Economic Agreement

ECONOMIC AGREEMENT

PART I. TAXES

CHAPTER 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 comprising the taxation system of the Historical Territories shall be the responsibility of the respective Provincial *Foral* Governments.

Three. For the administration, inspection, revision and collection of agreed taxes, 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, tax harmonization and cooperation with the State, in accordance with the rules laid down in the present Economic Agreement.

Fourth. Coordination, tax harmonization and mutual cooperation among 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 to avoid double taxation signed by Spain, as well as with the tax harmonization rules of the European Union, and shall be responsible for making the appropriate refunds, pursuant to the application of said Agreements and rules.

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

Article 3. Tax harmonization.

In drafting their tax legislation, the Historical Territories shall:

a) Adapt to the General Tax Law in matters of terminology and concepts, without prejudice to the peculiarities laid down 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 free movement of goods, capital and services throughout the Spanish territory, without giving rise to discrimination or a lessening 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 in the common territory, without prejudice to further disaggregation of activities that might be made.

Article 4. Cooperation principle.

One. The competent Institutions of the Historical Territories shall inform the State Administration, with due notice prior to the entry into force, of any draft legislation on tax matters.

The State Administration shall likewise submit identical communication to the aforementioned Institutions.

Two. The State shall take measures for the collaboration of the Institutions of the Basque Country in any International Agreements impacting on the implementation of the present Economic Agreement.

Three. The State and the Historical Territories, in the exercise of functions within their powers regarding the administration, inspection and collection of taxes, shall, in due time and manner, exchange any data and background information deemed necessary for levying said taxes more efficiently.

In particular, both Administrations:

a) Shall provide each other, through their data processing centers, with any information they may require. To this end, required technical inter-connections between them shall be set up. A joint coordinated IT tax plan shall be drawn up on a yearly basis.

b) Both tax inspectorates shall jointly draw up inspection plans concerning objectives, sectors and coordinated selection procedures, as well as in regard to taxpayers who have changed their fiscal domicile, entities declaring under tax transparency, and companies subject to taxation in proportion to their business turnover for Corporate Income Tax purposes.

Four. The State and the Institutions of the Basque Country shall put into effect procedures for the exchange of information that will ensure the fulfiment of International Agreements or Treaties signed by the State, and, in particular, of the European Union legislation related to 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 the Excise Duties and the Value Added Tax.

Second. The high inspection of the implementation of this Economic Agreement. To this end, the State bodies in charge of said inspection shall issue, with the collaboration of the Basque Government and the Provincial *Foral* Governments, an annual report on the results of said implementation.

CHAPTER 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. It shall be levied by the competent Provincial *Foral* Government in each Historical Territory whenever the taxpayer has their fiscal residence in the Basque Country.

Two. In the event that taxpayers in a family unit have their fiscal residence in different territories and opt to file a joint tax return, the competent tax authority shall be the Administration of the territory wherein the fiscal residence of the family member having the largest net taxable base, calculated according to the corresponding regulation, is located.

Article 7. Withholding tax on earned income in cash and in kind from employment.

One. Withholding tax on earned income in cash and in kind from employment shall be levied by the competent Provincial *Foral* Government in each Historical Territory, according to the respective regulation, whenever derived from to the following sources:

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 or that the place of performance of work or services cannot be ascertained, work and services shall be deemed to be performed in the territory where the work center to which the worker is affiliated for social security purposes is located.

Likewise, in the event of telework and of work or services performed abroad or on vessels, ships, naval devices or fixed platforms at sea, work and services shall be deemed to be performed in the territory where the work center to which the worker is affiliated for social security purposes is located.

b) Income from pensions, passive income and benefits received from Public Social Security and Civil Servants schemes, National Employment Agency, Mutual Benefit Societies, Employment Promotion Funds, Pension Plans, Voluntary Social Welfare Entities and passive benefits from companies and other entities, when the beneficiary has their fiscal residence in the Basque Country.

c) Remunerations of any kind received by executive directors or members of the management boards, or of the boards of directors, or of any other type of governing boards, when the fiscal domicile of the paying entity is located in the Basque Country.

In the event of entities liable to Corporate Income Tax payment to the State and to the Provincial *Foral* Governments, the withholdings shall correspond to both tax administrations in proportion to their business turnover performed in each territory. For this purpose, the proportion recorded in the last Corporate Income Tax return is applicable. The withholdings shall be levied, pursuant to *foral* or common legislation, depending on whether the paying entity is subject to the *foral* or common legislation for Corporate Income Tax purposes. Inspection thereof shall be performed by the competent bodies of the corresponding administration, applying the same criteria. Despite the foregoing, the rules regarding place, form and deadline for submitting tax returns shall be determined by the competent Administration for levying the tax.

