Provisional text

JUDGMENT OF THE COURT (Second Chamber)

17 September 2020 (*)

(Reference for a preliminary ruling – Value added tax (VAT) – Directive 2006/112/EC – Immovable property acquired as capital goods – Deduction of input tax paid – Adjustment of the initial deduction – Single adjustment of that deduction in full after the goods in question are first used – Adjustment period)

In Case C?791/18,

REQUEST for a preliminary ruling under Article 267 TFEU from the Hoge Raad der Nederlanden (Supreme Court of the Netherlands), made by decision of 14 December 2018, received at the Court on 17 December 2018, in the proceedings

Stichting Schoonzicht

v

Staatssecretaris van Financiën,

THE COURT (Second Chamber),

composed of A. Arabadjiev, President of the Chamber, K. Lenaerts, President of the Court, acting as a Judge of the Second Chamber, P.G. Xuereb, T. von Danwitz and A. Kumin (Rapporteur), Judges,

Advocate General: M. Bobek,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– Stichting Schoonzicht, by B.G. van Zadelhoff, acting as Counsel,

– the Netherlands Government, by M.K. Bulterman and M.A.M. de Ree, acting as Agents,

– the Swedish Government, initially by A. Falk, J. Lundberg, C. Meyer-Seitz, H. Shev and H. Eklinder, then by C. Meyer-Seitz, H. Shev and H. Eklinder, acting as Agents,

– the European Commission, by W. Roels and N. Gossement, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 3 March 2020,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Articles 184 to 187 and 189 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1; ‘the VAT Directive’).

2 The request has been made in proceedings between Stichting Schoonzicht and the Staatssecretaris van Financiën (Secretary of State for Finance, Netherlands) concerning the adjustment in a single step on account of the use of part of an apartment complex for an exempt activity of the entire deduction of the turnover tax (VAT) initially paid in respect of the construction of that complex.

Legal context

European Union law

3 In accordance with Article 14(3) of the VAT Directive, Member States may regard the handing over of certain works of construction as a supply of goods.

4 Article 167 of that directive provides that a right of deduction is to arise at the time the deductible tax becomes chargeable.

5 Article 168(a) of the VAT Directive states:

‘In so far as the goods and services are used for the purposes of the taxed transactions of a taxable person, the taxable person shall be entitled, in the Member State in which he carries out these transactions, to deduct the following from the VAT which he is liable to pay:

(a) the VAT due or paid in that Member State in respect of supplies to him of goods or services, carried out or to be carried out by another taxable person’.

6 Article 184 of the VAT Directive provides:

‘The initial deduction shall be adjusted where it is higher or lower than that to which the taxable person was entitled.’

7 Under Article 185 of the VAT Directive:

‘1. Adjustment shall, in particular, be made where, after the VAT return is made, some change occurs in the factors used to determine the amount to be deducted, for example where purchases are cancelled or price reductions are obtained.

2. By way of derogation from paragraph 1, no adjustment shall be made in the case of transactions remaining totally or partially unpaid or in the case of destruction, loss or theft of property duly proved or confirmed, or in the case of goods reserved for the purpose of making gifts of small value or of giving samples, as referred to in Article 16.

However, in the case of transactions remaining totally or partially unpaid or in the case of theft, Member States may require adjustment to be made.’

8 Article 186 of the VAT Directive provides that Member States are to lay down the detailed rules for applying Articles 184 and 185 thereof.

9 Article 187 of the directive reads as follows:

‘1. In the case of capital goods, adjustment shall be spread over five years including that in

which the goods were acquired or manufactured.

Member States may, however, base the adjustment on a period of five full years starting from the time at which the goods are first used.

In the case of immovable property acquired as capital goods, the adjustment period may be extended up to 20 years.

2. The annual adjustment shall be made only in respect of one-fifth of the VAT charged on the capital goods, or, if the adjustment period has been extended, in respect of the corresponding fraction thereof.

The adjustment referred to in the first subparagraph shall be made on the basis of the variations in the deduction entitlement in subsequent years in relation to that for the year in which the goods were acquired, manufactured or, where applicable, used for the first time.'

