

ECONOMIC AGREEMENT

CHAPTER I TAXES

SECTION 1 - GENERAL REGULATIONS

Article 1. Competences of the Institutions of the Historical Territories

One. The competent Institutions of the Historical Territories may maintain, establish and regulate, within their territory, their taxation system.

Two. The levying, administration, settlement, inspection, revision and collection of the taxes and duties comprising the taxation system of the Historical Territories shall be the responsibility of the respective Territorial Governments.

Three. For the administration, inspection, revision and collection of the taxes transferred hereunder, the competent Institutions of the Historical Territories shall enjoy the same powers and prerogatives as those enjoyed by the State Treasury.

Article 2. General principles

One. The taxation system established by the Historical Territories shall be in accordance with the following principles:

First. Respect for the principle of solidarity in the terms laid down in the Constitution and in the Statute of Autonomy.

Second. Regard for the general taxation structure of the State.

Third. Coordination, fiscal harmonisation and cooperation with the State, in accordance with the rules laid down in the present Economic Agreement.

Fourth. Coordination, fiscal harmonisation and mutual cooperation between the Institutions of the Historical Territories pursuant to the regulations enacted by the Basque Parliament for these purposes.

Fifth. Submission to the International Agreements or Treaties signed and ratified or adhered to by the Spanish State.

In particular, it shall comply with the provisions laid down in the International Agreements signed by Spain to avoid double taxation, as well as fiscal harmonisation measures of the European Union, and shall be responsible for making the refunds called for, pursuant to application of said Agreements and rules.

Two. The rules laid down herein shall be interpreted in accordance with the provisions contained in the General Tax Law for the interpretation of tax regulations.

Article 3. Fiscal harmonisation

In drafting their tax legislation, the Historical Territories shall:

a) Respect the General Tax Law in matters of terminology and concepts, without prejudice to the peculiarities established in the present Economic Agreement.

b) Maintain an overall effective fiscal pressure equivalent to that in force in the rest of the State.

c) Respect and guarantee freedom of movement and establishment of persons and the free movement of goods, capital and services throughout the territory of Spain, without giving rise to discrimination or a lessening of the possibilities of commercial competition or to distortion in the allocation of resources.

d) Use the same system for classifying livestock, mining, industrial, commercial, service, professional and artistic activities as is used in the so-called common territory, without prejudice to further itemisations that might be made.

Article 4. Cooperation principles

One. The competent Institutions of the Historical Territories shall inform the State Administration with due notice prior to their coming into effect of any draft bills on tax regulations.

Similarly, the State Administration shall likewise inform the aforementioned Institutions.

Two. The State shall devise mechanisms for allowing the Institutions of the Basque Country to collaborate in any International Agreements affecting the application of the present Economic Agreement.

Three. The State and the Historical Territories, in the exercising of functions within their powers regarding the administration, inspection and collection of taxes, shall, in appropriate time and manner, exchange any information and records deemed necessary for levying them more efficiently.

In particular, both Administrations shall:

a) Provide each other, through their data processing centres, with any information they may require. To this end, the necessary technical connections between them shall be set up.

A jointly coordinated fiscal information system plan shall be drawn up on a yearly basis.

b) The inspection services shall draw up joint inspection plans concerning objectives, sectors and coordinated selective procedures, and concerning taxable persons who have changed their address, entities declaring under the tax transparency system and organisations subject to taxation proportionate to turnover for Corporation Tax purposes.

Four. The State and the Institutions of the Basque Country shall introduce procedures for the exchange of information that will ensure the implementation of International Agreements or Treaties of the State, in particular European Union legislation in matters of administrative cooperation and mutual assistance.

Article 5. Competences exclusive to the State

The following competences shall be considered exclusive to the State:

First. The regulation, administration, inspection, revision and collection of the import duties and import levies included under Excise Duties and Value Added Tax.

Second. Official inspection of the application of the present Economic Agreement, for which purpose the State agencies responsible for said inspection shall issue, with the collaboration of the Basque Government and the Territorial Governments, an annual report on the results of said application.

SECTION 2 - PERSONAL INCOME TAX

Article 6. Applicable legislation and levying of the tax

One. The Personal Income Tax is an agreed tax subject to autonomous legislation by the Basque authorities.

It shall be levied by the Territorial Government deemed competent by virtue of the Historical Territory when the taxpayer has their habitual residence in the Basque Country.

Two. In the event that taxable persons integrated in a family unit have their habitual residence in different territories and choose to file a joint return, the competent tax authority shall be the Administration of the territory wherein lies the

habitual residence of the family member having the largest tax base calculated according to the respective regulations.

Article 7. Income tax withholdings and payments on account

One. Withholdings and payments on account associated with earned income shall be exacted, according to the respective regulations, by the competent Territorial Government in each Historical Territory when linked to the following types of income:

a) Income from work or services performed in the Basque Country.

In the event that the work or services are performed in both the common territory and the Basque territory, the services shall be understood, unless proven otherwise, to be performed in the Basque Country when the place of work to which the worker is affiliated is located in this territory.

b) Income from pensions, passive income and loans received from Social Security and Pensioners, National Employment Institute, Assistance Funds, Mutual Benefit Societies, Employment Promotion Funds, Pension Plans, Voluntary Social Revision Entities and passive benefits from companies and other entities when the benefactor resides habitually in the Basque Country.

c) Remunerations of any kind received by company chairpersons and members of boards of directors and or any other type of representative body, when the fiscal domicile of the paying entity is located in the Basque Country.

In event of entities liable to payment of the Corporation Tax levied by the State and by the Territorial Governments, the withholdings shall correspond to both Administrations according to the relative turnover generated in each territory. For this purpose, the proportion determined shall be in accordance with the last tax return for Corporation Tax. The withholdings shall be exacted, pursuant to Territorial or common territory legislation, depending on whether the paying entity is governed by Territorial or common territory legislation on Corporation Tax. Inspection thereof shall be performed by the competent bodies of the corresponding Administration, applying the same criteria. The above notwithstanding, the rules regarding place, form and deadline for presenting the tax returns shall be determined by the competent Administration for levying the tax.

Two. The preceding paragraph notwithstanding, the State Administration shall exact withholdings on active or passive remunerations, including pensions generated by a person other than the payee, paid by the State to civil servants and employees of the State under employment or administrative contracts.

Exception to the preceding paragraph shall be made for civil servants and employees of Autonomous Bodies and public business enterprises.

Article 8. Payments on account on income earned from professional activities

One. Withholdings and payments on account associated with income from professional activities shall be exacted, according to the respective regulations, by the competent Territorial Government in the respective Historical Territory when the habitual residence or fiscal domicile of the taxpayer responsible for withholding or paying on account is in the Basque Country.

In any event, the withholdings or payments on account shall be exacted by the Administration of the State or by the competent Territorial Governments when they correspond to remunerations paid by them.

In exacting the withholdings and payments, the Territorial Governments shall apply rates identical to those of the common territory.

Two. Payments in instalments of Personal Income Tax shall be exacted, according to the respective regulations, by the competent Territorial Government in the respective Historical Territory when the habitual residence or fiscal domicile of the taxpayer is in the Basque Country.

Article 9. Withholdings and payments on account of the tax on income from capital

One. Withholdings and payments on account associated with returns on real estate shall be exacted, according to the respective regulations, by the competent State Administration or Territorial Government in accordance with the following rules:

First. The competent Territorial Government shall exact the withholdings corresponding to:

a) Income earned from equity holdings in any entity, and from interest and other revenues earned from similar bonds and securities, when such earnings are paid by entities filing tax returns for Corporation Tax exclusively in Basque territory.

In the event of entities that are liable to payment of the Corporation Tax levied by the State and by the Territorial Governments, the withholding shall correspond to both Administrations in proportion to the volume of operations performed in each territory. For this purpose, the proportion determined shall be in accordance with the last tax return for Corporation Tax. The withholdings shall be exacted, pursuant to Territorial or common territory legislation, depending on whether the paying entity is governed by Territorial or common territory legislation on Corporation Tax. Inspection thereof shall be performed by the competent bodies of the corresponding Administration, applying the same criteria. The above notwithstanding, the rules regarding place, form and deadline for presenting the tax returns shall be determined by the competent Administration for levying the tax.

b) Interest and other revenues on bonds and debentures issued by the Autonomous Community, Territorial Governments, Town Councils and other bodies of the territorial and institutional Administration of the Basque Country, wherever they are paid.

Those corresponding to issues by the State, other Autonomous Communities, Corporations in the common territory and other bodies of their territorial and institutional Administrations, even when paid in Basque territory, shall be exacted by the State.

c) Interest and other revenues from deposit transactions at Banks, Savings Banks, Cooperative Credit Banks and similar entities, as well as at any other credit or financial institutions, when the beneficiary thereof has his or her habitual residence or fiscal domicile in the Basque Country.

d) Income derived from capitalisation and life or disability insurance transactions when the beneficiary thereof, or the policy holder in the case of redemption, has his or her habitual residence or fiscal domicile in the Basque Country.

e) Life annuities and other temporary annuities which are the result of the investment of capital, when the beneficiary thereof has his or her habitual residence or fiscal domicile in the Basque Country.

In the case of withholdings on pensions generated by a person other than the payee and paid by the Administration of the State, such withholdings shall be exacted by the Administration of the State.

f) Income from intellectual property when the taxable person is not the author and, in all cases, from industrial property and from rendering technical assistance when the person or entity paying same has its fiscal domicile in the Basque Country.

g) Income from the rental of goods, rights, businesses or mines and similar, when they are located in Basque territory.

Second. In the case of interest on loans secured by chattel mortgages, the Administration of the territory where the mortgaged assets are located shall be competent to exact the withholding.

When the mortgaged assets are located in both the common territory and the Basque territory, both Administrations shall exact the withholding, to which end the interest shall be apportioned proportionally to the value of the mortgaged assets, except in the event of special assignment of the guarantee, in which case this figure shall be used as the basis for apportionment.

Third. In the case of interest on loans secured with real estate mortgages, the Administration of the territory where the mortgaged assets are located shall be competent to exact the withholding.

Fourth. In the case of interest on simple loans, deferral of purchase-sale price and other income from the placement of capital, the withholdings shall be exacted by the Administration of the territory wherein lies the establishment or habitual residence or fiscal domicile of the entity or person obliged to make the withholding.

Two. In exacting the withholdings and payments referred to in this article, the Governments of the Historical Territories shall apply rates identical to those of the common territory.

Article 10. Withholdings and payments on account of the tax on income from specific capital gains.

One. Withholdings associated with capital gains from the transfer or payment of shares and holdings in Collective Investment Institutions shall be exacted, according to the respective regulations, by the Administration of the State or the competent Territorial Government in each Historical Territory, depending on whether the share or stakeholder has his or her habitual residence or fiscal domicile in the common territory or in Basque territory.

Two. Withholdings associated to the corresponding special tax rates for prize money won in certain lotteries and bets shall be exacted, according to the respective regulations, by the Administration of the State or the competent Territorial Government in each Historical Territory, according to whether the beneficiary of same is domiciled in the common or Basque territory.

Withholdings and payments on account corresponding to prizes other than specified in the above paragraph awarded as a result of participation in games, contests, raffles or random combinations, whether linked or not to the offer, promotion or sale of certain goods, products or services, shall be exacted by the Administration of the State or by the competent Territorial Government in each Historical Territory, according to whether the payer of same is domiciled in the common or Basque territory.

In exacting the withholdings and payments referred to in this article, the Governments of the Historical Territories shall apply rates identical to those of the common territory.

Article 11. Other payments on account

One. Withholdings and payments on account associated with income from the leasing and subleasing of property shall be exacted, according to the respective regulations, by the competent Territorial Government in the respective Historical Territory when the habitual residence or fiscal domicile of the taxpayer responsible for withholding or paying on account is in the Basque Country.