Two. The preceding paragraph notwithstanding, the State Administration shall levy withholdings on active or passive remunerations, including pensions generated by a person other than the beneficiary, 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 agencies, public business entities, State commercial companies, consortiums of State affiliation, State foundations, non-transferred universities, and port authorities of the ports located in Basque territory.

Article 8. Payments on account of economic activities of individuals.

One. Withholdings on income in cash and in kind from economic activities of individuals shall be levied by the competent Provincial *Foral* Government in each

Historical Territory, according to the respective regulations, whenever the fiscal residence or domicile of the withholder is in the Basque Country. In any case, withholdings shall be levied by the Administration of the State or by the competent Provincial *Foral* Government when they correspond to remunerations paid by themselves.

In levying withholdings on income in cash and in kind from economic activities of individuals, the Provincial *Foral* Governments shall apply rates identical to those of the common territory.

Two. Advanced tax payments on account of the Personal Income Tax shall be levied by the competent Provincial *Foral* Government in each Historical Territory, according to the respective regulations, whenever the fiscal residence of the taxpayer is in the Basque Country.

Article 9. Withholding tax on income in cash and in kind from capital.

One. Withholdings on income in cash and in kind from capital shall be levied by the competent State Administration or Provincial *Foral* Government, according to the respective regulations, in accordance with the following rules:

First. The competent Provincial *Foral* Government shall levy the withholdings corresponding to:

a) Income from equity holdings in any entity, and from interest and other revenues from bonds and similar securities, when such income is paid by entities subject to the Corporate Income Tax exclusively in Basque territory.

In the event of entities liable to Corporate Income Tax payment to the State and to the Basque Provincial *foral* Governments, the withholdings shall correspond to both Administrations in proportion to the volume of business turnover performed in each territory. For this purpose, the proportion stated in the last Corporate Income Tax return is applicable. The withholdings shall be levied, pursuant to *foral* or common legislation, depending on whether the paying entity is subject to the *foral* or common legislation for Corporate Income Tax purposes, and the inspection shall be performed by the competent bodies of the corresponding Administration, applying the same criteria. Despite the foregoing, the rules regarding place, form and deadline for submitting 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, Provincial *Foral* Governments, Municipalities and other entities of the territorial and institutional Administration of the Basque Country, wherever they are paid. Those corresponding to issuances by the State, other Autonomous Communities, Municipalities in the common territory and other entities of their territorial and institutional Administrations, even when paid in Basque territory, shall be levied by the State.

c) Interest and other revenues from liability transactions with Banks, Savings Banks, and similar entities, as well as with any other credit or financial institutions, when the recipient of the income has their fiscal residence or domicile in the Basque Country.

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

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

f) Income from intellectual property when the taxpayer is not the author and, in every case, from industrial property and from the supply of technical assistance, when the

person or entity paying said income has their fiscal residence or 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 real estate mortgages, the Administration of the territory where the mortgaged assets are located shall be competent to levy the withholding.

When the mortgaged assets are located in the common territory and the Basque territory, both Administrations shall levy the withholding. To this 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 chattel mortgages or pledges without transfer of possession, the Administration of the territory where the guarantees are registered shall be competent to levy the withholding.

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

Two. In levying the withholdings in cash or in kind referred to in this article, the Provincial *Foral* Governments shall apply rates identical to those of the common territory.

Article 10. Withholding tax on income in cash and in kind from certain capital gains.

One. Withholdings on capital gains arising from the transfer or redemption of securities and shares in collective investment instruments, as well as from the transfer of preemptive subscription rights, shall be levied, according to the respective regulations, by the Administration of the State or by the competent Provincial *Foral* Government in each Historical Territory, depending on whether the shareholder or the participant has their fiscal residence or domicile in the common territory or in Basque territory.

Two. Withholdings on account of the Special Tax on Lottery Prizes and Bets shall be levied, according to the respective regulations, by the Administration of the State or by the competent Provincial *Foral* Government in each Historical Territory, according to whether the winner has their fiscal residence or domicile in the common territory or in Basque territory.

Withholdings on income in cash and in kind corresponding to winnings other than specified in the above paragraph obtained as a result of the 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 levied by the Administration of the State or by the competent Provincial *Foral* Government in each Historical Territory, according to whether the payer of said winnings has their fiscal residence or domicile in the common territory or in Basque territory.

In levying the withholdings on income in cash and in kind referred to in this article, the Provincial *Foral* Governments shall apply rates identical to those of the common territory.