10 In accordance with Article 189 of the directive:

'For the purposes of applying Articles 187 and 188, Member States may take the following measures:

(a) define the concept of capital goods;

(b) specify the amount of the VAT which is to be taken into consideration for adjustment;

(c) adopt any measures needed to ensure that adjustment does not give rise to any unjustified advantage;

(d) permit administrative simplifications.'

Netherlands law

11 Article 15(4) of the Wet houdende vervanging van de bestaande omzetbelasting door een omzetbelasting volgens het stelsel van heffing over de toegevoegde waarde (Law providing for replacement of the existing turnover tax by a turnover tax according to the system of collection of value added tax), of 28 June 1968 (Stb. 1968, No 329), in the version in force at the material time in the main proceedings ('the Law on VAT'), provides:

'Deduction of the tax shall be made in accordance with the intended use of the goods and services at the time when the tax is invoiced to the trader or at the time when the tax becomes chargeable. If it appears, at the time at which the trader starts to use the goods or services, that he or she is deducting the same tax to an extent which is higher or lower than that to which the use of the goods or services in question entitles him or her, the excess deducted shall be chargeable from that time. The tax which becomes chargeable shall be paid in accordance with Article 14. The amount of tax which could have been deducted and was not deducted shall be refunded to him or her on request.'

12 Article 12(2) and (3) of the Uitvoeringsbeschikking omzetbelasting (Implementing Decision on Turnover Tax) of 12 August 1968 (Stb. 1968, No 423), in the version in force at the material time in the main proceedings ('the Implementing Decision'), provides:

'2. The adjustment referred to in Article 15(4) of the [Law on VAT] shall be made on the basis of the information on the taxable period during which the trader started to use the goods or services.

3. In the declaration for the latest tax period of reference, the adjustment of the deduction shall be made on the basis of the information applicable to the entire tax year.’

13 In accordance with Article 13 of the Implementing Decision:

‘(1) In derogation from Article 11, the following shall be taken into account separately for the purposes of the deduction:

(a) immovable property and rights pertaining to such property;

(b) movable property that the trader writes off in respect of income tax or corporate income tax, or that he or she could write off were he or she liable to either of such taxes.

(2) So far as concerns immovable property and the rights pertaining to such property, the deductions made during each of the nine tax years following the one in which the trader started to use the property in question shall be adjusted. On each occasion, the adjustment shall be made, account being had of the information on the tax year of reference, on one tenth of the input tax paid, and at the time of the declaration relating to the latest taxable period of that tax year.’

The dispute in the main proceedings and the questions referred for a preliminary ruling

14 The applicant in the main proceedings had had built an apartment complex comprising seven residential apartments on a plot of land belonging to it. Construction work began in 2013 and the complex was received by it in July of the following year.

15 As the apartment complex was, at the time, intended for taxable purposes, the applicant in the main proceedings deducted, directly and in full, the VAT which it had been charged to it for the construction of the complex in 2013.

16 From 1 August 2014, the applicant in the main proceedings leased four of the seven apartments in the complex applying an exemption from VAT despite the fact that the other three apartments remained unoccupied in 2014.

17 Due to that exemption, the applicant in the main proceedings was required to adjust the VAT deduction and pay, on declaration, in a single step, the entire portion of that tax attributable to those four apartments during the period in which they had been occupied, amounting to EUR 79 587 in total, pursuant to the second and third sentences of Article 15(4) of the Law on VAT.

18 However, on the basis that Article 15(4) of the Law on VAT is contrary to Article 187 of the VAT Directive, in that the former provides that the entire initial deduction must be adjusted at the time at which capital goods are first used, the applicant in the main proceedings lodged an objection to the adjustment which it had thus been required to make.

19 Since that objection was rejected, the applicant in the main proceedings brought, in respect of the relevant decision, an action before the Rechtbank Noord-Holland (District Court, North Holland, Netherlands), which was subsequently dismissed as unfounded. The applicant in the main proceedings appealed against the decision of that court before the Gerechtshof Amsterdam (Court of Appeal, Amsterdam, Netherlands).

20 Since the Gerechtshof Amsterdam (Court of Appeal, Amsterdam) dismissed the appeal brought by the applicant in the main proceedings in a judgment of 11 January 2017, the applicant in the main proceedings brought an appeal on a point of law against that judgment before the referring court, the Hoge Raad der Nederlanden (Supreme Court of the Netherlands), reiterating

the argument that a single adjustment of the initial deduction following the first use of capital goods is contrary to Article 187 of the VAT Directive and that the adjustment to which it had been subject should have been spread over a number of years.