Two. Withholdings and payments on account for amounts paid to entities, which, by virtue of the income tax system, should be attributed to payers of Personal Income Tax shall be exacted, according to the respective regulations, by the competent Territorial Government in the respective Historical Territory when the habitual residence or fiscal domicile of the taxpayer responsible for withholding or paying on account is in the Basque Country.

Article 12. Effectiveness of payments on account

For the purposes of payment of Personal Income Tax, payments on account made in either territory on behalf of the taxable person shall be valid, without this implying, should said payments on account have been paid into a non-competent Administration, the waiver by the other party of its right to demand from the Administration the amount to which it is entitled.

Article 13. Taxation by imputation and attribution of income

One. Entities filing returns under the imputation system must abide by the rules laid down in Section 3 of this Chapter. The tax liability attributed to the entity's partners shall be computed taking into account the rules concerning the Personal Income Tax or the Corporation Tax referred to herein, depending on the type of tax for which they are liable.

Two. In cases of attribution of income, the administration and inspection of the taxable entities filing under this system shall fall to the Administration of the territory where the fiscal domicile is located.

The tax liability attributed to the entity's partners shall be computed taking into account the rules concerning the Personal Income Tax, the Non-resident Income Tax or the Corporation Tax referred to in the Economic Agreement, depending on the type of tax for which they are liable.

SECTION 3 - CORPORATION TAX

Article 14. Applicable legislation

One. The Corporation Tax is an agreed tax subject to autonomous legislation by the Basque authorities for taxable persons with fiscal domicile in the Basque Country.

However, taxable persons whose total business turnover in the previous year exceeded seven million euros, and who performed 75 per cent or more of their total operations in the common territory, shall be subject to the legislation of that territory.

Also subject to autonomous legislation are taxable persons with fiscal domicile in the common territory whose total business turnover in the previous year exceeded seven million euros and whose entire operations were performed in the Basque Country.

Two. For the purposes of this rule, total turnover shall be understood as the total consideration, net of Value Added Tax and the equivalency surcharge, where applicable, obtained for supplies of goods and of services performed in the course of the taxable person's business or professional activity.

The operations defined as such in the legislation on Value Added Tax shall have the consideration of supplies of goods and of services.

Should the first year of the activity fail to coincide with the calendar year, a full year's turnover shall be calculated for computing the aforesaid figure.

Three. For the purposes of the provisions contained in the preceding article, a taxable person shall be deemed to operate in one territory or the other when, pursuant to the criteria laid down in article 16, said taxable person performs the supply of goods or services therein.

Four. In cases where the activity is being started, the turnover shall be computed on the basis of business volume registered during the first year. Should the first year of the activity fail to coincide with the calendar year, a full year's turnover shall be calculated for computing the aforesaid figure.

Until the volume and place of realisation of the transactions in the year are known, those estimated by the taxable person based on its turnover forecasts for the start-up year shall be taken as such to all effects.

Article 15. Levying of the tax

One. The Territorial Governments of the Basque Country shall be responsible for levying the Corporation Tax on persons with fiscal domicile in the Basque Country whose business turnover in the previous year did not exceed seven million euros.

Two. Those taxable persons whose business turnover in the previous year exceeded seven million euros, regardless of where they have their fiscal domicile, shall file a return to the Territorial Government, the Administration of the State or jointly to both Administrations according to the turnover generated in each territory during the year.

The proportion of business turnover performed in each territory in the year shall be in accordance with rules laid down in the articles here below, and shall be expressed as a percentage rounded to the nearest one hundredth of one per cent.

Article 16. Determination of place of transactions

The following transactions shall be understood to be performed in the Basque Country:

A) Supplies of goods:

First. Supplies of movable tangible property when delivery to the purchaser is performed from Basque territory. When the goods must be shipped in order to be delivered to the purchaser, the supplies shall be understood to have been performed in the place where the goods were located at the moment of initiating the dispatch or shipment. This rule shall have the following exceptions:

a) In the case of goods processed by the supplier, the supply shall be understood to be made in Basque territory if the final processing of the goods in question was performed in that territory.

b) In the case of supplies involving the installation of industrial facilities outside the Basque Country, said supplies shall be deemed performed in Basque territory if the preparation and manufacturing work is done in said territory and the cost of the installation or assembly does not account for over 15 per cent of the total remuneration.

Conversely, supplies involving the installation of industrial facilities in the Basque Country shall not be deemed performed in Basque territory if the preparation and manufacturing work is done in the common territory and the cost of the installation or assembly does not exceed 15 per cent of the total remuneration.

Second. Supplies made by electric power producers when the power generation plants are located in Basque territory.

Third. The handing-over of real property, when the properties are located in Basque territory.

B) Supplies of services:

First. Supplies of services shall be deemed performed in Basque territory when they are effected from that territory.

Second. Exceptions to the preceding paragraph are services directly related to real property, which shall be considered performed in the Basque Country when said assets lie in Basque territory.

Third. Moreover, excepted from the provisions contained in the preceding paragraphs are insurance and capitalisation transactions, regarding which the rules laid down in Article 32 of the present Economic Agreement shall apply.

C) The provisions contained in letters A) and B) here above notwithstanding, the transactions specified below shall be considered performed in the Basque Country when the taxable person performing them has his or her fiscal domicile in Basque territory:

First. Supplies made by agricultural, forestry, livestock or fishing operations, and fishing boat owners, each harvesting directly from its own fields, forests or nets, of unprocessed natural products.

Second. Transport services, including removals, towing and crane operations.

Third. Lease or rental of means of transport.

D) The transactions which in accordance with the criteria laid down in this article are considered performed abroad shall be attributed to one or the other Administration, as the case may be, in the same proportion as the other operations.

E) Entities not performing the transactions set forth in article 14, number Two, second paragraph, shall file their returns with the Territorial Governments of the Historical Territories of the Basque Country when they have their fiscal domicile in Basque territory.

Article 17. Payments on account of tax

One. Withholdings and payment on account of the Corporation Tax shall correspond to one or the other Administration according to criteria laid down in the present Economic Agreement for Personal Income Tax. The provisions laid down in article 12 on the efficiency of payments on account made in one of the other Administration shall apply.

Two. Taxable persons who must shall file a return jointly to both Administrations shall make the instalment payment of the tax according to the turnover generated in each territory. For this purpose, the proportion determined shall be in accordance with the last tax return for the Tax.

The preceding paragraph notwithstanding, upon prior notice to the Coordination and Evaluation Committee pursuant to Chapter III, Section 2 of the present Economic Agreement, a different proportion may be applied in the following cases:

a) Mergers, divisions, transfer of assets and exchange of securities.

b) Start-up, termination, increase or reduction of activity in common or Basque territory entailing a significant variation in the proportion calculated according to the criterion specified in the first paragraph of number Two here above.

In all cases, the variation shall be considered significant when it entails a difference of 15 or more percentage points in the proportion applicable to any of the territories.

Three. Payments by instalment effectively paid to each Administration shall be reduced by the part of the tax owed thereto.

Article 18. Administration of the Tax in cases of returns filed with both Administrations

In cases of returns filed to both Administrations, the following rules shall apply:

First. The result of the tax assessments shall be payable to the Administrations of the State and of the Basque Country according to the relative volume of operations performed in each territory during each tax period.

Second. Persons who must file returns with both Administrations shall present, within the deadlines and in due form, all the documents stating the applicable proportions and the tax owed to, or to be refunded by, each of the Administrations.

Third. Applicable refunds shall be made by the respective Administrations in the proportion that pertains to each of them.

Article 19. Inspection of the tax

One. Inspection shall be performed by the Territorial Government competent by virtue of the Historical Territory when the taxable person has his or her fiscal domicile in the Basque Country.

Notwithstanding, the inspection of taxable persons whose total business turnover in the previous year exceeded seven million euros, and who performed 75 per cent or more of their total operations in the common territory, shall be performed by the Administration of the State.

Moreover, inspection of taxable persons with fiscal domicile in the common territory whose total business turnover in the previous year exceeded seven million euros and whose entire operations were performed in the Basque Country shall be performed by the Territorial Government competent by virtue of the Historical Territory.

Two. Tax inspections shall be performed pursuant to the legislation of the competent Administration, in accordance with the rules contained in the preceding paragraph, without prejudice to the collaboration of the rest of the Administrations.

Should the inspectors find that there is a tax liability due or an amount to be refunded corresponding to Administrations, the collection or payment in question shall be made by the inspecting Administration, without prejudice to any compensations from each other to which the parties may be entitled.

The inspection agencies of the competent Administrations shall communicate the results of their actions to the rest of the Administrations affected.

Three. The conditions laid down in the preceding rules are without prejudice to the faculties corresponding to the Territorial Governments of the Historical Territories within the scope of their territories in matters of verification and investigation, although their actions cannot have economic effects on taxpayers' final returns filed as a result of actions of the agencies of the competent Administrations.

Four. The proportions set in verifications by the competent Administration shall affect the subject's paid-in taxes, without prejudice to those taxes which, following said verifications, are definitively agreed between both Administrations.

Article 20. Economic interest groupings, joint ventures and corporate groups

One. The tax system governing economic interest groupings, joint ventures and corporate groups shall correspond to the Basque Country when all of the entities which comprise the groups are subject to Basque legislation.

These entities shall attribute to their partners their share of turnover from the operations performed in each territory, which they shall take into account in determining the proportion of operations.

Two (A) Corporate groups shall be subject to the so-called Basque tax consolidation system when the dominant company and all of the dependent companies must file independent tax returns under Basque legislation, and shall be subject to the tax consolidation system of the common territory when the dominant company and all of the dependent companies must file independent tax returns under the tax system of the common territory. For these purposes, companies subject to the other legislation shall be considered excluded from the corporate group.

In any event, identical rules shall apply to those established at any given time by the State for defining corporate groups, dominant companies, dependent companies, degrees of control and internal transactions of the group.

(B) To adopt the tax consolidation system for corporate groups, the following rules shall apply:

First. The companies comprising the group shall, in accordance with the general rules referred to herein, file the return established under the rules for filing independent tax returns.

Without prejudice to the preceding paragraph, the dominant company shall submit to each of the Administrations the consolidated accounts of the corporate group.

Second. The corporate group shall file returns with the State or Basque Administrations according to the volume of operations performed in each territory.

For these purposes, the relative volume of operations performed in each territory shall consist of the sum or aggregation of the operations, that each of the companies in the group effects therein, before any applicable inter-group elimination.

SECTION 4 - TAX ON INCOME OF NON-RESIDENTS

Article 21. Applicable legislation

One. The Tax on Income of Non-residents is an agreed tax subject to the same rules in terms of substance and form as those established at any given time by the State.

The above paragraph notwithstanding, the permanent establishments domiciled in the Basque Country of entities or persons resident abroad shall abide by Basque legislation on this Tax in accordance with the provisions contained in article 14.

When the taxpayer exercises the option to file a return for Personal Income Tax having complied with the requirements laid down in the rules governing Personal Income Tax, for the purposes of application of the optional system, the rules of the Territorial Government competent by virtue of the Historical Territory shall be considered provided a majority of the total income obtained in Spain comes from benefits of the work and economic activities obtained in Basque territory. If the taxpayer is entitled to a refund, it shall be paid by said Territorial Government regardless of where the income was obtained within Spanish territory.

Two. An individual taxpayer or entity shall be understood to operate by means of permanent establishment when by whatever title it makes continuous or habitual use of facilities or places of work of whatever kind, where all or part of its activity is conducted, or where it acts by means of an agent authorised to enter into contracts, on behalf of the non-resident taxpayer, and who habitually exercises such powers.

