room
- minibar: food and drinks provided through the minibar are deemed to have been provided under local consumption conditions. In principle, the VAT rate of 21% applies (see explanation under section I, table B, of Royal Decree 20, below).
- DVD rental: 6% if billed simultaneously with the room

- rental of a car without driver: 21%

B. Camping

With regard to VAT, a campsite is considered to be any site that is used for camping and on which tents, caravans or other similar accommodations are placed.

On the other hand, a campsite is not considered to be the site from which pitches are made available on which chalets, summer houses, pavilions or other similar accommodations are set up.

The provision of real estate such as bungalows set up on a camping site is regarded as a real estate rental as referred to in Article 18, § 1, second paragraph, 4 °, of the VAT Code, but as a rule in accordance with Article 44 , § 3, 2 °, is exempt from the VAT Code and therefore does not confer a right to deduct input tax, unless the act can be regarded as providing furnished accommodation within the meaning of Article 18, § 1, second paragraph, 10 ° of the VAT Code (see section A above). The provision of a mobile home, on the other hand, concerns a taxable movable rental subject to the VAT rate of 21%.

The supply of electricity in the context of the performance consisting in providing a camping pitch should be regarded as the side issue to that performance and is taxable at the same rate as the main performance, being 6% (see decision no. T. 5,835 from 27.05.1971).

8. Work in immovable state regarding private homes

Section XXXI , of Table A , of the Annex to Royal Decree No 20, concerning the application of the VAT rate of 6% to work in real estate in respect of private homes, provides:

§ 1. The work in immovable state and the other actions referred to in paragraph 3 are subject to the reduced rate, provided that the following conditions are met:

1 ° the activities must have the object of conversion, renovation, rehabilitation, improvement, repair or maintenance, excluding cleaning, in whole or in part of a house;

2 ° the transactions must relate to a home that, after its implementation, is used exclusively or mainly as a private home;

3 ° the transactions must be carried out on a dwelling whose first occupation is at least fifteen years prior to the first date of VAT due that arises in accordance with Article 22, § 1 or Article 22bis of the Code;

4 ° the transactions must be provided and invoiced to an end consumer [...];

5 ° the invoice issued by the service provider and the double that he keeps, must state, on the basis of a clear and accurate certificate from the customer, that the elements justifying the application of the reduced rate are available; except in the event of collusion between the parties or, apparently, non-compliance with this provision, the customer's certificate relieves the service provider of the liability regarding the determination of the rate.

§ 2. Are considered as final consumers within the meaning of this provision, for work in immovable state and the other actions described in § 3, with regard to the homes actually used for housing the elderly, pupils and students, minors, homeless persons, persons in difficulty, persons with a mental disorder, mentally handicapped and psychiatric patients, public or private persons who manage:

1 ° accommodation facilities for the elderly that have been recognized by the competent authority in the context of legislation on care for the elderly;

2 ° boarding schools added to or dependent on schools or universities;

3 ° youth protection homes and residential facilities that house minors in a sustainable manner, in day and night quarters, and that are recognized by the competent authority in the context of legislation on youth protection or special youth assistance;

4 ° shelters that are homeless in day and night accommodation and that house persons in difficulty and that are recognized by the competent authority.

5 ° psychiatric care homes that house persons with a long-term and stabilized mental disorder or mentally handicapped persons in a day and night stay in a sustainable manner and who are recognized by the competent authority;

6 ° buildings where, in the name of an initiative of sheltered housing recognized by the competent government, sustainable housing in day and night quarters and counseling of psychiatric patients takes place.

§ 3. The following are intended:

1 ° the renovation, finishing, furnishing, repair and maintenance, with the exception of cleaning, in whole or in part, of a property by its nature;

2 ° services that consist of supplying movable property and immediately affixing it to immovable property in such a way that the immovable property becomes of its nature;

3 ° any action, even if not intended in 2 ° above, which has as its object both the delivery and the attachment to a building:

(a) of the components or parts of the components of a central heating or air-conditioning system, including the burners, reservoirs and control and monitoring devices connected to the boiler or to the radiators;

b) of the components or parts of the components of a sanitary installation of a building and, more generally, of all fixed appliances for sanitary or hygienic use connected to a water supply or a sewer;

(c) of the components or parts of the components of an electrical installation of a building, with the exception of luminaires and lamps;

(d) of the components or parts of the components of an electrical bell system, of fire alarms, of anti-theft alarms and of a home telephone;

e) of storage cabinets, sinks, sink cabinets and furniture with built-in sink, washbasins and furniture with built-in sink, suction hoods, fans and air fresheners equipped with a kitchen or a bathroom;

f) of shutters, shutters and blinds placed on the outside of the building;

4 ° any action, even if not intended in 2 ° above, which has as its object the supply of wall covering or floor covering or covering as well as its placement in a building, regardless of whether that covering or covering is attached to the building or simply on site cut to size according to the dimensions of the surface to be covered;

5 ° attaching, placing, repairing and maintaining, with the exception of cleaning, goods referred to in 3 ° and 4 ° above;

6 ° the provision of personnel with a view to performing the above-mentioned actions.

§ 4. The reduced rate does not in any case apply to:

1 ° work in immovable condition and other immovable activities that do not relate to the actual home, such as construction work, landscaping and setting up enclosures;

2 ° work in immovable condition and other immovable activities that have as their object the components or part of the components of swimming pools, saunas, mini golf courses , tennis courts and similar installations.

This section is discussed in detail in, inter alia, Note No. 6/1986 of 22/08/1986 , to which reference is made.

However, it is noted that, in addition to this section XXXI, **other sections of Tables A and B** of the Annex to Royal Decree 20, referred to above, relate to the **real estate sector** . It is:

- heading XXXII, table A, for **private homes for the disabled** (6%)
- section XXXIII, table A, for **institutions for the disabled** (6%)
- heading XXXVI, Table A, for **social policy housing** (6%)
- section XXXVII, table A, for the **demolition and reconstruction of buildings in urban areas** (6%)
- heading XXXVIII, table A, for the **renovation and repair of private homes of at least 10 years old** (6%)
- heading XL, table A, for **buildings intended for education and student counseling** (6%)
- heading X, table B, for **social policy housing** (12%)
- heading XI, Table B, for **private housing initiatives under social policy** (12%)

If certain transactions relating to immovable property are not envisaged under heading XXXI, it is thus necessary to consider whether these transactions are not envisaged by another heading of Table A or B before applying one of the reduced VAT rates (6% or 12%).

A. Which real estate is intended under heading XXXI?

a. The real estate is a house

The application of the reduced VAT rate envisaged by heading XXXI is, in principle, limited to transactions relating to buildings, which, in any event, buildings are **used for** occupancy after these transactions have **been carried out** , unlike buildings not used for this purpose, in particular buildings used for professionals or administrative purposes, used for industry, trade, agriculture, the liberal professions or any other profession or administrative activity.

The intended buildings are therefore essentially the residential houses, in whatever manner they are built (classical or prefabricated), the bungalows and holiday chalets, insofar as they have been annexed to the ground and classified as built-up real estate, and the apartments, regardless of whether they are then do not fall under the application of forced co-ownership.

House caravans and houseboats, on the other hand, are in principle movable property that are not intended by heading XXXI.

An **abbey** , a **priory** or a **monastic building** can be classified as a private residence to the extent that it consists of rooms used by the members of the monastic community as a private residence (cells, living room, bedroom, dormitory, dining room, lecture room, library mainly used for private purposes , etc.), in contrast to the premises that are not used as such, such as the professional premises (cattle shed, brewery, etc.). In this respect, the chapel can only be considered part of the private home if it is integrated into an abbey, priory or monastery building and is reserved for members of the monastic community.

However, prison institutions are not intended.

In addition to homes in the usual sense, working at **certain residential institutions can** also benefit from the VAT rate of 6% under heading XXXI. It concerns the establishments intended in § 2 of section XXXI (see section B, subsection b, below).

b. After the work has been carried out, the house will be used either exclusively or mainly as a private house

The condition of adapting the building to its destination of private residence must at least be fulfilled after the works have been carried out, but it is not required that the building was already adapted to this purpose before this execution. The reduced VAT rate therefore applies, insofar as all other conditions are met, to the conversion of an office building into an apartment building.

It is not sufficient that the building is adapted to its destination of habitation. Moreover, it is indeed required that it is actually used for that purpose. The retention of the original levy depends on the actual use. The rate of 6% can only be maintained if the destination of a private home corresponds to reality.

- What if the building is mixed?

The VAT rate of 6% applies uniformly to the intended transactions if they relate to a home that is exclusively used as a private home. If the building is used exclusively for professional purposes, the VAT rate of 21% applies.

However, it happens that a home is used for a **mixed use** : partly used as a private home, it also contains fully integrated rooms that are used for professional purposes (for example: a holder of a liberal profession who has furnished his cabinet in his private home, a retailer who has installed his shop there, a craftsman who has a workshop there, a farmer who has his private home in the building complex of the farm, etc.).

For the VAT pricing of the intended transactions, it is necessary to make a distinction according to whether or not the private use in such a building is predominant in relation to the whole.

If the **private use is predominant** and the professional use is incidental, and insofar as the immovable activities are carried out on the whole of the building (in particular in the case of renovations), the reduced rate of 6% may be applied uniformly to the whole of the works. It is only for his possible right to deduct input tax that the taxpayer will have to determine the part of the professional destination, since that part only gives the right to deduct. If, on the other hand, the works are only carried out at professional premises (for example: fitting-out works limited to these professional premises), the tax is due at the rate of 21%, since these works do not relate to the home in the strict sense of the word.

If the **private destination is incidental** because the occupational spaces are the most important part of the building as a whole, the reduced rate of 6% is limited to works relating to the private

home, even if the work involves the entire building. In the latter case, a breakdown of the global price of the works is required for the assessment of the VAT rates according to the private part and the professional part. In this respect it is noted that the application of the VAT rate of 6% for the private home assumes premises suitable for permanent residence, in particular excluding the small space located behind a shop (store room) or any other such premises that is primarily intended for operation.

If the house is used 50% for private purposes and 50% for professional purposes, the works that only relate to the private part may be subject to the VAT rate of 6%. The works that exclusively concern the professional part are subject to the normal VAT rate of 21%. For works that cover the entire building (e.g. roofing , insulation, etc.), the price should be split.

In order to determine whether or not the private use is predominant within the home, one will refer to the position on income taxes adopted in this regard, in particular with regard to the deduction of general expenses. In any case, it is appropriate for the application of VAT on this basis to determine the percentage of the private use in proportion to the whole.

It is important to note that the predominant destination rules described above can only be applied in the case of a mixed use of a dwelling, as defined above , namely a building which, partly used as a private dwelling, contains equally integrated spaces which are used for professional purposes.

The predominant destination rules can therefore only be applied if the mixed use takes place by one and the same person in his private home.

However, these rules do not apply in any case in the case of buildings consisting of several autonomous units. 'Autonomous unit' should be understood to mean a 'residential unit', in itself complete, that functions completely independently and can therefore be rented or disposed of separately (see letter no 6/1986 of 22.08.1986 , marginal 48 and 49 and the Judgment of the Court of Cassation of 12.03.2010, F.09.0011.F.).

Moreover, the aforementioned rules on mixed-use buildings do not apply to the institutions of a social nature envisaged in section XXXI, § 2 of Table A (see section B, subsection b, below).

Examples:

- A sprl owns a home that it makes available to its manager and his family. The manager uses a departure from that house exclusively for his professional activity. This space makes up 10% of the entire house (professional part). A painting company is commissioned to color all the rooms and corridors of the house. The painting works of the professional area are subject

to the normal rate of 21%. In accordance with the rules of predominant destination (the occupational part is not predominant), on the other hand, the reduced rate of 6% applies to all other paintings, provided, of course, that all other applicable conditions of heading XXXI are fulfilled.

- The owner of a bakery owns a terraced house. The ground floor was converted into a bakery and has a separate entrance. The two floors are used by the owner and his family as a home. The facade of the house is being renovated by a contractor. 2/3 of the renovation works are subject to the reduced rate of 6% provided that the other applicable conditions of heading XXXI are met. However, 1/3 of these works are subject to the normal rate of 21%, as the bakery is an autonomous unit.

- A natural person owns a building and uses it partly as a private home and partly for making rooms with breakfast available for consideration. These rooms make up 55%the whole building (professional part). To go to the rooms you have to pass through the part of the building that is used as a home. The owner has decided to have the roof of the building replaced. 45% of the works in immovable state on the roof can benefit from the reduced rate of 6%, provided of course that all other applicable conditions of heading XXXI are fulfilled. 55% of these works in immovable state, on the other hand, are subject to the normal rate of 21% (not applying the predominant destination rules to the common parts because the occupational part dominates).

- What about apartment buildings?

To determine the to apply VAT in the case of real estate operations carried out either in the common parts of the building or to the private areas regarding the apartments, the state must **apartment per apartment** will be assessed in accordance the destination given to each apartment.

If, in particular, works are carried out on the common parts of the building (for example, replacement or maintenance of an elevator), and if each co-owner contributes to the costs in function of his undivided part in the common parts, the VAT depends -tariff payable on everyone's part in the cost of the destination he gave to his apartment.

- What about rented homes?

With regard to the rented houses, the work may be carried out in immovable condition on behalf of the owner as well as on behalf of the tenant.

In both cases, the destination given to the property after the time of execution of the works (private house, mixed-use building) must be taken into account and all conditions of heading XXXI must be fulfilled whether work is billed to the owner or to the tenant.

c. Private homes older than 15 years

The VAT rate of 6% is only applicable insofar as the aforementioned transactions are carried out on a home whose **first occupation is at least 15 years** prior to the first time of VAT claimability that arises in accordance with Article 22, § 1, or Article. 22 *bis* of the VAT Code (section XXXI, § 1, 3 °).

In principle, in order to determine the age of the building, it is necessary to check the date of the first occupation of that building and, on the other hand, the first time that VAT is due on the property in question. If the period between these two dates is at least 15 years, when all other conditions are met, the VAT rate of 6% may be applied to the works.

For the immovable activities carried out on the **common parts of an apartment building to** which the co-ownership system applies, for the determination of the age of this building, it is accepted that the date of occupation of the first apartment in that building. It is noted that this simplification measure does not apply to the works carried out on the privative parts of each apartment, in which case the 15-year period must be assessed separately per apartment.

It is sometimes difficult to determine the date of the first occupation of the building, within a day or a month, the more so since this occupation may have taken place progressively. For the sake of simplicity , it was decided that the condition relating to the 15-year period should be fulfilled when the house was first actually taken into use during the 15th calendar year preceding the due date of the tax due (see Written Parliamentary Question No. 308 by Ms deputy representative Ingrid Claes of 13.01.2010).

For real estate activities carried out in 2019 (for example in January 2019), it is therefore assumed that the 15-year period condition is fulfilled when the building was first occupied during the year 2004 (for example in November 2004). As a result, the reduced VAT rate of 6% can be applied, provided, of course, that the other conditions are fulfilled, for the tax that is due from 01.01.2019.

B. To whom must the works be provided and invoiced?

a. To an 'end consumer' - General explanation of the term

The transactions must be provided and invoiced to a **final consumer** (section XXXI, § 1, 4 °, and § 2).

For the purposes of heading XXXI, 'final consumer' is understood to mean the person who owns a real right (ownership, usufruct, etc.) or a right of enjoyment (in particular as a tenant) on the property that he uses in whole or in part as a private home, without to make a specific exploitation of that house or a part of a professional activity.

In most cases, therefore, the reduced rate applies in the relationship between the contractor, entrusted with the execution of the works, and the owner, client. It is of no importance in this respect that the home is occupied by the owner or that it is rented out by him, nor that it concerns a first home or a second residence.

On the other hand, there is no objection that a tenant, usufructuary or any other person who enjoys a home himself orders the realization of immovable activities on this property and benefits from the reduced rate for those activities, as if it were for the account of from the owner.

If a contractor subcontracts all or part of the work entrusted to him by the end consumer, VAT will be due at the rate of 21% in the relationship between the contractor and his subcontractor.

Companies that own old houses, which they own as a result of purchase or other manner of acquisition, renovate and then sell or rent them out, can be classified as end users without having to make a distinction depending on whether they use these houses for rental or sale. . The rate of 6% may therefore be applied to renovation works insofar as they relate to buildings that have been in use for at least 15 years.

The company that provides persons with shelter for the performance of a housing contract as referred to in Article 18, § 1, second paragraph, 10 °, of the VAT Code can, subject to what is set out below under subsection b, concerning certain institutions of a social character , are not considered to be final consumers. In particular, hotel establishment operators are thus excluded from the advantage of the reduced VAT rate.

When a company makes available to a member of staff or a management body premises that are used by this person as private homes, without the use of this home by the person concerned being strictly justified for the needs of the company, the latter can have the status of final consumer (see VAT assessment no. 60, page 433, number 807).

b. To certain institutions of a social nature listed in section XXXI, § 2

Preliminary remark: the explanation below is mainly based on the letter number 12/1984 of 10.10.1984 (part 1) and (part 2), to which reference is made.

These are institutions used for **housing the** elderly, pupils and students, minors, the homeless, persons in difficulty, persons with a mental disorder, mentally handicapped and psychiatric patients.

- **Working on mixed-use institutions**

The rate of 6% of heading XXXI may only be applied to the immovable activities relating to houses or residential complexes that are or will be used for the **housing of the persons listed in § 2 of heading XXXI** .

Housing means all the rooms intended or intended for the accommodation of the intended persons, in order to meet the requirements of their stay and of their common life. Not only the rooms intended for the actual housing (apartments, private or communal rooms, dormitories, etc.), but also the other places used by these persons (restaurants, reading or recreation rooms, salons with bar or TV, study rooms, libraries or chapels reserved for boarders), as well as rooms intended for staff serving the accommodation (monitors, supervisors, nurses, service staff) and technical rooms (kitchens, laundry rooms, infirmaries, basements, storage areas, storage areas, etc.).

If all the premises of the building to which the immovable act relates are intended for the intended accommodation, if all other conditions are fulfilled, the whole of that act is subject to the rate of 6%.

If the building is not exclusively intended for the intended accommodation (for example a psychiatric nursing home that also includes a sheltered workshop) and thus includes rooms that are used for other purposes, the reduced VAT rate only applies to the extent that the building is for the intended housing is used.

In that case, therefore, the VAT rate of 6% of heading XXXI may apply to the whole of the transaction if it only concerns the premises used exclusively for housing. On the other hand, the advantage of this rate does not apply if the operation is limited to the premises that in no way serve housing.

However, if the transaction concerns the whole of the building intended for common use (for example, the roof of the building which includes both a psychiatric nursing home and a protected workshop), the price of this transaction should in principle be split so that the VAT rate of 6% is

only applied to that part of the price corresponding to the part intended for housing. This ratio must be determined by the client under the control of the administration.

- **End consumer when working on the intended settings - Tolerance**

As far as all other conditions are fulfilled, the VAT rate of 6% of heading XXXI applies in principle only if the immovable act is provided to a person under public or private law who manages a residence by the beneficiary residence.

As a rule, this person must be the owner or tenant of the building, which serves as a residence or, more generally, must have a right in rem (such as usufruct) or a right of enjoyment in that building.

In order to avoid distortions, the administration accepts that the benefit of the VAT rate of 6% may also apply to the person who, without being an operator of the establishment, transfers the real or pleasure right he owns to the building , in particular by way of rental, to the operator who manages the establishment.

For the application of the VAT rate of 6% of heading XXXI, it is therefore not necessary that the person who is the originator of the transaction also has the capacity of administrator. It is essential that the act directly concerns the operation of the intended institutions under the conditions set by heading XXXI.

- **Intended institutions**

Are considered as **final consumers** within the meaning of heading XXXI, for work in immovable condition and the other actions described in § 3 of this heading, with regard to the homes actually used for housing the elderly, pupils and students, minors, homeless people, persons in difficulty, persons with a mental disorder, mentally handicapped and psychiatric patients, **persons under public or private law who manage the following establishments** (see, however, the aforementioned tolerance):

- **accommodation facilities for the elderly that have been recognized by the competent authority under the legislation on care for the elderly**

In order to be entitled to the VAT rate of 6%, the establishment must fulfill the following conditions together:

* the person managing the establishment must **simultaneously provide** his boarders **with housing and all or part of the household and family care** they require

* the boarders must be 60 years of age or older
* these lodgers must stay in the institution in a sustainable manner
* the establishment must be approved by the competent Minister.

In addition, this accommodation may relate to the management staff required for the home and to the persons required for the services that must be permanently insured (manager, nurses, night staff, etc.). On the other hand, excluding the elderly, it cannot be ruled out that some persons who do not belong to those who are intended here will stay in the home for the most part and for the time being. Such a situation is not such as to make the home lose the benefit of the reduced rate.

The institution must function as the elderly person's own home, as his normal residence, which presupposes a permanent residence in the institution. Short-stay establishments, which provide temporary accommodation for the elderly whose families cannot take care of them for the time being, or who recover from illness, are therefore excluded from the advantage of the favor scheme.

It is nevertheless permitted that in a home, the main activity of which is to provide its boarders with a sustainable residence, some persons may temporarily stay temporarily, for example to allow them to adapt to their new lifestyle. to go.

With regard to non-recognized groups of assisted-living apartments, reference is made to written parliamentary question No. 1.783 by Mr. People's Representative Johan Klaps of 16.08.2017 .

- boarding schools added to or dependent on schools or universities

The works must relate to a boarding school, being the institution where pupils and students, called interns, are in principle housed for the entire duration of the academic year. Moreover, a boarding school presupposes a permanent residence of the interns in the institution.

Provided all conditions are met, premises intended or intended for the accommodation of the internal residents, in order to meet the requirements of their stay and their common life, can benefit from the VAT rate of 6% envisaged by heading XXXI. Not only the rooms intended for the actual housing (private or communal rooms, dormitories, etc.) are intended, but also the other places used by the intended persons (restaurants, reading or recreation rooms, lounges with TV, reading rooms, libraries and so on), as well as the premises intended for staff serving the accommodation (monitors, supervisors, service personnel) and technical rooms (kitchens, laundry rooms, basements, storage areas, storerooms, infirmaries, etc.).

After all, housing may also relate to the management staff required for the boarding house and to the persons required for the services that must be permanently insured. Premises of staff whose services permanently insured should be to meet the needs of the interns, as *in this case,* the office of the chief educator and educators locally, contemplated by Section XXXI and therefore enjoy the VAT rate of 6% .

If the building is not exclusively intended for housing, but also includes premises used for other purposes, the VAT rate of 6% envisaged by heading XXXI applies only to the premises intended for housing.

Work carried out in real estate on premises that are not intended for housing the interns is excluded from the reduced VAT rate. Therefore, the works carried out at administrative premises such as, for example, the reception, secretariat and meeting rooms are subject to the normal VAT rate of 21% (subject to the possible application of another reduced VAT rate, for example those envisaged by heading XL of Table A).

It is not required that the school or university is exempted under Article 44, § 2, 4 °, a) of the VAT Code for section XXXI to apply (see circular 2018 / C / 6 of 18.01.2018 regarding within the scope of heading XL of Table A of the Annex to the Royal Decree No 20 on VAT rates, marginal 2.1.1. (ET 130.758)). On the other hand, for the application of heading XL, of table A (see title 17, below), it is required that the actions relate to buildings used for the provision of education that are exempted under Article 44, § 2, 4 °, a), of the VAT Code.

The term 'boarding school added to a school or university' means the boarding school managed by this institution itself, regardless of whether or not it forms an integral part of the building complex of the school or university.

The term 'boarding school that depends on the school or university' means the boarding school which, although it is managed by a person other than the educational institution, is dependent on and under the authority of the latter, insofar as the boarding school has managed it for the endorses the internal regulations issued and accepts checks on their application. In practice, the administration does not dispute that the relationship of dependence exists as soon as the parents of the pupils and / or the members of the teaching staff actively participate in the boarding school.

In particular, when the boarding school is integrated into the school, the common rooms, such as the classrooms and auditoriums, which are accessible both internally and externally, cannot be regarded as part of the boarding school. The rooms specially intended for the use by interns, such as the dining rooms, on the other hand, must be considered in their entirety as intended for the boarding school, even if they are used from time to time for other purposes (e.g. access to the refectory for certain externals before eating lunch).

Finally, it is noted that the fact that the boarding school, temporarily and incidentally, is useful as a residence for persons other than pupils or students (for example during the holidays) does not prevent the application of the reduced rate (see letter no 12/1984 of 10.10 1984, marginal numbers 74 to 77).

A residence consisting of rooms rented to students of the educational institution by a school or university or by a dependent legal person (5) is equated with a boarding school added to or dependent on a school or university. However, this equivalence does not apply to the extent that the rooms are, if necessary, rented to temporary (academic) staff of the educational institution.

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(5) The aim is a legal person that was established by the educational institution for budgetary or organizational reasons (see circular AAFISC No. 50/2013 of 29.11.2013, marginal 22).

- **youth protection homes and residential facilities that house minors in a sustainable manner, in day and night quarters, and which are recognized by the competent authority under the legislation on youth protection or special youth assistance**

It should be noted in particular that only establishments that offer sustainable accommodation in **day and night** accommodation can be envisaged.

- **shelters that are homeless in day and night accommodation and that house persons in difficulty and that are recognized by the competent authority.**

In particular, it is noted that only establishments that offer accommodation in **day and night** accommodation can be envisaged.

- **psychiatric care homes that house people with a long-term and stabilized mental disorder or mentally handicapped persons in a day and night stay and who are recognized by the competent authority**

It should be noted in particular that only establishments that offer sustainable accommodation in **day and night** accommodation can be envisaged.

- **buildings where, in the name of an initiative of sheltered housing, recognized by the competent authority, it can be permanently housed in day and night quarters and the counseling of psychiatric patients.**

It should be noted in particular that only establishments that offer sustainable accommodation in **day and night** accommodation can be envisaged.

C. Which transactions are eligible for the application of the 6% rate under heading XXXI?

a. General

There is a double restriction on the transactions to which the reduced rate may apply.

The VAT rate of 6% intended by heading XXXI can only apply:

- on work in immovable condition and other actions referred to in § 3 of heading XXXI and performed on private homes
- insofar as these activities have as their object the **conversion** , **renovation** , **rehabilitation** , **improvement** , **repair** or **maintenance** , with the exception of cleaning, in whole or in part of a house of at least 15 years old (section XXXI, § 1, 1 °).

The **cleaning** is an operation which is explicitly **excluded** from the application of the VAT rate of 6% (see section XXXI, § 1, 1 ° and § 3, 1 °). Likewise, for example, the construction of a new home or demolition of a home are not intended by this section. It is therefore necessary to be able to **distinguish** between immovable activities that **contribute to the construction of a new home** and the **conversion or conversion of an existing home** .

- **Distinguish new or renovated buildings and conversion (or conversion) of an existing home.**

Work in immovable property that is the transformation of a house into an object, is subject to the rate of 6% if all other conditions are met.