21 In those circumstances the Hoge Raad der Nederlanden (Supreme Court of the Netherlands) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

‘(1) Do Articles 184 to 187 of [the VAT Directive] preclude a national adjustment regime for capital goods which provides for an adjustment spread over a number of years, whereby in the year the goods [are first used] – which year is moreover the first adjustment year – the total amount of the initial deduction for [those capital goods] is adjusted (revised) in a single step, if, [when first used], it [becomes apparent] that that initial deduction deviates from the deduction which the taxable person is entitled to apply on the basis of the actual use of the capital good[s]?

If [the first question] is answered in the affirmative:

(2) Must Article 189(b) or (c) of [the VAT Directive] be interpreted as meaning that the single adjustment of the initial deduction in the first year of the adjustment period referred to in [the first question] constitutes a measure which the [Kingdom of the] Netherlands may adopt for the application of Article 187 of [the VAT Directive]?’

Consideration of the questions referred

The first question

22 By its first question, the referring court asks, in essence, whether Articles 184 to 187 of the VAT Directive must be interpreted as precluding a capital goods adjustment scheme, laid down in national legislation in which the adjustment is to be spread over several years, from providing that, in the year the goods in question are first used, where that year is also the first adjustment year, the total amount of the initial deduction for those capital goods is adjusted in a single step, if, when first used, it becomes apparent that that deduction deviates from the deduction which the taxable person was entitled to apply on the basis of the actual use of those goods.

23 It should be noted, as a preliminary matter, that, according to the structure of the system introduced by the VAT Directive, input taxes on goods or services used by a taxable person for his or her taxable transactions may be deducted. The deduction of input taxes is linked to the collection of output taxes. Where goods or services acquired by a taxable person are used for purposes of transactions that are exempt or do not fall within the scope of VAT, no output tax can be collected or input tax deducted (judgments of 30 March 2006, *Uudenkaupungin kaupunki*, C?184/04, EU:C:2006:214, paragraph 24, and of 28 February 2018, *Imofloresmira – Investimentos Imobiliários*, C?672/16, EU:C:2018:134, paragraph 30).

24 It is clear from the wording of Article 168 of the VAT Directive that, for an interested party to be entitled to the right to deduct, first, it must be a ‘taxable person’ within the meaning of that directive and, second, the goods and services in question must be used for the purposes of its taxed transactions (judgments of 15 December 2005, *Centralan Property*, C?63/04, EU:C:2005:773, paragraph 52, and of 28 February 2018, *Imofloresmira – Investimentos Imobiliários*, C?672/16, EU:C:2018:134, paragraph 33).

25 The use to which the goods or services are put, or are intended to be put, determines the extent of the initial deduction to which the taxable person is entitled and the extent of any adjustments in the course of the following periods (see, to that effect, judgments of 15 December

2005, *Centralan Property*, C?63/04, EU:C:2005:773, paragraph 54 and the case-law cited, and of 18 October 2012, *TETS Haskovo*, C?234/11, EU:C:2012:644, paragraph 29).

26 The adjustment is an integral part of the VAT deduction scheme established by the VAT Directive and is intended to enhance the precision of VAT deductions so as to ensure tax neutrality, which is a fundamental principle of the common system of VAT put in place by the EU legislature in the field (see, to that effect, judgments of 21 February 2006, *Halifax and Others*, C?255/02, EU:C:2006:121, paragraph 92 and the case-law cited, and of 11 April 2018, *SEB bankas*, C?532/16, EU:C:2018:228, paragraph 37). In accordance with that principle, transactions effected at an earlier stage continue to give rise to the right to deduct only to the extent that they are used to make supplies subject to VAT. The VAT Directive thus aims to establish a close and direct relationship between the right to deduct input VAT and the use of the goods and services concerned for taxable output transactions (judgment of 18 October 2012, *TETS Haskovo*, C?234/11, EU:C:2012:644, paragraphs 30 and 31 and the case-law cited).