Article 11. Other payments on account

One. Withholdings on income in cash and in kind corresponding to the letting and subletting of immovable property shall be levied, according to the respective

regulations, by the competent Provincial *Foral* Government in each Historical Territory, whenever the withholder has their fiscal residence or domicile in the Basque Country.

Two. Withholdings on income in cash and in kind corresponding to amounts paid to entities, which, by virtue of the income imputation system, are to be imputed to taxpayers of the Personal Income Tax shall be levied, according to the respective regulations, by the competent Provincial *Foral* Government in each Historical Territory, whenever the withholder has their fiscal residence or domicile in the Basque Country.

Article 12. Effectiveness of payments on account.

For the purposes of the Personal Income Tax of the beneficiary or withholdee, payments on account levied in either territory on behalf of the taxpayer shall be valid, without this implying, should said payments on account have been paid into a non-competent administration, the renunciation by the other Administration to the entitlement to request its pertinent amount of the tax levied, having the right to request it to the Administration into which the tax had been effectively paid.

Article 13. Entities under the income imputation or income attribution systems.

One. Entities under the income imputation system shall abide by the rules laid down in Chapter 3 of the present Part I. In order to tax the imputed income to the participants in the entities, rules concerning the Personal Income Tax, the Non-resident Income Tax, or the Corporate Income Tax referred to in this Economic Agreement, depending on the tax said participants are subject to, shall apply.

Two. In the case of the income attribution system, the tax administration and inspection of the taxable entities under this system shall correspond to the Administration of the territory where their fiscal domicile is located.

In order to tax the attributed income to the joint owners, members or participants in the entities, rules concerning the Personal Income Tax, the Non-resident Income Tax, or the Corporate Income Tax referred to in this Economic Agreement, depending on the tax said taxpayers are subject to, shall apply.

CHAPTER 3. CORPORATE INCOME TAX

Article 14. Applicable legislation.

One. The Corporate Income Tax is an agreed tax subject to autonomous legislation for taxpayers with fiscal domicile in the Basque Country.

However, taxpayers whose total business turnover in the previous tax year exceeded 10 million euros, and who performed in said tax year 75 per cent or more of their total operations in the common territory, shall be subject to the legislation of said territory.

Tax payers with fiscal domicile in the common territory whose total business turnover in the previous tax year exceeded 10 million euros and who performed in said tax year 75 per cent or more of their total operations in the Basque Country shall be subject to autonomous legislation, except for entities in a tax group with fiscal domicile in the common territory, and whose total business turnover in the previous year exceeded 10 million euros. In the latter case, said entities shall only be subject to autonomous legislation provided that all business operations are performed in the Basque Country.

Two. Business turnover shall be understood as the total amount, net of Value Added Tax and the equivalency surcharge, where applicable, obtained in a tax year from supplies of goods and services performed by the taxpayer in the course of their economic activity.

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

Should the previous tax year fail to coincide with the calendar year, in order to calculate the business turnover referred to in Section One above, a full year's turnover shall be taken into account.

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

Four. When starting economic activities, the business turnover shall be computed on the basis of the business turnover performed during the first tax year. Should the first year of the activity fail to coincide with the calendar year, a full year's turnover shall be taken into account for computing the aforesaid figure. Until the business turnover and the place of performance of the transactions in the tax year are known, those estimated by the taxperson based on their expected transactions for the start-up year shall be taken as such to all effects.

Article 15. Levying of the tax.

One. The Provincial *Foral* Governments shall be the only responsible Administrations for levying the Corporate Income Tax on taxpayers with fiscal domicile in the Basque Country, and business turnover in the previous tax year under 10 million euros.

Two. Those taxpayers whose business turnover in the previous tax year exceeded 10 million euros, regardless of where they have their fiscal domicile, shall submit tax returns either to the Provincial *Foral* Governments, either to the Administration of the State, or jointly to both administrations, according to the business turnover generated in each territory during the year.

The proportion of business turnover performed in each territory in the tax year shall be in accordance with the rules laid down in the article here below, and shall be expressed as a percentage of no more than two decimal numbers.

Article 16. Determination of place of transactions.

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

A) Supplies of goods:

1º. Supplies of movable tangible property, when delivery to the purchaser is performed from Basque territory. When the goods must be transported in order to be delivered to the purchaser, supplies shall be understood to have been performed in the place where the goods were located at the moment of initiating the dispatch or transport. 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 the Basque territory, if the final processing of the supplied goods 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 understood to be made in the Basque territory, if the preparation and manufacturing work is done in said territory and the cost of the installation or assembly does not exceed 15 per cent of the total remuneration.

Conversely, supplies involving the installation of industrial facilities in the Basque Country shall not be understood to be made in the 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.