'Transformation' means the renovation on the outside (and in particular the rehabilitation) as well as on the inside of the building or the enlargement by adding new rooms and the extension of existing rooms.

Likewise, the existence of a renovation is not criticized if the renovation works are appropriately supported by old load-bearing walls (in particular the external walls) and, more generally, by the essential elements of the structure of the building to be renovated.

It happens that a house is expanded with additional surface. The **extension** of an existing building can be considered as a conversion (or conversion) of that building, within the meaning of heading XXXI, provided that the two following conditions are met:

* the **area** of the old part remains significant compared to the new part

in

* the new part can **not function independently** of the old part **,** but on the contrary forms a coherent and complementary whole with regard to the use of the building.

With regard to the **first surface condition** , the following can be said.

In order for there to be a transformation within the meaning of heading XXXI, the area of the old part must be significant with regard to the new part. It can be assumed that this is the case when the **surface of the old part is greater than half of the total surface of the house or residential complex after the work has been carried out** .

With regard to this surface comparison issue, reference is made to Written Parliamentary Question No. 1.117 by Mr Representative Yves Leterme of 09.10.2002 . The main content of the answer to that question follows.

When calculating the areas to be compared, in particular:

* measured from and to the outer edges of the rising walls
* account is taken of the total surface of each flat part (bearing floor) of the house, including 'lost surface, such as under a sloping roof'.
* the surface of storage space, cellar, attic and built-in or attached garage are taken into account
* the area of the cushioned cellar is omitted when calculating the area of the old part that remains after the works.

If, taking into account the foregoing, the enlargement of a house (for example by adding a new bedroom) can be regarded as a transformation or other act within the meaning of section XXXI, § 1, 1 °, the renewal of the kitchen in the old living area in the form of the supply with, for example, new storage cupboards attached to the building, are regarded as an act within the meaning of the aforementioned section XXXI, § 1, 1 °.

If, on the other hand, taking into account the foregoing, the enlargement or more generally the conversion of a house cannot be regarded as a conversion or other act within the meaning of the aforementioned section XXXI, § 1, 1 °, all subsequent - within 15 year - immovable property related to that building, of course, also do not benefit from the reduced VAT rate of 6% under this heading XXXI, even if they only relate to the old part.

With regard to the **second condition in** order to speak of a **transformation** , it is required that the **new part cannot function independently of the old part,** but that it complements the old part and thus forms a whole with regard to the use of the building. On the other hand, the new part is not required to be under the same roof as the old part (see Decisions ET 106.933 of 01.09.1994 and ET 106.933 / 2 of 29.03.2006 , more specifically in terms of elderly accommodation or service flats).

Reference is also made, for example, to the written parliamentary question no. 93 by Mr Representative Jenne De Potter of 20.02.2012 regarding the conversion of a detached barn into a detached outbuilding that serves as 'living space'.

Other parliamentary questions with regard to the distinction between (re) new construction and the conversion or renovation are:

* the written parliamentary question no. 1350 of Mr. Congressman Jean-Jacques Viseur of 29.06.2006 . The answer to this question in particular refers to the fact that the reconstruction of a building after demolition is excluded from the application of the VAT rate of 6% envisaged by heading XXXI, even if certain parts, such as the foundations, the basements or only the facade, are preserved.
* the oral parliamentary question no. 10 991 by Mr Jacques Congressman Chabot of 28.03.2006 relating to the conversion of an industrial building into lofts.
* the oral parliamentary question no. 27 707 of Mrs. Brill Congressman Smaers of 11.28.2018 regarding the concept of care live .

If the extension is too extensive, there is no question of a conversion of a house within the meaning of heading XXXI, but of new construction.

For example, should a construction work contributing to the construction of a new building be considered (not intended by heading XXXI):

* rebuilding a building after demolition, even in case of preservation of the foundations and basements of the old building or of additional elements of its structure (for example, only the facade on the street side is preserved due to the integration in the urban framework - see application however of heading XXXVII, of Table A, on demolition and reconstruction).
* in the case of the construction of one or more additional apartments in an apartment building by superstructure or in some other way, when these new apartments, subject to the co-ownership system, may be alienable under VAT.
* in the event that the owner constructs a building to his, if this extension is not an enlargement of the first building, but a new building that is in itself susceptible to alienation under the VAT system, since it is distinct from the old building.

* rebuilding a house is equated with building whenever, in view of the extent of the destruction or the demolition of the building, the works actually contribute to the construction of a new building (see, however, the application of heading XXXVII, of Table A, on demolition and reconstruction).
* work in immovable state that has the object of demolishing all or part of a house (see Title 14 below). However, this does not apply when the demolition works necessarily precede the conversion or the improvement and more generally to works intended under section XXXI. In that case, the demolition works may be subject to the reduced rate of 6% as an additional part of the latter works.
* in the event of a thorough conversion of a building into a private house. Thorough transformation means renovation works that are not relevantly supported by old load-bearing walls (in particular the outer walls) and, more generally, by the essential elements of the structure of the building to be renovated (see, however, the application of heading XXXVII, of Table A, on demolition and reconstruction).
* if, as a result of demolition works, only two intermediate walls are left standing before the conversion of a terraced house (regardless of whether or not the vaults rest on these walls), these works must be regarded as the construction of a building, and this even in the case that the basements of the terraced house have been retained (however, see the application of section XXXVII, of Table A, on demolition and reconstruction).
* if, as a result of demolition works, prior to conversion works, there is only a facade in a terraced house and two interior walls (the vaults were demolished), then these conversion works must be considered as construction works, and this even if the basements of the house have been preserved (however, see the application of heading XXXVII, of Table A, on demolition and reconstruction).

In addition, it must be ascertained whether the works are not explicitly excluded by § 4 of heading XXXI from the application of the 6% VAT rate envisaged by heading XXXI. It is:

* work in immovable condition and other immovable activities that do not relate to the actual home, such as construction work, landscaping and setting up enclosures
* work in immovable condition and other immovable activities with the object of the components or parts of the components of swimming pools, saunas, mini golf courses , tennis courts and similar installations.

For example, the supply with installation of solar panels for the production of electricity is subject to the VAT rate of 6% (under heading XXXI, § 3, 2 ° or § 3, 3 °, a), b), or c)) (see decision no. ET 113.873 of 19.02.2008). However, if the solar panels are supplied and installed for heating the pool, the normal VAT rate of 21% applies (pursuant to section XXXI, § 4, 2 °).

- **Maintenance and repair works - Control work - Inspections**

Maintenance and repair work on the real estate referred to in section XXXI can, subject to the other conditions being met, be subject to the reduced VAT rate of 6%, provided that these works go beyond a normal cleaning. The same applies in principle to maintenance and repair work on the installations for heating and air conditioning, sanitary installations, electrical installations (6), fire alarm devices (7), referred to in section XXXI, § 3, 3 ° and 4 °.

(6) with the exception of maintenance and repair work on appliances for lighting and lamps. In that case, the normal VAT rate of 21% applies.

(7) working on fire extinguishers is not for example intended. In that case, the normal VAT rate of 21% applies.

It is noted that **audit** work carried out on the above installations outside any maintenance or repair contract does not concern immovable or equivalent work that qualifies for a reduced VAT rate and is therefore in principle subject to the normal VAT rate of 21%. This concerns, for example, the inspection of a drinking water installation by an independent inspector (see written parliamentary question no. 6-2.072 of Mr Senator Lode Vereeck of 10.01.2019), the mere detection of leaks of an underground fuel oil tank, just like the inspection of a fuel oil tank (see decision no. ET 97.298 dated 21.11.2000 and thewritten parliamentary question No. 1.983 by Ms de Volkspresentative Fabienne Winckel of 08.12.2017), the inspection of fire alarm devices...

b. Work in immovable state (heading XXXI, § 3, 1 ° and 2 °)

The term 'work in real estate' is defined in Article 19, § 2 of the VAT Code.

'Work in immovable state' means:

- building, renovating, finishing, furnishing, repairing, maintaining and cleaning, in whole or in part, of a property by its nature.
- to demolish all or part of a property of its nature.
- services which consist in providing a movable property and immediately affixing it to a property in such a way that the property becomes of its nature.

To the extent that goods are used for this work, they are only part of the work in immovable condition and are taxed only in the same way as the work itself, insofar as they are supplied by the same person under the same contract and placed in such a way that, through that placement, they are incorporated into the real estate structure by becoming real real estate by its nature.

Note : not all transactions that qualify as work in real estate are eligible for the VAT rate of 6% under heading XXXI. As already mentioned, it is **necessary that the works have the** object of **transformation, renovation, rehabilitation, improvement, repair or maintenance** of the house. For example, cleaning a home is explicitly excluded from the application of the 6% VAT rate.

Examples of works that can qualify as work in real estate:

- the delivery with placement of a banister, windows, doors, etc.
- under strict conditions, delivery with placement of certain **cabinets** (see decision no. ET 110.383 of 27.03.2006). However, this act can also be envisaged by § 3, 3 °, e), of heading XXXI when it concerns storage cupboards in a kitchen or bathroom (see subsection c, below).
- the delivery with installation of a stairlift used by persons with disabilities or disabled people (see decision no. ET 96.538 of 04.09.2000).
- the delivery with attachment to the home of a (central) mechanical ventilation system that serves for extracting the air from the kitchen, bathroom and / or toilet.
- the supply with the installation of the pipes that form part of the central vacuum cleaner system, as well as the wiring running along the pipe, which are incorporated either wholly or partly into the house, can be regarded as work in real estate in its entirety. The same applies to the delivery with installation of the vacuum connections (see Written Parliamentary Question No. 855 by Mr MP Georges Lenssen of 27.12.2001).
- provided that fly doors or windows are placed in such a way that they are intended to **remain permanently** , fully or partially attached to the house, the administration accepts that the act which is the object of the delivery with the placement of these fly doors or windows, can be regarded as a work in immovable state . If these flying doors or windows can be easily removed, then there is no question of work in immovable condition.

c. Actions, even if no work in real estate, that are explicitly included in section XXXI, § 3, 3 °

Irrespective of the actual work in real estate, limited in purpose (see above), the VAT rate of 6% also applies, provided that the other conditions of heading XXXI are met (including that the transactions , renovation, rehabilitation, improvement, repair or maintenance, with the exception of cleaning, in whole or in part of a house, that have been in use for at least 15 years, as an object), with regard to the activities listed under § 3 , 3 °, of heading XXXI.

- **Central heating and air conditioning (heading XXXI, § 3, 3 °, a))**

This refers to any action involving the supply and attachment to a dwelling whose initial occupation took place at least 15 years ago, the components or parts of the components of a central heating or air-conditioning installation, including burners, reservoirs and the rule and control devices connected to the boilers or to the radiators.

No distinction should be made if the home in question has not yet been equipped with such an installation or if, on the other hand, the act is the object of replacing an existing installation in whole or in part.

Central heating is understood to mean any heating system that consists of distributing heat in one or more rooms by means of different appliances connected to a single heat source, regardless of the nature of the latter: gas, electricity, solar energy, wind energy or another renewable source. of energy.

The system called 'minichauffage', which consists in distributing the heat generated by a special stove in different rooms by means of radiators attached to that stove, is also envisaged here.

Although they do not strictly conform to the concept of "central heating", given the fact that their operation without recourse to a single heat source, serve some heating of homes, regarding the application of VAT rates, to be regarded as central heating because of the characteristics they exhibit (general distribution of the installation in the home, final character of placement and adaptation to the heating of the home by the individual or centralized programming of the heat distribution) and that they intended for heating the totality or at least the quasi totality of the house (single-family house or apartment, according to the case). Due to their integration in the building, these heating systems cannot be detached in case of sale or rental. If all these conditions are met, the administration assumes that the following systems are equated with central heating installations:

- the installation of gas heating, generally called 'integrated' or 'modular' heating, the equipment of which (ducts, convectors, etc.) is attached to the building when the installation of the heating elements requires openings in the walls in order to allow the burned gases to escape via pipes, or the connection to an existing chimney is necessary.
- the installation of integral heating composed of different heat accumulators with electricity, placed in different rooms, when the operation of this installation is automatically controlled either by one or more thermostats, or by a device placed on the outside of a house, such as a pillar , which measures the outside temperature and controls the charging of each heating device in function of this temperature.
- the installation of integral heating with electricity, called 'mixed heating', which consists either of a combination of accumulators and direct radiators or convectors, or of a combination of heating with accumulators placed in the ground, the ceiling or the walls and appliances with direct heating, in the case of appliances with a fixed connection, attached to the house, and the operation of the installation is controlled by one or more thermostats or by a device placed on the outside of the house.
- the installation of integral heating with electricity composed of different radiators or other devices with direct heating, insofar as these are appliances with a fixed connection and attached to the house and the temperature of which can be regulated either by a single thermostat per house, or by means of a thermostat placed in each room and which only controls the appliances placed in this room.

- the installation of integral heating with electricity, mixed or direct, provided with a system of air circulation, composed of devices with a fixed connection and which are attached to or incorporated into the building. This type of installation relies heavily on ducts and appliances incorporated into the walls and floor and, by the way, become immovable by their very nature.

Equipment that does not have the character of an installation that is permanently connected to a home is excluded from the reduced VAT rate in the real estate sector. For example, are subject to the normal VAT rate:

- the installation consisting of various direct heating appliances with electricity, but without a fixed connection.
- the individual heating appliances used as auxiliary heating (in other words, the appliances placed in one or more rooms equipped with a central heating or integrated heating installation, the purpose of which is either to replace this installation when the climatic conditions permit the use of omitting them, or providing an additional heat source in very cold weather), even if these appliances use the same fuel or energy as the installation of central heating or the integrated heating that replaces or supplements them.

In addition, reference can also be made to the following documents:

- installations for **air conditioning** or climate improvement : see decision no. ET 84.567 of 14.07.1997 . Regarding split-system climate improvement installations, see, however, decision no. ET 110.286 of 10.03.2006 .
- removal or decommissioning of **fuel oil** tanks : decision No. ET 104.683 / 2 of 18.06.2015 and written parliamentary question No. 1.983 by Ms deputy representative Fabienne Winckel of 08.12.2017 .
- As evidenced by the decision No. 104 683 ET / 2, said the administration notes the removal or the decommissioning of a fuel oil tank as an act that has as its object 'the transformation, renovation, rehabilitation, improvement, repair or maintenance' of a private home, provided that it is demonstrated that this act is part of a whole of extensive real estate working on that house. Insofar as the other conditions are also fulfilled, works on the removal or decommissioning of fuel oil tanks may be subject to one of the reduced VAT rates of 6% or 12% in the real estate sector. It is important to demonstrate that the removal or decommissioning of the fuel oil tank is accompanied by extensive immovable works which are the object of the transformation, renovation, rehabilitation, improvement, repair or maintenance of the home concerned. If the contractor does not have all the elements to justify the reduced VAT rate, a certificate as referred to in marginal 86 of letter no 6/1986 of 22.08.1986, mentioned above, is required. Contractors who remove or decommission fuel oil tanks may, in addition to the other necessary statements regarding the standard conditions for the application of the reduced VAT rate, also make an additional specific statement asking the customer whether or not these works are accompanied by such extensive real estate. If the

contractor is unable to objectively determine the rate of the tax due and insofar as he has requested a certificate from the service recipient on the basis of which he has determined the tax due,

- overview of the rates for works with regard to **fuel oil tanks** : written parliamentary question No. 1.983 by Ms deputy representative Fabienne Winckel of 08.12.2017 .
- the delivery with installation of an **overflow protection** (whistle or probe) and any other special connecting pieces with which fuel oil tanks are equipped: decision no. ET 97.298 dd. 21.11.2000 .
- the supply with the installation of stoves, radiators or individual convectors on wood, coal, oil, gas or electricity can be subject to the VAT rate of 6% if the administrative tolerance is applied. It is not sufficient for electric convectors to only be connected to a socket. On the other hand, the application of the 6% rate requires that these convectors are directly and permanently attached to the electrical installation of the building (see Information and Communication of 18.08.2011).

- **Sanitary installations (heading XXXI, § 3, 3 °, b))**

This refers to any action involving the supply and attachment to a home of the components or parts of the components of a sanitary installation and, more generally, of all fixed appliances for sanitary or hygienic use connected to a water pipe or a sewer.

Thus is meant the act of supplying and attaching pipes, taps, pumps, sinks, sinks, WCs, urinals, bidets, foot baths, and bathtubs to a home.

Since a hot water appliance can supply both the bathroom and the kitchen or both at the same time with hot water, the act whereby such an appliance is delivered and attached to the house concerned is also intended, regardless of where that appliance is placed in the house and without distinction depending on the type of water heater.

Other examples:

- see decision no. ET 109.807 of 22.12.2005 regarding the supply with the installation of an **individual water treatment station to** which the domestic waste water discharge is connected and which is intended for its purification.

- the supply with installation as well as the maintenance and repair of a **water softener (water softener)** is eligible for the application of the reduced rate of 6%, insofar as that softener is connected to the water supply system of the building. The supply of bags of salt specifically intended for these appliances, whether or not at the same time as the

installation, repair or maintenance, of the appliance, is not referred to in section XXXI and is subject to the VAT rate of 21%.

- **Electrical installation (section XXXI, § 3, 3 °, c))**

This means any action whereby the components or parts of the components of an electrical installation, with the exception of lighting and lamp appliances, are delivered and attached to a house.

Lamps and lamps include, in particular, pendant lamps, ceiling lamps, chandeliers, wall lamps, table lamps, night lamps, desk lamps, table lamps and watertight lamps for wet rooms, candle holders, piano lamps , réverberes, pedestal lamps, fluorescent lamps and their holders, including the starters and the ballasts, and so on. The delivery (and possible placement) of these goods is subject to the VAT rate of 21%.

However, if the transaction concerns the supply of a luminaire or lamp at the same time as it enters the (false) ceiling, the VAT rate of 6% may apply.

With regard to thermal and photovoltaic **solar panels** for the production of heat energy and / or electricity for a private house, reference is made to decision no. ET 113.873 of 19.02.2008 .

With regard to the applicable VAT rate on the connection costs to the electricity grid, reference is made to decision no. ET 103.850 of 10.01.2005 .

- **Electric bell system, fire and alarm devices, telephone system (heading XXXI, § 3, 3 °, d))**

Also included is any action where the components or parts of the components of an electrical bell system, of fire alarms, of anti-theft alarms and of a home telephone are delivered and attached to a home.

By electrical bell installation is meant the electromagnetic devices that vibrate a hammer on a bell, as well as the vibrators with buzzer or melody, and so on.

Among the elements of a fire alarm device can be cited the devices connected to a water pipe, devices with fuses, devices with expansion valves, devices with electrical resistance conductors, devices with photoelectric cell, devices with detector, and so on.

However, the delivery with installation of a fire extinguisher is subject to the normal VAT rate of 21%.

Please note: the supply of an alarm installation that is simply connected to an existing electrical installation or of wireless installations that is only attached to a movable property or real estate by destination, is subject to the normal VAT rate of 21%.

The maintenance and repair work on the alarm systems intended by heading XXXI can also benefit from the reduced VAT rate. The supply with installation of **batteries specially designed for such installations** can also benefit from the VAT rate of 6% as they are considered to be part of the installation. The audit work, other than maintenance or repair work, is an intellectual performance that is subject to the normal VAT rate.

Among the devices of a home telephone exchange, those with which a central is equipped to telephone between the different rooms of a house, and the electric door opener with door phone or videophone can be cited.

See also decision no. ET 52.634 of 03.07.1991 regarding the home telephone systems.

- **Cupboards, sinks, extractor hoods (heading XXXI, § 3, 3 °, e))**

This refers to any action that is delivered and attached to a home: storage cabinets, sinks, sink cabinets and furniture with built-in sink, washbasins and furniture with built-in sink, suction hoods, fans and air fresheners **with which a kitchen or a bathroom is equipped** .

This list of goods is restrictive.

Therefore, it is not intended to include actions involving the delivery and installation of a refrigerator, freezer, stove or stove with gas or electricity, dishwasher, oven, crusher, washing machine or linen dryer, etc. These transactions therefore remain subject to the rate specific to the goods to which they relate.

See also the decision no. ET 89.608 of 16.06.1997 regarding the delivery and installation in a fitted kitchen of electrical household appliances.

For the sake of completeness, reference is made to decision no. ET 110.383 of 27.03.2006, which concerns two specific situations of deliveries with cabinets attached which can benefit from the reduced VAT rate of 6% because, due to their placement, these cabinets are immovable by nature (application of heading XXXI, § 3.2 °).

- **Shutters, blinds, roller blinds (section XXXI, § 3, 3 °, f))**

This also includes any action whereby shutters, blinds and roller blinds intended for the **outside of a house** are delivered and are attached to the house.

d. Other transactions that may qualify for the VAT rate of 6% in accordance with heading XXXI

- **Wall coverings and floor coverings (section XXXI, § 3, 4 °)**

Are intended by section XXXI as work in immovable state any act whereby a wall covering or floor covering is delivered and is attached to a house. It is of no importance here whether said covering or covering is adhered to the house or simply cut to size on site according to the dimensions of the surface to be covered or to be covered.

These include, among other things, the acts of delivering and placing at the same time:

- wallpaper or any wall covering as well as the necessary material to do the installation (glue, lime, cement, etc.)
- solid carpet, floorcloth, linoleum or any other floor covering, whether glued or otherwise adhered or simply laid down. In the latter case, the floor covering must be cut to size on site according to the dimensions of the surface to be covered.
- **Attaching, placing, repairing and maintaining goods referred to in section XXXI, § 3, 3 ° and 4 ° (section XXXI, § 3, 5 °)**

It happens that a company is in charge of the installation in a house of a good that it does not itself supply to the customer. In this respect it is noted that if it concerns more or more goods as referred to in section XXXI, § 3, 3 °, and thus understands the attachment of the good to the building, as well as when it is intended to install wall coverings or carpets by section XXXI, § 3, 4 °, involves, this positioning, which is the VAT rate is concerned, the same scheme as follows when there is at the same time delivery and, depending on the case, attachment or placement would be.

Are also intended for repairs and / or maintenance work on goods as referred to in section XXXI, § 3, 3 ° and 4 °, attached or placed under the conditions described above.

- **Provision of personnel (heading XXXI, § 3, 6 °)**

The provision of personnel for the purpose of carrying out activities intended under heading XXXI, § 3, 1 ° to 5 ° can benefit from the VAT rate of 6%.

- **Works related to garages**

Garages are not in themselves homes that are used as housing. The real estate transactions carried out on it are therefore in principle subject to the rate of 21%.

However, this is not the case when a **garage is integrated into a home or** , even if it is not adjacent to it, it **is part of the home due to the immediate benefit it brings to the owner (or his tenant)** . In such a case, the VAT rate of 6% may apply even for the creation of this garage which is considered to be an improvement to the home to which it belongs closely.

Delivery with the installation of a motor and guide rail (on the ceiling) may also qualify for the reduced VAT rate. The radar mounted above the gate in immovable condition on the occasion of this work and the supplied transmitters (remote control) to open the gate can also benefit from the reduced VAT rate. However, remotes supplied separately remain subject to the VAT rate of 21%.

The fact that this garage would be used exclusively for the storage of bicycles is not important (see written parliamentary question No. 533 by Ms deputy representative Karin Temmerman of 25.07.2013).

Regarding carports, it is appropriate to rely, *mutatis mutandis* , on what has been established above for garages.

In this context, attention should be drawn to the fact that a reduced rate, if all other conditions are met, can only be applied to work in real estate within the meaning of Article 19, § 2 of the VAT Code, with with the exception of cleaning, and to any other service consisting of supplying movable property and immediately affixing it to a property in such a way that the property becomes of its nature.

The immovable activities relating to parking spaces are, without distinction, subject to the normal VAT rate of 21%, even if these parking spaces are right next to the house (see decision no. ET 80.398 of 01.10.1996).

- **Serres, veranda's, pergola's**

Immovable activities carried out on conservatories, verandas or pergolas **attached to a private home** whose initial occupation dates back at least 15 years may benefit from the reduced rate of 6% when applying heading XXXI (see decision no ET 62.393 of 28.04 1988).

D. Which transactions are excluded from the reduced VAT rate of 6%?

First of all, the activities that are not the transformation, renovation, rehabilitation, improvement, repair or maintenance of a house of at least 15 years old are not intended by this heading XXXI.

Section XXXI, § 3 lists the transactions eligible for the application of the VAT rate of 6%. The benefit of the VAT rate of 6% intended by heading XXXI is reserved for real estate transactions relating to houses and is aimed at private houses.

The benefit therefore does not apply to actions concerning the land surrounding the building, as well as for certain installations that are not part of the actual dwelling.

For example, the VAT rate of 6% does not apply to (heading XXXI, § 4):

- work in immovable condition and other immovable activities that do not relate to the actual home, such as construction work, landscaping and setting up enclosures
- work in immovable condition and other immovable activities with the object of the components or parts of the components of swimming pools, saunas, mini golf courses , tennis courts and similar installations

a. actions that do not relate to the actual home (heading XXXI, § 4, 1 °)

Are explicitly excluded from the reduced VAT rate: work in real estate and other real estate activities that do not relate to the actual home, such as construction work, landscaping and setting up enclosures.

Below are some **examples** of actions that do not relate to the actual home.

- **Access roads, walls, fences and outside terraces** do not, in principle, relate to the actual home. Nevertheless, in certain circumstances, the administration accepts that this infrastructure is considered to be part of the home (see decision no. ET 80.398 of 01.10.1996):

  - Access roads

An access road is only considered to be any road that connects a building intended to be inhabited directly to the public road and that is used, whether or not exclusively, by the visitors and residents of that building. In that case, the VAT rate of 6% may apply.

For example, the construction of a road is always subject to the normal VAT rate of 21% when this road is not connected to the public road and only serves as a walkway in the garden or when this road only serves as an access road for the fire brigade. or as an access road to a separate garage or other non-residential building (garden shed, shed, etc.).

For example, the construction of a driveway from the front door to the garage at the back of the garden is subject to 21% VAT (see Oral Parliamentary Question No. 805 by Ms deputy representative Barbara Pas of 19.11.2015).

- Terraces

The terraces laid out on the plot of a house are only considered to be part of the house if they are adjacent to a building intended to be occupied (in which case the VAT rate of 6% may apply).

In that vein, immovable activities with regard to a terrace located in the garden or adjacent to a building that is not intended to be occupied (for example a gazebo or separate garage building) are always subject to the normal VAT rate of 21%.

- Fences and walls

Seats, including gateways, are explicitly excluded from the application of the reduced VAT rate of 6%.

However, walls that adjoin the home and that do not actually separate or demarcate the property may be considered part of the home, as well as fences or gates built into such walls. Only in that case can the VAT rate of 6% apply.

- Serres, veranda's, pergola's

Transactions relating to conservatories and pergolas **that are separate from the house** - and which can be regarded as appurtenances of a garden - are excluded from the VAT rate of 6% intended by heading XXXI. On the other hand, real estate transactions relating to conservatories, verandas and pergolas attached to the house may benefit from the reduced VAT rate of 6% (see decision no. 62,393 of 28.04.1988).