27 In that regard, it should be made clear that Articles 184 and 185 of the VAT Directive set out, in general, the conditions under which the national tax authorities must require initially deducted VAT to be adjusted but do not provide for the manner in which such adjustments are to be made (judgment of 11 April 2018, *SEB bankas*, C?532/16, EU:C:2018:228, paragraph 26).

28 By contrast, Article 186 of the VAT Directive expressly makes Member States responsible for defining the conditions for such adjustments, by providing that they are to lay down the detailed rules for applying Articles 184 and 185 of the VAT Directive (see, to that effect, judgment of 11 April 2018, *SEB bankas*, C?532/16, EU:C:2018:228, paragraph 27).

29 It is only so far as concerns capital goods that Articles 187 to 192 of the VAT Directive provide for certain detailed rules for the adjustment of VAT deductions (judgment of 11 April 2018, *SEB bankas*, C?532/16, EU:C:2018:228, paragraph 27).

30 As regards, in the first place, the coming into existence of an obligation to make an adjustment, it should be noted that that obligation is defined in Article 184 of the VAT directive as broadly as possible, inasmuch as ‘the initial deduction shall be adjusted where it is higher or lower than that to which the taxable person was entitled’ (judgment of 11 April 2018, *SEB bankas*, C?532/16, EU:C:2018:228, paragraph 32).

31 That wording does not exclude, a priori, any foreseeable situation of undue deductions. The general scope of the adjustment obligation is supported by the express enumeration of the derogations provided for in Article 185(2) of the VAT Directive (judgment of 11 April 2018, *SEB bankas*, C?532/16, EU:C:2018:228, paragraph 33).

32 Under Article 185(1) of that directive, such an adjustment must be made inter alia when changes to factors which were taken into consideration for the determination of the amount of such a deduction occurred after the VAT return (judgment of 18 October 2012, *TETS Haskovo*, C?234/11, EU:C:2012:644, paragraph 32).

33 Those provisions constitute the scheme applicable to any entitlement of the tax authority to require a taxable person to make a VAT adjustment, including adjustment of deductions made in respect of capital goods (see, to that effect, judgment of 18 October 2012, *TETS Haskovo*, C?234/11, EU:C:2012:644, paragraph 26).

34 In the present case, according to the order for reference, the taxable person had had built a seven-apartment complex and deducted the VAT relating to its construction on the basis that it was intended for taxable purposes. Following the receipt of that apartment complex, which is, for

the purposes of VAT, a supply of goods within the meaning of the national rules implementing the option provided for in Article 14(3) of the VAT Directive, the taxable person leased four of those apartments on a VAT-exempt basis.

35 In so far as the initial deduction was calculated by taking into account the use of the complex for taxable purposes, the lease of those four apartments exempt from VAT led to a change in the factors which must be taken into account in order to determine the amount of that deduction and, on account of the actual use of the goods, resulted in that deduction being higher than that which the taxable person was entitled to deduct.

36 Accordingly, such a situation is covered by Article 184 and Article 185(1) of the VAT Directive where the tax authorities must require the taxable person to adjust the initial deduction of VAT.

37 It must therefore be determined, in the second place, whether the adjustment of the initial deduction at the time the goods are first used, where it becomes apparent at that time that the deduction was higher than that which the taxable person was entitled to deduct on account of the actual use of the goods, constitutes detailed rules for applying Articles 184 and 185 of the VAT Directive which the Member State is responsible for laying down pursuant to Article 186 of that directive, or rules provided for in Article 187 of the VAT Directive on capital goods.

38 In that regard, Article 187(1) of the VAT Directive, which is drafted in terms which leave no doubt as to its binding nature (see, to that effect, judgment of 30 March 2006, *Uudenkaupungin kaupunki*, C?184/04, EU:C:2006:214, paragraph 26, and order of 5 June 2014, *Gmina Mi?dzyzdroje*, C?500/13, EU:C:2014:1750, paragraph 24), provides, in the first subparagraph thereof, in respect of capital goods, for a five-year adjustment period, including that in which the goods in question were acquired or manufactured. The second subparagraph of Article 187(1) of that directive, however, permits Member States to base the adjustment on a full five-year period starting from the time at which the goods are first used. The third subparagraph of Article 187(1) provides that the adjustment period may be extended up to 20 years in the case of immovable property acquired as capital goods.