Particularly understood to be permanent establishments are management headquarters, branches, offices, factories, workshops, warehouses, shops or other

establishments, mines, oil or gas wells, quarries, agricultural, forestry or fishing operations, or any other place of prospection or extraction of natural resources, and any construction, installation or assembly works of more than twelve months' duration.

Article 22. Levying of the tax

One. In the case of income obtained through a permanent establishment, the Tax shall be levied by either Administration or by both jointly, pursuant to the provisions contained in article 15 here above.

Two. In the case of income obtained without the involvement of a permanent establishment, the tax shall be levied by the competent Territorial Government in each Historical Territory when income is understood to have been obtained or produced in the Basque Country according to the following criteria:

- a) The income from economic transactions when produced in Basque territory.
- b) The earnings arising from the provision of services, such as studies, designs or projects, technical assistance, management support services and professional services, when the service is performed or used in Basque territory. Services shall be understood to be used in Basque territory when they serve business or professional activities conducted in Basque territory or are concerned with goods located therein.

When the place of use and the place of rendering of the service are not the same, the former shall be taken for tax purposes.

- c) Income arising, directly or indirectly, from the work:

- a') When they arise from a personal activity carried out in the Basque Country.
- b') Pensions and similar benefits when they are on a paid job in Basque territory.
- c') Remunerations of any kind received by company chairpersons and members of boards of directors and or any other type of representative body, in accordance with the provisions in Section Four of this article.
- d) Income arising, directly or indirectly, from the personal performance, in Basque territory, of artists, actors or athletes, or from any other activity related to the aforesaid performances, even when attributed to a person or entity other than the artist, actor or athlete.
- e) Dividends and other earnings from equity holdings in Basque public entities, as well as the yield from equity holdings in private entities, in the amount envisaged in Section Four of this article.

- f) Interest, royalties and other earnings on investments:

- a') paid by individuals with habitual residence in the Basque Country or Basque public entities, or paid by private entities or permanent establishments in the amount envisaged in Section Four of this article;

- b') when generated in return for investments of capital used in Basque territory.

When these criteria fail to coincide, the place of utilisation of the capital whose service is remunerated shall apply for tax purposes.

- g) Income earned, directly or indirectly, from real property located in Basque territory or from rights on such real property.

- h) Income attributed to individual taxpayers from urban real property located in Basque territory.

- i) Capital gains arising from securities issued by Basque public entities or persons, as well as from securities issued by private entities, in the amount envisaged in Section Four of this article.

j) Capital gains arising from real property located in Basque territory or from rights on such real property.

In particular, the following are considered included in this letter:

a') capital gains arising from rights or shares in a resident or non-resident entity whose assets are principally made up of real property located in Basque territory;

b') capital gains arising from the transfer of rights or shares in a resident or non-resident entity attributing to their holder the right of enjoyment of real property located in Basque territory.

k) Capital gains arising from other assets located in Basque territory or rights that must be met or are exercised in said territory.

Three. When, pursuant to the criteria set out in the previous section, income can be understood to be earned in both territories, the taxation thereof shall correspond to the Historical Territory when the taxable person, in the event of an individual, has his or her habitual domicile in the Basque Country; if the taxable person is a corporate body or permanent establishment, the rules laid down in Section Four of this article shall apply.

Four. In the cases referred to in letter c') of the letter c) and letters e), f) and i) of section 2 here above, and in the case envisaged in paragraph three, the income paid by private entities or permanent establishments shall be understood to be obtained or produced in Basque territory in the following amount:

a) In the event of entities or permanent establishments that file tax declarations solely in the Basque Country, the total amount of the income paid.

b) In the event of entities or permanent establishment that file declarations jointly to both Administrations, the portion of the income paid in proportion to the volume of transactions performed in the Basque Country.

However, in the cases referred to in this letter the competent Administration for taxing the total amount of the earnings shall be the Administration of the territory wherein lies the habitual residence or fiscal domicile of the persons, entities or permanent establishments that file a return on behalf of the non-resident, without prejudice to the compensation to be made to the other Administration for the portion corresponding to the relative volume of operations performed in the territory of the latter.

Moreover, any refunds payable to non-residents shall be paid by the Administration of the territory wherein lies the habitual residence or fiscal domicile of the persons, entities or permanent establishments that file a return on behalf of the non-resident, without prejudice to the compensation to be made to the other Administration for the portion corresponding to the relative volume of operations of the paying entity performed in the territory of the latter.

Five. The Special Charge on Property belonging to non-resident entities shall be levied by the Territorial Government deemed competent by virtue of the Historical Territory when the property is located in the Basque Country.

Article 23. Payments on account

One. Payments in instalments made by permanent establishments, and tax withholdings and payments on account for income received shall be exacted in accordance with the rules laid down in Sections 2 and 3 here above.

Two. Withholdings and payments on account associated with income from taxpayers operating without a permanent establishment shall be exacted by the Administration of the territory in which the income is understood to have been obtained, pursuant to the provisions contained in the preceding article. Additionally,

inspection shall be performed by the agencies of the competent Administrations under the same article.

The previous paragraph notwithstanding, in the cases referred to in number Two, letters e), f) and i) of the preceding article, and in the case envisaged in paragraph three, said payments on account shall be exacted by the Territorial Governments according to the relative turnover performed by the taxpayer in the Basque Country, applying the rules laid down in Section 3 here above.

Three. The provisions laid down in article 12 on the efficiency of payments on account made in one of the other Administration shall apply.

Article 23a. Administration and inspection in the case of income obtained through a permanent establishment.

One. In the case of income obtained through a permanent establishment, in cases of returns filed to both Administrations, the administrative rules contained in article 18 here above shall be applied.

Two. Tax inspection in the case of income obtained through permanent establishment, shall be carried out by the competent Administration, applying the rules laid down in article 19 here above.

SECTION 4A. - TAX DEPOSITS IN CREDIT INSTITUTIONS

Article 23b. Applicable legislation and levying of the tax.

One. The Tax on Deposits in Credit Institutions is an agreed tax subject to the same rules in terms of substance and form as those established at any given time by the State.

Nevertheless, the competent Institutions of the Historical Territories may establish the tax rates within the limits and under the conditions then current common territory.

Moreover, the competent Institutions of the Historical Territories may adopt their own filing and payment forms, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each settlement period, which shall not be substantially different from those set by the Administration of the State.

Two. The Tax shall be levied by the Administration of the State or by the competent Territorial Government depending on whether the headquarters or branches holding third party funds are in common or Basque territory.

Three. Payments on account of the Tax shall be levied by one or the other Administration pursuant to the criteria laid down in the section here above.

SECTION 4B. - TAX ON THE VALUE OF ELECTRICITY GENERATION

Article 23c. Applicable legislation and levying of the tax.

One. The Tax on the Value of Electricity Generation is agreed to be taxes subject to the same rules in terms of substance and form as those established at any given time by the State.

Nevertheless, the competent Institutions of the Historical Territories may adopt their own filing and payment forms, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each settlement period, which shall not be substantially different from those set by the Administration of the State.

Two. The Tax shall be levied by the Administration of the State or by the competent Territorial Government depending on whether the electricity generation plants are in common or Basque territory.

Three. Payments on account of the Tax shall be levied by one or the other Administration pursuant to the criteria laid down in section Two here above.

Four. Applicable refunds shall be made by the respective Administrations in the proportion that corresponds to each of them.

SECTION 4C. - TAX ON SPENT NUCLEAR FUEL GENERATION AND RADIOACTIVE WASTE FROM NUCLEAR ELECTRIC POWER GENERATION AND TAX ON THE STORAGE OF SPENT NUCLEAR FUEL AND RADIOACTIVE WASTE AT CENTRALISED INSTALLATIONS

Article 23d. Applicable legislation and levying of the taxes.

One. The Tax on Spent Nuclear Fuel Generation and Radioactive Waste from Nuclear Electric Power Generation and Tax on the Storage of Spent Nuclear Fuel and Radioactive Waste at Centralised Installations are agreed taxes subject to the same rules in terms of substance and form as those established at any given time by the State.

Nevertheless, the competent Institutions of the Historical Territories may adopt their own filing and payment forms, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each settlement period, which shall not be substantially different from those set by the Administration of the State.

Two. The Tax on Spent Nuclear Fuel Generation and Radioactive Waste Resulting from Nuclear Electric Power Generation shall be levied by the Administration of the State or by the competent Territorial Government depending on whether the spent nuclear fuel generation and resulting radioactive waste plants are in common or Basque territory.

Three. The Tax on Spent Nuclear Fuel Generation and Radioactive Waste Resulting from Nuclear Electric Power Generation at Centralised Installations shall be levied by the Administration of the State or by the competent Territorial Government depending on whether the fuel and waste storage plants are in common or Basque territory.

Four. The payments on account of these taxes shall be levied by one or the other Administration pursuant to the criteria contained in sections Two and Three here above.

SECTION 5 - WEALTH TAX

Article 24. Applicable legislation and levying of the tax

The Wealth Tax is an agreed tax subject to autonomous legislation by the Basque authorities.

It shall be levied by the competent Territorial Government of the Historical Territories or by the State, according to whether the taxable person files his or her Income Tax return with the one Administration or the other, regardless of the territory wherein lie the assets liable to taxation.

In the case of taxable persons liable to taxation by real nature obligation, the Tax shall be levied by the Territorial Governments of the Historical Territories when the greatest value of the assets and rights lies in Basque territory. For these purposes, assets and rights shall be deemed to lie in Basque territory when they are located, may be exercised, or must be fulfilled in said territory.

When a non-resident whose last residence was in the Basque Country chooses to file in compliance with personal income, he or she may do so in common or Basque territory pursuant to the respective legislation.

SECTION 6 - INHERITANCE AND GIFT TAX

Article 25. Applicable legislation and levying of the tax

One. The Inheritance and Gift Tax is an agreed tax subject to autonomous legislation by the Basque authorities.

It shall be levied by the Territorial Government deemed competent by virtue of the Historical Territory in the following cases:

- a) Donations or gifts 'mortis causa' and income received by life insurance beneficiaries when the decedent's place of habitual residence is in the Basque Country on the date of accrual of the tax.
- b) Donations of real property and rights thereon, when such property is located in Basque territory.

For these purposes of the provisions contained in this letter, the transfer free of charge of securities referred to in article 108 of Law No. 24 of July 28, 1988 governing the Securities Market shall have the consideration of gifts of real property.

- c) In all other gifts, when the habitual residence of the transferee is in the Basque Country on the date of the accrual of the tax.
- d) In the event that the taxable person is a resident abroad, when all the assets or rights in question are located, may be exercised or must be fulfilled in Basque territory, and in the case of receipt of sums from life insurance policies when the contract was made with insurance entities residing in Basque territory, or when the contract was concluded in the Basque Country with foreign entities operating therein.

Two. In the cases envisaged in letters a) and c) of the preceding point, the Territorial Governments of the Historical Territories shall apply the regulations of the common territory when the decedent or transferee acquired residence in the Basque Country less than 5 years prior to the date of accrual of the tax. This rule shall not apply to persons who have preserved the political consideration of Basque citizens pursuant to article 7.2 of the Statute of Autonomy.

Three. When in a document a single transferor gratuitously transfers assets or rights to a single transferee, and by virtue of paragraph One here above, the income must be considered as produced in both common and Basque territory, to each shall correspond the result of applying to the value of the transferred items whose income is attributed thereto, the average rate which, according to its rules, would correspond to the value of the totality of transferred items.

Four. In cases of accumulation of gratuitous transfers, to the Basque Country shall correspond the income resulting from applying to the assets and rights actually transferred, the average rate which, according to its rules, would correspond to the value of the totality of accumulated items.