- Green roofs and facades

Some works related to the construction of green roofs and facades may, under certain conditions, qualify for the VAT rate of 6%. For more explanation, see circular 2017 / C / 25 of 24.04.2017 regarding the VAT rate applicable to works in real estate with regard to green roofs and facades (ET 130.218) . See also circular 2019 / C / 92 of 19.09.2019 on the VAT rate applicable to trees and plants supplied with the construction and maintenance of gardens (ET 135.324) .

b. Actions relating to swimming pools, saunas, mini golf courses , tennis courts and the like (heading XXXI, § 4, 2 °)

Are also excluded from the reduced VAT rate: work in immovable state and other immovable activities with the object of the components or part of the components of swimming pools, saunas, mini golf courses , tennis courts and similar installations

Here are some **examples** of such actions.

- Steam bath cabins , saunas, massage or hot tubs

Delivery with installation of such installations are in principle subject to the VAT rate of 21%.

When the classic bath or sitz bath in the bathroom of the private house is replaced by a massage bath or bubble bath of relatively limited dimensions, the administration assumes for the sake of simplicity that the delivery, with attachment to the house, in the bathroom, of a massage - or bubble bath with a maximum capacity of 1000 liters does not fall under the exclusions of heading XXXI, § 4, 2 °. This approval, of course, only applies insofar as the massage or bubble bath is attached to the building and connected to a water pipe or a sewer (see decision no. ET 94.492 of 18.06.1999). This concession was extended to shower cubicles, of limited capacity, with steam unit and / or water jets insofar as that cabin is placed in a bathroom (seedecision ET 113.109 of 04.09.2009).

- Swimming pools

A swimming pool is, by virtue of heading XXXI, § 4, 2 °, an installation in itself that is excluded from the application of the 6% VAT rate intended by heading XXXI.

This exclusion means not only the swimming pool itself, and if it is covered, the construction that it houses, with any nooks and crannies, but also any other associated buildings or spaces related

to that swimming pool (building that is specially equipped is like dressing room, technical rooms, etc.).

c. Other examples of actions not contemplated by section XXXI

The **cleaning** is an operation which is explicitly **excluded** from the application of the VAT rate of 6% (see section XXXI, § 1, 1 ° and § 3, 1 °). In addition, for example, the construction of a new home or demolition of a home is not intended by this section. It is therefore necessary to be able to **distinguish** between real estate activities that **contribute to the construction of a new home** and the **conversion or renovation of an existing home** (see section C, subsection a, above).

' **Cleaning** ' means the usual household maintenance that aims at the cleanliness of the property, such as, for example, regular cleaning of buildings, making carpets dust-free, scrubbing parquet floors, washing windows.

On the other hand, immovable **maintenance work** that goes beyond ordinary cleaning and which aims to keep the house in good or partial condition may be subject to the reduced rate of 6% under heading XXXI, if all other conditions are fulfilled. Examples of this are:

- the inside and exterior painting and wallpapering of a real estate
- scraping or varnishing parquet floors
- maintenance work on lifts and on central heating installations, even if subscribed by a subscription
- sweeping chimneys, unclogging sewers and pipes
- removing deposits on facades by sandblasting or otherwise.

It goes without saying that the cleaning works that precede the execution of a maintenance work (for example the cleaning of surfaces to be painted) follow the regulation applicable to this maintenance work.

Other examples of actions not envisaged by the aforementioned section XXXI:

- the transfers of buildings or parts of buildings referred to in Article 1, § 9 of the VAT Code
- the study work and supervision that are part of the regular activities of architects, surveyors and engineers and that are carried out in preparation or in coordination of the execution of real estate activities
- the services provided by brokers and agents in the sale or rental of real estate, the management of real estate
- the real estate financing lease or 'real estate leasing'
- the direct purchase, without placement by the supplier, of materials

- detecting leaks from an underground fuel oil tank (decision no. ET 104.683 / 2 of 18.06.2015 and written parliamentary question no. 1.983 by Ms deputy representative Fabienne Winckel of 08.12.2017
- the inspection of a fuel oil tank (decision No. ET 97.298 of 21.11.2000 and written parliamentary question No. 1.983 by Ms deputy representative Fabienne Winckel of 08.12.2017
- emptying of cesspools, wells, septic tanks, and the like, with the exception of the emptying of such wells which necessarily precede a work in immovable state subject to the VAT rate of 6% in accordance with section XXXI (see decision no ET 95.911 of 21.02 .2000).
- the delivery with installation of **ceiling lift systems** (for moving the sick or disabled) as intended in decision no. ET 121.671 of 04.07.2012 . After all, it is not work in immovable condition.

d. Abuse or artificial constructions regarding real estate

Reference is made to decision no. ET 120.125 of 13.05.2014 concerning the commercialization of certain real estate projects by construction promoters who in fact market new real estate (apartments or single-family houses) under the VAT rate of 6%. It concerns the **delivery of a property in its future state of completion** .

The promoters have elaborated certain constructions whereby a buyer buys a (share of) an old building. That purchase is followed by the renovation or demolition-reconstruction of that building.

In a general sense, two cases can be distinguished in the case of sales of old buildings followed by demolition-reconstruction or major renovation works that make the property 'new' for the purposes of VAT:

- either the buyer contracts with one co-contractor for two types of actions (purchase and contract)
- either the seller and the company responsible for the renovation or demolition-reconstruction are two legally distinct persons.

I fa two operations are indivisible, interrelated, the division into two acts (sales followed by an adoption contract) in accordance with the Judgment of 19.11.2009 in Case C-461/08 Don Bosco of the Court of Justice of the European Union is artificial in nature and does not correspond to the economic reality or to the intention of the parties.

Thus, for the purposes of VAT, such deliveries followed by renovation or demolition-reconstruction constitute a single transaction involving the delivery of a property in its future

Related documents

VAT Commentary, Chapter 7, in PDF

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state of completion (sale on plan), irrespective of whether there are one or more buyers. and whether or not the real estate falls under the system of forced co-ownership .

In that case there may be an **artificial construction** or **abuse of rights** within the meaning of Article 1, § 10 of the VAT Code. The delivery of that property and the associated land will then be subject to the normal VAT rate, which is currently 21%. For more information, see the aforementioned decision no. ET 120.125 of 13.05.2014 .

E. Formalities and Liability

Assuming that the basic conditions for the application of the VAT rate of 6% in accordance with heading XXXI are fulfilled, the envisaged transactions can only benefit from this rate when the invoice issued by the contractor and the double that he keeps, state that they are available of the elements justifying the application of this rate.

Since certain of these elements are only known to the customer, the latter must provide the contractor with proof of their availability. Except in the event of collusion between the parties and / or apparent non-compliance with the new scheme, the customer's certificate relieves the contractor of the liability regarding the determination of the rate (heading XXXI, § 1, 5 °).

With regard to the obligatory information on the invoice, reference is made to letter number 6/1986 of 22.08.1986 , marginal 82 to 85. With regard to the customer's certificate, reference is made to marginal 86 of the aforementioned letter.

In principle, the co-contractor of the supplier or of the provider of services is jointly and severally liable to the State for payment of the tax if the invoice contains incorrect statements regarding the name and address of the parties involved in the transaction, the nature or do not or incorrectly state the quantity of the goods or services supplied, the price or their accessories, or the amount of the tax due on the transaction.

If the VAT rate of 6% was incorrectly stated on the invoice, in particular as a result of incorrect indications as to the nature and destination of the taxable transaction, the administration therefore has the possibility to recover the additional tax from both the contractor and claim the co-contractor. If the contractor is unable to objectively determine the rate of the tax due and insofar as he has requested the customer for a certificate on the basis of which he has determined the tax due, he will be charged in accordance with section XXXI, § 1, 5 °. , relieved of liability, except in the event of collusion between the parties or apparent failure to comply with the arrangement.

9. Private homes for the disabled

Section XXXII , of Table A , of the Annex to Royal Decree No 20, referred to above, concerning the application of the 6% VAT rate to institutions for the disabled provides:

§ 1. Provided that the conditions set out below are met, the reduced rate applies to works in immovable state within the meaning of Article 19, § 2, second paragraph, of the Code, with the exception of cleaning, and the other actions listed in section XXXI, § 3, 3 ° to 6 °:

1 ° the transactions must be provided and invoiced to either:

(a) a regional housing agency or a social housing agency recognized by it;

b) a province, an intermunicipal company, a municipality, an intermunicipal public social welfare center or a public social welfare center;

(c) a not-for-profit association or a social-purpose company recognized under the housing policies of people with disabilities by the competent authority or by an agency or fund for people with disabilities set up by it;

2 ° the activities must be carried out on a house which, in any case after its implementation, has been specifically adapted to be used as a private house by a disabled person;

3 ° the transactions must be carried out on a house that is intended to be let, by an institution, society, non-profit organization or company with a social purpose referred to in 1 °, to a person with a disability who benefits from a fund or an agency for people with disabilities recognized by the competent authority;

4 ° the invoice issued by the service provider and the duplicate which he keeps, must state, on the basis of a clear and accurate certificate from the customer, that the elements justifying the application of the reduced rate are available; except in the event of collusion between the parties or, apparently, non-compliance with this provision, the customer's certificate relieves the service provider of the liability regarding the determination of the rate.

§ 2. The reduced rate does not apply to:

1 ° work in immovable condition and other immovable activities that do not relate to the actual home, such as construction work, landscaping and setting up enclosures;

2 ° work in immovable state and other immovable activities that have as their object the components or part of the components of swimming pools, saunas, mini golf courses , tennis courts and similar installations.

§ 3. The reduced rate also applies to the supplies of goods referred to in Article 1, § 9 of the Code, as well as to the establishments, transfers and re-transfers of real rights to such goods that are not in accordance with Article 44, § 3, 1. °, are exempted from the tax code when those goods:

- are speci fi cally adapted to be used as a private residence by a disabled person;

- are delivered and invoiced to the institutions or companies referred to in paragraph 1, 1 °;

- and are intended to be rented out by these institutions or companies to the disabled as referred to in paragraph 1, 3 °.

§ 4. The reduced rate also applies to the real estate financing lease or real estate lease referred to in Article 44, § 3, 2 °, b) of the Code and to the real estate rental referred to in Article 44, § 3, 2 °, d), of the Code, which relate to buildings that are specifically adapted to be used as a private home by a disabled person, if the customer is a company or institution referred to in § 1, 1 ° that rents these buildings to the 1, 3 °, said disabled persons. '

A. What transactions can benefit from the 6% VAT rate under heading XXXII?

In accordance with Section XXXII of Table A, four types of transactions are eligible for the application of the VAT rate of 6%:

- **work in immovable state** within the meaning of article 19, § 2, of the VAT Code, excluding cleaning, and the other actions listed in **section XXXI, § 3, 3 ° to 6 °** (section XXXII, § 1) .
- **deliveries** of goods as referred to in Article 1, § 9 of the VAT Code as well as the establishments, transfers and retransfer of **rights** in rem on such goods that are **not exempted in accordance with Article 44, § 3, 1 ° of the VAT Code** (section XXXII, § 3).
- the **real estate financing lease** or **real estate lease referred to** in Article 44, § 3, 2 °, b) of the VAT Code (section XXXII, § 4).
- the **property lease with optional taxation** provided for in Article 44, § 3, 2 ° d) of the Code (Section XXXII, § 4).

For the acts listed under heading XXXI, § 3, 3 ° to 6 °, reference is made to Title 8, Section C, subsections c and d, of this Section.

The real estate rental with optional taxation is discussed in the circular 2019 / C / 25 of 21.03.2019 regarding the law of 14.10.2018 amending the VAT Code in the field of real estate rental - FAQ (ET 134.229) .

B. Which buildings are envisaged by heading XXXII?

The activities referred to under section A must be carried out or relate to a house that has been **specifically adapted to be used as a private home by a disabled person** .

In the case of work in immovable condition (excluding cleaning) or any other action listed in section XXXI, § 3, 3 ° to 6 °, this condition of use must in any case be met after the work has been carried out.

The house must also be rented out to **a person with a disability who benefits** from a **disability** fund or agency.

C. To whom should the acts be provided and invoiced?

The acts must be provided and invoiced to:

- a regional housing agency or a social housing agency recognized by it

  of

- a province, an intermunicipal company, a municipality, an intermunicipal public social welfare center or a public social welfare center

  of

- a non-profit association or a company with a social purpose that are recognized under the housing policy of people with disabilities by the competent authority or by an agency or fund for people with disabilities set up by it.

D. What destination should the customers mentioned under heading C give to the home?

The property must be rented out by these companies or institutions to a person with a disability who benefits from a fund or agency for persons with disabilities recognized by the competent government (see section XXXII, § 1, 3 °).

The term 'a fund or an agency for people with disabilities recognized by the competent authority' is to be understood (see decision no. ET 125.365 of 11.04.2014):

- the Flemish Agency for People with Disabilities
- Walloon Agency for the Integration of People with Disabilities
- the service for people with disabilities.

However, for the purposes of this heading, it is sufficient that the disabled person is already recognized by one of these agencies, even if he is not yet on benefits and is on a waiting list in

order to effectively receive such compensation in the future (see Oral Parliamentary Question No 21,856 by Mr Carl Devlies of 11.02.2014).

E. Which transactions are excluded from the application of the 6% VAT rate envisaged by heading XXXII?

- transactions other than those mentioned under heading XXXII, § 1 (work in real estate and assimilated acts), under heading XXXII, § 3 (delivery of new construction or establishment of rights in rem on new construction) and under heading XXXII, § 4 (real estate leasing and real estate rental with optional taxation).

- actions that do not relate to a home that has been specifically adapted to be used as a private home by a disabled person.

- actions not provided and invoiced to the intended companies or institutions (listed in section XXXII, § 1, 1 °)

- actions relating to housing that will not be let by the companies or institutions referred to under heading XXXII, § 1, 1 °, to a person with a disability who benefits from a fund or an agency for people with disabilities that is competent authority is recognized (see section XXXII, § 1, 3 °)

- the transactions that are excluded from the application of the VAT rate of 6% and are listed in section XXXII, § 2:
  - work in immovable condition and other immovable activities that do not relate to the actual home, such as construction work, landscaping and setting up enclosures
  - work in immovable condition and other immovable activities with the object of the components or parts of the components of swimming pools, saunas, mini golf courses , tennis courts and similar installations.

    For more explanation with regard to these latter exclusions, reference is made to Title 8, section D, subsections a and b.

F. Details of the invoice to which the VAT rate of 6% is applied

The invoice issued by the service provider and the duplicate that he keeps must indicate, on the basis of a clear and accurate certificate from the customer, that the elements justifying the

application of the reduced rate are available.

Except in the event of collusion between the parties or, apparently, failure to comply with this provision, the customer's certificate relieves the service provider of the liability regarding the determination of the rate (see section XXXII, § 1, 4 °).

With regard to the supply of new construction or establishment of rights in rem on new construction (section XXXII, § 3), the invoice must be issued to the institutions or companies referred to under section XXXII, § 1, 1 ° (see section C above).

With regard to real estate leasing (section XXXII, § 4), the lessee must be an institution or company referred to under section XXXII, § 1, 1 ° (see section C above). The same applies to the tenant with a real estate rental with optional taxation.

G. Final Note

However, it is noted that, in addition to this section XXXII, **other sections of Tables A and B** of the Annex to Royal Decree 20, referred to above, relate to the **real estate sector** . It is:

- heading XXXI, Table A, for **work in immovable property relating to private homes at least 15 years old** (6%)
- section XXXIII, table A, for **institutions for the disabled** (6%)
- heading XXXVI, Table A, for **social policy housing** (6%)
- section XXXVII, table A, for the **demolition and reconstruction of buildings in urban areas** (6%)
- heading XXXVIII, table A, for the **renovation and repair of private homes of at least 10 years old** (6%)
- heading XL, table A, for **buildings intended for education and student counseling** (6%)
- heading X, table B, for **social policy housing** (12%)
- heading XI, Table B, for **private housing initiatives under social policy** (12%)

If certain transactions relating to immovable property are not envisaged by heading XXXII of Table A, it is thus necessary to consider whether these transactions are not envisaged by another heading of Tables A or B before applying one of the reduced VAT rates. (6% or 12%).

10. Institutions for the disabled

Section XXXIII , of Table A , of the Annex to Royal Decree No 20, referred to above, concerning the application of the VAT rate of 6% to institutions for the disabled, provides:

§ 1. Provided that the conditions set out below are met, the reduced rate applies to works in immovable state within the meaning of Article 19, § 2, second paragraph, of the Code, with the exception of cleaning, and the other actions listed in section XXXI, § 3, 3 ° to 6 °:

1 ° the activities must be carried out on housing complexes intended to be used for housing the disabled;

2 ° the acts must be provided and invoiced to a person under public or private law who manages an institution that permanently houses people with disabilities, in day and night accommodation, and who for this reason benefits from a fund or agency for persons with disabilities recognized by the competent authority;

3 ° the invoice issued by the service provider and the duplicate that he keeps, must state, on the basis of a clear and accurate certificate from the customer, that the elements justifying the application of the reduced rate are available; except in the event of collusion between the parties or, apparently, non-compliance with this provision, the customer's certificate relieves the service provider of the liability regarding the determination of the rate.

§ 2. The reduced rate does not apply to:

1 ° work in immovable condition and other immovable activities that do not relate to the actual home, such as construction work, landscaping and setting up enclosures;

2 ° work in immovable state and other immovable activities that have as their object the components or part of the components of swimming pools, saunas, mini golf courses , tennis courts and similar installations.

§ 3. The reduced rate also applies to the supplies of goods referred to in Article 1, § 9 of the Code, as well as to the establishments, transfers and re-transfers of real rights to such goods that are not in accordance with Article 44, § 3, 1. °, are exempted from the Tax Code, when those buildings are intended to be used as housing complex for the accommodation of handicapped persons and they are delivered and invoiced to a public or private law person referred to in paragraph 1, 2 °.

§ 4. The reduced rate also applies to the real estate financing lease or real estate lease referred to in Article 44, § 3, 2 °, b) of the Code and to the real estate rental referred to in Article 44, § 3, 2 °, d), of the Code, relating to residential complexes intended to be used for the accommodation of disabled people, if the customer is a person under public or private law referred to in § 1, 2 °. "

A. What transactions can benefit from the 6% VAT rate under heading XXXIII?

Under this heading XXXIII, four types of transactions are eligible for the application of the VAT rate of 6%:

- **work in immovable state** within the meaning of Article 19, § 2, of the VAT Code, excluding cleaning, and the other actions listed in **section XXXI, § 3, 3 ° to 6 °** (section XXXIII, § 1) .
- **deliveries** of goods as referred to in Article 1, § 9 of the VAT Code as well as the establishments, transfers and retransfers of **real rights** to such goods that are **not exempted in accordance with Article 44, § 3, 1 ° of the VAT Code** (section XXXIII, § 3).
- the real estate financing **lease** or **real estate lease referred to** in Article 44, § 3, 2 °, b) of the VAT Code (section XXXIII, § 4).
- the real estate rental with optional taxation as referred to in Article 44, § 3, 2 °, d) of the Code (section XXXIII, § 4).

For the acts listed under heading XXXI, § 3, 3 ° to 6 °, reference is made to Title 8, Section C, subsections c and d, of this Section.

In any case, the reduced VAT rate under heading XXXIII can only apply to immovable activities carried out on rooms intended for the accommodation of disabled people to meet the requirements of their stay and of their common life. Not only the rooms intended for the actual housing (private or communal rooms, dormitories, etc.) are intended, but also the other places used by the intended persons (restaurants, reading or recreation rooms, lounge with bar or TV, study rooms , libraries reserved for the boarders), as well as the rooms intended for staff serving housing (monitors, supervisors, nurses, service staff, etc.) and technical rooms (kitchens, laundry rooms, infirmaries, basements, storage areas, etc.) .

If the building is not exclusively intended for housing, but also includes rooms that are used for other purposes (for example, a protected workshop), the reduced rate applies only to the rooms intended for housing (see written parliamentary question no. 1,207 by Mr People's Representative Jean-Jacques Viseur of 27.01.1998).

B. Which buildings are envisaged under heading XXXIII?

The actions listed under heading A above must be carried out or relate to residential complexes **intended for sustainable use, in day and night quarters, for the accommodation of disabled persons benefiting from an allowance** from a recognized fund or agency for persons with a handicap.

In addition to the simple provision of living quarters and communal premises, the complex must actually function as the home of the disabled, where they are provided with household (including the provision of food and drinks) and, where appropriate, medical or paramedical care.

On the other hand, the operator must provide the costumer with a permanent stay, as opposed to a short-term or a temporary stay. In addition to holiday centers or convalescent centers, the complex intended for the temporary reception of handicapped persons, whose family is temporarily unable to care for them due to special circumstances, is excluded from heading XXXIII.

Therefore, the VAT rate of 6% envisaged by heading XXXIII can **not** be applied to institutions operating on a **semi-boarding or external system** . However, it may be the case that the institutions envisaged under heading XXXIII also receive disabled people in semi-boarding or boarding systems. The consequences of this are discussed in Written Parliamentary Question No. 1,207 by Mr People's Representative Jean-Jacques Viseur of 27.01.1998 .

C. To whom should the acts be provided and invoiced?

The acts must be provided and invoiced to a **person** under **public** or **private law** who **manages** an institution that permanently houses people with disabilities, in day and night accommodation, and who for this reason benefits from a fund or an agency for persons with a disability recognized by the competent authority (see section XXXIII, § 1, 2 °).

Insofar as all other conditions are met, the reduced rate will in principle only apply if the immovable act is provided to a public or private person who manages the residential complex.

As a rule, this person must be the owner or tenant of the building, which serves as a residence or, more generally, must have a right in rem (such as usufruct) or a right of enjoyment in that building. In order to avoid distortions, the administration accepts that the benefit of the reduced rate may also apply to the person who, without being an operator of the establishment, transfers the commercial or pleasure rights he owns to the building, in particular by way of rental, to the operator who manages the establishment.

It is therefore not necessary for the application of the reduced rate that the person who is the principal of the transaction also has the capacity of administrator. This administrative tolerance can be found in Note 12/1984 of 10 October 1984 , marginal 19 to 22.

D. What destination should the customers mentioned under heading C give to the housing complex?

The housing complex must, in a day and night stay, house people with disabilities and who, for this reason, receive benefits from a fund or agency for people with disabilities recognized by the competent authority ((see section XXXIII, § 1, 2 °).

The term 'a fund or an agency for people with disabilities recognized by the competent authority' is to be understood (see decision no. ET 125.365 of 11.04.2014):

- the Flemish Agency for People with Disabilities
- Walloon Agency for the Integration of People with Disabilities
- the service for people with disabilities.

E. Which transactions are excluded from the application of the 6% VAT rate envisaged by heading XXXIII?

- transactions other than those referred to under heading XXXIII, § 1 (work in real estate and assimilated acts), under heading XXXIII, § 3 (delivery of new construction or establishment of rights in rem on new construction) and under heading XXXIII, § 4 (real estate leasing and real estate rental with optional taxation).

- activities that do not relate to a residential complex that, in a day and night stay, house persons with disabilities who are entitled to an allowance (see section XXXIII, § 1, 2 °).

- transactions that are not provided and invoiced to the intended persons under public or private law (with the exception of the aforementioned tolerance of the notice No 12/1984 of 10.10.1984 , marginal 19 to 22).

- the transactions that are excluded from the application of the VAT rate of 6% and are listed in section XXXIII, § 2:
  - work in immovable condition and other immovable activities that do not relate to the actual home, such as construction work, landscaping and setting up enclosures
  - work in immovable condition and other immovable activities with the object of the components or parts of the components of swimming pools, saunas, mini golf courses , tennis courts and similar installations.

    For more explanation regarding this latter exclusion, reference is made to Title 8, Section D, subsections a and b, of this Section.

F. Details of the invoice to which the VAT rate of 6% is applied

The invoice issued by the service provider and the duplicate that he keeps must indicate, on the basis of a clear and accurate certificate from the customer, that the elements justifying the application of the reduced rate are available.

Except in the event of collusion between the parties or, apparently, non-compliance with this provision, the customer's certificate relieves the service provider of the liability regarding the determination of the rate.

With regard to the supply of new construction or establishment of rights in rem on new construction (section XXXIII, § 3), the invoice must be issued to the person referred to under section XXXIII, § 2 (see section C above).

With regard to real estate leasing (section XXXIII, § 4), the lessee must be the person referred to under section XXXIII, § 2 (see section C above). The same applies to the tenant with a real estate rental with optional taxation.

For the sake of completeness, however, reference is made to the administrative tolerance given in Note 12/1984 of 10.10.1984 , marginal 19 to 22.

G. Final Note

However, it is noted that, in addition to this section XXXIII, **other sections of Tables A and B** of the Annex to Royal Decree 20, referred to above, relate to the **real estate sector** . It is:

- heading XXXI, Table A, for **work in immovable property relating to private homes at least 15 years old** (6%)
- heading XXXII, table A, for **private homes for the disabled** (6%)
- heading XXXVI, Table A, for **social policy housing** (6%)
- section XXXVII, table A, for the **demolition and reconstruction of buildings in urban areas** (6%)
- heading XXXVIII, table A, for the **renovation and repair of private homes of at least 10 years old** (6%)
- heading XL, table A, for **buildings intended for education and student counseling** (6%)
- heading X, table B, for **social policy housing** (12%)
- heading XI, Table B, for **private housing initiatives under social policy** (12%)

If certain transactions relating to immovable property are not envisaged by heading XXXIII of Table A, it is thus necessary to consider whether these transactions are not envisaged by another heading of Tables A or B before applying one of the reduced VAT rates. (6% or 12%).

11. Miscellaneous

Pursuant to **heading XXXIV** , of **table A** , of the annex to the Royal Decree 20, mentioned above, the VAT rate of 6% applies to:

1 ° The rental of goods as referred to in section XXIII, numbers 2 to 8 and number 11 .

2 ° Services normally provided by undertakers in the normal course of their professional activities, with the exception of:

(a) the provision of food or drink for consumption on the spot;

(b) the services provided by waiters, waiters and all other persons who intervene in providing food and drink to consumers in conditions permitting on-the-spot consumption;

c) the services relating to the supply with the placement of burial vaults or monuments.

3 ° Training of assistance dogs, referred to in item 9 of heading XXIII, by an assistance dog school recognized by the competent authority and the services provided by veterinarians to these assistance dogs.

4 ° Future law (8): the sterilization of cats by a veterinarian within the meaning of Article 1 of the Law of 28 August 1991 on the practice of veterinary medicine.)

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(8) The entry into force of heading XXXIV, 4 °, of Table A, is subject to the approval of the European Union to amend Annex III of the VAT Directive 2006/112 / EC. At the moment this 4 ° does not apply.