39 The annual adjustment is, in accordance with the first subparagraph of Article 187(2) of the VAT Directive, to be made only in respect of one-fifth of the VAT charged on the capital goods, or, if the adjustment period has been extended, in respect of the corresponding fraction thereof. The second subparagraph of Article 187(2) of the VAT Directive states that that adjustment is to be made on the basis of the variations in the deduction entitlement in subsequent years in relation to that for the year in which the goods in question were acquired, manufactured or, where applicable, used for the first time.

40 It is clear from the second and third subparagraphs of Article 187(1) of the VAT Directive that a Member State may provide that the adjustment period begins with the first use of the capital goods in question, which may extend over a period of 20 years in the case of immovable property acquired as capital goods.

41 Consequently, where a Member State avails itself of that option, Article 187(2) of the VAT Directive requires it to verify, in respect of each full year until the end of the adjustment period, whether there have been any variations in the deduction entitlement in relation to the year in which the capital goods were used for the first time and, if so, to make the adjustment relating to the corresponding proportion of the VAT charged on the capital goods in question.

42 It follows that, where that is the case, the relevant factor is the deduction entitlement relating to the year in which the capital goods in question were first used and that the adjustment spread

out under Article 187 of the VAT Directive covers variations following the use of the goods for the first time compared with the deduction entitlement for that year of their first use.

43 However, Article 187 of the VAT Directive does not govern the rules for the adjustment which must be applied if, at the precise time of the first use of the capital goods, the deduction entitlement is higher or lower than the initial deduction.

44 That interpretation is borne out by the objective and purpose of the adjustment provided for in Article 187 et seq. of the VAT Directive.

45 The adjustment period and the spread-out adjustment provided for in Article 187 of the VAT Directive in respect of capital goods is explained and justified inter alia by the purposes to which such goods are put which, over several years, may alter (see, to that effect, judgments of 15 December 2005, *Centralan Property*, C?63/04, EU:C:2005:773, paragraph 55, and of 30 March 2006, *Uudenkaupungin kaupunki*, C?184/04, EU:C:2006:214, paragraph 25, and order of 5 June 2014, *Gmina Mi?dzyzdroje*, C?500/13, EU:C:2014:1750, paragraph 20).

46 The period set out in Article 187 of the VAT Directive for adjustment of deductions thus enables inaccuracies to be avoided in the calculation of deductions and unjustified advantages or disadvantages for a taxable person where, in particular, changes occur in the factors initially taken into consideration in order to determine the amount of deductions after the declaration has been made or, where relevant, after being used for the first time (see, to that effect, judgment of 30 March 2006, *Uudenkaupungin kaupunki*, C?184/04, EU:C:2006:214, paragraph 25, and order of 5 June 2014, *Gmina Mi?dzyzdroje*, C?500/13, EU:C:2014:1750, paragraph 20).

47 As the Advocate General observed, in essence, in point 47 of his Opinion, the logic underlying the adjustment which must be made where variations in the factors initially taken into consideration to determine the amount to be deducted occur during the use of the capital goods concerned is different from that underlying the adjustment which must be made where the initial deduction is lower or higher than that to which the taxable person is entitled when the goods are first used on account of the actual use of those goods.

48 The determination of the rules for the adjustment of the initial deduction at the time the capital goods in question are first used, where it becomes apparent at that time that that deduction was higher than that which the taxable person was entitled to deduct on account of the actual use of the goods, does not fall within the scope of Article 187 of the VAT Directive but within that of Articles 184 and 185 of that directive, the latter of which the Member States are responsible for determining pursuant to Article 186 of the VAT Directive.

49 In that regard, it should be noted, in the third place, that, in exercising their discretion when adopting detailed rules for Articles 184 and 185 of the VAT Directive, the Member States must have regard to the aims and broad logic of that directive and, in particular, to the principle of fiscal neutrality on which the common system of VAT is based (see, by analogy, judgments of 13 March 2008, *Securenta*, C?437/06, EU:C:2008:166, paragraphs 35 and 36, and of 25 July 2018, *Gmina Ryjewo*, C?140/17, EU:C:2018:595, paragraph 58 and the case-law cited).