For these purposes, totality of accumulated assets and rights shall be understood to mean those from prior gifts and those that are the object of the actual transfer.

Article 26. Applicable legislation

The Value Added Tax is an agreed tax subject to the same rules in terms of substance and form as those established at any given time by the State. Nevertheless, the competent Institutions of the Historical Territories may adopt their own filing and payment forms, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each settlement period, which shall not be substantially different from those set by the Administration of the State.

Article 27. Levying of the tax

One. Value Added Tax shall be levied in accordance with the following rules:

First. Taxable persons operating solely in Basque territory shall file exclusively with the relevant Territorial Government and those operating solely in the common territory shall do so with the Administration of the State.

Second. Taxable persons operating in both the common and Basque territory shall file returns and pay taxes to both Administrations according to the relative volume of operations in each territory, determined in accordance with the points of connection set out in the following article.

Third. Taxable persons whose total turnover in the preceding year did not exceed seven million euros shall in all cases file a return, wherever their turnover is generated, with the Administration of the State when their fiscal domicile is located in the common territory and with the relevant Territorial Government if their fiscal domicile is located in the Basque Country.

Two. For the purposes of this rule, total turnover shall be understood as the total consideration, net of Value Added Tax and the equivalency surcharge, where applicable, obtained for supplies of goods and of services performed in the course of the taxable person's business or professional activity.

In cases of the activity being started during the tax year, the seven million euro figure shall be computed on the basis of the business volume registered during the first calendar year.

Should the first year of the activity fail to coincide with the calendar year, a full year's turnover shall be calculated for computing the aforesaid figure.

Three. For the purposes of the provisions contained in the preceding article, a taxable person shall be deemed to operate in one territory or the other when, pursuant to the criteria laid down in article 28, said taxable person performs the supply of goods or services therein.

Four. The tax for operations related to the intra-community traffic of goods, with the exception of the cases specified in the following paragraphs contained in this article, shall be levied according to the terms laid down in point one here above.

Five. The tax on intra-community acquisitions of new means of transport purchased by private individuals or by persons or entities whose transactions are wholly exempt or not subject to Value Added Tax, shall be levied by the Administration of the common territory or Basque territory in which said means of transport are definitively registered.

Six. The tax shall be levied by the Administration of the State or the competent Territorial Government of the Historical Territories or by the State, according to whether the taxable person has his or her domicile in common or Basque territory, in the following cases:

- a) Intra-community acquisitions of taxable goods either by choice or due to having exceeded the quantitative limit set in the legislation regulating the tax, purchased by taxable persons who only perform transactions which do not carry the right to total or partial deduction for input tax, or by legal entities that do not act in their entrepreneurial capacity or by professionals.
- b) Intra-community acquisitions of goods under the simplified system, the special system for agriculture, livestock and fishing operations, and the equivalency surcharge system.

Article 28. Determination of place of transactions

One. For the purposes of the present Economic Agreement, the following transactions subject to taxation shall be understood to be performed in the Historical Territories of the Basque Country:

A) Supplies of goods:

First. Supplies of movable tangible property when delivery to the purchaser is performed from Basque territory. When the goods must be shipped in order to be delivered to the purchaser, the supplies shall be understood to have been performed in the place where the goods were located at the moment of initiating the dispatch or shipment. The following exceptions shall apply to this rule:

- a) In the case of goods processed by the supplier, the supply shall be understood to be made in Basque territory if the final processing of the goods in question was performed in that territory.
- b) In the case of supplies involving the installation of industrial facilities outside the Basque Country, said supplies shall be deemed performed in Basque territory if the preparation and manufacturing work is done in said territory and the cost of the installation or assembly does not account for over 15 per cent of the total remuneration.

Conversely, supplies involving the installation of industrial facilities in the Basque Country shall not be deemed performed in Basque territory if the preparation and manufacturing work is done in the common territory and the cost of the installation or assembly does not exceed 15 per cent of the total remuneration.

- c) In the case of goods which must be dispatched or shipped from another EU Member State and which meet the requirements laid down in the legislation regulating Value Added Tax for application of the distance selling system, supplies shall be deemed performed in Basque territory when the delivery finalises in said territory.

Second. Supplies made by electric power producers when the power generation plants are located in Basque territory.

Third. The handing-over of real property, when the properties are located in Basque territory.

B) Supplies of services:

First. Supplies of services shall be deemed performed in Basque territory when they are effected from that territory.

Second. Exceptions to the preceding paragraph are services directly related to real property, which shall be considered performed in the Basque Country when said assets lie in Basque territory.

Third. Moreover, excepted from the provisions contained in the preceding paragraphs are insurance and capitalisation transactions, regarding which the rules laid down in article 32 of the present Economic Agreement shall apply.

C) The provisions contained in the preceding letters notwithstanding, levying of the tax shall be the competence of the Administration of the State when the fiscal domicile of the taxable person is located in the common territory, and of the relevant Territorial Government when the taxable person's fiscal domicile is located in the Basque Country, for the following transactions:

First. Supplies made by agricultural, forestry, livestock or fishing operations, and fishing boat owners, each harvesting directly from its own fields, forests or nets, of unprocessed natural products.

Second. Transport services, including removals, towing and crane operations.

Third. Lease or rental of means of transport.

Two. Entities not performing the transactions set forth in this article shall file their returns with the Territorial Governments they have their fiscal domicile in Basque territory.

Article 29. Tax administration and inspection

One. Results of the assessment of the tax shall be attributed to the competent Administrations in proportion to the volume of consideration, net of Value Added Tax. Said consideration shall be the taxable supplies of goods, and services and exempt goods and services entitled to deduction, performed in the respective territories during each calendar year.

Two. The provisionally applicable proportions for each calendar year shall be those determined on the basis of the previous year's transactions.

The provisional proportion applied to tax returns for the first calendar year of the activity shall be estimated by the taxable person on the basis of his or her estimate of the transactions to be performed in each territory, without prejudice to the final adjustments thereto.

The preceding paragraph notwithstanding, upon prior notice to the Coordination and Evaluation Committee pursuant to Chapter III Section 2 of the present Economic Agreement, a different proportion may be applied in the following cases:

a) Mergers, divisions, exchange of securities and transfer of assets.

b) Start-up, termination, increase or reduction of activity in common or Basque territory entailing a significant variation in the proportion calculated according to the criterion specified in the first paragraph of this number.

In all cases, the variation shall be considered significant when it entails a difference of 15 or more percentage points in the proportion applicable to any of the territories.

Three. In the last tax return filed at the year-end, the taxable person shall calculate the definitive proportions according to the transactions actually performed in said period, and shall adjust as necessary the returns filed in the previous settlement periods with each of the Administrations.

Four. Persons liable to taxation shall file returns with the competent Administrations stating in all cases, the applicable proportions and the tax owed to, or to be refunded by, each of the Administrations.

Five. Applicable refunds shall be made by the respective Administrations in the proportion that pertains to each of them.

Six. Inspections shall be performed in accordance with the following criteria:

a) Inspection of taxable persons that must file returns exclusively with the Territorial Governments of the Historical Territories or, as the case may be, with the Administration of the State, shall be performed by the Tax Inspection Bodies of each of said Administrations.

b) Inspection of taxable persons that must pay taxes in proportion to the relative turnover generated in common and Basque territory shall be carried out in accordance with the following rules:

First. Taxable persons having their fiscal domicile in the common territory: Verification and inspection shall be performed by the State Tax Inspection Bodies, who shall regularise the taxable person's tax situation with respect to all the competent Tax Authorities, including the proportion of the tax that corresponds to each of the different Administrations.

Second. Taxable persons having their fiscal domicile in Basque territory: Verification and investigation shall be performed by the competent bodies of the Territorial Government of the Historical Territory in question without prejudice to the collaboration of the Administration of the State, and shall be deemed effective by all the competent Administrations, including as regards the proportion of the tax corresponding to each. In the event that the taxable person generates in the common territory 75 per cent or more of its total turnover, in accordance with the points of connection laid down herein, the competent authority shall be the Administration of the State, without prejudice to the collaboration of the Territorial Governments of the Historical Territories of the Basque Country.

Should the inspectors find that there is a tax liability due or an amount to be refunded corresponding to both Administrations, the collection or payment in question shall be made by the inspecting Administration, without prejudice to any compensations from each other to which the parties may be entitled.

The inspection agencies of the competent Administrations shall communicate the results of their actions to the rest of the Administrations affected.

Third. The conditions laid down in the preceding rules are without prejudice to the faculties corresponding to the Territorial Governments of the Historical Territories within the scope of their territories in matters of verification and investigation, although their actions cannot have economic effects on taxpayers' final returns filed as a result of actions of the agencies of the competent Administrations.

Fourth. The proportions set in verifications by the competent Administration shall affect the subject's paid-in taxes, without prejudice to those taxes which, following said verifications, are definitively agreed between both competent Administrations.

Seven. Entities making use of the special system for entity groupings shall file a return applying the rules laid down in Section 7, with the following particularities:

First. Dependent companies, whose inspection under the rules laid down in paragraph Six here above is performed by a body of the Territorial or common territory different from the dominant entity, shall be considered excluded from groups of entities.

Second. Entities comprising the entity grouping shall, in accordance with the general rules referred to herein, file the return established under the rules for filing independent tax returns, with the amounts arising from the individual application of the rules regulating the tax, including, as the case may be, the particular rules governing entity groupings.

Each entity in the entity grouping shall individually calculate the turnover attributable to each Administration, applying the rest of the rules laid down under Section Seven herein.

Third. The amounts computed in the aggregate tax returns of the entity grouping shall consist of the sum of the results calculated according to the above rule corresponding to each of the State or Basque Administrations, without the aggregation of the amounts corresponding to different tax administrations.

Fourth. The specific tax obligations of the dominant entities must be fulfilled with the tax Administrations of the territories in which the group entities have their operations.

Fifth. The special system for entity groupings shall in no case alter the rules under the present Economic Agreement, in particular those applicable to determine the turnover figures in each territory.

Eight. Recapitulative statements of intra-community supplies and acquisitions shall be filed with the Tax Authority empowered to inspect and investigate the relevant taxable persons.

SECTION 8 - CAPITAL TRANSFER TAX AND STAMP DUTY

Article 30. Applicable legislation

The Capital Transfer Tax and Stamp Duty is an agreed tax subject to Basque legislation, except in cases of certain company operations, bills of exchange and documents used in their stead or serving the purposes of a draft, which shall be regulated by the so-called common legislation. In such cases the competent institutions of the Historical Territories may adopt their own filing and payment forms, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each settlement period, which shall not be substantially different from those set by the Administration of the State.

Article 31. Levying of the tax

The tax shall be levied by the respective Territorial Governments on the following:

One. On transfers for valuable consideration and leases of real property, and on the establishment and assignment for valuable consideration of real property rights, including guarantees, when the assets are located in Basque territory.

In the cases referred to in article 108 of Law No. 24 of July 28, 1988 governing the Securities Market, when the real property comprising the assets of the entity whose securities are transferred is located in Basque territory.

Two. On transfers for valuable consideration of movable goods, stock and loans, as well as the establishment and assignment of rights thereon for valuable consideration, when the individual purchaser has his or her habitual residence in the Basque Country or the corporate purchaser has its fiscal domicile therein.

The above notwithstanding, two provisions are established:

- In transfers of shares, subscription rights, debentures and similar securities, as well as participation certificates, the place of formalisation of the transaction shall apply.
- In the constitution of chattel mortgages or pledges without transfer of possession, or concerned with ships, vessels or aircraft, the territory where such acts are to be registered shall apply.

Three. On the constitution of simple loans, guarantee deposits, nonproperty leases and pensions, when the borrower, lessee, receiver of guarantee or pensioner is a private individual and has his or her habitual residence in the Basque Country, or is a corporate body and has its fiscal domicile in that territory.