A. Rental of certain goods

The rental of the following goods is subject to the VAT rate of 6% according to the aforementioned section XXXIV:

- orthopedic appliances (including medical-surgical belts); fracture splints and other fractures and articles for the treatment of fractures in the skeleton; dentures, artificial teeth, artificial eyes, artificial limbs and the like; hearing aids for the hearing impaired and others for the repair or relief of deficiencies or ailments, which are held by the patient or are otherwise worn or implanted; individual material specially designed to be worn by stoma patients and persons suffering from incontinence, except sanitary towels, panty liners and diapers for children under six years of age; the individual accessories that are part of an artificial kidney including the trousses used (section XXIII, digit 2, table A)

- walkers, wheelchairs and similar vehicles for the disabled and the sick, whether or not fitted with a motor or other locomotive mechanism; parts and accessories for these wagons (item XXIII, item 3, table A).
- aerosol equipment and accessories; individual material for the administration of mucomyst (section XXIII, digit 4, table A).
- anti-decubitus material included in the annex to the Royal Decree of 14.09.1984 establishing the nomenclature of medical benefits in respect of compulsory sickness and invalidity insurance (section XXIII, figure 5, table A).
- devices specially designed for the visually impaired and blind, except frames, spectacle lenses and contact lenses (Section XXIII, Figure 6, Table A).
- infusion pumps for pain relief (section XXIII, digit 7, table A).
- glucose meters and accessories (section XXIII, digit 8, table A).
- external defibrillators (section XXIII, figure 11, table A) (see also circular 2018 / C / 19 of 12.02.2018 on the reduced VAT rate on hygiene protection products and on external defibrillators, marginal III (ET 132.671).

B. Funeral directors' services

According to item 2 of heading XXXIV, the services normally provided by funeral directors are subject to the VAT rate of 6% in the normal course of their professional activity.

However, the following services are **explicitly excluded from the application of the VAT rate of 6%** :

- providing food or drink for consumption on site
- the services provided by waiters, waiters and all other persons who intervene in providing food and drink to consumers in conditions that allow for on-site consumption
- the services relating to the supply with placement of tombs or monuments.

In addition to the aforementioned services, which are explicitly excluded from the application of the VAT rate of 6%, it goes without saying that the acts not usually provided by funeral directors in the normal course of their professional activities are also excluded from the application of heading XXXIV .

However, the following transactions are classified as **services normally provided by funeral directors** and thus benefiting from the 6% VAT rate, even if they are provided by another taxable person who is not an undertaker:

- taking or taking care of the body of the deceased
- embalming

The embalming or thanatopractic treatment of a deceased person for the purpose of giving birth is a service usually provided by undertakers in the normal course of their professional activity. This service is therefore subject to the reduced VAT rate of 6%. This 6% refers to the activity, even if it is carried out by persons or organizations who only engage in this service and who otherwise do not intervene in the organization of the funeral (see Oral Parliamentary Question No. 10,745 by Mr Volksvert Representative Tanguy Veys from 24.04.2012).

- renting the hearse
- completing the administrative formalities of declaration of death
- carrying out the cremation
- the ash scattering
- the provision of a funerary for storing the remains in a cooling room

The **laying out in the morgue of a hospital** outside the hospital deceased persons is basically not exempted by a provision of Article 44 of the VAT Code because it was an act concerning that remains alien to the actual performance of a hospital and also to distortions of competition to avoid. However, when a hospital regularly carries out such acts for consideration, they are subject to VAT at the rate of 6% under heading XXXIV (see Written Parliamentary Question No 3-5.633 by Mrs Senator Clotilde Nyssens of 12.07.2006).

When a funeral **enterprise undertakes** the **entire organization of a funeral** , it provides a series of goods and services, usually consisting of preparing the body, decorating or making available **a funeral parlor** , posting in newspapers, transporting or the repatriation of the body of the deceased, the organization of the funeral procession, the service of the bearers, the ringing of the death knell and the provision of music for the funeral service, the burial or cremation, the printing of the obituaries, the delivery of the coffin or an urn, gravestone, flowers, wreaths or various other funeral articles, and so on.

In accordance with heading XXXIV, item 2, this supply of services is in principle subject to the tax at the rate of VAT of 6%, with the exception, however, of goods and services expressly excluded from this provision (see above). Where appropriate, the undertaker is obliged **to split** the **price** according to the applicable rates.

It goes without saying that when a funeral home supplies goods to persons other than those who have commissioned it to organize a funeral (such as, for example, in the case of the purchase of flowers, wreaths or decorations by relatives or friends), the goods supplied must be subject to VAT, depending on their nature or their own characteristics. The same applies in the event that a funeral home does not undertake the entire organization of the funeral and is limited to the provision of some good or service related to this organization (see also decision no. ET 110.001 of 14.09.2005).

The **supply of a crypt, gravestone or grave monument** is in all cases subject to the normal VAT rate of 21%, even if that supply is made by the undertaker who takes care of the entire funeral organization. Are, among others, excluded from heading XXXIV and in any case subject to the normal VAT rate of 21%, **services relating to tombs, tombstones or grave monuments** . Specifically meant (see decision no. ET 120.598 of 26.08.2013):

- the displacement of the gravestone with a view to burial in the tomb and replacing it
- adding the name of the deceased on the gravestone or grave after the burial
- the delivery with placement or only the placement of a crypt, gravestone or grave monument
- building or enlarging a burial vault
- the maintenance and renovation of a crypt, gravestone or grave monument.

In practice, the **advertising of obituaries** is often entrusted by the funeral director to certain publishing houses. When undertaker the cost of that service by billing to their customers along with their other services intended in Section XXXIV, figure 2, the administration assumes that this can happen to apply the reduced VAT rate of 6%. Obviously, this concession does not apply to the invoicing of the advertising of obituaries by the publishers to the funeral directors (see decision no. ET 95.651 of 06.09.1999).

For **the supply of** funeral **printing** by a funeral director who is not charged with the full organization of the funeral, the same VAT rate must be applied for those goods as a printer. Reference is made, inter alia, to written parliamentary question No. 275 by Ms deputy representative Liesbeth Van der Auwera of 20.03.2012 , written parliamentary question No. 166 by Ms deputy representative Liesbeth Van der Auwera of 01.02.2012 and written parliamentary question No 765 by Mr Representative Patrick De Groote of 06.11.2009)

The simple supply of flowers by an undertaker who is not entrusted with the full organization of the funeral is not envisaged by section XXXIV, aforementioned. However, fresh cut flowers and most flower arrangements or wreaths composed of fresh cut flowers and fresh cut green can benefit from the reduced VAT rate of 6% under Section VII of Table A (cf. Section 3, Title 7). However, the simple delivery of artificial flowers is always subject to the VAT rate of 21%.

C. Training of assistance dogs and veterinary services with regard to assistance dogs

The training of assistance dogs, referred to in item 9 of the above heading XXIII, by an assistance dog school recognized by the competent authority, as well as the services provided by veterinarians to these assistance dogs, are subject to the VAT rate of 6%.

Assistance dogs are: guide dogs for the blind, service dogs, hearing dogs, reporting dogs and therapy dogs.

For more information regarding assistance dogs , reference is made to decision no. ET 128.840 of 02.02.2016 .

D. The sterilization of cats by a vet

The law of 06.06.2019 amending Royal Decree No. 20 of 20.07.1970 determining the rates of value added tax and classifying the goods and services at those rates (Moniteur belge of 26.06.2019) introduces the VAT rate of 6% for the sterilization of cats by a vet. This rate reduction is included in item 4 of heading XXXIV, of Table A, of the Annex to Royal Decree No. 20, aforementioned, and reads as follows:

"The sterilization of cats by a veterinarian within the meaning of Article 1 of the Law of 28 August 1991 on the practice of veterinary medicine ".

The entry into force of that rate reduction is - pursuant to Article 3 of the aforementioned law - subject to the approval of the European Union to amend the European VAT regulations on VAT rates.

The **entry into force** of the VAT rate of 6% on the sterilization of cats by veterinarians has therefore **been postponed indefinitely** .

Consequently, the sterilization of cats currently remains subject to the VAT rate of 21% (see circular 2019 / C / 64 of 08.07.2019 on the reduction of the VAT rate on the delivery of bicycles and on the sterilization of cats (ET 135663)).

Reference is also made to the joint oral parliamentary questions Nos . 55003037C and 55003038C of Mr. People's Representative Georges Gilkinet from 04.02.2020 .

12. Services provided by institutions with a social purpose

Section XXXV of **Table A** of the Annex to Royal Decree No 20, aforementioned, provides that:

§ 1. The reduced rate of 6% applies to services, with the exception of work in immovable state within the meaning of Article 19, § 2, second paragraph, of the Code, of the transactions listed in section XXXI , § 3, 3 ° to 6 °, of the current table A, as well as of the maintenance and repairs of the goods listed in article 35 of the Code, including the deliveries of parts, appliances and accessories used for the execution of those who carry out the intended institutions in § 2 within the conditions laid down in § 3, subject to the provisions contained in §§ 4 and 5.

§ 2. The application of the reduced rate of 6% is reserved for the institutions:

1 ° under Belgian law or under the law of another Member State of the European Economic Area;

2 ° that in no way have the objective of the systematic pursuit of the pursuit of profit. To this end, the articles of association stipulate, inter alia, that the profit, if any, may not be distributed, but must be entirely intended to maintain or improve the transactions provided. These articles also provide that in the event of liquidation, the total of the net assets is reinvested in another institution of the same nature;

3 ° that are mainly managed and managed voluntarily by persons who have no direct or indirect interest in the operating result, either for themselves or via intermediaries;

4 ° of which the purpose in the sense

- of the decision of the Flemish government of 16.11.1994 concerning the implementation of experiments in connection with insertion companies and island learning projects , or of Chapter 3, Section 3.5, of the decision of the Flemish government, of 17.12.1997, establishing the Flemish regulations on waste prevention and management;

- of the Royal Decree of 30.03.1995 implementing Chapter II of Title IV of the Law of 21.12.1994 laying down social provisions for recruitment companies;

- of the Decree of the French Community Commission of Brussels-Capital of 27.04.1995 on the recognition of organisms for socio- professional involvement and the subsidization of their vocational training activities for the unemployed and low-skilled jobseekers aimed at increasing their chances of finding or finding them of work in the context of coordinated facilities for socio-professional involvement;

- of the Decree of the Walloon Regional Council and of the Walloon Government of 16.07.1998 concerning the conditions under which the recruitment companies are recognized and subsidized;

- of the decision of the Flemish government of 10.11.1998 regarding the conduct of experiments in connection with insertion companies;

- of the ordinance of the Council of the Brussels-Capital Region and the Government of the Brussels-Capital Region of 22.04.1999 on the approval and financing of recruitment firms;

- of the decision of the Flemish government of 08.06.1999 amending the decision of the Flemish government of 08.12.1998 implementing the decree on social workshops;

of

- of the decision of the Walloon government of 18.11.1999 amending the decision of the Walloon government of 06.04.1995 concerning the recognition of the ' Entreprises de formation par le travail ',

consists in the employment as well as in the employment of the low- or medium-skilled unemployed jobseekers who are excluded from the traditional job circuits or who are particularly difficult to mediate;

5 ° and which have been recognized for that purpose by the government that is authorized by those decrees, decisions or ordinances.

§ 3. The application of the reduced rate of 6% is also subject to the following conditions that must be met together:

1 ° the institution intended in § 2 must limit its activities exclusively to the services intended in § 1;

2 ° this institution must apply prices that have been approved by the government, or prices that do not exceed the approved prices, or even for transactions for which no approval of prices takes place, prices that are lower than those for similar services in charged by commercial companies subject to value added tax;

3 ° the advantage of the reduced rate may not be such as to distort competition to the detriment of commercial enterprises subject to value added tax.

§ 4. The reduced rate shall no longer apply by operation of law from the moment that the institution that invokes the application of it no longer fulfills all the required conditions.

§ 5. The Minister of Finance shall inquire with the competent authorities referred to in § 2, 5 ° about the approvals granted, withdrawn or suspended by these authorities. He shall inform the same authorities of any findings made in which the applications of the reduced rate expire or have lapsed due to the non-observance of one or more conditions stipulated in § 3. "

The provisions of heading XXXV of Table A relate to services provided by certain institutions with a social purpose. Certain supplies these settings may, under the terms of section XXIII *bis* , of Table A of the Annex to the Royal Decree no. 20, the reduced VAT rate of 6% enjoy (see Section 3, Section 24).

The application of the 6% rate depends on a number of conditions related to:

- the nature of the service
- the nature, object and management of the institution providing the services
- the nature of the acts performed by the institution.

A. Conditions relating to the services provided

The 6% VAT rate applies to services, excluding:

- the work in immovable state within the meaning of Article 19, § 2 of the VAT Code as well as the actions listed in section XXXI, § 3, 3 ° to 6 °, of table A
- the maintenance and repairs of the goods listed in Article 35 of the VAT Code, including the supply of parts, appliances and accessories used for the execution of those works

See Written Parliamentary Question No. 440 by Ms deputy representative Muriel Gerkens of 27.10.2008 .

B. Conditions relating to the nature, object and management of the intended institutions

See explanation in section XXIII *bis* (See Section 3, Title 24), above, mutatis mutandis, applicable to this section XXXV.

C. Conditions regarding the nature of the acts performed by the institutions

See explanation in section XXIII *bis* (See Section 3, Title 24), above, mutatis mutandis, applicable to this section XXXV.

D. Important comments regarding section XXXV, § 4 - relaxation of certain conditions of section XXXV

As soon as the institutions in question no longer meet all the conditions laid down for the application of the reduced VAT rate, they will automatically lose the benefit of this special scheme for all the transactions they perform and which fall under the same heading (see § 4 of the section XXXV).

This is the case, inter alia, as soon as these institutions no longer limit their activities to the services envisaged in the relevant section XXXV (for example ironing services), but also services that are explicitly excluded from § 1 of section XXXV (such as, for example, performing work in real estate).

As of 01.01.2016, the administration accepts that in such cases and insofar as the other conditions of heading XXXV are fulfilled, they will no longer lose the application of the reduced VAT rate for all transactions covered by heading XXXV.

The services envisaged under heading XXXV, provided that the other conditions laid down in this heading are also fulfilled, can therefore continue to benefit from the reduced VAT rate of 6% in accordance with heading XXXV. Only the services excluded in the aforementioned section XXXV, § 1 will then follow their own and separate regime. Reference is made to decision No. ET 125.040 of 17.11.2015 .

The decision no. ET 131.027 of 16.12.2016 concerns the applicable VAT rate on the provision of bicycles by means of a public bicycle system. For the sake of completeness, it is noted in that decision that the rental of bicycles by the institutions with a social purpose that meet all the conditions of application of heading XXXV, aforementioned, is subject to the reduced VAT rate of 6% regardless of whether that rental is part of a public bicycle system.

13. Housing under social policy

Section XXXVI of Table A of the Annex to Royal Decree No 20, aforementioned, provides as follows:

§ 1. The reduced rate of six percent applies to:

1 ° the supply of the aforementioned goods referred to in Article 1, § 9 of the Code as well as the establishment, transfers and retransfer of rights in rem on such goods that are not in accordance with Article 44, § 3, 1 ° of the Tax Code exempted, if those goods are intended for housing under social policy:

a) private houses that are supplied and invoiced to the regional housing companies and their social housing societies recognized by them, to the Flemish Housing Fund , ' le Fonds du Logement des familles nombreuses de Wallonie ' and the Housing Fund of the Brussels-Capital Region and which are these companies or funds are intended to be rented out;

b) private houses that are supplied and invoiced to the regional housing companies, to the social housing companies recognized by them, to the Flemish Housing Fund , ' le Fonds du Logement des Familles nombreuses de Wallonie ' and the Housing Fund of the Brussels-Capital Region and which are these companies or funds are intended to be sold;

c) private houses supplied and invoiced by the regional housing companies, by their social housing companies recognized by them and by the Flemish Housing Fund , ' le Fonds du Logement des Familles nombreuses de Wallonie ' and the Housing Fund of the Brussels-Capital Region;

2 ° work in immovable state within the meaning of article 19, § 2, second paragraph, of the Code, excluding cleaning, and the other actions listed in section XXXI, § 3, 3 ° to 6 °, of table A with regard to the private homes referred to under 1 ° provided that they are provided and invoiced to the regional housing companies, to the social housing companies recognized by them and to the Flemish Housing Fund , ' le Fonds du Logement des Familles nombreuses de Wallonie ' and the Housing Fund of the Brussels-Capital Region;

3 ° the real estate financing lease or real estate lease referred to in Article 44, § 3, 2 °, b) of the Code and the real estate rental referred to in Article 44, § 3, 2 °, d) of the Code, relating to private houses referred to under 1 ° if the customer is a regional housing company, a social housing company recognized by that company or the Flemish Housing Fund , " le Fonds du Logement des Familles nombreuses de Wallonie " and the Housing Fund of the Brussels-Capital Region.

§ 2. The reduced rate of 6% does not in any case apply to:

1 ° work in immovable condition and other immovable activities that do not relate to the actual home, such as construction work, landscaping and setting up enclosures;

2 ° work in immovable condition and other immovable activities that have as their object the components or part of the components of swimming pools, saunas, mini golf courses , tennis courts and similar installations.

A. What actions are envisaged by section XXXVI?

- **deliveries** of certain private homes as well as the establishments, transfers and re-transfers **of real rights** to the intended private homes insofar as these are **not exempted in accordance with Article 44, § 3, 1 °** of the VAT Code (section XXXVI, § 1, 1 °)

- **work in immovable condition** within the meaning of Article 19, § 2, of the VAT Code, excluding cleaning, and the other actions listed **in section XXXI, § 3, 3 ° to 6 °** , of table A with regard to certain private homes (section XXXVI, § 1, 2 °)

  For the acts listed under heading XXXI, § 3, 3 ° to 6 °, reference is made to Title 8, Section C, subsections c and d, of this Section.

- the **real estate financing lease** or **real estate lease** referred to in Article 44, § 3, 2 °, b) of the VAT Code with regard to certain private homes (section XXXVI, § 1, 3 °).

- real estate rental with optional taxation as referred to in Article 44, § 3, 2 °, d) of the Code (section XXXVI, § 1, 3 °).

B. Which private houses are envisaged by heading XXXVI? To whom or by whom should the actions be delivered and invoiced?

a. For new construction (section XXXVI, § 1, 1 °)

These are private homes **intended for social policy housing** and **delivered and invoiced TO:**

- the regional housing companies and the social housing companies recognized by them
- the Flemish Housing Fund
- 'the Housing Fund for large families in Wallonia' of
- the Housing Fund of the Brussels-Capital Region

and which are intended to be rented (XXXVI, § 1, 1 °, a) or sold (XXXVI, § 1, 1 °, b) by these companies and funds.

Are also intended, private houses **intended for housing under social policy** that are **supplied and invoiced BY** (XXXVI, § 1, 1 °, c):

- the regional housing companies and their social housing societies recognized by them
- the Flemish Housing Fund ,
- 'the Housing Fund for Large Families in Wallonia' of
- the Housing Fund of the Brussels-Capital Region

Note: the supply of social owner-occupied homes directly to the social target group by a developer, on the other hand, is not intended (see Oral Parliamentary Question No. 18,170 by Ms deputy representative Griet Smaers of 10.05.2017).

b. For work in immovable state and equivalent actions (section XXXVI, § 1, 2 °)

These are private homes **intended for housing under the social policy** where the works are **delivered and invoiced TO** :

- the regional housing companies and the social housing companies recognized by them
- the Flemish Housing Fund
- 'the Housing Fund for large families in Wallonia' of
- the Housing Fund of the Brussels-Capital Region

and this with regard to private homes mentioned under heading XXXVI, § 1, 1 °.

c. For real estate leasing and real estate rental with optional taxation (heading XXXVI, § 1, 3 °)

These are private homes that are **intended for housing in the context of social policy,** whereby the customer is one of the following companies:

- a regional housing agency and its social housing agency recognized by it,
- the Flemish Housing Fund ,
- 'the Housing Fund for large families in Wallonia' of
- the Housing Fund of the Brussels-Capital Region

and this with regard to private homes mentioned under heading XXXVI, § 1, 1 °.

C. Which actions are explicitly excluded from section XXXVI?

It concerns the actions mentioned under § 2 of section XXXVI:

- work in immovable condition and other immovable activities that do not relate to the actual home, such as construction work, landscaping and setting up enclosures.
- work in immovable condition and other immovable activities with the object of the components or parts of the components of swimming pools, saunas, mini golf courses , tennis courts and similar installations.

For more explanation regarding these two types of transactions, see Title 8, Section D, subsections a and b of this Section.

In general, it is also noted that this reduced VAT rate under heading XXXVI of Table A does not apply to transactions not intended for actual housing.

D. Closing remarks

The extension of the scope of heading XXXVI with the Flemish Housing Fund , the Fonds du Logement des familles nombreuses de Wallonie and the Housing Fund of the Brussels-Capital Region will apply from 01.01.2014 (see decision no. ET 125.365 of 11.04.2014).

It is also noted that, in addition to this section XXXVI, **other sections of Tables A and B** of the Annex to Royal Decree 20, referred to above, relate to the **real estate sector** . It is:

- heading XXXI, Table A, for **work in immovable property relating to private homes at least 15 years old** (6%)
- heading XXXII, table A, for **private homes for the disabled** (6%)
- section XXXIII, table A, for **institutions for the disabled** (6%)
- section XXXVII, table A, for the **demolition and reconstruction of buildings in urban areas** (6%)
- heading XXXVIII, table A, for the **renovation and repair of private homes of at least 10 years old** (6%)
- heading XL, table A, for **buildings intended for education and student counseling** (6%)
- heading X, table B, for **social policy housing** (12%)
- heading XI, Table B, for **private housing initiatives under social policy** (12%)

If certain transactions relating to immovable property are not envisaged by heading XXXVI of Table A, it is thus necessary to consider whether these transactions are not envisaged by another heading of Tables A or B before applying one of the reduced VAT rates. (6% or 12%).

14. Demolition and reconstruction of buildings in urban areas

Section XXXVII , of **Table A** of the Annex to Royal Decree No 20, provides that:

'The reduced rate of 6%, applies to work in immovable state and the other actions listed in section XXXI, § 3, 3 ° to 6 °, which have as object the demolition and the associated reconstruction of a house .

The benefit of the reduced rate is subject to the following conditions:

1 ° the activities must relate to a house that, after the work has been carried out, is used exclusively or mainly as a private house;

2 ° the transactions must relate to a house that is located in one of the major cities listed in the royal decrees of 12.08.2000, 26.09.2001 and 28.04.2005 pursuant to Article 3 of the Law of 17.07.2000 determining the conditions under which local authorities can receive financial assistance from the State under urban policies;

3 ° [canceled]

4 ° the client must:

a) before the tax becomes due and payable in accordance with Articles 22, § 1 and 22bis of the Code, submit a statement to the control office of the value added tax of the jurisdiction in which the building is located. This statement should state that the building that it is to be demolished

and refurbished is intended to be used either exclusively or mainly as a private residence and must be accompanied by a copy of:

- the building permit;

- the building contract (s).

b) provide the service provider with a copy of the declaration referred to in a).

5 ° the time when the tax becomes due in accordance with Articles 22, § 1 and 22bis of the Code must occur no later than 31 December of the year of the first occupation of the building;

6 ° the invoice issued by the service provider and the duplicate that he keeps, must state, on the basis of the copy referred to in point 4 °, b), the available elements justifying the application of the reduced rate ; except in the event of conspiracy between the parties or manifest failure to comply with this provision, the statement by the customer relieves the service provider of the liability regarding the determination of the rate.

Under no circumstances does the reduced rate apply to:

1 ° work in immovable condition and other immovable activities that do not relate to the actual home, such as construction work, landscaping and setting up enclosures;

2 ° work in immovable state and other immovable activities with the object of the components or part of the components of swimming pools, saunas, mini golf courses , tennis courts and similar installations;

3 ° complete or partial cleaning of a house. '

For a full explanation regarding this section XXXVII, of table A, reference is made to circular AFZ 3/2007 of 15.02.2007 (marginal numbers 77 to 80) and the Information and Notices of 22.06.07 / 1 (decision no. ET 112,400) . The latter publication discusses, inter alia:

- which transactions may qualify for the application of the reduced VAT rate of 6% under heading XXXVII
- who can enjoy the favor arrangement
- the documents to be submitted

The application of section XXXVII is limited to the major cities listed in the Royal Decrees of 12.08.2000, 26.09.2001 and 28.04.2005 implementing Article 3 of the Law of 17.07.2000 determining the conditions under which local governments may enjoy financial assistance from the State in the context of urban policy and only for the areas and properties determined by the local authorities, given their responsibility matter .

The major cities are in particular:

- the urban centers of Antwerp, Charleroi, Ghent, Ostend, Mechelen, Mons, La Louvière, Sint-Niklaas, Seraing and Liège.
- on the territory of the Brussels-Capital Region: Brussels, Anderlecht, Sint-Gilles, Sint-Joost-ten-Node, Sint-Jans-Molenbeek, Schaerbeek and Vorst.

- Leuven, Bruges, Kortrijk, Roeselare, Aalst, Dendermonde, Genk, Hasselt, Mouscron, Tournai, Verviers, Namur, Ixelles, Uccle, and Etterbeek

The transactions must relate to a dwelling located on the territory of one of the aforementioned 32 cities (listed in No. 79 of the aforementioned circular No. AFZ 3/2007 of 15.02.2007). Therefore, if the conditions of section XXXVII are fulfilled, the demolition and reconstruction of a building in one of those 32 cities can benefit from the reduced rate of 6%, regardless of whether that building is located in an urban cancer, in another district of the city or even in a borough of that city.

Regarding the licensing obligation imposed by governments for the demolition or demolition of structures, reference is made to Oral Parliamentary Question No. 27,388 by Mr. People's Representative Luk Van Biesen of 24.10.2018 .

The construction of a building is only eligible for the application of the rate of 6% of heading XXXVII insofar as it concerns the reconstruction of a house and insofar as the client, with a view to and prior to that reconstruction, enters the building plot has broken off or had it broken off. The use of the building before the demolition (private or non-residential) is of no importance.

It is important, however, that the building to be demolished is a property of its nature, and that it is significant in size and built with a view to sustainability. The administration accepts that the house is not exactly in the same place as the demolished building, insofar as it is built on the same plot (see oral parliamentary question No. 13,883 by Mr Volksverten representative Josy Arens of 23.06.2009).

The administration also accepts that the demolition of the old building occupied by the client after the construction of his new private home on the same plot does not preclude the application of the VAT rate of 6%, insofar as the client after the implementation of the erection works will involve the new building without delay and will demolish or have the old building demolished without delay (see Written Parliamentary Question No. 280 by Mr Dirk Van der Maelen of 03.02.2009 and Oral Parliamentary Question No 11.137 by Mr Hendrik Bogaert van 04.03.2009).

With regard to the application of heading XXXVII to **cohousing** projects (projects consisting on the one hand of private houses and on the other hand of certain shared, communal areas (garden, office space, laundry room, etc. with an emphasis on a sense of community and social contact), please refer to the written parliamentary question No. 2,593 by Mr Representative Wouter De Vriendt dated 27.03.2019 and written parliamentary question No. 11 by Mr Servais Verherstraeten dated 30.07.2019 .