50 It should be noted, first, that national rules which, as those at issue in the main proceedings, take the time at which capital goods are first used as the relevant time for determining whether the initial VAT deduction corresponds to the deduction which the taxable person was entitled to make in view of the actual use of those goods and provide that the taxpayer is liable, at that time, to pay the excess tax deducted in full if the initial deduction exceeded the amount which the taxable person was entitled to deduct, are consistent with the principle of fiscal neutrality, as set out in paragraph 26 above, in so far as that principle requires that undue deductions be adjusted in any

case (see, to that effect, judgment of 11 April 2018, *SEB bankas*, C?532/16, EU:C:2018:228, paragraph 38).

51 Second, those national rules do not preclude an adjustment of the variations following the use of capital goods for the first time which is spread out, as provided for in Article 187 of the VAT Directive.

52 It is clear from the order for reference that, in accordance with Article 13 of the Implementing Decision, after the first adjustment period, the trader must, after each of the following nine tax years, verify, on the basis of the information on each subsequent tax year, whether there have been any variations in the use of the capital goods in question compared with the first adjustment period and, if so, that adjustment is to be made, in the course of each of those nine tax years, in respect of a tenth of the VAT relating to the acquisition of those capital goods which that trader has been charged.

53 Lastly, in the fourth place, it should be noted that the conclusion that the rules relating to the adjustment of the initial deduction at the time that the capital goods are first used, where it becomes apparent at that time that that initial deduction was higher than that which the taxable person was entitled to make on account of the actual use of those goods, do not fall within the scope of Article 187 of the VAT Directive, is not called in question by the considerations set out in the order of 5 June 2014, *Gmina Mi?dzyzdroje* (C?500/13, EU:C:2014:1750).

54 Indeed, in that order, the Court held that Article 187 of the VAT Directive would preclude a system permitting the adjustment of deductions over a period of less than five years and therefore also preclude a system of one-off adjustment, such as the one invoked by the applicant in the main proceedings in the case which gave rise to that order (order of 5 June 2014, *Gmina Mi?dzyzdroje*, C?500/13, EU:C:2014:1750, paragraph 27).

55 However, as the Advocate General stated in point 61 of his Opinion, the Court reached that conclusion in a legal and factual context different from that arising from the application of the national rules at issue in the main proceedings. In the case which gave rise to the order of 5 June 2014, *Gmina Mi?dzyzdroje* (C?500/13, EU:C:2014:1750), first, the capital goods in question were initially used in activities not conferring entitlement to deduct VAT and subsequently used in activities conferring such entitlement. Second, the purpose of those capital goods changed notwithstanding that the goods had already been used for the purpose not conferring entitlement to deduct VAT (order of 5 June 2014, *Gmina Mi?dzyzdroje*, C?500/13, EU:C:2014:1750, paragraphs 12 and 13).

56 That does not apply to the case in the main proceedings where the change in the use of the immovable property in question took place at the time that those capital goods were first used.

57 In addition, as follows from paragraphs 51 and 52 above, the rules at issue in the main proceedings do not preclude an adjustment of the variations following the use of capital goods for the first time which is spread out, as provided for in Article 187 of the VAT Directive.

58 In the light of all of the foregoing considerations, the answer to the first question is that Articles 184 to 187 of the VAT Directive must be interpreted as not precluding a capital goods adjustment scheme, laid down in national rules in which the adjustment is to be spread over several years, from providing that, in the year the goods in question are first used, where that year is also the first adjustment year, the total amount of the initial deduction for those capital goods is adjusted in a single step, if, when first used, it becomes apparent that that deduction deviates from the deduction which the taxable person was entitled to apply on the basis of the actual use of those goods.

The second question

59 In view of the answer given to the first question, it is unnecessary to answer the second question.

Costs

60 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Second Chamber) hereby rules:

Articles 184 to 187 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as not precluding a capital goods adjustment scheme, laid down in national rules in which the adjustment is to be spread over several years, from providing that, in the year the goods in question are first used, where that year is also the first adjustment year, the total amount of the initial deduction for those capital goods is adjusted in a single step, if, when first used, it becomes apparent that that deduction deviates from the deduction which the taxable person was entitled to apply on the basis of the actual use of those goods.

[Signatures]

* Language of the case: Dutch.