In cases of loans backed by guarantees, when the mortgaged real property is located in Basque territory or when the corresponding mortgages or pledges without transfer of possession registerable therein.

If a single loan is guaranteed with a mortgage on real property located in the common and Basque territory or with a chattel mortgage or pledge without transfer

of possession registerable in both territories, taxes shall be paid in the proportion corresponding to each Administration, and in the absence of this specification in the deed, the proportion shall correspond to the verified value of the assets.

Four. On administrative concessions of assets when located in the Basque Country, and on the execution of works or services when executed or rendered in the Basque Country. These same rules shall apply for administrative actions and transactions liable to taxation by government concession equalisation.

In cases of concessions on the exploitation of goods exceeding the territorial scope of the Basque Country, the tax levied shall be proportionate to the extension of such in the Basque territory.

In cases of concessions on the execution of works exceeding the territorial scope of the Basque Country, the tax levied shall be proportionate to the extension of such in the Basque territory.

In cases of concessions on service operations exceeding the territorial scope of the Basque Country, the tax levied shall be calculated according to the arithmetic mean of the percentages of population and area relative to the entirety of the Autonomous Communities involved.

In cases of joint concessions exceeding the territorial scope of the Basque Country, the tax levied shall be calculated by applying the criteria laid down in the three paragraphs here above to the corresponding share of the concession.

In the case of administrative concessions exceeding the territorial scope of the Basque Country, the inspection shall be performed by the competent bodies of the Territorial Government of the Historical Territory when the fiscal domicile of the concessionary entity is located therein.

Five. On certain corporate operations, when any of the following circumstances apply:

- a) The entity has its fiscal domicile in the Basque Country.
- b) The entity has its corporate domicile in the Basque Country, provided that the effective seat of management is not located within the territorial scope of the Tax Authority of another EC Member State, or if so located, said State does not impose a similar tax on such corporate operations.
- c) The entity performs business transactions in the Basque Country when its effective seat of management and corporate domicile are not located within the territorial scope of the Tax Authority of another EC Member State, or if so located, said States do not impose a similar tax on such corporate operations.

Six. On notarised statements, deeds and certificates, when they are authorised or issued in Basque territory.

The preceding paragraph notwithstanding, in cases subject to sliding scale stamp duty, when the Registry where the assets or transactions are to be inscribed or registered is located in the Basque Country.

Seven. On bills of exchange and documents used in their stead or for draft purposes, and on promissory notes, bonds, debentures and similar securities, when issued in the Basque Country; in the event that their issue occurs abroad, when their first holder has his or her habitual residence or fiscal domicile in said territory.

Eight. On caveats, when made in the Public Registries of the Basque Country.

Article 32. Applicable legislation and levying of the tax

One. The Tax on Insurance Premiums is an agreed tax subject to the same rules in terms of substance and form as those established at any given time by the State.

Nevertheless, the competent Institutions of the Historical Territories may adopt their own filing and payment forms, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each settlement period, which shall not be substantially different from those set by the Administration of the State.

Two. The tax shall be levied by the respective Territorial Governments of the Historical Territories when the location of the risk or commitment, in insurance and capitalisation operations, arises in Basque territory.

Three. For these purposes, location of risk shall be understood to be in Basque territory in accordance with the following rules:

First. In cases of insurance on real property, when the assets are located in said territory. The same rule shall apply when the insurance refers to real property and its content, if the latter is covered by the same insurance policy. In the event that the insurance refers exclusively to movable goods located within premises, with the exception of goods in commercial transit, when the premises wherein the goods are contained lie in said territory.

If a single insurance covers the risk of real property located in both common and Basque territory the location of risk shall be determined by the value of the properties situated in each of the territories.

Second. In the event that the insurance refers to vehicles of any kind, when the person or entity under whose name the vehicle is registered has his or her habitual residence or fiscal domicile in the Basque Country.

Third. In the event that the insurance refers to risks arising during travel or outside the habitual residence of the policyholder, for a period equal to or less than four months, when the policyholder has signed the contract in Basque territory.

Fourth. In all cases not explicitly covered by the preceding rules, when the policyholder, if an individual, has his or her habitual residence in the Basque Country, or if otherwise, when the corporate or branch domicile referred to in the contract is located in said territory.

Four. The location of the commitment shall be understood to be in Basque territory when the policyholder has his or her habitual residence therein, in the case of individuals, or its corporate or branch domicile, as the case may be, in this territory in the event of corporate bodies.

Five. In the absence of specific rules of location pursuant to the points here above, insurance and capitalisation transactions shall be understood to take place in Basque territory when the contracting party is an entrepreneur or a professional who enters into such transactions in the course of his or her business or professional activities and has his or her effective seat of management in said territory or has a permanent establishment therein, or in lieu thereof, his or her place of residence.

SECTION 10 - EXCISE DUTIES

Article 33. Applicable legislation and levying of the taxes.

One. Excises Duties are agreed to be taxes subject to the same rules in terms of substance and form as those established at any given time by the State.

Nevertheless, the competent Institutions of the Historical Territories may establish the tax rates within the limits and under the conditions then current common territory.

Moreover, the competent Institutions of the Historical Territories may adopt their own filing and payment forms, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each settlement period, which shall not be substantially different from those set by the Administration of the State.

Two. Excise Duties shall be levied by the respective Territorial Governments of the Historical Territories when the liability arises in the Basque Country.

Refunds of Excise duties shall be paid by the Administration of the territory where the liability in question was paid in. Nevertheless, in cases where it is not possible to determine in which Administration the duty was paid in, the refund shall be made by the Administration of the territory where entitlement to the refund is generated. Authority over the establishments located in the Basque Country, as well as the authorisation system of same, under any of its regimes, shall be exercised by the respective Territorial Governments of the Historical Territories. However, prior notice shall be given to the State Administration and the Coordination and Evaluation Committee.

Three. The Excise Duty on Certain Means of Transport shall be levied by the respective Territorial Governments, when the vehicles are definitively registered in Basque territory.

The provisions pursuant to paragraph One here above notwithstanding, the competent institutions of the Historical Territories may increase the tax rate by up to 15 per cent of the rates laid down at any given time by the State.

Registration shall be performed according to the criteria laid down in the currently applicable legislation. In particular, individuals shall register vehicles in the province where their habitual residence is located.

Four. The Excise Duty on Coal shall be levied by the respective Territorial Governments of the Historical Territories when the liability arises in the Basque Country.

The duty shall become chargeable at the time of release for consumption or own consumption.

Release for consumption means the time of the first sale or delivery of coal following production, extraction, importation or intra-community acquisition.

First sale or delivery shall also mean any subsequent sales or deliveries of coal for meant for resale by business owners when the acquisition thereof is eligible for exemption for resale.

Own consumption shall mean the use or consumption of coal by producers or extractors, importers, intra-community purchasers, or business owners referred to in the paragraph above.

SECTION 11 - TAX ON FLUORINATED GREENHOUSE GASES

Article 34. Applicable legislation and levying of the tax

One. The Tax on Fluorinated Greenhouse Gases is an agreed tax subject to the same rules in terms of substance and form as those established at any given time by the State.

Nevertheless, the competent Institutions of the Historical Territories may adopt their own filing and payment forms, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each settlement period, which shall not be substantially different from those set by the Administration of the State.

Two. The Tax shall be levied by the Administration of the State or Territorial Government deemed competent by virtue of the Historical Territory according to whether the end consumers referred to by State regulations use the taxable products in installations, equipment or apparatus located in common or in Basque territory.

When the fluorinated greenhouse gases are used for own consumption, the Tax shall be levied by the Administration of the State or competent Territorial Government of the territory in which such use occurs.

For all other situations not covered in the paragraphs here above, the Tax shall be levied by the Administration of the location of the establishment of the taxpayer in which the taxable activity occurs.

Three. Applicable refunds shall be made by the Administration to which the tax was paid when requested up to a maximum limit of said amount.

SECTION 12 - OTHER INDIRECT TAXES

Article 35. Applicable legislation

Other taxes shall be regulated by the same basic principles, substantive rules, taxable events, exemptions, accruals, bases, rates, fees and deductions as those established at any given time by the State.

SECTION 13 - GAMING DUTIES

Article 36. Tax on Gaming Activities.

One. The Tax on Gaming Activities is an agreed tax subject to the same rules in terms of substance and form as those established at any given time by the State.

In any event, persons liable to pay the Tax shall enter in the returns to be filed with each of the Administrations involved all information corresponding to the taxable activities.

The above notwithstanding, as regards the activities of operators, organisers or whoever develops the taxable activity with a fiscal residence in the Basque Country, the competent Institutions of the Historical Territories can raise the Tax to a maximum of 20 per cent with respect to the rates established at all times by the State. This increase shall be applied, exclusively, to the proportional part of the taxable income corresponding to participation in gaming by fiscal residents of the Basque territory.

Moreover, the competent Institutions of the Historical Territories may adopt their own filing and payment forms, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each

settlement period, which shall not be substantially different from those set by the Administration of the State.

Two. Persons liable shall pay, no matter where their fiscal address, the Territorial Governments, Administration of the State, or both Administrations proportional to the volume of operations carried out in each territory during the tax year.

The proportion of the volume of operations in each territory during the tax year shall be established according to the relative weight of the amounts spent on gaming by players who reside in the Basque Country and in common territory. This proportion shall also be applied to amounts paid as a result of game modalities where the residence of the player cannot be identified and to amounts corresponding to players who do not reside in Spanish territory.

Notwithstanding the provisions of the paragraph here above, the Tax arising from the placement of sports and charitable gaming bets and of bets on horses in state betting establishments, where the residence of the player is not established shall be levied by the Administration of the State or competent Territorial Government by virtue of whether the territory of the point where the bet is placed is located in common or Basque territory.

Three. Liable persons shall file tax returns with the competent Administrations for their levying, stating, where appropriate, the applicable proportion and the amounts owed to each of the Administrations.

Four. Applicable refunds shall be made by the respective Administrations in the proportion that pertains to each of them.

Five. The inspection of liable persons shall be carried out by bodies of the Administration corresponding to the fiscal residence of the liable person or to that of their representative in the case of non-resident liable persons, notwithstanding the collaboration of other Tax Administrations concerned, and shall be deemed effective by all of the competent Administrations, including the proportion of the tax corresponding to each one.

Notwithstanding, it shall be the task of the Administration of the State to inspect liable persons whose fiscal residence is in Basque territory when, in the previous year, the aggregate sum of amounts played exceeds 7 million euros and the proportion of these made in common territory, pursuant to the points of connection specified in section Two here above, are equal to or higher than 75 per cent.

Moreover, it shall be the task of the bodies of the competent Territorial Government by virtue of the territory to inspect liable persons whose fiscal residence is located in common territory when, in the previous year, the aggregate sum of amounts played exceeds 7 million euros and all operations were carried out in Basque territory pursuant to the points of connection specified in section Two here above.

Should the inspectors find that there is a tax liability due or an amount to be refunded corresponding to both Administrations, the collection or payment in question shall be made by the inspecting Administration, without prejudice to any compensations from each other to which the parties may be entitled.

The inspection agencies of the competent Administrations shall communicate the results of their actions to the rest of the Administrations affected.

The conditions laid down in the above paragraphs of this section are understood without prejudice to the faculties corresponding to the Tax Administrations in the scope of their respective territories in matters of verification and investigation, although their actions cannot have economic effects on taxpayers' final returns filed as a result of actions of the agencies of the competent Administrations.

The proportions set in verifications by the competent Administration shall affect the subject's paid-in taxes, without prejudice to those taxes which, following said verifications, are definitively agreed between both Administrations.