In particular, reference should also be made to decision No. ET 120.125 of 13.05.2014 . After all, the administration has determined that certain construction promoters market new real estate (apartments or single-family houses) with the application of the tax rate of 6%. However, Table A of the Annex to Royal Decree No 20 does not contain any provision regarding the application of the reduced VAT rate with regard to the supply of new real estate (except for the supplies by certain public establishments under social policy on the plane of housing).

The Administration has examined the legal arrangements that certain construction promoters have developed with a view to applying the reduced rate. The decision no. ET 120.125 , mentioned above, discusses such **situations in which actions are of an artificial nature** . In certain cases there may also be an **abuse of rights** within the meaning of Article 1, § 10 of the VAT Code. In that case, relevant transactions are reclassified as the supply of new real estate and the associated land that is subject to the VAT rate of 21%.

Reference is also made to Oral Parliamentary Question No 13.057 by Mr MP Luk Van Biesen of 10.07.2012 and Written Parliamentary Question No 1.700 by Ms MP Sabien Lahaye-Battheu of 15.06.2017 .

Note

It is also noted that, in addition to this section XXXVII, **other sections of Tables A and B** of the Annex to Royal Decree 20, referred to above, relate to the **real estate sector** . It is:

- heading XXXI, Table A, for **work in immovable property relating to private homes at least 15 years old** (6%)
- heading XXXII, table A, for **private homes for the disabled** (6%)
- section XXXIII, table A, for **institutions for the disabled** (6%)
- heading XXXVI, Table A, for **social policy housing** (6%)
- heading XXXVIII, table A, for the **renovation and repair of private homes of at least 10 years old** (6%)
- heading XL, table A, for **buildings intended for education and student counseling** (6%)
- heading X, table B, for **social policy housing** (12%)
- heading XI, Table B, for **private housing initiatives under social policy** (12%)

If certain transactions relating to immovable property are not envisaged by heading XXXVII of Table A, it is thus necessary to consider whether these transactions are not envisaged by another heading of Tables A or B before applying one of the reduced VAT rates. (6% or 12%).

15. Renovation and restoration of private homes

Under section XXXVIII of Table A of the Annex to Royal Decree No. 20, the VAT rate of 6% applies to:

§ 1. Work in immovable condition and the other actions referred to in paragraph 3, excluding materials that form a significant part of the service provided, are subject to the reduced rate, provided that the following conditions are met:

1 ° the activities must have the object of conversion, renovation, rehabilitation, improvement, repair or maintenance, excluding cleaning, in whole or in part of a house;

2 ° the transactions must relate to a home that, after its implementation, is used exclusively or mainly as a private home;

3 ° the transactions must be carried out on a home whose first occupation is at least ten years prior to the first date of VAT due which arises in accordance with Article 22, § 1 or Article 22bis of the Code;

4 ° the transactions must be provided and invoiced to an end consumer;

5 ° the invoice issued by the service provider and the double that he keeps, must state, on the basis of a clear and accurate certificate from the customer, that the elements justifying the application of the reduced rate are available; except in the event of collusion between the parties or, apparently, non-compliance with this provision, the customer 's certificate relieves the service provider of the liability regarding the determination of the rate.

§ 2. Are considered as final consumers within the meaning of this provision, for work in immovable state and the other actions described in § 3, with regard to the homes actually used for housing the elderly, pupils and students, minors, homeless persons, persons in difficulty, persons with a mental disorder, mentally handicapped and psychiatric patients, public or private persons who manage:

1 ° accommodation facilities for the elderly that have been recognized by the competent authority in the context of legislation on care for the elderly;

2 ° boarding schools added to or dependent on schools or universities;

3 ° youth protection homes and residential facilities that house minors in a sustainable manner, in day and night quarters, and that are recognized by the competent authority in the context of legislation on youth protection or special youth assistance;

4 ° reception centers that are homeless people in day and night quarters and that house persons in difficulty and that are recognized by the competent authority;

5 ° psychiatric care homes that house persons with a long-term and stabilized mental disorder or mentally handicapped persons in a day and night stay in a sustainable manner and who are recognized by the competent authority;

6 ° buildings where, in the name of an initiative of sheltered housing recognized by the competent government, sustainable housing in day and night quarters and counseling of psychiatric patients takes place.

§ 3. The following are intended:

1 ° the renovation, finishing, furnishing, repair and maintenance, with the exception of cleaning, in whole or in part, of a property by its nature;

2 ° services that consist of supplying movable property and immediately affixing it to immovable property in such a way that the immovable property becomes of its nature;

3 ° any action, even if not intended in the provision under 2 °, which has as its object both the delivery and the attachment to a building:

(a) of the components or parts of the components of a central heating or air-conditioning system, including the burners, reservoirs and control and monitoring devices connected to the boiler or to the radiators;

b) of the components or parts of the components of a sanitary installation of a building and, more generally, of all fixed appliances for sanitary or hygienic use connected to a water supply or a sewer;

(c) of the components or parts of the components of an electrical installation of a building, with the exception of luminaires and lamps;

(d) of the components or parts of the components of an electrical bell system, of fire alarms, of anti-theft alarms and of a home telephone;

e) of storage cabinets, sinks, sink cabinets and furniture with built-in sink, washbasins and furniture with built-in sink, suction hoods, fans and air fresheners equipped with a kitchen or a bathroom;

f) of shutters, shutters and blinds placed on the outside of the building;

4 ° any action, even if not intended in the provision under 2 °, which has as its object the supply of wall covering or floor covering or covering as well as its placement in a building, regardless of whether that covering or covering is attached to the building or simply cut to size on site according to the dimensions of the surface to be covered;

5 ° the attachment, installation, repair and maintenance, excluding cleaning, of goods referred to in the provisions under 3 ° and 4 °;

6 ° the provision of personnel with a view to performing the above-mentioned actions.

§ 4. The reduced rate does not in any case apply to:

1 ° work in immovable condition and other immovable activities, which do not relate to the actual home, such as construction work, landscaping and setting up enclosures;

2 ° work in immovable condition and other immovable activities, the object of which is the components or part of the components of swimming pools, saunas, miniature golf courses, tennis courts and similar installations;

3 ° the part of the price with regard to the supply of boilers in apartment buildings as well as the supply of the components or part of the components of elevator installations. '

Section XXXVIII was added to Table A by the Program Law of 04.07.2011.

From 01.07.2011, this section XXXVIII has made a definitive provision of the temporary provision of Article *1a* of Royal Decree 20. Section XXXVIII is in fact the sister provision of Section XXXI of Table A. For a detailed explanation of this Section XXXVIII, reference is made to Title 8 above.

Indeed, the provisions of Sections XXXI and XXXVIII are identical, except for two matters:

- as regards heading XXXVIII, it must be a building for private residence, the **first occupation of which will be at least 10 years** (instead of 15 years for the application of heading XXXI) before the first due date of VAT as set out in the Code.
- with regard to heading XXXVIII, § 1 provides " *to the exclusion of materials which represent a significant part of the service provided* ". The administration accepts that this exclusion only applies to: communal boilers in apartment buildings and the components or part of the components of lift installations (regardless of whether they are placed in an apartment building or single-family house).

  The reduced VAT rate of 6% therefore **does not** apply **to the part of the price that relates to the supply of boilers in apartment buildings** , as well as to the part of the price that relates to the **supply of components or part of the components of lift installations** (see section XXXVIII, § 4, 3 °). With regard to lift installations, however, reference is made to decision no. ET 97.269 of 03.03.2000, which introduces an administrative tolerance for work on lift installations.

For information regarding the installation with stoves, radiators or individual convectors on wood, coal, oil, gas or electricity, please refer to the Information and Communication dated 18.08.2011 .

Attention : the age requirement of a house for the application of the VAT rate of 6% envisaged by heading XXXVIII has been increased from 5 years to 10 years from 01.01.2016. A **transitional** measure has been provided for which can be consulted through decision No ET 129.030 / 3 of 02.02.2016 .

Note

It is also noted that, in addition to this section XXXVIII, **other sections of Tables A and B** of the Annex to Royal Decree 20, referred to above, relate to the **real estate sector** . It is:

- heading XXXI, Table A, for **work in immovable property relating to private homes at least 15 years old** (6%)
- heading XXXII, table A, for **private homes for the disabled** (6%)
- section XXXIII, table A, for **institutions for the disabled** (6%)
- heading XXXVI, Table A, for **social policy housing** (6%)
- section XXXVII, of Table A, for **the demolition and reconstruction of buildings in urban areas** (6%)
- heading XL, table A, for **buildings intended for education and student counseling** (6%)

- heading X, table B, for **social policy housing** (12%)
- heading XI, Table B, for **private housing initiatives under social policy** (12%)

If certain transactions relating to immovable property are not envisaged by heading XXXVIII of Table A, it is thus necessary to consider whether these transactions are not envisaged by another heading of Tables A or B before applying one of the reduced VAT rates. (6% or 12%).

16. Small manufacturing services

Under **section XXXIX** , of **table A** , of the annex to the Royal Decree 20, mentioned above, the VAT rate of 6% applies to:

1. The repair of fi etching .

2. Repair of footwear and leather goods.

3. Repair and entertainment of clothing and household linen. "

This provision only applies to transactions that qualify for VAT as a service within the meaning of Article 18 of the VAT Code and therefore not as a supply within the meaning of Article 10 of that Code.

When a repair requires the use of supplies and parts, difficulties may arise in determining the nature of the action. In this context, the following rules should be taken into account:

- if the value of the supplies and parts used is less than half of the total price requested from the customer, the transaction as a whole is a service subject to the 6% rate.
- in other cases, the transaction as a whole is a supply of goods which must be taxed at the VAT rate applicable to the goods.

(See also decision no. ET 95.109 of 10.05.1999)

Example:

When the repair of a garment requires the use of fabrics and pieces and the portion of the price related to those fabrics and pieces is less than half of the total price requested from the customer, the administration shall classify the operation as a service within the meaning of Article 18 of the VAT Code. As a result, the whole benefit can benefit from the reduced VAT rate of 6% under heading XXXIX.

As soon as it is established or demonstrated that the value - that is to say the selling price - of the fabrics and items supplied on the occasion of the repair of the garment is less than 50% of the total price owed by the customer, the transaction can be carried out in accordance with the aforementioned simplifying benefit from the reduced rate of 6%.

If, on the other hand, the value of the delivered substances and pieces is not less than 50% of the total price owed by the customer, the transaction can be regarded as a supply within the meaning of Article 10 of the VAT on any assumption. Code. Therefore, other factual or legal elements are not relevant here for the qualification of the transaction, which as a supply is fully subject to the normal VAT rate of 21% (see, for example, written parliamentary question no. 368 by Mrs Inge Vervotte of 06.05. 2004).

A. Repair of bicycles

When applying section XXXIX, number 1, of table A of the annex to the Royal Decree 20 of 07/07/1970 on VAT rates, the service consisting of repairing bicycles is subject to the reduced VAT rate of 6 %. The maintenance of bicycles is also envisaged.

The bicycle repair scheme is the subject of circular 2017 / C / 38 of 14.06.2017 regarding the VAT rate applicable to bicycle repairs (ET 132.016) that applies from 01.07.2017.

By this provision are meant bicycles with two or three wheels which are set in motion by pedals by one or more persons, except bicycles fitted with a motor. Are intended include: city bikes, sport bikes, mountain bikes, mountain bikes , tricycles and cargo bikes. The bicycle equipped with an electric auxiliary motor that only works when pedaling is also envisaged (e.g. electric bicycles, speed pedelecs).

By contrast, the scheme does not apply to mopeds, mopeds, exercise bikes and the like, toy-type children's bicycles (small tractors whose front wheels are equipped with pedals, karts, etc.), single-wheel bicycles and other bicycles specially made for variety artists , and so on.

The supply of bicycle parts is subject to the normal VAT rate, currently 21%.

When repair or maintenance requires the use of supplies (eg lubricating oil) and parts (eg wheel, inner tube, saddle), difficulties may arise in determining the nature of the operation (delivery or service).

Mr. Minister has decided that for the application of the aforementioned section XXXIX, of table A, **only with regard to** the bicycle **repair or maintenance service** , the bicycle repairer must apply the following regulation:

- the supply of parts is subject to the normal VAT rate, currently 21%
- wages (including supplies used, such as glue, lubricating oil, etc.) are subject to the reduced VAT rate, currently 6%.

If necessary, the bicycle repairer is obliged to split the price according to the applicable rates. If this split does not occur, the levy is only regular if the entire transaction is subject to the highest VAT rate.

The bicycle repairer may of course not apply this scheme simultaneously with the scheme intended by decision no. ET 95.109 of 10.05.1999 . However, the latter decision remains applicable to actions, other than repairing or maintaining bicycles, which at the same time involve the delivery of a good and its installation or assembly on movable property.

B. Repair of footwear and leather goods

First of all, it is noted that the material from which the shoes are made does not play a role.

In this context, footwear also means:

- low shoes with low or high heels
- boots (high shoes), work shoes, hunting shoes and the like strong footwear, boots
- special sports footwear, with the exception of skate shoes with attached skates (ice skates or roller skates).

Section XXXIX, on the other hand, does not cover footwear of a toy nature.

In principle, only the repair of footwear can benefit from the reduced rate of 6%. However, in order to keep it simple, it was decided that the minor maintenance carried out by the taxable person on the occasion of the repair of footwear, which is incidental to the repair, can also benefit from the reduced rate. The cleaning, painting, oiling and waterproofing of footwear can therefore benefit from the reduced rate of 6% if this is done on the occasion of the repair of the footwear.

In contrast, when polishing, painting, oiling and waterproofing is done without any repair of the footwear, the normal rate of 21% applies.

The repair of leather goods can also benefit from the reduced VAT rate of 6%. This includes: articles of reconstituted leather and articles of which the external part, in whole or in large part, consists of leather or reconstituted leather.

Reconstituted leather can be obtained by several methods:

- by compression under pressure of leather scraps, other leather waste or leather fibers, without addition of glue or other binders
- by pressing without binder of superimposed pieces of leather
- by hot water treatment of fiberized leather scraps and other leather scraps , after which the resulting paste is sieved, rolled and calendered into sheets without the addition of a binder.

The intended leather goods include in particular:

- clothing accessories (belts, etc.)
- saddlery and harness for animals, including leashes, muzzles, saddlebags and the like
- covers for animals
- travel cases, suitcases and backpacks
- hat boxes, toilet boxes, toilet bags and travel bags
- handbags, shopping bags, ladies bags , bags and bags for bicycles
- bags for sports equipment or sportswear
- diplomat's cases, diplomat's suitcases, briefcases, diplomatic bags, school bags and so on
- money exchanges and portfolios
- boxes, boxes, cases, shrines, cases, cases, etc. for all kinds of uses: for cameras, viewers, musical instruments, knitting, jewelery, etc.
- bags or sacks for various uses: for instruments intended for medical or surgical purposes, for tools
- schooletuis
- sewing bags.

It is noted that furniture made of leather or covered in whole or in part with leather (seats, including car seats and folding seats, armchairs, settees, divans, sofas, piano stools, footstools, pouffes, etc.) are not leather goods within the meaning of the aforementioned provision. The repair of these goods is therefore subject to the standard VAT rate, which is currently 21% (see decision no. ET 97.496 of 22.03.2000). The repair of leather covers of chairs or seats is also not intended. The same applies to the upholstery of furniture such as seats, armchairs, etc. (see Written Parliamentary Question No. 3-4.839 by Mr Senator Christian Brotcorne of 07.04.2006).

C. The repair and entertainment of clothing and household linen

First of all, it should be noted that the material from which clothing and household linen is made (fur, leather, textiles, etc.) should not be taken into account.

Under **clothing** is meant in particular:

- overcoats, capes, anoraks, blousons, jacket, trousers, shirts, skirts, dresses, shirt blouses , blouses and so on
- undergarments
- pajamas, bathrobes, dressing gowns and the like
- tracksuits, ski suits
- scarves, sashes, head and neckerchiefs, ties and the like
- gloves, mittens and the like
- stockings.

Repair of clothing accessories (eg suspenders and belts) - other than those of leather intended by item 2 of heading XXXIX - cannot benefit from the 6% rate.

Among **household linen** is to be understood to mean:

- bed linen (sheets, covers for duvets and for mattresses, bedspreads, pillowcases, etc.)
- table linen (tablecloths, finger towels, napkins, etc.)
- toilet linen (towels, bath towels and beach towels, etc.)
- kitchen linen (dish and kitchen towels)
- mop
- curtains and drapes
- beach towels

Carpets and rugs are not household linen for the purposes of this provision. The repair and entertainment of those goods therefore remains subject to the normal VAT rate, which is 21%. In principle, only the services for the repair and entertainment of clothing and household linen can benefit from the VAT rate of 6%. However, in order to keep it simple, it was decided that the minor maintenance (e.g. ironing) carried out by the taxpayer on the occasion of the repair or entertainment of clothing or household linen, which is incidental to the repair or entertainment, also reduced rate can enjoy.

In particular, entertainment should be taken to mean shortening, reducing or enlarging and, as far as clothing is concerned, more generally, adapting to the size of the person who will be wearing the clothing (see, however, below).

The transformation of one item of clothing into another can also be considered to be clothing entertainment if the original essential features of the garment are preserved (for example, shortening a long coat to make it into a jacket).

However, the essential transformation of clothing or household linen is not envisaged. In this way, for example, the conversion of a sheet into handkerchiefs or the manufacture of a dress with the fabric of a skirt or jacket cannot benefit from the reduced rate. These transactions are therefore subject to the rate applicable to the good in the state after conversion, in principle 21%.

Incidentally, it is noted that the price supplement that the seller charges to the buyer for the adjustment of the sold garment (retouches, changes, etc.) is part - as an element of the price of the garment - of the taxable amount of the delivery and is therefore taxed at the rate of the delivered good, being 21%.

17. Buildings intended for education and student counseling

Pursuant to **heading XL** , of **table A** , of the annex to Royal Decree 20, the VAT rate of 6% applies to:

'1 ° supplies of buildings intended for school or university education which are exempted under Article 44, § 2, 4 °, a) of the Code, as well as the establishments, transfers and retransfers of real rights to such goods that are not exempt from tax in accordance with Article 44, § 3, 1 ° of the Code;

2 ° the supply of buildings intended for psycho- medical-social centers and centers for student guidance, which are exempted on the basis of Article 44, § 2, 2 °, second paragraph, sixth indent, of the Code, as well as establishments, transfers and re-transfers of real rights to such goods that are not exempt from tax in accordance with Article 44, § 3, 1 ° of the Code;

3 ° the work in immovable state within the meaning of Article 19, § 2, second paragraph, of the Code, excluding cleaning, and the other actions referred to in section XXXI, § 3, 3 ° to 6 °, with regard to to the buildings mentioned under 1 ° and 2 °;

4 ° the real estate financing lease or real estate lease referred to in Article 44, § 3, 2 °, b) of the Code and the real estate rental referred to in Article 44, § 3, 2 °, d) of the Code, relating to on the buildings referred to under 1 ° and 2 °. '

Section XL of Table A aims to:

- buildings intended for school or university education that are exempted under Article 44, § 2, 4 °, a) of the VAT Code

  in

- buildings intended for psycho- medical-social centers and centers for student counseling, which are exempted on the basis of Article 44, § 2, 2 °, second paragraph, sixth indent, of the VAT Code.

Four types of transactions relating to the aforementioned buildings may qualify for the reduced VAT rate of 6%:

- the **deliveries** of the aforementioned buildings as well as the establishments, transfers and re-transfers of **real rights** to those buildings that are not exempt from tax in accordance with Article 44, § 3, 1 ° of the VAT Code
- the **work in immovable state** within the meaning of Article 19, § 2 of the Code, excluding cleaning, and the other activities referred to in **section XXXI, § 3, 3 ° to 6 °,** of Table A of the Annex by Royal Decree No. 20, aforementioned
- the **real estate financing lease** or **real estate lease** referred to in Article 44, § 3, 2 °, b) of the Code **.**
- the real estate rental with optional taxation as referred to in Article 44, § 3, 2 °, d) of the Code.

This section is discussed in detail in circular 2018 / C / 6 of 18.01.2018 regarding the scope of heading XL of Table A of the Annex to the Royal Decree no. 20 on VAT rates (ET 130.758) , which is referred to. .

The real estate rental with optional taxation is generally discussed in circular 2019 / C / 25 of 21.03.2019 regarding the law of 14.10.2018 amending the VAT Code in the field of real estate rental - FAQ (ET 134.229) .

Educational infrastructure that is realized by means of the **Flemish rental subsidy scheme** for school infrastructure can also qualify for the application of the VAT rate of 6% under heading XL. Reference is made to written parliamentary question No. 1.398 by Mr Representative Dirk Van Mechelen of 05.01.2017 .

The Minister has accepted that the reduced VAT rate of 6%, intended by heading XL of Table A, can also be applied to the buildings used by the **PSE** (health promotion services) (see oral parliamentary question no. 24,865 by Mr Representative Benoît Dispa from 25.04.2018).

For the sake of completeness, reference is also made to the other sections of Tables A and B of the Annex to Royal Decree 20, referred to above, which relate to the real estate sector:

- heading XXXI, Table A, for **work in immovable property relating to private homes at least 15 years old** (6%)
- heading XXXII, table A, for **private homes for the disabled** (6%)
- section XXXIII, table A, for **institutions for the disabled** (6%)
- heading XXXVI, Table A, for **social policy housing** (6%)
- section XXXVII, of Table A, for **the demolition and reconstruction of buildings in urban areas** (6%)
- section XXXVIII, table A, for **work in immovable state regarding private houses of at least 10 years old** (6%)
- heading X, table B, for **social policy housing** (12%)
- heading XI, Table B, for **private housing initiatives under social policy** (12%).

As regards the education sector, and in particular the VAT rate for boarding activities, reference is made to items XXXI and XXXVIII of Table A, as well as items X and XI of Table B,

who , under certain conditions, introduce the reduced VAT rate of 6 or 12% for activities related to boarding schools added to or dependent on schools or universities. For the application of these headings, it is not required that the boarding schools have been added to a building intended for school or university education that is, pursuant to Article 44, § 2, 4 °, a) of the VAT Code. exempt.

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Section 5 - Supplies of goods and services subject to the VAT rate of 12%

1. Restaurant and catering services

Pursuant to **Section I** of **Table B** of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 12% applies to:

"Restaurant and catering services, excluding the provision of beverages."

A. General

Restaurant and catering services are envisaged by Article 18, § 1, second paragraph, 11 °, of the VAT Code. For additional explanations regarding the **qualification of the act** relating to the provision of food and drinks, and in particular the distinction between a mere supply of food and / or drinks and a restaurant or catering service, reference is made to 'Book I: Tax liability and taxable transactions - Chapter 3: Services, Section 3, Title 11 '. The distinction between a restaurant or catering service and the supply of food and / or drinks is also discussed in detail in circular 2017 / C / 70 of 06.11.2017 regarding the registered cash register system, marginal 2.5.2 .

Restaurant services consist of the provision of food and / or drinks for **consumption on site** which are provided **in the premises of the service provider** . **Catering** services are such services provided **elsewhere than in the premises of the service provider** (for example at the customer's home).

Heading I, of Table B, concerns only the provision of food which is the subject of a **restaurant or catering service** . Where **supplies** of food and / or drinks are concerned only, for the purposes of applying the VAT rate, reference should be made to items II to XIII of Table A and item VI of Table B of the Annex to Royal Decree No. 20, aforementioned.

For further information regarding section I of Table B, reference is made to Circular 2019 / C / 26 of 04.04.2019 regarding the VAT rate applicable to restaurant and catering services (ET 133.812). This circular replaces decision No. ET 117.557 of 23.12.2009 . With regard to **catering services** , reference can also be made to decisions no. ET 100.714 of 24.06.2014 and no. ET 100.714 / 2 of 26.09.2014 .

It is noted that **drinks** that are the subject of a restaurant or catering service as referred to in Article 18, § 1, second paragraph, 11 °, of the VAT Code are **explicitly excluded from the application of the VAT rate of 12%** . The provision of drinks for consumption on the spot are indiscriminately subject to the standard VAT rate of 21%.

Circular 2019 / C / 26, the aforementioned, discusses, among other things, the problem of restaurant and catering services subject to different VAT rates but which are offered at a single price (menus).

B. Some special cases

a. Tolerance regarding food and drinks provided by vending machines

The administration accepts that, for the purposes of applying VAT rates, food and drink dispensed by vending machines are considered without distinction to be the subject of a simple supply,

regardless of where the vending machines are located (see Written Parliamentary Question No. 654 by Ms Representative Veerle Wouters of 10.12.2012). The food or drinks provided by a vending machine must therefore be taxed at the VAT rate that applies to the delivered goods (6%, 12% (only for margarine) or 21%).

(See also circular 2017 / C / 70 of 06.11.2017 regarding the registered cash register system, marginal 2.5.2 .6)

b. Snacks and refreshments

The standard VAT rate of 21% applies to all **prepacked products** , such as a packet of chips, a bar of chocolate, a bifi sausage, a frisco, pre-packaged cheese or salami cubes for on-site consumption.

With regard to cheese, salami, chips, nuts and similar snacks that are provided together with drinks in the context of a service within the meaning of Article 18, § 1, second paragraph, 11 °, of the VAT Code (in particular in a café) the following rules apply. When such a snack is supplied in a small quantity, spontaneously (in other words, not ordered by the customer, either separately or as a single offer with the drink according to the card) and without a price increase, it is considered to be an accessory for the application of VAT rates is not taxed separately: it concerns a single act on the supply of drinks in conditions for on-site consumption, to which the normal VAT rate of 21% applies. The preceding applies *mutatis mutandis* for the usual biscuit or piece of cake that - like the sugar - is provided with a cup of coffee.

On the other hand, the cheese cubes and pieces of salami, pastries, cakes and other such non-prepacked food ordered and consumed on the spot and consumed by the customer are the subject of a restaurant service which benefits from the rate of 12%. Attention is drawn to the fact that, for example, the on-the-spot lasagna or croque consumed, even pre-packaged, requires preparation and qualifies as restaurant services benefiting from the 12% rate.

(See circular 2017 / C / 70 of 06.11.2017 regarding the registered cash register system, marginal 2.5.2 .8)

c. Food trucks at an event related to performing arts

When the operator of a mobile food stall (food truck or other movable and temporary stall) with his stall or stand stands on or next to the venue for the performing arts (whether or not for a fee for the right to a professional activity), where the consumer of the consumables pays directly to the operator, the visitors to the event are the individual customers to whom the operator, depending on the circumstances, makes a supply of food / drink or provides a restaurant service.

In that case, a **restaurant service is involved** if the operator or a third party (for example, the organizer of the festival or another taxpayer who operates an establishment) makes available to the customers an **area inside** which is provided with an **infrastructure** that offers customers the opportunity to consume their food and / or drinks, sitting or standing (ordinary tables, standing tables or food counter), on the spot when these customers use this infrastructure.

For **consumption spaces not provided for indoors** , the Administration accepts, on a trial basis, that the provision of food and / or beverages by a mobile food stall or food truck **at a performing arts event** is considered a **supply of goods** . This tolerance applies regardless of the infrastructure planned for on-site consumption. However, this tolerance does not apply when a catering service is involved, even in the context of an event related to the performing arts.

In particular, it should be noted that **food truck festivals** are not considered here as a performing arts event.

(See circular 2017 / C / 70 of 06.11.2017 regarding the registered cash register system, marginal 2.5.2 .3).

d. VAT rates to be applied at a catering service

The taxable person who provides a catering service (this is the provision of food and / or drinks for consumption on the spot but elsewhere than in the establishment of the taxable person) must apply the following VAT rates:

- for drinks: 21% (regardless of type of drink)
- for the food: 12% (regardless of the type of food)
- for the provision of movable property inherent in the catering service per se (for example: warming trays): this provision follows the VAT rate of the catering service.
- for the provision of other movable goods such as (standing) tables, chairs, a tent, table decoration, etc.: 21%

If one global price is requested for the catering service providing both food and drinks: see section C, below.

e. VAT rates to be applied to the supply of food and / or drinks together with the provision of movable property

The taxpayer who is limited to supplying food and / or drinks, possibly together with the provision of movable property, must apply the following rates:

- for drinks: 6% (except for beers with an actual alcoholic strength by volume greater than 0.5% vol. and other drinks with an effective alcoholic strength by volume greater than 1.2% vol .:

21%)

- for food: in principle 6%, except for the exceptions provided for in tables A and B of the annex to Royal Decree 20, such as, for example, caviar (21%), crawfish (21%), lobsters (21 %), oysters (21%), margarine (12%).
- For the provision of movable property (cutlery, furniture, tent, etc.): 21%

f. Half and full board in hotel facilities

With regard to the meals with accompanying drinks provided by hoteliers in the context of **full board or half board** , reference is made to the commentary on section XXX above, of table A, of the annex to royal decree no. 20 (see Section 4, title 7, for this).

C. Global price for food and drinks provided on the occasion of a restaurant or catering service

This issue is discussed in detail in circular 2019 / C / 26 of 04.04.2019 regarding the VAT rate that applies to restaurant and catering services (ET 133.812).

2. Deleted heading

Section II of **Table B** of the Annex to the Royal Decree No. 20, referred to above, was removed by Royal Decree of 29.12.1992.

3. Fytofarmacie

Under **Section III** of **Table B** of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 12% applies to:

" The phytopharmaceutical products recognized by the Minister of Agriculture under his authority."

The pesticides referred to in section III of Table B, and which are therefore subject to the VAT rate of 12%, will be subject to the provisions of the Royal Decree of 28.02.1994 on storage, the marketing and use of pesticides for agricultural use (Moniteur belge of 11.05.1994). The

pesticides that benefit from the VAT rate of 12% are pesticides for agricultural use which, in implementation of the aforementioned Royal Decree of 28.02.1994:

- either be recognized
- or are admitted in another Member State and are admitted for 'parallel imports' in Belgium.

Regarding approvals of pesticides for agricultural use and authorizations for parallel imports of those products fall under the responsibility of the Directorate-General for Animals, Plants and Food, of the FPS Health, Food Chain Safety and Environment. The list of those approvals and authorizations can be found on the

website www.fytoweb.fgov.be.

With regard to pesticides for agricultural use, whether or not **mixed with a fertilizer,** the term **biocides** is referred to the Information and Communication of 28.05.2004 . From 01.04.2018, however, the supply of pesticides mixed with a fertilizer is subject to the VAT rate of 12% instead of 6% (see circular 2018 / C / 32 of 08.03.2018 on the VAT rate on fertilizers (ET 127,568)).

Beetle larvae, to combat parasites in fruit trees, are not included in Table A or Table B of the Annex to Royal Decree No. 20, so that their supply is subject to the standard VAT rate of 21% (see the Written Parliamentary Question No. 920 by Ms Representative Dominique Tilmans of 20.09.2005).

4. Deleted heading

Section IV of **Table B** of the Annex to Royal Decree No 20, referred to above, was removed by Royal Decree of 24.06.1993.

5. Deleted heading

Section V of **Table B** of the Annex to the Royal Decree No 20, referred to above, was removed by Royal Decree of 24.06.1993.

6. Margarine

Under **Section VI** of **Table B** of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 12% applies to the supply of ' *margarine.'*

It is recalled that margarine is expressly excluded from the application of the VAT rate of 6% for prepared edible fats (see section IX, item 4 of Table A). However, it is subject to the 12% rate under heading VI of Table B.

Taking into account Regulation (EU) No 1308/2013 of 17.12.2013 establishing a common organization of the markets in agricultural products (9), for the purposes of VAT rates, margarine should be understood as:

- products obtained from vegetable and / or animal fats with a fat content of at least 80% and at most 90% for which the sales denomination 'margarine' is used.
- products obtained from vegetable and / or animal fats, with a fat content of at least 60% and at most 62% and for which the sales denomination '3/4 margarine' is generally used.
- products obtained from vegetable and / or animal fats with a fat content of at least 39% and at most 41% and for which the sales denomination 'Semi-skimmed margarine' or 'Minarine' or 'Halvarine' is generally used.

(9) This Regulation replaces Council Regulation (EC) No 2991/94 of 05.12.1994 laying down standards for spreadable fats, as previously referred to.

In view of the aforementioned Regulation, on the other hand, are not considered as margarine for the purposes of heading VI of Table B and remain subject to the VAT rate of 6% in accordance with Section IX, point 4, of Table A, the aforementioned prepared edible fats obtained from vegetable and / or or from animal fats, with one of the following fat contents:

- less than 39%
- more than 41% and less than 60%
- more than 62% and less than 80%.

(see decision no. ET 110.936 of 05.04.2006)

The fact that the product is liquid or solid, it does matter not matter.

7. Tires and inner tubes

Under **Section VII** of **Table B** of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 12% applies to:

"Tires and inner tubes for wheels of agricultural machines and tractors, excluding tires and inner tubes for forestry tractors and walking tractors .

The benefit of the reduced rate of 12% depends on the issue by the acquirer or importer, to the supplier or to customs, of a written declaration stating his registration number for value added tax and confirming that he is an agricultural entrepreneur and that he will actually use the goods for the needs of his farm. "

8. Fuels

Under **Section VIII** of **Table B** of the Annex to Royal Decree 20, the aforementioned, the VAT rate of 12% applies to:

" Coal and solid fuels manufactured from coal; lignite and pressed lignite, excluding git; coke and semi-coke of coal, of lignite or of peat; non-calcined petroleum coke used as fuel. '

9. Pay TV

The reduced VAT rate of 12% on pay-TV (**section IX** , of **table B** , of the annex to the Royal Decree no. 20, aforementioned) was abolished with effect from 01.01.2012 by law of 28.12.2011 (Belgian Official Gazette of 30.12 2011).

10. Housing under social policy

In accordance with **Section X** of **Table B** of the Annex to Royal Decree 20:

§ 1. The reduced rate of 12% applies to:

A) the supplies of the aforementioned goods referred to in Article 1, § 9 of the Code as well as the establishment, transfers and retransfer of rights in rem on such goods that are not in accordance with Article 44, § 3, 1 ° of the Tax Code exempted, if those goods are intended for housing under social policy:

(a) private houses supplied and invoiced to the provinces, the intermunicipal companies, the municipalities, the intermunicipal public social welfare centers, the public social welfare centers and the mixed holding companies in which the government holds a majority, and which are provided by these institutions or companies are intended to be rented out [...];

(b) private houses supplied and invoiced to the public social welfare centers, which are destined to be sold by [...];

(c) private homes supplied and billed by the public social welfare centers;

(d) housing complexes intended to be used for housing the elderly, pupils and students, minors, homeless persons, persons in difficulty, persons with mental disorders, mentally handicapped and psychiatric patients and supplied and invoiced to public or private persons who manage :

1 ° accommodation facilities for the elderly that have been recognized by the competent authority in the context of legislation on care for the elderly;

2 ° boarding schools added to or dependent on schools or universities;

3 ° youth protection homes and residential facilities that house minors in a sustainable manner, in day and night quarters, and that are recognized by the competent authority in the context of legislation on youth protection or special youth assistance;

4 ° reception centers that are homeless people in day and night quarters and that house persons in difficulty and that are recognized by the competent authority;

5 ° psychiatric care homes that house persons with a long-term and stabilized mental disorder or mentally handicapped persons in a day and night stay in a sustainable manner and who are recognized by the competent authority;

6 ° buildings where, in the name of an initiative of sheltered housing recognized by the competent government, sustainable housing in day and night quarters and counseling of psychiatric patients takes place;

B) work in immovable state within the meaning of Article 19, § 2, second paragraph, of the Code, excluding cleaning, and the other actions listed in section XXXI, § 3, 3 ° to 6 °, of table A with regard to the private homes and residential complexes referred to under A, provided that they are provided and invoiced [...] to the persons under public law and private law referred to under A;

C) the real estate financing lease or real estate lease referred to in Article 44, § 3, 2 °, b) of the Code and the real estate rental, referred to in Article 44, § 3, 2 °, d) of the Code, which relates to private homes and residential complexes referred to under A if the customer is a person under public law or private law referred to under A.

§ 2. The reduced rate of 12% does not apply to:

1 ° work in immovable condition and other immovable activities that do not relate to the actual home, such as construction work, landscaping and setting up enclosures;

2 ° work in immovable condition and other immovable activities that have as their object the components or part of the components of swimming pools, saunas, mini golf courses , tennis courts and similar installations.

A. What actions are envisaged by heading X, Table B?

- the **deliveries** of certain private homes and residential complexes as well as the establishments, transfers and re-transfers **of real rights** to these buildings insofar as these are **not exempted in accordance with Article 44, § 3, 1 °** of the VAT Code (section X, § 1, A)

- the **work in immovable state** within the meaning of Article 19, § 2, of the VAT Code, excluding cleaning, and the other actions listed **in section XXXI, § 3, 3 ° to 6 °** , of table A with regard to to certain private homes and residential complexes (heading X, § 1, B)

- the real estate financing **lease** or **real estate lease** referred to in Article 44, § 3, 2 °, b) of the VAT Code with regard to certain private homes and residential complexes (section X, § 1, C)

- the **real estate rental with optional taxation as** referred to in Article 44, § 3, 2 °, d) of the Code (section X, § 1, C).

For the acts listed under heading XXXI, § 3, 3 ° to 6 °, reference is made to Section 4, Title 8, Section C, subsections c and d.

The rate of 12% of heading X, table B, may only be applied to the immovable activities relating to the private houses and housing complexes that are or will be used for the **housing** of (the intended) persons.

In particular as regards the housing complexes for certain persons (see section X, § 1, A., d, of Table B), referred toone must use all the premises intended or intended for the accommodation of these persons, in order to meet the requirements of their stay and of their common life. Not only are the rooms intended for actual housing (apartments, private or communal rooms, dormitories, etc.), but also the other places used by the intended persons (restaurants, reading or recreation rooms, salons with bar or television , study rooms, libraries or chapels reserved for the boarders), as well as the rooms intended for staff serving the accommodation (monitors, supervisors, nurses, service staff) and technical rooms (kitchens, laundry rooms, infirmaries, basements, storage areas, storage areas, and so on).

If the building is not exclusively intended for the intended accommodation and thus includes premises used for other purposes, the 12% rate applies only to the extent that the building is used for the intended accommodation.

In that case, therefore, the VAT rate of 12% of heading X, Table B may apply to the whole of the transaction if it only concerns the premises used exclusively for housing. On the other hand, the advantage of this rate does not apply if the operation is limited to the premises that in no way serve housing.

However, where the transaction concerns the whole of the building intended for shared use, the price of this transaction should in principle be split so that the VAT rate of 12% is applied only to

that part of the price corresponding to the part. which is intended for housing. This ratio must be determined by the client under the control of the administration.

B. Which private homes are envisaged by heading X of Table B? To whom or by whom should the actions be delivered and invoiced?

a. In new construction (heading X, § 1, A)

1. Private homes

- These are private homes **intended for social policy housing** and **delivered and invoiced TO** :
  - the provinces
  - of intercommunales
  - the communities
  - the intermunicipal public centers for social welfare
  - the public centers for social welfare
  - the mixed holding companies in which the government has a majority

  and which are **intended to be rented out** by these institutions or companies .

- These are private homes **intended for social policy housing** and **delivered and invoiced TO** :
  - the public centers for social welfare

  and which are **destined to be sold** by these centers .

- Are also provided, private residences **intended for housing in the context of social policy** that are **delivered and invoiced BY** :
  - the public centers for social welfare.

2. Certain housing complexes

The following housing complexes used for the accommodation of the intended persons and which are **supplied and invoiced to public or private persons who manage** :

- accommodation facilities for the elderly that have been recognized by the competent authority under the legislation on care for the elderly.

  Regarding groups of assisted living apartments (this is a facility consisting of one or more buildings that functionally form a whole and where, under whatever name, users of 65 years or older who live independently in individual adapted housing units, are given housing and care for the elderly to which they can optionally appeal), reference is also made to decision no. ET 124.535 of 17.10.2013 .

- boarding schools added to or dependent on schools or universities.

  What section X, point A, d), 2 ° ' **boarding** ' is concerned, in particular, noted that in marginal 73 of the Circular no. 12/1984 of 10.10.1984 mentioned conditions relating to the provision of home care to the lodgers (pupils or students) must no longer be fulfilled in order to speak of 'boarding schools' within the meaning of section X, of table B. Is only considered as boarding school, housing that meets the following conditions:

  - in addition to providing communal and private rooms intended for housing, the operator also provides pupils and students with various services, such as hotel and catering services

    in

  - community life within the institution is regulated and strictly organized (curfew, supervised study, leisure activities, etc.)

    Housing generally known under the name 'koten' cannot be equated with boarding schools within the meaning of this section X (see decision no. ET 123.824 of 25.06.2014).

- youth protection homes and residential facilities that house minors in a sustainable manner, in day and night quarters, and which are recognized by the competent authority under the legislation on youth protection or special youth assistance.

- shelters that are homeless in day and night accommodation and that house persons in difficulty and that are recognized by the competent authority.

- psychiatric care homes that house people with a long-term and stabilized mental disorder or mentally handicapped persons in a day and night stay in a sustainable manner and that are recognized by the competent authority.

- buildings where, in the name of an initiative of sheltered housing, recognized by the competent authority, it can be permanently housed in day and night quarters and the counseling of psychiatric patients.

For more explanation with regard to these housing complexes, reference is made to the explanation with regard to section XXXI, § 2 (see Section 4, title 8, section B, subsection b).

Administrative tolerance:

Insofar as all other conditions are fulfilled, the VAT rate of 12% of heading X, table B, applies in principle only if the transactions are provided to a **person under** public or private law **who manages one of the intended residential complexes** .

As a rule, this person must be the owner or tenant of the building serving as a residential complex or, more generally, must have a right in rem (such as usufruct) or a right of enjoyment in that building.

In order to avoid distortions, the administration accepts that the benefit of the VAT rate of 12% may also apply to the person who, without being an operator of the establishment, transfers the right in rem or pleasure in his possession to the building , in particular by way of rental, to the operator who manages the establishment.

For the application of the VAT rate of 12% of heading X, Table B, it is therefore not necessary that the person who is the originator of the transaction also has the capacity of administrator. It is essential that the act directly relates to the operation of the intended residential complexes, under the conditions set by section X.

For example, as regards assisted-living apartments, see decision no. ET 124.535 of 17.10.2013 .

Please note: this tolerance does not apply if the owner or possessor of a commercial right of the residential complex rents out part of the complex directly to the resident (for example, an elderly person from an assisted living apartment. In that case, section X, table B, does not apply to After all, for the application of the tolerance it is necessary that the former grants a right in rem or a business right to the effective operator / manager of the complex.

b. For work in immovable condition and equivalent actions (heading X, § 1, B)

These are the aforementioned private houses and housing complexes, which are intended under heading X, point A, of Table B and which are **intended for social policy housing** where the works are **delivered and invoiced** , as the case may be, **TO** :

- the provinces
- of intercommunales
- the communities
- the intermunicipal public centers for social welfare
- the public centers for social welfare
- the mixed holding companies in which the government has a majority
- the public and private persons who manage the housing complexes under heading X, A, d).

Note: With regard to residential complexes for certain persons, the administration accepts, in order to avoid distortions, that the benefit of the VAT rate of 12% can also apply to the person who, without being an operator of the establishment, has the right in rem or transfer the right of enjoyment which he owns to the building, in particular by way of rental, to the operator managing the establishment (see administrative tolerance under heading B, subsection a, above).

c. For real estate leasing and real estate rental with optional taxation (heading X, C))

These are private homes and housing complexes **intended for social policy housing** (see section X, point A, of table B), where the customer is one of the following companies:

- the provinces
- of intercommunales
- the communities
- the intermunicipal public centers for social welfare
- the public centers for social welfare
- the mixed holding companies in which the government has a majority
- the public and private persons who manage the housing complexes under heading X, A, d).

Note: With regard to residential complexes for certain persons, the administration accepts, in order to avoid distortions, that the benefit of the VAT rate of 12% can also apply to the person who, without being an operator of the establishment, has the right in rem or transfer the right of enjoyment which he owns to the building, in particular by way of rental, to the operator managing the establishment (see administrative tolerance under heading B, subsection a, above). *In the present case* , reference is also made to Written Parliamentary Question No 470 by Mr Guido De Padt dated 10.09.2004 .

C. Which actions are excluded from Section X, Table B?

These include the acts mentioned under § 2 of heading X, table B:

- work in immovable condition and other immovable activities that do not relate to the actual home, such as construction work, landscaping and setting up enclosures
- work in immovable condition and other immovable activities with the object of the components or parts of the components of swimming pools, saunas, mini golf courses , tennis courts and similar installations.

For more information regarding these two types of transactions, please refer to Section 4, Title 8, Section D, subsections a and b.

It is also generally noted that this reduced VAT rate does not apply to transactions that are not intended for actual housing.

D. Closing remarks

It is also noted that, in addition to this section X of Table B, **other sections of Tables A and B** of the Annex to Royal Decree 20, referred to above, relate to the **real estate sector** . It is:

- section XXXI, table A, concerning **work in immovable state regarding private houses of at least 15 years old** (6%)
- heading XXXII, table A, for **private homes for the disabled** (6%)
- section XXXIII, table A, for **institutions for the disabled** (6%)
- heading XXXVI, table A, for **social policy housing** (6%)
- section XXXVII, table A, for the **demolition and reconstruction of buildings in urban areas** (6%)
- heading XXXVIII, table A, for the **renovation and repair of private homes of at least 10 years old** (6%)
- heading XL, table A, for **buildings intended for education and student counseling** (6%)
- heading XI, Table B, for **private housing initiatives under social policy** (12%)

If certain transactions relating to immovable property are not envisaged by heading X of Table B, it is thus necessary to consider whether these transactions are not envisaged by another heading of Tables A or B before applying one of the reduced VAT rates. (6% or 12%).

11. Social policy housing - private initiatives

Pursuant to **heading XI** , of **Table B** , of the Annex to Royal Decree 20:

§ 1. The reduced rate of 12% shall apply to the supplies of the aforementioned goods referred to in Article 1, § 9 of the Code, and to the establishments, transfers and re-transfers of real rights in such goods, which are not in accordance with Article 44, § 3, 1 ° of the Code, are exempt from the tax, if these goods are intended for housing within the framework of social policy:

1 ° the private houses that are rented out to the following legal entities under public or private law and which are intended by them to be rented out:

a) the provinces, the autonomous provincial companies and the provincial external autonomous agencies;

b) the intermunicipal companies and other intermunicipal partnerships, the municipalities, the autonomous municipal companies and the municipal external autonomous agencies;

(c) the intermunicipal public social welfare centers and public social welfare centers;

(d) mixed holding companies in which general government holds a majority;

e) the social rental agencies;

f) the regional housing companies and their social housing societies recognized by them;

g) the Flemish Housing Fund, the 'Fonds du Logement des familles nombreuses de Wallonie ' and the Housing Fund of the Brussels-Capital Region;

h) other legal persons under public and private law with a social purpose and recognized by the competent authority;

2 ° the housing complexes that are leased to the persons referred to in section X, § 1, A, point d).

The reduced rate benefit is subject to the following conditions:

1 ° the person who acquires a private home, a residential complex or a business right to this in circumstances where the tax becomes due and payable must:

a) before the tax becomes due and payable in accordance with Article 17 of the Code, submit to the supervising office charged with value added tax in the jurisdiction where he has his domicile or registered office a statement in the form determined by the Minister of Finance or his authorized representative, that, within the framework of social policy, this private home or housing complex is intended to be rented out to a legal person under public law or private law referred to in the first paragraph; this declaration must also be signed by the latter;

b) provide the transferor with a copy of the statement referred to in the provision under a);

c) submit a certified copy of the rental contract concluded with a legal person under public or private law referred to in the first paragraph to the inspection office referred to in the provision under a) within one month from the signing of the contract;

2 ° the invoice issued by the transferor and the duplicate that he has to keep must state the date and reference number of the declaration as well as the designation of the control office referred to in the provision under 1 °, a);

3 ° at the latest on the last working day of the month following the month in which the invoice was issued in application of the reduced rate of 12%, the transferor must send a copy of this invoice to the control office to which he belongs.

§ 2. The reduced rate of 12% applies to work in real estate within the meaning of Article 19, § 2, second paragraph, of the Code, excluding cleaning, and to the equivalent acts referred to in section XXXI. , § 3, 3 ° to 6 °, of table A, with regard to the private homes and housing complexes referred to in paragraph 1, first paragraph, when they are intended for housing in the context of social policy.

The reduced rate benefit is subject to the following conditions:

1 ° the developer who erects or has a private home or a residential complex erected or for whom works are carried out in immovable state which have as object the whole or partial conversion of a building into one or more private homes under conditions that make the tax payable, must:

a) before the tax becomes due and payable in accordance with Article 22bis of the Code, submit to the supervising office charged with value added tax in the jurisdiction where he has his domicile or registered office a statement in the form determined by the Minister of Finance or his authorized representative, that, within the framework of social policy, this private home or residential complex is intended to be rented out to a public or private law legal entity referred to in paragraph 1, first paragraph; this declaration must also be signed by the latter;

b) provide the service provider with a copy of the declaration referred to in the provision under a);

c) submit a certified copy of the lease concluded with a legal person under public or private law referred to in paragraph 1, first paragraph, to the audit office referred to in the provision under a), within one month from the signing of the contract;

2 ° the owner or the main tenant of a private house or a residential complex for whom other works are carried out in immovable state than referred to in the provision under 1 °, is obliged to provide a certified copy of the rental contract that is part of the social policy was closed, to be handed over to the service provider;

3 ° in the case referred to in the provision under 1 °, the service provider must:

a) state on the invoice that he issues and on the duplicate that he must keep the date and reference number of the declaration and the designation of the inspection office referred to in the provision under 1 °, a);

b) send a copy of this invoice to the supervising office to which it belongs, no later than the last working day of the month following the month in which the invoice was issued with the reduced rate of 12%;

4 ° in the case referred to in the provision under 2 °, the service provider must:

a) state on the invoice he issues and on the double that he must keep the date of the rental contract and the designation of the control office referred to in the provision under 1 °, a);

b) send a copy of this invoice to the supervising office to which it belongs, no later than the last working day of the month following the month in which the invoice was issued with the reduced rate of 12%.

§ 3. The reduced rate of 12% applies to the real estate financing lease or real estate lease referred to in Article 44, § 3, 2 °, b) of the Code and to the real estate rental referred to in Article 44, § 3, 2 °, d), of the Code, which relate to private homes and residential complexes referred to in

paragraph 1, first paragraph, when these are intended for housing within the framework of social policy.

The reduced rate benefit is subject to the following conditions:

1 ° the person who leases or leases a private home or a residential complex in circumstances where the tax becomes due and payable must:

a) before the tax becomes due and payable, in accordance with Article 22bis of the Code, to the supervising office charged with value added tax in the jurisdiction where he has his domicile or registered office, submit a statement in the form determined by the Minister of Finance or his authorized representative, that, within the framework of social policy, this private home or residential complex is intended to be rented out to a public or private law legal entity referred to in paragraph 1, first paragraph; this declaration must also be signed by the latter;

b) provide the lessor or lessor with a copy of the statement referred to in point a);

c) submit a certified copy of the rental contract concluded with a legal person under public or private law referred to in paragraph 1, first paragraph, to the inspection office referred to in the provision under a) within one month from the signing of the contract;

2 ° the invoice issued by the lessor or the lessor and the duplicate that he must keep must state the date and reference number of the declaration and the designation of the control office referred to in the provision under 1 °, a);

3 ° no later than the last working day of the month following the month in which the invoice was issued with the reduced rate of 12%, the lessor or lessor must send a copy of this invoice to the control office to which he reports.

§ 4. The reduced rate of 12% applies to the transactions referred to in paragraph 1, first paragraph, paragraph 2, first paragraph, and paragraph 3, first paragraph, with regard to private homes and residential complexes intended for housing in within the framework of social policy and which are leased within the framework of a management mandate granted to a legal person under public law or private law referred to in paragraph 1, first paragraph, 1 °.

The reduced rate benefit is subject to the following conditions:

1 ° the acquirer, the builder or lessee must:

a) before the tax becomes due and payable, in accordance with Articles 17 or 22bis of the Code, to the supervising office charged with value added tax in the jurisdiction where he has his domicile or registered office, submit a statement in the form determined by the Minister of Finance or his authorized representative, that, within the framework of social policy, this private home or residential complex is intended to be let under a management mandate granted to a public or private law legal entity referred to in paragraph 1, first paragraph; this declaration must also be signed by the latter;

b) provide the transferor, service provider or lessor with a copy of the statement referred to in point a);

c) submit a certified copy of the rental contract to the audit office referred to in point a) within one month from the signing of the contract;

2 ° the owner for whom other works are carried out in immovable state than referred to in paragraph 2, second paragraph, 1 °, must provide a certified copy of the rental contract to the service provider;

3 ° Depending on the case, the conditions referred to in paragraph 1, second paragraph, 2 ° and 3 °, paragraph 2, second paragraph, 3 ° or 4 °, or paragraph 3, second paragraph, 2 ° and 3 ° must also be fulfilled. .

§ 5. Insofar as the conditions referred to in paragraph 1, second paragraph, paragraph 2, second paragraph, 1 ° and 3 °, paragraph 3, second paragraph, and paragraph 4, second paragraph, are met, and except in the case of collusion between parties or the obvious failure to comply with this section, the statement of the acquirer, the builder or the lessee relieves the alienator, the service provider or the lessor from liability regarding the determination of the rate.

Insofar as the conditions referred to in paragraph 2, second paragraph, 2 ° and 4 ° are fulfilled, and except in the event of collusion between parties or the obvious failure to comply with this section, the certified copy of the rental contract that is released to him by the owner was handed over, the service provider of the liability regarding the determination of the tariff.