Article 37. Other taxes on game

One. Other gaming taxes are agreed taxes corresponding to autonomous regulations, in which case their authorisation shall be made in the Basque Country. The same regulations shall be applied as provided for at all times by the State with regards to the taxable event and the liable person.

Two. Duties on games of chance and gambling shall be levied by the Territorial Government deemed competent by virtue of the Historical Territory when the taxable event is performed in the Basque Country.

Three. Duties on raffles, betting and random combinations shall be levied by the Territorial Government deemed competent by virtue of the Historical Territory when the authorisation thereof must be obtained in the Basque Country.

SECTION 14 - FEES

Article 38. Competence for levying

Fees collected for the special use or exploitation of Territorial Government public domain for services rendered or activities performed thereby under public law shall be levied by the Territorial Governments.

SECTION 15 - MUNICIPAL TAX AUTHORITIES

Article 39. Tax on Immovable Property

The Tax on Immovable Property shall be regulated by the rules adopted by the competent Institutions of the Historical Territories and shall be levied on rural and urban assets located in the respective Historical Territory.

Article 40. Tax on Business and Professional Activities

One. The Tax on Business and Professional Activities shall be regulated by the rules adopted by the competent Institutions of the Historical Territories.

Two. The competent Institutions of the Historical Territories shall be responsible for levying the Tax on Business and Professional Activities exercised in their territory, in accordance with the following rules:

- a) In cases of minimum municipal rates, or raised rates as applicable, when payable in favour of the municipalities of the Historical Territory.
- b) In cases, where applicable, of provincial rates when the activity is exercised in the corresponding Historical Territory.
- c) In cases of rates entitling the taxpayer to perform his or her activity in more than one province when his or her habitual residence or fiscal domicile is in the Basque Country, as the case may be. Payment of said amounts to the corresponding Administration of the common or Basque territory shall entitle the taxpayer to exercise his or her activity in both territories.

Article 41. Motor Vehicle Tax

The Motor Vehicle Tax shall be regulated by the rules laid down by the competent Institutions of the Historical Territories, when the domicile appearing on the driver's licence corresponds to a town or city in their territory.

Article 42. Other municipal taxes

The competent Institutions of the Historical Territories may maintain, establish and regulate, within their own territory, the system governing the remaining taxes peculiar to municipalities, pursuant to the criteria specified below:

- a) Attention to the general structure established for the system of municipal taxes under the common regime, and to the principles on which said structure is based, respecting any harmonisation rules envisaged in article 3 hereof that are applicable in this field.
- b) Non establishment of indirect taxes other than those of the common regime, the revenues from which might be transferred or passed on outside the territory of the Basque Country.

SECTION 16 - ADMINISTRATIVE AND PROCEDURAL RULES

Article 43. Habitual residence and fiscal domicile

One. For the purposes of the provisions contained in the present Economic Agreement, it shall be understood that resident individuals have their habitual residence in the Basque Country pursuant to the successive application of the following rules:

First. When they remain in said territory for more days of the tax period, for Personal Income Tax purposes; of the previous year counting up to the day prior to the date of accrual for the purposes of Inheritance and Gift Tax, Capital Transfer Tax, Stamp Duty and Excise Duty on Certain Means of Transport.

For the remaining taxes the habitual residence of taxable persons shall be the same as that used for Personal Income Tax at the date of accrual of said taxes.

To determine the period of stay, temporary absences shall be computed.

Unless there is evidence to the contrary, an individual shall be considered to remain in Basque territory when this is the location of his or her habitual dwelling.

Second. When this is where they have their main centre of interests, considering as such the territory where they obtain most of their taxable income for Personal Income Tax purposes, excluding, for these purposes, income and capital gains arising from capital investments, and income allocated under the tax transparency system, except in the case of professionals.

Third. When this is the territory of their last declared residence for Personal Income Tax purposes.

Two. Individuals resident in Spanish territory who do not remain in said territory for more than 183 days of the calendar year shall be considered residents of the territory of the Basque Country when they have their main centre or base of business or professional activity, or of their economic interests, in said territory.

Three. When it is presumed that an individual resides in Spanish territory, s/he shall be considered to have her/his habitual residence in Basque territory if her/his not legally separated spouse and dependent children of minor age have their habitual residence in the Basque territory.

Four. For the purposes of the present Economic Agreement, the following shall be understood to have their fiscal domicile in the Basque Country:

- a) Individual taxpayers who have their habitual residence in the Basque Country.
- b) Corporate persons and other entities subject to Corporation Tax when their corporate domicile is in said territory, provided that the administrative management and direction of their business is effectively centralised therein. Otherwise, the place where said management or direction takes place shall apply. In cases where the place of domicile cannot be established by applying the aforesaid criterion, the place where the greatest fixed asset value is located shall apply.
- c) Permanent establishments whose administrative management and direction of their business takes place in the Basque Country. In cases where the place of domicile cannot be established by applying the aforesaid criterion, the place where the greatest fixed asset value is located shall apply.
- d) Civil societies and entities without independent legal status whose administrative management and direction takes place in the Basque Country. In cases where the place of fiscal domicile cannot be established by applying the aforesaid criterion, the place where the greatest fixed asset value is located shall apply.

Five. Persons liable for Corporation Tax and permanent establishments owned by non-residents shall be obliged to notify both Administrations of changes of address or fiscal domicile causing changes in competence for levying said taxes. For Personal Income Tax notification shall be understood to be completed upon filing a return for said tax.

Six. Any disputes between Administrations that may arise over the domicile of taxpayers shall be resolved, following a hearing, by the Arbitration Board provided for in Chapter III, Section 3 of the present Economic Agreement.

Seven. Individuals residing in common or Basque territory who change their habitual residence from one to the other shall fulfil their tax obligations in the new place of residence, when the latter serves as the point of connection, as of that moment.

Moreover, when by virtue of the provisions contained in this point it is deemed that no change of residence has taken place, individuals must file the necessary supplementary returns, including late payment interest.

Changes of residence made for the purposes of achieving lower tax liability shall not be deemed effective.

It shall be presumed, unless the new residence extends continuously for a minimum of three years, that no change has taken place, for Personal Income Tax and Wealth Tax purposes, when the following circumstances occur:

- a) For the year in which the change of residence occurs, or the year thereafter, the taxpayer's Personal Income Tax, tax base is at least 50 per cent higher than the year prior to the change. If joint returns are filed, individualisation rules shall apply.
- b) For the year in which said situation occurs, the taxpayer's Personal Income Tax liability is lower than it would have been under the applicable legislation of the territory of residence prior to the change.
- c) The year after the event referred to in letter a), or the following year, the taxpayer again acquires habitual residence in said territory.

Eight. Unless there is evidence to the contrary, it shall be presumed that no change of fiscal domicile of corporate persons has taken place if in the year before or after the change no earnings are filed or the professional activity has been terminated.

Nine. Changes in taxpayer domicile may be promoted by any of the Administrations involved. The Administration shall transmit its proposal, together with the necessary antecedents, to the other Administration, which in four months' time shall announce its decision on the change of domicile and on the effective date. If the latter

responds by endorsing the proposal, the competent Administration shall then inform the taxpayer.

Should the Administrations fail to reach an agreement, the procedure may continue in compliance with the provisions laid down in number Six of the present article.

Prior to remitting a proposed change of residence, the interested Administration can, in collaboration with the other Administration, proceed to effectuate a census verification of the fiscal residence.

In the event of a change in business residence, having obtained prior agreement from both Administrations, or as a result of a ruling by the Board of Arbitration, it shall be presumed, unless proof exists to the contrary, that the new fiscal residence established in this manner shall remain in place for three years after the date of the ruling.

Article 44. Fiscal offences

In cases where the Tax Authority considers that infractions could constitute an offence against the Public Treasury regulated under the Penal Code, the case shall be decided by the competent jurisdiction and the administrative procedure shall not be pursued until the court has handed down a firm ruling, whether the legal proceedings are dismissed or closed, or the case is returned by the Public Prosecutor.

Article 45. Cooperation of financial institutions for tax administration and inspection purposes

One. The Territorial Governments of the Historical Territories of the Basque Country shall be responsible for the tax inspection of the accounts and loan and deposit operations both of financial institutions and of any individuals or corporate bodies that are engaged in banking or loan operations, in order to levy the taxes under their competence.

Regarding actions to obtain the information referred to in the preceding paragraph and performed outside the Basque territory, the provisions contained in number Two here below shall apply.

Two. Investigation and verification actions which are within the scope of competence attributed hereby to the Territorial Governments, but which must be performed outside their territory, shall be performed by the Tax Inspection services of the State, or by those of the competent Autonomous Communities when dealing with taxes governed by autonomous legislation, at the request of the competent body of the aforesaid Territorial Governments.

When the Tax Inspection Service of the State or of the Territorial Governments of the Historical Territories detect, as a result of their inspection and verification activities, findings of fiscal relevance for the other Administration, it shall notify the latter of same as specified in the pertinent regulations.

Article 46. Obligation to provide information

One. Summaries of withholdings and payments on account shall be submitted, pursuant to their respective legislation, to the competent Administration for taxing withholdings and payments on account, which shall be included therein.

Entities that are depositaries or administrators of income on assets which, in accordance with the corresponding legislation, require annual summaries on withholdings and payments on account, shall submit said summaries, pursuant to their respective legislation, to the competent Administration for verification and investigation of said entities.

Entities liable to payment of the Corporation Tax levied by the State and by the Territorial Governments shall submit annual summaries on withholdings and payments on account corresponding to the income referred to in articles 7 (One, c), 9 (One, First, a) and 23. Two of the present Economic Agreement pursuant to the rules on place, form and filing deadline determined by the competent Administration for levying the tax, including the total income and withholdings corresponding to the same in the returns filed with each one.

Two. Tax returns filed for the purpose of fulfilling the different legal obligations for providing general tax information shall be submitted, in accordance with their respective legislation, to the competent Administration of the State or the Territorial Governments of the Historical Territories, according to the following criteria:

- a) In the case of taxpayers who engage in business and professional activities, to the competent Administration for the verification and investigation of said activities.
- b) In the case of taxpayers who do not engage in business and professional activities, depending on whether their fiscal domicile is in the common or Basque territory.

For the purposes of that laid down in the paragraphs here above, in the case of recumbent inheritances, community estates or other bodies with no legal personality, said returns shall likewise be filed with the administration where their members or participants have their fiscal residences.

Three. Generally applicable tax returns shall be filed, in accordance with their respective legislation, with the competent Administration wherein lies the fiscal domicile of the liable taxpaying individual or entity, and also with the Administration to which said person or entity must submit, in accordance with the rules laid down in the present Economic Agreement, one or more of the following tax returns:

- Tax return for withholdings and payments on account
- Corporation Tax return
- Value Added Tax return
- Business and Professional Activities return

Article 47. Corporate mergers and divisions

In merger and division operations of companies whose taxable income, as the case may be, must be recognised by both Administrations pursuant to the filing criteria contained in article 14 here above, the Territorial Governments of the Historical Territories shall apply identical regulations as those in effect at any given time in the common territory, and the corresponding administrative procedures of each Administration shall be complied with.

CHAPTER II FINANCIAL RELATIONS

SECTION 1 - GENERAL REGULATIONS

Article 48. General principles

The financial relations between the State and the Basque Country shall be governed by the following principles:

First. Fiscal and financial autonomy of the Institutions of the Basque Country in the development and implementing of its powers.

Second. Respect for the principle of solidarity in the terms laid down in the Constitution and in the Statute of Autonomy.

Third. Coordination and cooperation with the State in matters of budgetary stability.

Fourth. Contribution by the Basque Country to charges of the State not assumed by the Basque Autonomous Community, as determined by the present Economic Agreement.