§ 6. In order to benefit from the reduced rate, the planned rental period ends at the earliest on December 31 of the fifteenth year following the year in which the first use of the house or housing complex referred to in paragraphs 1 to 4 has taken place. In the cases referred to in paragraphs 1 to 3, that minimum rental period is set at the start of the rental agreement and in the case referred to in paragraph 4, that period is set at the start of the management mandate .

If changes occur during the aforementioned period, as a result of which the conditions referred to in paragraph 1, first paragraph, paragraph 2, first paragraph, paragraph 3, first paragraph, or paragraph 4, first paragraph, are no longer met:

1 ° on the one hand, the acquirer, the principal, the owner or the lessee and, on the other hand, the main tenant or, where applicable, the manager and the tenant at the control office in charge of value added tax in the area where they reside or have its registered office within the month following this change, submit a statement in the form determined by the Minister of Finance or his authorized representative; this declaration must also be signed by the parties concerned;

2 ° refund the acquirer, the owner, the owner or the lessee the tax benefit he has enjoyed to the State for the year in which the change occurs and for the years to run up to one-fifteenth per year.

§ 7. The reduced rate does not apply to:

1 ° work in immovable condition and other immovable activities that do not relate to the actual home, such as construction work, landscaping and setting up enclosures;

2 ° work in immovable state and other immovable activities with the object of the components or part of the components of swimming pools, saunas, miniature golf courses, tennis courts and similar installations.

The Administration is preparing a circular regarding this heading XI, of Table B.

The declaration referred to under heading XI can be found here: VAT declaration No 110 / 1-2019
.

It is also noted that, in addition to this section XI of Table B, **other sections of Tables A and B** of the Annex to Royal Decree 20, referred to above, relate to the **real estate sector** . It is:

- heading XXXI, Table A, for **work in immovable property relating to private homes at least 15 years old** (6%)
- heading XXXII, table A, for **private homes for the disabled** (6%)
- section XXXIII, table A, for **institutions for the disabled** (6%)
- heading XXXVI, table A, for **social policy housing** (6%)
- section XXXVII, table A, for the **demolition and reconstruction of buildings in urban areas** (6%)
- heading XXXVIII, table A, for the **renovation and repair of private homes of at least 10 years old** (6%)
- heading XL, table A, for **buildings intended for education and student counseling** (6%)
- heading X, table B, for **social policy housing** (12%)

If certain transactions relating to immovable property are not envisaged by heading XI of Table B, it is thus necessary to consider whether these transactions are not envisaged by another heading of Tables A or B before applying one of the reduced VAT rates. (6% or 12%).

In addition, the introduction of this heading XI, of Table B, does not intend to limit or tighten the existing applications of the reduced VAT rate of 6% or 12% in the real estate sector. In principle, the introduction of the new scheme will not affect existing legislation regarding the application of the VAT rate of 6% or 12%, nor will it affect the administrative guidelines in this regard (see Written Parliamentary Question No. 1.464 by Ms de Member of Parliament Griet Smaers from 06.02.2017).

[Table of contents of this chapter] - [Table of contents of the VAT Comment]

Section 6 - Supplies of goods and services subject to the 0% VAT rate and other supplies of goods and services subject to a special scheme

Pursuant to Articles 109 and 110, 112 to 116, 117 (2), 118, 120 to 122 of the VAT Directive 2006/112 / EC, Member States may temporarily adjust the zero rates of VAT applicable on 01.01. 1991 were in force in accordance with Community law, continued to apply after 01.01.1993. However, they are not allowed to broaden the range of such zero rates or to introduce new zero rates (Question European Parliament No E-5/94 by Mr Lyndon Harrison of 08.02.1994, see also VAT Review No 114, page 706).

Until 31.03.2018, Belgium officially had only three VAT rates: 6%, 12% and 21%. With effect from 01.04.2019, a table C has been added as an appendix to the Royal Decree No. 20 (Act amending the Royal Decree No. 20 of 20.07.1970 determining the rates of value added tax and classifying it of the goods and services at those rates with regard to certain publications (Belgian Official Gazette of 26.04.2019) Table C shows the goods and services that are subject to the VAT rate of 0%, which currently applies to certain periodical publications.

For other transactions, there is also a VAT exemption with retention of the right to deduct. In a vulgar language, people sometimes speak of the application of the **zero rate** .

1. Periodic publications (section I, table C)

Under Section I of Table C of the Annex to Royal Decree 20:

§ 1. The reduced rate applicable to printed periodical publications that:

1 ° are intended for the general public, taking into account the nature of the themes and the way in which they are dealt with;

2 ° do not consist exclusively or mainly of advertising material;

3 ° that comprise a coherent whole of press articles that:

a) are protected by copyright;

(b) were written and composed under the final responsibility of a professional editorial staff composed mainly of journalists who:

- are entitled to use the title of professional journalist as referred to in the Act of 30 December 1963 on the recognition and protection of the title of professional journalist or to have the right to use the title of professional journalist as referred to in the Royal Decree of 12 April 1965 establishing identification documents and badges for the members of the periodical press for specialized information, if it concerns periodical publications in Belgium;

- be accredited as professional journalists, if it concerns periodical publications abroad;

4 ° appear:

(a) without limitation in duration;

b) at regular predetermined intervals;

c) at least forty-eight times a year;

(d) under a common name;

e) with the clear features of their periodicity.

§ 2. The reduced rate does not apply to the following categories of printed periodical publications:

1 ° publications that mainly contain a complete novel, story or work of any kind or episodes of such works, either in the form of a text, whether or not illuminated, or in the form of a cartoon with or without or captioned short text;

2 ° the books published in episodes, the publication of which takes up a limited period of time or which forms an addition or an update of works that have already been published;

3 ° the advertising magazines, prospectuses, catalogs, almanacs, price lists, price lists, ship's notices, notarial notices, timetables;

4 ° the specialized publications for professional use;

5 ° the publications that only contain thinking games;

6 ° publications published under the name of an industrial, financial, commercial or other company, even if they only contain texts or illustrations of general interest without direct advertising;

7 ° publications whose main purpose is to search for, maintain and extend contracts for the benefit of industrial, financial, commercial or other companies and which are only means of publicity for companies;

8 ° publications that are the subject of a delivery, an intra-Community acquisition or an import after the expiry of the period of one year from the date of publication;

9 ° publications that are united in complete or incomplete collections, in one volume, or in periodic or non-periodic albums;

10 ° publications that exclusively or mainly consist of video content or listenable music;

11 ° the publications that are sold as waste paper or cardboard.

§ 3. The reduced rate applies to digital publications that:

1 ° meet the conditions referred to in paragraph 1, 1 ° to 3 °;

2 ° meet the condition referred to in paragraph 1, 4 °, or that these are regularly and sufficiently updated and updated, in particular by adding new press articles.

§ 4. The reduced rate does not apply to digital publications referred to in paragraph 2, 1 ° to 10 °.

2. Recovery materials and products

In view of the special circumstances in which the collection, commercialization and conditioning of recovery materials and recovery products takes place, a **special arrangement has been**

introduced **whereby VAT is not to be paid** for certain recovery materials and recovery products.

This special arrangement is the subject of the letter No. 88/1970 of 15.12.1970 , amended by the letter No. 120/1971 of 30.07.1971 . Reference is made to the aforementioned notifications for a complete explanation.

The following are classified as recovery materials and recovery products:

- scrap, waste and scrap, of articles of base metal (headings 72.04 ex, 74.04, 75.03, 76.02, 78.02, 79.02, 80.02, 81.01 ex, 81.02 ex, 81.03 ex, 81.04 ex, 81.05 ex, 81.06 ex, 81.07 ex, 81.08 ex , 81.09 ex, 81.10 ex, 81.11 ex, 81.12 ex, 81.13 ex and 85.48 ex of the usage rate)
- snails, scalings , metal ash and other residues, containing metals or metal compounds, with the exception of slag and slag (ex post 26.19 and 26.20 of the usage rate)
- Bones and horn kernels, raw, fresh, degreased or simply pretreated (but not cut to shape), acid-treated or gelatin-free, including wastes thereof, but excluding bone powder (heading 05.06 ex of the tariff)
- tendons and tendons; parings and similar waste of raw hides and skins ~~(heading 05.06) (~~ heading 05.11 ex of the use rate)
- parings and other wastes of leather, of composition leather or of parchment, not usable for the manufacture of leather goods (heading 41.15 ex of the rate of use)
- wastes of paper or paperboard; old paper or cardboard articles only suitable for the manufacture of paper or cardboard (use tariff heading 47.07)
- rags and rags; wastes and old goods, of twine, of ropes or of cables, excluding rags and old linen, which have been washed and disinfected in order to serve as rags for machines, tools and similar objects (heading 63.10 ex. of the use rate)
- glass shards and other glass wastes (use tariff heading 70.01 ex)
- rubber waste and scraps; residues of articles of rubber, exclusively suitable for the recovery of rubber (items 40.04 ex and 40.17 ex of the usage rate)
- wastes and residues from articles of artificial plastic materials, only suitable for the recovery of artificial plastic materials (items 15.18 ex, 35.05 ex, 38.06 ex and 39.15 ex of the usage rate)
- raw rabbit and hare skins (heading 43.01 ex of the use rate).

This list is **exhaustive** .

' ***Waste and scrap from works*** ' includes the waste and scrap resulting from the manufacture or mechanical processing of metal, as well as works of metal which as such have become **definitively unusable** due to breakage, cutting, wear or the like. Products which are still suitable for their original purpose, either as such or after processing or repair, and those that can be used for other purposes, are not intended. Products that are processed into other products, and this without having been remelted or hersmeed are also excluded.

For example, are **not** regarded as recovery materials or products within the meaning of the aforementioned notifications:

- coal recovered by rewashing the waste from terrils is a product that can be used without any additional processing (see Note 88/1970 of 15.12.1970 and Written Parliamentary Question No 173 by Mr MP Georges Beerden of 05.03. 1981)
- Mineral slag, usually sold by building material traders, for road paving and concrete manufacturing, Note 88/1970 of 15.12.1970 .
- non-edible offal in the form of hides and skins of, for example, cattle, horses and sheep (see Written Parliamentary Question No. 667 by Mr Representative Tanguy Veys of 06.12.2013)
- second-hand items such as second-hand clothing. Second-hand garments are already used goods and can be reused in the same condition or after minor repairs (see Written Parliamentary Question No. 93 by Mr MP Jean-Marc Nollet , 07.01.2015).
- electronic and electrical appliances that may or may not be offered in the original packaging and that are (re) usable as such for the purpose for which they were originally intended, even if they will be dismantled.

The exemption from the obligation to pay VAT applies not only to deliveries by collectors and wholesalers - including sales to an industrial consumer - but also to sales made to a collector, for example by the person who obtained the products waste or by-product of any commercial or industrial activity, as well as on imports by anyone.

3. Pro bono services provided by lawyers and bailiffs

The pro bono services provided by lawyers in the context of legal assistance and by bailiffs in the context of legal aid are currently subject to the zero rate (marginal 28 of circular AAFisc No. 47/2013 (ET 124.411) of 20.11. 2013 and decision no. ET 129.361 of 19.01.2016).

Following the judgment in Ordre des barreaux francophones et germanophone delivered by the Court of Justice of the European Union on 28.07.2016 v Council of Ministers, Case C-543/14 , and pursuant to the Judgment of the Constitutional Court No 27/2017 of 23.02.2017 , these transactions should be subject to the standard VAT rate of 21%.

Before the effective date of entry into force, the website of the FPS Finance must be consulted.

For the sake of completeness, reference is also made to decision No. ET 131.005 of 23.12.2016 .

[Table of contents of this chapter] - [Table of contents of the VAT Comment]

Section 7 - Services incidental to a complex agreement

The rate of 6% does not apply to the services that are intended under headings XXIV to XL of Table A of the Annex to Royal Decree No. 20 when those services are ancillary to a complex contract that mainly services objects that are not referred to in the aforementioned sections.

The provision of Article 1, second paragraph, of the Royal Decree No. 20, referred to above, aims in particular to prevent the price of the different services that form part of a complex agreement from being split and that the part that is incidental relates to services as referred to under headings XXIV to XL of Table A, would be taxed at the rate of 6% instead of as an accessory of the principal service at the rate of 21%.

[Table of contents of this chapter] - [Table of contents of the VAT Comment]

Section 8 - Costs of transport, insurance, commission and of ordinary and usual packaging relating to goods that are taxable at different rates

The transport costs charged by the supplier of the goods and which form the taxable amount in accordance with Article 26, § 1, second paragraph, of the VAT Code, may relate to various groups of goods that are taxable at different prices. These transport costs must in principle be apportioned pro rata to the price of the goods belonging to each tariff group.

However, in order to facilitate the build-up of the invoice, the administration accepts a simplification consisting in that the transport costs are uniformly taxed at the lowest rate

applicable to the invoiced goods, provided that the goods taxed at this rate normally trade at the same time with the other goods are transported and delivered.

If separately invoiced costs relate only to the transport of goods that are subject to the specific tariff, it goes without saying that they must be taxed at that tariff.

The same regulation applies to insurance and commission costs as well as to the costs of ordinary and usual packaging that can be regarded as 'lost packaging'.

[Table of contents of this chapter] - [Table of contents of the VAT Comment]

Section 9 - Arrangement on assemblies composed of different articles

Where a good is supplied in a package which is not to be regarded as ordinary and usual packaging (10) but as a distinctive good, it must be taxed separately if it is subject to a rate different from that of the good supplied. In this case, if no separate price has been determined for the content and the content, a split should be made. If the seller does not wish to split the price, the levy can only be regarded as regular if the whole is taxed at the rate applicable to the part of the property that is subject to the highest rate.

(10) As normal and usual packaging means can generally be considered the packaging means of which the shape and the materials of which they are composed meet a necessity (ordinary boxes, boxes, bottles, casks, bags, etc.). In any case, however, the administration notices as ordinary and customary packaging the content objects with a value not exceeding half that of the contents, that is to say one third of the value of the whole. Of course, this rule does not apply to packaging materials that are really necessary (for example milk bottles, gas bottles).

In the same vein, the following solutions apply when goods subject to different tariffs are sold at a single price.

When goods that are taxable at different rates are sold at a single price, the seller must split the price for the levy of VAT, unless the whole is charged as such, which is the case for pocket pharmacies and first aid kits subject to the rate of 6 % pursuant to Section XVII, item 3, of Table A, of Royal Decree 20, mentioned above. If this split does not occur, the levy is only regular if the whole is taxed at the rate that applies to the part of the whole that is subject to the highest rate.

It is noted that, in view of the low value of the candies in the so-called 'surprise bags', it was decided that the arrangement on couples does not apply to these articles insofar as the consumer price is 1.25 euros (until 30.09.2012 1 euros). does not surpass. That decision also applies to all confectionery whose consumer price does not exceed that amount and which is offered as a snack together with a gift that has nothing to do with the candy but is packed in the same bag (dots, pictures, colored pictures, medals, key rings, dolls, etc.), or together with an article that serves as a content object or as a support for the snack (pipe whose head is filled with candy, baby bottles with sugar balls, lollipop whose figurine has been replaced,decision No. ET 49.210 / 4 of 23.07.2012).

The rules given above regarding packaging materials and sets consisting of different objects only apply to deliveries here and intra-Community acquisitions . Imports must follow the rules applied by the Customs and Excise Administration.

With regard to the joint offer, at a single price, of goods or services subject to different VAT rates, reference is made, inter alia, to:

- the written parliamentary question no. 379 of Mr. Congressman Luk Van Biesen on 03.02.2010
- the decision No. ET 78.131 of 03.04.2008 regarding the sale of implants associated with the provision or supply of medical instruments or equipment
- the decision no. ET 78.354 of 29.09.1995 with regard to confectionery items and surprise bags, which was, however, partly updated by the decision no. ET 49.210 / 4 of 23.07.2012 .

[Table of contents of this chapter] - [Table of contents of the VAT Comment]

Section 10 - Discussion of Articles 38 and 38bis of the VAT Code

1. Legal notices

Article 38 of the VAT Code states the following:

§ 1. The rate to be applied for the supply of goods and services is the rate in force at the time of the chargeable event.

However, in the cases referred to in Articles 17 and 22a, the rate to be applied is the rate in force at the time when the tax becomes due.

§ 2. The rate to be applied for the import of goods is the rate in force at the time when the chargeable event takes place.

However, in the cases referred to in Article 24, § 2, the rate to be applied is the rate in force at the time when the tax becomes due.

§ 3. If the tax becomes due at a time that does not coincide with that of the taxable event, the King may determine, in the event of an intermediate tariff change, that for the supplies of goods, services and imports of goods to be designated by Him, the King rate to be adjusted is the rate in force at the time of the chargeable event.

§ 4. Any act that contributes to the manufacture, building, mounting or conversion of a property other than real estate by its nature is subject to tax at the rate applicable to the property considered in the state in which it is is after the execution of the action. "

Article *38a* of the VAT Code reads as follows:

§ 1. The rate to be applied for the intra-Community acquisition of a good is the rate applied domestically for the supply of the same good.

§ 2. The rate to be applied for the intra-Community acquisition of goods is the rate in force at the time when the tax becomes due.

2. At what time is the applicable VAT rate determined?

The aforementioned provisions of Articles 38, §§1 to 3 and *38a* of the VAT Code relate in particular to the time when the applicable VAT rate is determined. Determining that time is especially important when a **rate change** occurs during a certain period .

The rate to be applied for the **supply of goods** and **services** is, in principle, the rate in force at the **time of the chargeable event** .

The rate to be applied for the **import** of goods is, in principle, the rate in force at the **time of the chargeable event** .

It for the **intra-Community acquisition** of goods to apply rate is the rate in effect at the **time when the tax due** is

Exception 1 : in the cases provided for in **Articles 17** (supplies) and **22 *bis*** , however (services) of the VAT Code, is to apply tariff rate in effect at the **time when the tax due** is (Article 38 , § 1, second paragraph, of the VAT Code).

Exception 2 : in the cases referred to in **Article 24, § 2,** (import) of the VAT Code, the rate to be applied is the rate in effect at the **time when the tax becomes due and payable** (Article 38, § 2, second paragraph, of the VAT Code).

Exception 3 : If the **tax becomes due at a time that does not coincide with that of the chargeable event** , the King may determine, in the event of an **intermediate tariff** change, that for the supplies of goods, services and imports of goods to be designated by Him , the King rate to be adjusted is the rate in force at the **time of the chargeable event** (Article 38, § 3, of the VAT Code).

Exception 4 : in certain cases, the administration accepts a **special transitional** measure, for example, where the application of the aforementioned legal provisions creates practical difficulties or uneven taxation. If necessary, such a transitional measure will always be communicated via a publication on the tax database www.fisconetplus.be . In the past, this exception was applied, for example, at the end of a temporary tariff reduction in the construction sector to prevent abuses through early billing or collection (see decision no. ET no. 119.556 of 16.12.2010) and under the transitional measure on the occasion of the increase of the age requirement of a dwelling from 5 years to 10 years for the purposes of heading XXXVIII, of Table A (see decision no ET 129.030 / 3 of 02.02.2016).

3. Scope of Article 38, § 4 of the VAT Code

When reading the Royal Decree No. 20, the aforementioned, and its annex, it may be concluded that in the event that a specific act is not mentioned in some section of Table A, B or C, that act is rate of 21% is subject. Here, however, Article 38, § 4 of the VAT Code plays a role, which stipulates that **any action that contributes to the manufacture, construction, assembly or conversion** of a property **other than real estate by its nature** , tax is subject to the rate applicable to the good when it is considered to be in the state in which it is after the performance of that act. By virtue of this provision is therefore any action which consists in the **manufacture** , the **building**, **assembling** or **transforming** a good that is subject to one of the VAT rates, itself subject to the rate applicable to the good considered in the **state in which it is after the execution of the transaction** .

Article 38, § 4, of the VAT Code applies even if the transaction is not a service but a delivery of a good (see VAT revue no. 33, page 159). However, the aforementioned article only applies to transactions that **result in movable property** and not in the provision of services.

The wording of Article 38, § 4 of the VAT Code primarily refers to the existence of a **custom wage work** , which requires a prior delivery to the custom wage worker of a good that is intended to undergo processing or processing. The concept of custom work is defined in Article 18, § 1, second paragraph, 1 °, of the VAT Code.

As a rule, that provision can **not apply** if the work ordered and performed consists of **packaging** or **repackaging** goods.

Exception : if **changed packaging**however, as a result of which the goods are subject to a VAT rate that differs from the rate that applied to those goods in their original packaging, Article 38, § 4 of the VAT Code applies. This is the case for some goods that are only classified as pharmaceutical products as referred to in section XVII of Table A if they are presented in a specific package. When applying that principle, the packaging of adhesive plasters is not impregnated or covered with pharmaceutical substances (subject to the rate of 21% when supplied loose) in retail packagings for medical or surgical purposes subject to the rate of 6% that under item 3 of Section XVII of Table A,

However, packing jam (a food that is subject to the 6% rate regardless of packaging) in small jars for retail sale is taxable at the rate of 21%.

Furthermore, Article 38, § 4 of the VAT Code applies not only when the custom work is the object of the manufacture or construction of a property other than real estate by its nature, but also when it comes to **assembling** or **finishing** such a good.

Finally, Article 38, § 4 of the VAT Code also applies in the event of **transformation** (transformation) of a good. Transformation means any action aimed at changing the essence or shape of a good and thus giving it a new value.

In particular, it is noted that Article 38, § 4 of the VAT Code does not apply to cleaning, maintenance and repair works. Repairing or maintaining a good only serves to preserve the economic value of that good and does not change its shape or nature. In principle, these works on movable property are subject to the normal VAT rate of 21%, unless these works are expressly intended by one of the headings in table A or B (for example: maintenance and repair work on the goods referred to in the headings XXII and XXIII, numbers 2 to 8 (see section XXVI, of table A) and the repair services envisaged by section XXXIX of table A).

Examples of the application of Article 38, § 4 of the VAT Code:

- the tree felling service, provided that those trees are not destroyed on site (by burning, chopping, etc.), is subject to the VAT rate of 6% as felled trees, in accordance with heading VII, item 12, of the table A, are subject to the VAT rate of 6% (see also Written Parliamentary Questions No. 510 by Mr MP Philippe Seghin of 17.11.2000 and 516 by Mr MP Philippe Seghin from 24.11.2000).
- sawing felled trees into planks, on the other hand, is subject to the VAT rate of 21%, since such planks are subject to the VAT rate of 21%.
- binding of single pages of a book is subject to the VAT rate of 6% as the finished product, being a bound book, in accordance with section XIX of Table A, is subject to the VAT rate of 6% (if no advertising) .
- binding loose sheets of a register that is intended to be completed is, on the other hand, subject to the VAT rate of 21%. After all, printed matter intended to be completed is not intended under heading XIX of Table A and is therefore subject to the VAT rate of 21%.
- slaughtering livestock for meat production is subject to the VAT rate of 6% as meat is subject to that rate in accordance with Section II of Table A.
- mixing animal feed is a service subject to 6% VAT, because animal feed composed with molasses or sugar is subject to the reduced VAT rate of 6% (see section XII, item 7 of Table A).

[Table of contents of this chapter] - [Table of contents of the VAT Comment]

Section 11 - What should a taxable person do if he has applied a too high (or too low) VAT rate?

If a taxable person has applied an **excessively high VAT rate** , while the supply or service provided by him is subject to a lower VAT rate, he is **entitled** under Article 77, § 1, 1 ° of the VAT Code **to refund** of the excess VAT paid.

The refund is only granted to the person who has paid the VAT to the State.

This refund can only be granted if the conditions of the Royal Decree No. 4 of 29.12.1969 regarding the returns on value added tax are fulfilled.

In principle, the taxable person must be able to prove that he has refunded the VAT wrongly charged to his customer.

However, if it is demonstrated that the prices 'VAT included' were determined and an amount was charged to customers without the VAT being charged separately, the taxable person should not demonstrate that he has refunded the excess VAT charged to his customers, in order to be able to exercise a claim for a refund, provided that of course there is no billing obligation for the relevant transactions and that there is no enrichment for the taxpayer without cause (or unjust enrichment).

The claim for a refund arises at the **time** when the cause of the refund arises (Article 3 of Royal Decree No. 4, aforementioned). The day on which this claim arises must be determined precisely, since this is also the day from which the claim can be instituted and the day from which the claim begins to **lapse** (see Article 82 of the VAT Code) (see also 'Book VII: Control and recovery of the tax - Chapter 19: Limitations').

When the VAT paid exceeds the amount legally owed, this is the date of payment of the tax, which is the inclusion of the VAT amount in the VAT return and its payment.

In accordance with Article *82a* of the VAT Code, the claim for a refund lapses after the end of the third calendar year following that in which the cause of the refund occurred.

If a taxable person would have applied a **VAT rate** that was too **low** , it is self-evident that he is obliged to make the necessary corrections and to pay insufficiently charged VAT to the State. With regard to the limitation period of the claim for payment of VAT, interest and administrative fines, reference is made to Articles 81 and *81a* of the VAT Code (see also 'Book VII: Control and recovery of the tax - Chapter 19: Limitation periods).

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Section 12 - History of changes to Royal Decree No. 20 of 20.07.1970, aforementioned

Royal Decree No. 20, referred to above, was amended:

1) by the Royal Decrees of 29.12.1970, 25.03.1971, 21.12.1971, 07.12.1972 and 22.12.1973 which until 31.12.1974 reduced the rate from 14% to 6% with regard to certain fuels (coal, lignite , peat, coke and semi-coke of those products.

2) by the Royal Decree of 28.10.1971 which subjects fertilizers to the rate of 6%.

3) by the Royal Decree of 11.08.1972 that subjects drinks originally intended in section XI of Table A at the rate of 14%.

4) by the Royal Decree of 31.07.1974, which, for the period from 01.08.1974 to 31.12.1974, under certain conditions, in favor of agricultural entrepreneurs, reduced the rate to 6% on:

- soil improvers for agricultural use
- twine for agricultural use
- milk storage tanks with cooling device

and up to 14%, the rate applicable to agricultural phytopharmaceuticals .

5) by the Royal Decree of 26.09.1974 which subjects to the rate of 6%:

- natural gas and other gaseous hydrocarbons in liquid form, intended for powering the engines of vehicles traveling on public roads
- light petroleum oils and light oils from bituminous minerals not for industrial use
- gas oil intended to power the engines of vehicles operating on public roads, other than agricultural machines and agricultural or forestry tractors.

6) by the Royal Decree of 29.10.1974 extending the rate of 6% to all petroleum oils and oils from bituminous minerals, with the exception of lubricating oils, which makes the rate reduction on coal and related products final (see 1) above), and which subjects heat, cold and steam, originally referred to in section I of Table B, and petroleum coke at the rate of 6%.

7) by the Royal Decree of 21.11.1974 which increases the rate again this time to 14% on gas oil intended for powering engines of vehicles driving on public roads, other than agricultural machines and agricultural or forestry tractors, namely the gas oil for which the rate to 6% was reduced by Royal Decree of 26.09.1974.

8) by the Royal Decree of 20.01.1975 extending the rate of 6% to a new number of articles, apparently intended for the disabled, and which on the one hand uses animal products for reproduction and on the other hand the maintenance and repair work on goods subject to the rate of 6%, and the supplies, parts and accessories used in the execution of those works, subject to the rate of 6%.

9) by the Royal Decree of 25.03.1977 that increases the rate:

- from 6 to 14% for motor fuels, personal care and catering services

- from 6 to 18% for original works of art, collectors' items and antiques
- from 6 to 25% for caviar and caviar substitutes
- from 14 to 25% for fermented drinks other than beer
- from 18 to 25% for motorcycles, tires and inner tubes, photography, slides, film development and certain leather articles.

10) by the Royal Decree of 10.10.1977 that increases the rate from 6 to 14% for cigarettes.

11) by the Royal Decree of 30.11.1977 which increases the rate from 6 to 14% for the services of brokers and agents in passenger transport and for the services provided by travel agencies and tourist organizations, in the exercise of their regular activities.

12) by the Royal Decree of 27.12.1977 which removes the rate of 14% and Table B from the Annex, and which reduces the standard rate from 18% to 16%. That decision also specifies that the 6% rate does not apply to services defined in Table A of the Annex, where those services are ancillary to a complex contract whose main object is services not covered by the same table.

13) by the Royal Decree of 19.04.1978 that sets the applicable rate at 6% for the lessons on driving motor vehicles for road traffic, as well as taking exams for obtaining a driving license.

14) by the Royal Decree of 19.07.1978 reducing the applicable rate for cigarettes to 6%.

15) by the Royal Decree of 27.06.1980 that increases the applicable rate:

- from 6 to 16% for the granting of the right to use automatic entertainment devices, as well as for the provision of movable property, even if this provision concerns entertainment devices (whether automatic or not), or even when it takes place in establishments for culture , sports or entertainment
- from 6 to 16% for margarine
- from 6 to 25% for crawfish, lobsters, crabs, crayfish and oysters, fresh (both live and dead), boiled in water, chilled, frozen, dried, salted, in brine, whether or not shelled or shelled; prepared and prepared dishes of crawfish, lobsters, crabs, crayfish and oysters, in shell or shell, whether or not whole.

16) by the Royal Decree of 26.09.1980. This decision brings the applicable rate from 6 to 16% for:

- natural gas and other gaseous hydrocarbons, gaseous or liquid, which are not intended to power the engines of vehicles driving on public roads
- light gas, generator gas, water gas and the like gases
- heat, cold and steam

- the petroleum oils and oils derived from bituminous minerals:
    - the crude oils; the semi-heavy oils, which are not intended to drive engines; certain types of heavy oils such as: heavy fuel oil, light fuel oil, as well as gas oil for heating
    - gas oil used as engine fuel for agricultural machinery or tractors or for forestry tractors or machinery.

This decree brings the rate from 6 to 25% for semi-heavy petroleum and semi-heavy oils from bituminous minerals, intended for powering engines.

In addition, this decree raises the rate from 16 to 25% for:

- liquefied natural gas and other liquefied hydrocarbon gases intended for powering the engines of vehicles traveling on public roads
- light petroleum oils and light oils made from bituminous minerals, intended for driving engines and, for that reason, subject to excise duty and special excise duty
- gas oil intended for powering the engines of vehicles which run on public roads, other than agricultural machines or tractors or forestry machines or tractors, and which, for that reason, are subject to excise duty and special excise duty.

17) by the Royal Decree of 29.09.1980 that increases the applicable rate from 6 to 16% for cigars and cigarillos.

18) by the Royal Decree of 10.11.1980 that reduces the rate from 25% to 16% for hair detergents.

19) by the Royal Decree of 19.06.1981, which brings the standard VAT rate from 16 to 17%.

This decision:

- confirms that the 6% rate applies only to horses of breeds commonly used as draft, heavy or medium horse, as well as to horses sold or imported for slaughter, without distinction of breed.
- specifies that the reduced rate applies to salt intended for human consumption.
- provides that from the 6% rate are excluded all services related to animals that are not subject to the 6% rate.
- extends the application of the 6% rate, which until now only applied to social tourism, to the entire hotel sector, but only to the provision of furnished accommodation, with or without breakfast. The 6% rate also applies to the provision of space by the operator of a campsite.
- charges all aircraft in a uniform manner at the rate of 25%, regardless of whether they are heavier or lighter than air and whether or not they are equipped with an engine.

In addition, this decree brings the applicable rate from 16 to 25% for:

- artificial flowers, flowers and foliage that have undergone a certain treatment.
- video equipment ; radio communication devices for radio amateurs, for 'CB' radiotelephone messaging and for remote control devices of reduced models; appliances, parts, parts and

accessories used in or together with appliances subject to the rate of 25%; gramophone records and magnetic tapes for the devices subject to the rate of 25%.

- fruit juices and vegetable juices.

20) by the Royal Decree of 29.07.1981, which subjects to the rate of 25%, certain services to which luxury is attributed, and which sets the rate at 6% for gold normally used as an investment object.

This decree reduces the rate from 25% to 17% for commemorative medals of precious metals or of metals clad with precious metals that are not mounted as jewelery.

In addition, this Decree brings the applicable rate from 17 to 25% for:

- personal care
- rental of passenger cars, dual-use cars and minibuses.

21) by Royal Decree No. 1, of 15.02.1982, which, in order to stimulate activities in the private housing sector, lowers the VAT rate for certain periods from 01.03.1982 to 31.12.1983, subject to specific conditions. 17 to 6% for certain real estate transactions related to homes primarily used or intended to be used as private homes, which are provided and invoiced to a final consumer.

These tariff reductions are the subject of temporary provision No. 1, which supplements Article 1 of Royal Decree No. 20.

22) by Royal Decree No 9, of 15.02.1982, which excludes gold, which is normally used as an investment object, from the rate of 6% and subjects this gold to the rate of 1%.

23) by the Royal Decree of 12.03.1982, which reduces the applicable rate for cigars and cigarillos to 6%.

24) by the Royal Decree of 29.09.1982, which, under specific conditions, implements several temporary VAT rate reductions for the benefit of agricultural entrepreneurs. These reductions of the rate to 6% are the subject of the following four temporary provisions, numbered 2 to 5, which supplement Article 1 of Royal Decree No. 20:

- temporary provision number 2 (applies from 01.10.1982 to 30.06.1983): fuels used by an agricultural entrepreneur for heating to promote the growth and ripening process of horticultural products from his company.
- temporary provision number 3 (applies to the period from 01.10.1982 to 31.12.1983): certain immovable activities relating to buildings used or intended for use by an agricultural enterprise and which are provided and invoiced to a person who is a business own, acquire or grant a right or a right of enjoyment to those buildings.
- temporary provision number 4 (applies to the period from 01.10.1982 to 31.12.1983):

- soil improvers for agricultural use
- twine for agricultural use
- tires for agricultural tractors, not including tires for forestry tractors and moth growers
- milk cooling tanks and the associated heat recuperators .

- temporary provision number 5 (applies to the period from 01.10.1982 to 31.12.1983): services relating to the keeping of business-economic accounts, provided by agricultural or horticultural associations or other establishments recognized by the Minister of Agriculture.

25) by the Royal Decree of 16.11.1982 which brings the standard VAT rate from 17 to 19%.

This decision:

- includes in the annex to Royal Decree No. 20 a new table B, the goods and services of which remain or become subject to the rate of 17%.

Intended to be:

- providing food or drink for consumption on site
- new buildings and a certain number of clearly defined actions relating to a property
- fuels and energy
- original works of art, collectors' items, stamps and antiques
- footwear
- cleaning, maintenance and repair of clothing
- subjects the goods put up for sale as food for dogs, cats and other pet animals at the normal rate of 19%.

In addition, this decree brings the applicable rate from 17 to 25% for:

- fancy jewelry and fancy jewelry
- pocket watches, wristwatches and the like, which is also the composition of their case
- certain scaled-down models and remote control devices
- devices designed to be used with the aid of a television receiver and the programmed video cassettes for those games as well as electronic games and toys
- travel goods, moroccan and sheath work.

Finally, this decision now also subjects to the rate of 25%

- electromechanical and electrothermal machines, appliances and equipment of the types normally used for household purposes
- electrically heated blankets, pillows, foot bags and the like
- all kinds of electric razors
- electrothermal hair treatment appliances
- electric irons and ironing machines

- refrigerators, freezers, freezers, dishwashers, washing machines, spin dryers, there included, and linen dryers
- sewing machines and knitting machines
- hot water appliances, electric immersion heaters, hobs, stoves, ovens and similar appliances of a kind normally used in kitchens
- fans, air fresheners, humidifiers and the like loose appliances
- tanning beds, sun lamps and the like for artificial sunbathing
- lawn mowers, irrespective of the energy source used, but excluding those whose mowing mechanism operates solely on human power
- hand tools and hand machine tools, with built-in motor
- auxiliary tools and interchangeable accessories of the aforementioned machines, appliances and equipment
- operations of radio and television distribution companies.

26) by the Royal Decree of 23.12.1983 which, in order to stimulate activity in the real estate sector:

- for the period from 01.01.1984 to 31.12.1985, subject to certain conditions, to lower the VAT rate from 17 to 6% for certain real estate transactions relating to dwellings mainly used or intended for use as private dwellings, which are provided and invoiced to an end consumer within the meaning of this provision.
- for the above-mentioned acts in respect of the dwellings used or intended to be used for the housing of the elderly, the disabled, pupils and students, henceforth regards public or private persons as such an end-user when they manage:
    - accommodation facilities for the elderly within the meaning of Article 1, first paragraph, of the Law of 12 July 1967 on rest homes for the elderly.
    - institutions that, with a boarding system, receive in a sustainable manner disabled people who receive a contribution from the Fund for medical, social and educational care for disabled people.
    - boarding schools added to or dependent on schools or universities.

This tariff reduction is the subject of the temporary provision supplementing Article 1 of Royal Decree 20.

27) by the Royal Decree of 29.12.1983, of which Articles 2, 3, 4, 5 and 6 are intended:

- the reduction of the VAT rate from 17 to 6% for original works of art, collectors' items and antiques
- the amendment of the favored scheme for the benefit of certain categories of disabled and disabled persons with regard to the acquisition or import and use of a passenger car that serves exclusively as a personal means of transport for these persons, in order to make the application of this scheme more balanced and fairer;

- uniform application of the 6% rate:
  - on invalid carriages and ambulances, whether or not with motor or other propulsion mechanism;
  - on parts and accessories for these wagons;

28) by the Royal Decree of 16.09.1985 extending the measure referred to under number 26 to 30.04.1986.

29) by the Royal Decree of 23.04.1986 extending the measure referred to under number 26 to 31.07.1986.

30) by the Royal Decree of 18.07.1986 that, in replacement of the temporary measure referred to in numbers 26, 28 and 29 above, the application of the reduced rate of 6% in the private housing sector, for certain real estate activities under certain conditions further.

31) by the Royal Decree of 20.12.1989 that reduces the applicable rate for unfermented fruit and vegetable juices from 25% to 19%.

32) by the Royal Decree of 25.04.1990 which has as object:

- the implementation of certain amendments that "refresh" some texts of the annex to Royal Decree No. 20 and the clarification of certain formulations of that annex that were the subject of disputes.
- the reduction from 19% to 17% (or 6% under the conditions referred to in section XXXI of Table A) of the rate applicable to the supply with attachment to a building of storage cupboards in a bathroom, as well as the attachment, installation, repair , maintaining and cleaning those storage cabinets.

33) by the Royal Decree of 17.03.1992 which has adjusted and restructured the number and level of VAT rates in accordance with European decisions.

This royal decree:

- exclude from the rate of 6%:
  - tobacco
  - coal
  - soap and detergents
  - lessons on driving motor vehicles
  - maintenance and repair of footwear.
- introduces a second reduced rate of 12% for:
  - tobacco

- fertilizers based on secondary elements
- products of phytopharmacy
- disposable diapers and panty liners for persons suffering from incontinence
- insulinespuiten
- margarine
- tires and inner tubes for wheels of agricultural machines and tractors
- pay television
- social housing (in certain cases).

- lifts the rates of 17% and 25%
- increases the normal VAT rate from 19% to 19.5%

34) by the Royal Decree of 28.03.1992 which subjects coal to the rate of 12%.

35) by the Royal Decree of 29.06.1992 that for the application of the reduced rates of 6% and 12%, the shelters housing homeless people at night and day quarters and persons in difficulty and who are recognized by the competent authority also designate as end consumers .

36) by the Royal Decree of 30/09/1992, which, under certain conditions, extends the application of the 6% rate to work in immovable state and assimilated acts with regard to:

- private homes for the disabled, in use for less than twenty years
- institutions for the disabled, in use for less than twenty years.

37) by the Royal Decree of 29.12.1992, which adapted Royal Decree No 20 to Directive 92/77 / EEC of the Council of the European Communities of 19.10.1992, on the approximation of VAT rates.

This royal decree:

- subjects condoms at the 6% rate;
- exclude from the rate of 6%:
  - ores, scrap and waste from works
  - advertising printed matter
  - running paper
  - textiles, rags and rags.

However, flax and non-carded and uncombed wool are included in heading VII, item 14 and heading XII, item 10 of Table A from 01.01.1993 onwards, so that these products remain subject to the 6% rate.

- maintenance and repair work on goods subject to the rate of 6%, with the exception of disabled cars, orthopedic appliances and aids for the disabled.

- organizing lectures, concerts, shows and entertainment, providing services by operators of cloakrooms and toilets.
- advertising obituaries.

However, advertising death notices invoiced by an undertaker may continue to benefit from the 6% rate as a service usually provided by an undertaker in the normal course of his professional activity.

- excludes tobacco from applying the 12% rate. Tobacco is therefore subject to the rate of 19.5%.
- subjects fertilizers based on secondary elements at the same rate as the other fertilizers, in particular 6%.

38) by the Royal Decree of 24.06.1993 that sets the applicable rate at 6% for:

- disposable diapers and panty liners for adult persons suffering from incontinence
- insulinespuiten.

39) by the Royal Decree of 21.12.1993 that:

- the normal rate from 19.5% to 20.5%
- subject to the reduced rates of 6% or 12%, the real estate financing rent or real estate lease as referred to in Article 44, § 3, 2 °, b) of the VAT Code, which relates to certain residential complexes and buildings intended for social housing ;

40) by the Royal Decree of 23.12.1994 that adapts heading XXI of Table A of the Annex to Royal Decree No. 20 to the changes in the context of the transposition into Belgian law of Council Directive 94/5 / EC of the European Union of 14.02.1994 supplementing the common system of value added tax and amending Directive 77/388 / EEC - Special scheme for used goods, works of art, collectors' items and antiques.

41) by the Royal Decree of 20.10.1995 that:

- the normal VAT rate increases from 20.5% to 21%
- the period of occupation of the house provided for in table A, section XXXI, § 1, 3 °, increases from 20 to 15 years.

42) by the Royal Decree of 01.12.1995 that:

- during the period from 01.01.1996 to 31.12.1997 reduces the rate from 12% to 6% for the transactions referred to in table B, section X, § 1. This rate reduction is the subject of the temporary provision of Article 1ter of the Royal decision no. 20.
- for the period from 01.01.1996 to 31.12.1997, introduce a special scheme in the social housing sector under certain conditions . This favor arrangement is the subject of the temporary provision of Article 1quater of Royal Decree 20.

43) by the Royal Decree of 27.09.1996 that:

- the words 'de basse -cour', which appear in the French test of Table A, Section I, item 2, are deleted.
- subject the products of floriculture and floriculture to the VAT rate of 6%.

44) by the law of 20.01.1998, which extends the provisions of the Royal Decree referred to under number 42) under certain conditions until 30.06.1998.

45) by the Royal Decree of 25.03.1998 that the VAT rate of certain devices for the chronically ill decreases to 6%, as well as its rental.

It is noted that some of these goods have already benefited from the reduced rate under the provisions of heading XXIII of Table A.

46) by the Royal Decree of 30.03.1998 that:

- the heading of heading XXVIII, is replaced by 'Facilities for culture, sports and entertainment'
- extends the provisions of section XXIX.

47) by the Royal Decree of 05.10.1998 that:

- blood collection bags containing anticoagulants, bone cement containing antibiotics with additional activity to the device and incorporating sterile viscoelastic substances for human or veterinary medical or surgical purposes only under Section XVII from 15.10.1998.
- the word ' Saccharometers ' in section XXIII, item 8, is replaced by the words 'Glucose meters and accessories'
- replace the words 'numbers 2 and 3' in section XXVI, paragraph 1 with the words 'numbers 2 to 8'.

48) by the Royal Decree of 26.04.1999 that:

- replace the words "and persons in difficulty" in Table B, section X, § 1, A, d) by the words "persons in difficulty, persons with a mental disorder, mentally handicapped and psychiatric patients".
- extends the provisions of table B, section X, § 1, A, d) by 5 ° and 6 °.

49) by the law of 04.05.1999 which is attached to Table A under the headings' XXIIIbis . Deliveries of goods by institutions with a social purpose. ' and 'XXXV. Services performed by institutions with a social purpose. ' adds.

50) by the Royal Decree of 30.12.1999, which repeals Article 1a inserted by the Royal Decree of 29.12.1992.

51) by the Royal Decree of 18.01.2000, in accordance with the possibility offered by Council Directive 1999/85 / EC of 22.10.1999 amending Directive 77/388 / EEC to apply a reduced VAT rate to labor-intensive services from 01.01.2000 until 31.12.2002 introducing the reduced VAT rate of 6% with regard to:

- the renovation and repair of private homes that were taken into use at least five years ago. This tariff reduction is the subject of the replacement of Article 1ter of the Royal Decree 20, inserted by the Royal Decree of 01.12.1995 and amended by the Law of 20.01.1998, by the temporary provision of Article 1a.
- the repair of bicycles, footwear, leather goods, clothing and household linen. This tariff reduction is the subject of the replacement of Article 1quater of the Royal Decree 20, inserted by the Royal Decree of 01.12.1995 and amended by the Law of 20.01.1998, by the temporary provision of Article 1ter.

52) by the Royal Decree of 20.09.2000 which replaces the provisions of sections XXIIIbis and XXXV, referred to under number 49).

53) by the Royal Decree of 19.12.2002 extending the temporary provisions of Article 1bis and 1ter by one year.

54) by the Royal Decree of 27.12.2002 limiting the exclusion of heading X, second paragraph of Table A.

55) by the Royal Decree of 22.04.2003 that changes the elaboration date of the new exclusion of heading X, second paragraph of table A.

56) by the Royal Decree of 07.07.2003 that again changes the elaboration date of the exclusion of heading X, second paragraph of table A.

57) by the Royal Decree of 11.07.2003 that extends Section I, item 1 of Table A, restricts Section III of Table A and that Section XVII amends numbers 1, 2, 3 and 5 of Table A.

58) by the Program Law of 22.12.2003 that changes the elaboration date of the exclusion of heading X, second paragraph of table A.

59) by the Royal Decree of 14.01.2004 extending the temporary provisions of Article 1bis and 1ter by two years.

60) by the Royal Decree of 24.08.2005 replacing the provisions of section IX of Table B.

61) by the Royal Decree of 19.01.2006 which lifts the date of 31.12.2005 for the application of the temporary provisions of Article 1a and 1b.

62) by the Program Law of 27.12.2006 replacing Article 1, Article 1bis and Article 1ter limited to 2010, insert heading XXXVI and XXXVII in table A and amend section X of table B.

63) by the Program Law of 27.04.2007, which modifies section XXXVII of Table A.

64) by the Royal Decree of 10.02.2009 that modifies the provisions of Article 1bis, § 2, section XXXI, § 2 and section XXXVI of table A and section X of table B and insert Article 1quater, Article 1quinquies and Article 1sexies.

65) by the Royal Decree of 09.12.2009 that modifies the provisions of Article 1quater, Article 1quinquies and Article 1sexies and restores section I of Table B.

66) by the Royal Decree of 02.06.2010 which repeals the provisions on the registered contractor in Article 1a, Article 1quinquies, section XXXI, section XXXVI and section XXXVII of table A and section X of table B and amends section XXXII and section XXXIII.

67) by the Royal Decree of 17.11.2010 extending the temporary provisions of Article 1bis and Article 1ter until 30.06.2011.

68) by the Royal Decree of 19.12.2010 which replaces section XXXII, § 3 and XXXIII, § 3 of Table A.

69) by the Program Law of 04.07.2011 which removes Article 1a and Article 1b and inserts section XXXVIII and section XXXIX in Table A.

70) by the law of 28.12.2011 which removes item IX from Table B.

71) by the Royal Decree of 30.04.2013 that section XXII, section 2, second paragraph (only the French text), section XXVI, third paragraph (only the French text), section XXXI, § 1, section XXXII, § 1, 4 ° (only the French text), section XXXIII, § 1, 3 °, section XXXVII, second paragraph, 4 °, a) and 5 °, and section XXXVIII, § 1, of Table A.

72) by the Royal Decree of 21.12.2013 that replaces section XXXII, § 1, 1 ° and 3 °, section XXXIII, § 1, 2 °, and section XXXVI, § 1, of Table A.

73) by the Royal Decree of 21.03.2014 that restores Article 1a.

74) by the Royal Decree of 23.08.2015 amending Article 1bis, § 1 and inserting Article 1bis, § 3.

75) by the Royal Decree of 14.12.2015 inserting the new heading XL of Table A.

76) by the Royal Decree of 26.01.2016 inserting section XXIII, 9 ° of table A, restoring section XXXIV, 3 ° of table A, and modifying section XXXVIII, § 1, 3 ° of table A.

77) by the Royal Decree of 03/08/2016 which completely replaces section XL of Table A.

78) by the Royal Decree of 03.08.2016 that improves the Dutch text of section XL, 4 °, of Table A.

79) by the program law of 25.12.2016 (Moniteur belge, 29.12.2016) which introduces a new section XI of Table B.

80) by the Royal Decree of 10.12.2017 that changes section XXIII, 2 ° of table A, and supplements that section with the numbers 10 and 11, which changes section XXVI, first paragraph, of table A and section XXXIV, figure 1 of Table A (Belgian Official Gazette of 22.12.2017).

81) by the law of 14.10.2018 which replaces the following sections of Table A: section XXXII, § 4, section XXXIII, § 4, section XXXVI, § 1, 3 ° and section XL, 4 ° and subsequent sections of table B : section X, § 1, C and section XI, § 3 (Belgian Official Gazette of 25.10.2018).

82) by the law of 27.02.2019 replacing section VII, provisions 13 ° and 14 °, of table A (Moniteur belge, 14.03.2019).

83) by the law of 13.04.2019, which inserts a second paragraph, point (c) in Article 1 of the Royal Decree 20, completely replaces section XIX of Table A and a new section I is inserted in the new Table C (Belgian Official Gazette of 26.04.2019).

84) by the law of 13.04.2019 inserting a figure 12 ° into heading XXIII of Table A. The entry into force of this Act is subject to the assent of the European Union to an amendment to Annex III of the VAT Directive 2006 / 112 / EC regarding the intended goods (Belgian Official Gazette of

29.04.2019) .85) by the law of 02.05.2019 which replaces section 1, § 5, 4 °, of heading XXII, of table A (Belgian Official Gazette of 15.05 .2019).

86) by the law of 06.06.2019 which restores the provision under 4 °, of heading XXXIV, of table A, with a different content (Belgian Official Gazette of 26.06.2019).

87) by the Royal Decree of 29.08.2019 adapting certain federal tax provisions to the Companies and Associations Code and to the Royal Decree of 29.04.2019 implementing the Companies and Associations Code and containing various provisions (Moniteur belge of 13.09.2019)

The royal decrees mentioned under numbers 1) to 13) were ratified by article 57 of the law of 04.08.1978 (Moniteur belge of 17.08.1978).

The royal decrees mentioned under numbers 14) to 20) and 23) to 25) were ratified by article 26 of the law of 11.04.1983 (Moniteur belge of 16.04.1983).

The royal decrees mentioned under numbers 21) and 22) were ratified by articles 1 and 6 of the law of 01.07.1983 (Moniteur belge of 09.07.1983).

The royal decrees mentioned under numbers 26 to 30 were ratified by Article 194 of the Law of 30.12.1988 (Moniteur belge of 05.01.1989).

The royal decrees mentioned under numbers 31) to 34) were ratified by article 55 of the law of 28.07.1992 (Moniteur belge of 31.07.1992).

The royal decrees mentioned under numbers 35) and 36) were ratified by article 51 of the law of 28.12.1992 (Moniteur belge of 31.12.1992).

The royal decree mentioned under number 37) was ratified by article 84 of the law of 22.07.1993 (Moniteur belge of 26.07.1993).

The royal decrees mentioned under numbers 38) and 39) were ratified by articles 34 and 35 of the law of March 30, 1994 (Moniteur belge, March 31, 1994, second edition).

The royal decrees mentioned under numbers 40) to 43) were ratified by article 3 of the law of 15.10.1998 (Moniteur belge of 24.11.1998).

The royal decrees mentioned under numbers 45) to 48) and 50) to 56) have been ratified by article 3 of the Program Law of 05.08.2003 (Moniteur belge of 07.08.2003, 2nd edition).

The royal decree mentioned under number 57) was ratified by article 303 of the Program Law of 22.12.2003 (Moniteur belge of 31.12.2003).

The royal decrees mentioned under numbers 59) to 61) were ratified by article 60 of the Program Law of 27.12.2006 (Moniteur belge of 28.12.2006, third edition).

The royal decree mentioned under number 64) was ratified by article 22 of the Economic Recovery Act of 27.03.2009 (Belgian Official Gazette of 07.04.2009).

The royal decree mentioned under number 65) was ratified by article 14 of the law of 19.05.2010 (Moniteur belge of 28.05.2010, second edition).

The royal decree mentioned under number 75) was ratified by the law of 26.12.2015 concerning measures to strengthen job creation and purchasing power (Moniteur belge, 30.12.2015, second edition).

The Royal Decree mentioned under number 74) was ratified by the law of 27.06.2016 amending the Code of value added tax (Moniteur belge, 07.07.2016).

The royal decree mentioned under number 76) was ratified by the law of 22.10.2017 containing various tax provisions I (Moniteur belge of 10.11.2017).

The royal decree mentioned under number 77) was ratified by the law of 22.10.2017 containing various tax provisions I (Moniteur belge of 10.11.2017).

Note

From 01.12.1980 to 31.03.1992, certain goods that were subject to the VAT rate of 25% were also subject to the additional wealth tax. This tax was introduced by the Royal Decree of 10.11.1980 (Belgian Official Gazette of 25.11.1980), amended by the Royal Decree of 11.08.1981 (Belgian Official Gazette of 12.08.1981). It was repealed by Article 5 of the Royal Decree of 17.03.1992 (Moniteur belge of 19.03.1992).

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