Fifth. The faculties of financial supervision exercised by the State at any time in matters concerning municipalities shall correspond to the competent Institutions of the Basque Country, without this being construed to mean, in any way whatsoever, that the Basque Municipalities shall have a lower level of autonomy than that enjoyed by those under the common regime.

Article 49. Concept of the quota

The contribution of the Basque Country to the State shall consist of an overall quota, comprising the quotas from each of the Historical Territories, as the Basque Country's share of all the charges of the State not assumed by the Autonomous Community of the Basque Country.

Article 50. Periodicity and updating of the quota

One. Every five years, by means of a law passed by the Spanish Parliament, subject to the prior agreement of the Joint Committee on the Economic Agreement referred to in the following article, the methodology to be used in setting the quota, in the five-year period, shall be determined in accordance with the general principles laid down herein, and the quota for the first year of the five-year period shall be approved.

Two. In each of the years following the first, the Joint Committee on the Economic Agreement shall bring the quota up to date by applying the methodology approved in the Law referred to in the preceding paragraph.

Three. The principles underlying the methodology for determining the quota and contained herein may be amended in the Quota Act, when circumstances and the experience acquired in its application make this advisable.

Article 51. Basque Municipalities' share in revenues from taxes not covered by the Economic Agreement

In cases of indirect contribution through a participation in such taxes, the Territorial Governments of the Historical Territories shall distribute the amounts which, pursuant to the general apportionment rules, correspond to the Municipalities in their respective Historical Territory.

SECTION 2 - METHODOLOGY FOR DETERMINING THE QUOTA

Article 52. Charges of the State not assumed by the Autonomous Community

One. Charges of the State not assumed by the Autonomous Community are those which correspond to competences which have not been actually assumed by the latter.

Two. To determine the total amount of said charges, the entire State Budget allocation corresponding to the competences assumed by the Autonomous Community as of the entry into effect of the transfers established in the corresponding Decrees shall be deducted from the total State Budget expenditures.

Three. Among others, the following shall be considered charges not assumed by the Autonomous Community:

- a) The sums allocated in the General State Budget to the Inter-territorial Compensation Fund referred to in article 158.2 of the Spanish Constitution. The contribution to this burden shall be made by means of the procedure laid down in the Quota Act.
- b) Transfers or subsidies granted by the State to public entities, provided that the competences exercised thereby have not been assumed by the Autonomous Community of the Basque Country.
- c) The interest payments and repayments of principal on all State debts as determined in the Quota Act.

Four. Apportionment to the different Historical Territories of their share of non-assumed charges shall be made by applying the rates referred to in article 57 here below.

Article 53. Adjustment to consumption for Value Added Tax

One. For the purpose of perfecting the attribution of Value Added Tax revenues, an adjustment mechanism is set up between the actual revenue capacity and the rate of consumption of the Basque Country.

Two. The result of applying the following mathematical equation shall be used as the adjustment mechanism:

$$RF_{PV} = RR_{PV} + a * RR_{AD} + (a - b) * H$$

Where:

$$H = \frac{RR_{PV}}{b} \text{ if } \frac{RR_{PV}}{RR_{TC}} \leq \frac{b}{1 - b}$$

$$H = \frac{RR_{TC}}{1 - b} \text{ if } \frac{RR_{PV}}{RR_{TC}} \geq \frac{b}{1 - b}$$

RF_{PV} = Final annual revenue for the Basque Country.

RR_{PV} = Real annual revenue of the Basque Country.

RR_{TC} = Real annual revenue of the common territory.

RR_{AD} = Real annual revenue from imports.

$$a = \frac{\text{Consumption of residents of the Basque Country}}{\text{Consumption of residents of the State} \\ (\text{minus Canary Islands, Ceuta and Melilla})}$$

$$b = \frac{v - f - e + i}{V - F - E + I}$$

v = Gross added value of the Basque Country at factor cost.

V = Gross added value of the State (minus Canary Islands, Ceuta and Melilla).

f = Gross capital formation of the Basque Country.

F = Gross added value of the State (minus Canary Islands, Ceuta and Melilla).

e = Exports from the Basque Country.

E = Exports from the State (minus Canary Islands, Ceuta and Melilla).

i = Intra-community acquisitions of goods in the Basque Country.

I = Intra-community acquisitions of goods in the State (minus Canary Islands, Ceuta and Melilla).

Three. The value of the rates referred to the paragraph One here above shall be determined in accordance with the Quota Act.

Four. The provisional attribution of the aforesaid adjustment for each of the excise duties and the definitive regularisation thereof in the immediately subsequent year shall be carried out in accordance with the procedure in force at the time and approved by the Joint Committee on the Economic Agreement.

Article 54. Adjustment to consumption for Excise Duties

One. For the purpose of perfecting the attribution of revenues from Excise Duties on Alcohol and Alcoholic Beverages, Intermediate Products, Beer, Mineral Oils and Manufactured Tobacco, an adjustment mechanism is set up between the actual revenue capacity and the rate of consumption of the Basque Country for each of these taxes.

Two. The result of applying the following mathematical equation shall be used as the adjustment mechanism for each of the taxes listed here above:

$$RF_{PV} = RR_{PV} + c * RR_{AD} + (c - d) * H$$

Where:

$$H = \frac{RR_{PV}}{d} \text{ if } \frac{RR_{PV}}{RR_{TC}} \leq \frac{d}{1 - d}$$

$$H = \frac{RR_{TC}}{1 - d} \text{ if } \frac{RR_{PV}}{RR_{TC}} \geq \frac{d}{1 - d}$$

RF_{PV} = Final annual revenue of the Basque Country from Excise Duties on Alcohol and Alcoholic Beverages, Intermediate Products, Beer, Mineral Oils and Tobacco.

RR_{PV} = Real annual revenue of the Basque Country from Excise Duties on Alcohol and Alcoholic Beverages, Intermediate Products, Beer, Mineral Oils and Tobacco.

RR_{TC} = Real annual revenue of the common territory from Excise Duties on Alcohol and Alcoholic Beverages, Intermediate Products, Beer, Mineral Oils and Tobacco.

RR_{AD} = Real annual revenue from Excise Duties from imports of Alcohol and Alcoholic Beverages, Intermediate Products, Beer, Mineral Oils and Tobacco.

$$c = \frac{\text{Consumption of residents of the Basque Country}}{\text{Consumption of residents of the State} \\ (\text{scope of application of the tax})}$$

$$d = \frac{\text{Revenue capacity of the Basque Country}}{\text{Revenue capacity of the State}} \\ \text{(scope of application of the tax)}$$

Three. The value of the rates referred to the paragraph One here above shall be determined in accordance with the Quota Act.

Four. The provisional attribution of the aforesaid adjustment for each of the excise duties and the definitive regularisation thereof in the immediately subsequent year shall be carried out in accordance with the procedure in force at the time and approved by the Joint Committee on the Economic Agreement.

Article 55. Other adjustments

One. For the purpose of perfecting direct taxation, an adjustment shall be made for the amounts arising from the cases laid down in articles 9 (One, First, b) and 7 (Two) herein.

Two. Similarly, in the Quota Act, other adjustment mechanisms can be established, as the case may be, which may improve the system for estimating the public revenue attributable to the Basque Country and to the rest of the State.

Three. The amounts resulting from application of the pertinent adjustments shall constitute the quota for each Historical Territory.

Article 56. Compensations

One. From the quota corresponding to each Historical Territory the following items shall be subtracted for compensation purposes:

- a) The attributable portion of non-transferred taxes.
- b) The attributable portion of budgetary income not from taxes.

c) The attributable portion of the deficit figuring in the General State Budget, as determined by the Quota Act. In the event of a surplus, the opposite would apply.

Two. Also subject to compensation of the quota corresponding to each Historical Territory is the portion attributable to the Basque Country for revenues utilised in the financing of Social Security functions and services related to health and social services devolved to the Basque Country which prior to the entering in effect of this Law were paid to the Basque Country by transfers from the Social Security General Treasury, as provided for in the budgetary regime laid down in Royal Decrees 1.536/1987 of 6 November, 1.476/1987 of 2 October, 1.946/1996 of 23 August and 558/1998 of 2 April.

Three. Attribution of the items stipulated in the points above shall be made by applying the attribution rate referred to in article 57 here below.

Article 57. Attribution rates

One. The attribution rates referred to in articles 52, 55 (Two) and 56 here above, shall be determined basically in accordance with the income of the Historical Territories relative to that of the State.

Two. The rates shall be set out in the Quota Act and shall be applied during the validity period thereof.

Article 58. Effects on the provisional quota due to variations in transferred competences

One. If, during the annual validity period of the quota, set in accordance with the preceding rules, the Autonomous Community of the Basque Country assumes competences whose annual cost at State level had been included in the charges of the State used as the basis for determining the provisional amount of the quota, said annual cost shall be reduced proportionally to the portion of the year during which the Basque Country has assumed said competences, with the quota being reduced accordingly.

The aforesaid proportional reduction shall take into account the actual periodicity of operating costs, as well as the actual extent to which the State's investments have been undertaken.

Two. The same procedure would be followed if the Autonomous Community stopped exercising competences already assumed at the time of setting the provisional quota, increasing the latter by the appropriate amount.

Article 59. Provisional and final settlements

The quota and the appropriate compensations shall be set initially and provisionally using for this purpose the figures contained in the State Budget passed for the year in question.

Once the accounting year has ended and the State Budget has been settled, any necessary corrections shall be made to the amounts referred to in articles 52, 55 and 56 of the present Economic Agreement.

The positive or negative differences resulting from said corrections shall be added algebraically to the provisional quota for the year subsequent to that in which the corrections were made.

Article 60. Payment of the quota

The amount payable by the Autonomous Community of the Basque Country shall be paid to the State Treasury in three identical installments, during the months of May, September and December of each year.

CHAPTER III ECONOMIC AGREEMENT COMMITTEES AND BOARD OF ARBITRATION

SECTION 1 - JOINT COMMITTEE ON THE ECONOMIC AGREEMENT

Article 61. Composition and agreements

The Joint Committee on the Economic Agreement shall be made up of one representative from each Territorial Government plus the same number from the Basque Government, on the one hand, and on the other, by the same number of representatives from the Administration of the State.

The agreements of the Joint Economic Agreement Committee must be adopted unanimously by all of its members.

Article 62. Functions

The Joint Committee on the Economic Agreement shall exercise the following functions:

Agree on modifications to the Economic Agreement.

- b) Agree on coordination and cooperation commitments in matters of budgetary stability.
- c) Agree on the methodology to be used in setting the quota for each five-year period.
- d) Agree on the system and appointment of the Members of the Board of Arbitration described in Section 3 of this Chapter, and on operations, summons to and details of meetings, and the system for adopting agreements.
- e) Any and all agreements involving matters of tax and finance deemed necessary at any given time for the correct application and development of the provisions contained in the present Economic Agreement.

SECTION 2 - COORDINATION AND EVALUATION COMMITTEE

Article 63. Composition

The Coordination and Evaluation Committee shall be made up of:

- a) Four representatives of the Administration of the State.
- b) Four representatives of the Autonomous Community appointed by the Basque Government, three of which shall be at the proposal of each of the respective Territorial Governments.

Article 64. Functions

The Coordination and Evaluation Committee shall exercise the following functions:

- a) Evaluate the adaptation of the tax legislation to the Economic Agreement prior to the publication thereof.

For this purpose, if as a result of the exchange of information on draft bills specified in article 4, paragraph One of the present Economic Agreement, observations should arise relative to the proposals contained therein, any of the Institutions and Administrations represented may request, in writing and with good cause, the Committee to assemble. The Committee shall then convene within fifteen days from the date of request to analyse the appropriateness of the proposed regulation for the Economic Agreement and shall make all efforts, prior to the publication of the corresponding regulations, to see that the Institutions and Administrations represented reach an agreement on any discrepancies in the tax legislation.

- b) Resolve any concerns put forward on the application of points of connection laid down in the present Economic Agreement. Concerns shall be transferred for their analysis, together with a proposed resolution, within two months from reception thereof, to the rest of the Administrations concerned. If no observations are formulated on the proposal for resolution in two months' time, said proposal shall be deemed approved.

In the event that observations exist and are not accepted, an agreement can be reached with regard to the same by the Regulatory Assessment and Coordination Committee. In any event, if, after two months from the time said observations are made no agreement has been reached, the Regulatory Assessment and Coordination Committee or any of the Administrations concerned can take the matter to the Board of Arbitration within the following month.

- c) Make whatever studies they deem necessary for the adequate structural and functional organisation of the autonomous regime within the fiscal framework of the State.

- d) Provide the competent Administrations with uniform action criteria, computer plans and programmes, and to organise the instruments, resources, procedures or

methods for the effective materialisation of cooperation principles and information exchange.

- e) Analyse the cases and questions that have arisen over inspection matters between the Administration of the State and the respective Territorial Governments, and to examine valuation problems for tax purposes.
- f) Issue reports requested by the Spanish Ministry of Finance, the different Finance Departments of the Basque Government and the Territorial Governments, and the Board of Arbitration.
- g) Any other functions related, in particular, to the application and execution of the present Economic Agreement.

SECTION 3 - BOARD OF ARBITRATION

Article 65. Composition

One. The Board of Arbitration is made up of three members appointed and formalised by the Spanish Minister of Finance and Public Administrations and the Basque Minister of Treasury and Finance.

Two. The arbitrators are appointed for a period of six years and may not be re-elected unless they have served on the Board for less than three years.

Three. Should there be a vacancy it shall be filled according to the same procedure as for appointments. The new member shall serve for the amount of time the substituted person had remaining to fulfil his or her term.

Four. Members of the Board of Arbitration shall be appointed by experts of renown prestige with over fifteen years of professional experience in tax and finance matters.

Article 66. Functions

One. The Board of Arbitrators shall exercise the following functions:

- a) Resolve all disputes arising between the Administration of the State and the Territorial Governments of the Historical Territories, or between the latter and the Administration of any other Autonomous Community, over the application of the points of connection for the taxes transferred hereunder and over the determination of the proportion corresponding to each Administration in cases of joint filing of Corporation Tax or Value Added Tax returns.
- b) Hear disputes arising between the interested Administrations over the interpretation and application of the present Economic Agreement in specific cases concerning individual tax relations.
- c) Resolve any disputes that may arise over the domicile of taxpayers.

Two. In disputes over competence, the Administrations affected shall inform the interested parties, implying the abeyance of prescription, and shall refrain from taking any other action.

Conflicts shall be resolved by regulatory procedure and interested parties shall be given due hearing.

Three. In disputes over competence, until such time as said disputes are solved, the Administration that had taxed the taxpayers in question shall continue to subject them to its competence, without prejudice to the tax rectifications and compensations that must take place between Administrations, backdated to the date the new tax regulations took effect, according to the agreement of the Board of Arbitration.

Article 67. Agreements of the Board of Arbitrators

The Board of Arbitration shall resolve, according to law and to the principles of economy, celerity and efficiency, all matters affecting the proceedings, whether or not they are presented by the parties involved in the conflict, including formulas for enforcement.

The resolutions of this Board of Arbitration shall, without prejudice to their executive nature, be subject only to appeals raised through judicial review to the relevant chamber of the High Court.

ADDITIONAL PROVISIONS

First.

Until the provisions necessary for the application of this Economic Agreement are enacted by the competent Institutions of the Historical Territories, the regulations in force in the common tax system shall be applied, which, in all cases, shall have the character of supplementary law.

Second.

One. Any amendments to this Economic Agreement shall be made by the same procedure followed for its enactment.

Two. In the event of a reform of the State tax legal system affecting the taxes object of agreement, or an alteration in the distribution of the regulatory competences affecting the scope of indirect taxation, or new tax figures or payments on account, both Administrations shall by mutual agreement proceed to adapt the present Economic Agreement to any modifications made in the aforementioned legal system.

The corresponding adaptation of the Economic Agreement shall specify the financial effects thereof.

Third.

The Territorial Governments of the Historical Territories of Alava, Gipuzkoa and Bizkaia shall have the powers which in economic and administrative matters were recognised in article 15 of the Royal Decree of December 13, 1906 and which, by virtue of the general updating process of the traditional Basque regime envisaged in the First Additional Provision of the Spanish Constitution, are considered to subsist, without prejudice to the basic legislation to which reference is made in article 149.1.18 of the Spanish Constitution.

Fourth.

The State and the Autonomous Community may agree on the joint financing of investments to be undertaken in the Basque Country and which, due to their cost, strategic value, general interest, impact on territories other than the Basque Autonomous Community, or due to other special circumstances, make such means of financing advisable.

Similarly, the State and the Autonomous Community may agree on the participation of the latter in the financing of investments which, having the characteristics referred to in the previous paragraph, are undertaken in territories other than that of the Community.

In both cases, the contributions made shall affect the Economic Agreement as agreed in each case.

Fifth.

Repealed for Law No. 7 of April 21, 2014.

Sixth.

The turnover figure referred to in articles 14, 15, 19 and 27 of the present Economic Agreement shall be updated, by resolution of the Joint Committee on the Economic Agreement, at least every five years.

TRANSITIONAL PROVISIONS

First.

The determinant turnover figure set forth in the present Economic Agreement shall apply to the tax or tax return period, depending on the type of tax, as of January 1st 2008.

Second.

Taxes accrued prior to the entry into force of the present Economic Agreement shall be governed by the points of connection in force at the time of their accrual.

The same rule shall apply to withholdings, payments on account and payments in instalments when the accrual of the obligation to withhold, pay on account or make an instalment payment has taken place prior to the entry into force of the present Economic Agreement.

Procedures not finalised prior to the entry into force of the present Economic Agreement shall be governed by the regulations in force at the time of their initiation.

Third.

Notwithstanding the provisions contained in the transitional provision here above, the bodies laid down in Chapter III of the present Economic Agreement shall have knowledge, in accordance with the procedures and powers attributed thereto, of all of the cases pending decision between the two Administrations at the time of its entry into force.

Fourth.

Moreover, a Joint Committee with equal numbers of representatives from the State Treasury and from the Government of the Historical Territory of Alava shall determine the compensation to be paid to the Government of this Historical Territory for as long as the latter continues to exercise competences and render services not assumed by the Autonomous Community of the Basque Country, and which in provinces under the common regime correspond to the State, as well as the rules for the annual revision of this compensation on the basis of the schedule for the transfer of competences to the Basque Country.

The determination and application of these compensations shall not affect the rules for determining the quota laid down in this Agreement, although they shall be made effective through reduction of the quota figure corresponding to Alava by virtue of article 41.2.e) of the Statute of Autonomy.

Fifth.

The tax system applicable to economic interest groupings and joint ventures constituted prior to the entry into force of the present Economic Agreement shall be

that of the Basque Country when said groupings do not exceed the territorial scope thereof.

Sixth.

Repealed for Law No. 7 of April 21, 2014.

Seventh.

As long as no amendments are made to the current system of manufacture and sale of tobacco products, the following mathematical equation shall be used as an adjustment for the Excise Duty on the Manufactured Tobacco pursuant to article 54 of the present Economic Agreement:

$$RF_{PV} = RR_{PV} + c' * RR_{TC} - [(1 - c') * RR_{PV}]$$

Where:

RF_{PV} = Final annual revenue for the Basque Country from Manufactured Tobacco

RR_{PV} = Real annual revenue of the Basque Country from Manufactured Tobacco

RR_{TC} = Real annual revenue of the Common Territory from Manufactured Tobacco

$$c' = \frac{\text{Manufactured Tobacco supplied to Tobacco and Stamp outlets in the Basque Country}}{\text{Manufactured Tobacco supplied to Tobacco and Stamp outlets located in the territory of application of the Excise duty}}$$

Eighth.

Partial refunds on the Tax on Mineral Oils from the establishment of the special reduced rate on diesel oil used as a fuel for professional purposes, authorised under Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, shall be made by the Administration corresponding to the fiscal domicile of the beneficiary of said refunds.

Ninth.

Extraordinary refunds on the Tax on Mineral Oils for farmers and stockbreeders from the application of measures to offset the increase in production costs plaguing the agricultural sector shall be made by the Administration corresponding to the fiscal domicile of the beneficiary of said refunds.

Tenth.

Pursuant to the fifth additional provision of the State Agencies Act 28/2006 of 18 July concerning the improvement of public services, when an autonomous body or public business enterprise is transformed to an agency, the system of competences set forth in Article 7 for autonomous bodies and public business enterprises shall apply.

Eleventh.

The transitional regime of the newly transferred taxes effective as of January 1, 2013 shall be in accordance with the following rules:

First. In tax matters, the Historical Territories shall be subrogated to the State Treasury's rights and obligations concerned with the administration, inspection, revision and collection of the taxes referred to in the present provision.

Second. Assessed liabilities accrued prior to January 1, 2013 arising from situations that would have been subject to the Basque Tax authorities had the taxes referred to in the present provision been transferred, and which are paid in after 1st January 2013, shall correspond in their entirety to the Governments of the Historical Territories.

Third. Amounts due before January 1, 2013 and assessed thereafter as a result of tax inspections shall be distributed pursuant to the criteria and points of reference laid down for the taxes referred to in the present provision.

Fourth. Any refunds that must be paid as a result of assessments made, or which should have been made, prior to first January 2013, shall be made good by the Administration that would have been competent on the date on which the sums became payable, pursuant to the criteria and points of connection for the taxes referred to in the present provision.

Fifth. Appeals against administrative acts adopted by the competent Institutions of the Historical Territories may be brought for judicial review before the competent bodies of said Territories. Conversely, appeals against administrative acts adopted by the Administration of the State, regardless of their date, shall be brought before the competent bodies of the State.

Nevertheless, corresponding revenues shall be attributed to the Administration deemed the creditor pursuant to the rules laid down in the preceding numbers.

Sixth. For the purposes of determining the existence of tax offences and the penalties to be applied in each case, any records on the matter existing in the State Treasury prior to the coming into effect of the transfer of the taxes referred to in the present provision shall have full validity and effect.

Seventh. The coming into effect of the transfer of the taxes referred to in the eleventh transitional provision of this Economic Agreement shall not be detrimental to the rights of taxpayers acquired under laws passed prior to that date.

Twelfth.

The Gaming Activities Tax due on the placement of sports and charitable gaming bets and on bets on horses in state betting establishments shall be levied by the Administration of the State, while their commercialisation is carried out by the Sociedad Estatal de Loterías y Apuestas del Estado, notwithstanding the financial compensation that corresponds to the Basque Country. The Sociedad Estatal de Loterías y Apuestas del Estado shall file a yearly information statement on the amounts played attributable to the Basque Country pursuant to article 36b. of the Economic Agreement.

Thirteenth.

Article 34 of the Economic Agreement in its original wording approved by Law 12/2002 of 23 May, establishing the Economic Agreement between the State and the Basque Country is approved, shall be in force from 1 January 2013, in relation to the Excise Duty on Retail Sales of Certain Mineral Oils on non prescribed exercises.

FINAL PROVISION

Repeals or amendments, as the case may be, of the Economic Agreement rules applicable to the different taxes shall be understood without prejudice to the right of the respective Administrations to claim, pursuant to the points of connection previously in effect, any tax liabilities due prior to that date.

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