2º. Supplies made by electric power producers, when the power generation plants are located in Basque territory.

3º. Supplies of immovable goods, when the properties are located in Basque territory.

B) Supplies of services:

1º. Supplies of services shall be deemed to be made in the Basque territory, when they are provided from that territory.

2º. Exceptions to the preceding paragraph are services directly related to immovable goods, which shall be considered to be made in the Basque Country, when said goods are located in Basque territory.

3º. Moreover, exceptions to the provisions contained in the preceding paragraphs are insurance and capitalization 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 deemed to be performed in the Basque Country, when the taxpayer performing them has their fiscal domicile in Basque territory:

1º. Supplies of unprocessed natural products directly from farming or catching made by agricultural, forestry, livestock or fishing operators, and by fishing boat owners.

2º. Transport services, including removals, towing and crane operations.

3º. Lease or rental of means of transport.

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

E) Entities not performing the transactions set forth in Article 14, Section Two, second paragraph, shall be liable to be taxed by the Provincial *Foral* Governments, when they have their fiscal domicile in Basque territory.

Article 17. Payments on account of the tax.

One. Withholdings on income in cash and in kind shall correspond to one or the other Administration according to criteria laid down in the present Economic Agreement for Personal Income Tax. Moreover, the provisions laid down in Article 12 on the effectiveness of payments on account made into one or the other Administration shall apply.

Two. Taxpayers who must apply joint taxation to both Administrations shall make advanced tax payments on account of the tax according to the business turnover generated in each territory. For this purpose, the proportion recorded in the last Corporate Income Tax return shall be applicable.

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

a) Mergers, divisions, contributions of assets and exchange of shares.

b) Start-up, termination, increase or reduction of activity in common or *foral* territory, entailing a significant variation in the proportion calculated according to the criterion specified in the first paragraph of Section 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. Advanced tax payments effectively paid into each Administration shall be deducted from the part of the amount of tax owed thereto.

Article 18. Administration of the tax in cases of joint taxation.

In cases of joint taxation, the following rules shall apply:

First. The result of the tax returns shall be payable into the Administrations of the State and of the Basque Country in proportion to the business turnover performed in each territory during each tax year.

Second. Taxpayers who must apply joint taxation rules shall submit, within the deadlines and in due form, their tax returns 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 Administration in the proportion that corresponds to each of them.

Article 19. Inspection of the tax.

One. The inspection of the tax shall be performed by the Provincial *Foral* Government competent in each Historical Territory when the taxpayer has their fiscal domicile in the Basque Country.

Notwithstanding, the inspection of taxpayers whose total business turnover in the previous year exceeded 10 million euros, and who performed 75 per cent or more of their total operations in the common territory in said tax year, shall be competence of the Administration of the State.

Moreover, inspection of taxpayers with fiscal domicile in the common territory, whose total business turnover in the previous tax year exceeded 10 million euros and in said tax year 75 per cent or more of their total operations were performed in the Basque Country, shall be competence of the Provincial *Foral* Government corresponding to each 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 tax inspection activity result in a tax debt or in 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 to which the other may be entitled. The tax inspectorate of the competent Administration shall communicate the result of its activity to the rest of the concerned Administrations.

Three. The conditions laid down in the preceding Section are applicable without prejudice to the faculties corresponding to the Provincial *Foral* Governments within the scope of their territories in matters of verification and investigation, although their actions cannot have economic effects on the taxpayers' final assessments resulting from the actions of the bodies of the competent Administrations.

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

Five. Administrations not entitled to tax inspection may verify all transactions, regardless of the place of performance, which impact on their calculation of the business turnover, to the exclusive purpose of informing the competent Administration for tax inspection, without causing any economic effect on the taxpayer.

Article 20. Economic interest groupings, joint ventures and groups of entities.

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

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

Two.

1. Groups of entities shall be subject to the *foral* tax consolidation system when all the entities comprising the group are individually subject to *foral* tax legislation, and shall be subject to the tax consolidation system of the common territory when all the entities comprising the group are individually subject to common territory tax legislation.

For these purposes, entities subject to the other legislation shall be considered excluded from the group of entities.

Tax inspection of the group of entities shall be assigned to the tax Administration whose tax legislation is applicable according to the rules set out in the present article.

In any event, identical rules to those established at any given time by the State shall apply for defining group of entities, dominant entity, dependent entity, representative entity, degree of control, and internal transactions within the group.

2. To apply the tax consolidation system for groups of entities, the following rules shall be followed:

First. Entities comprising the group shall, in accordance with the general rules referred to in this Agreement, submit tax returns under the rules for individual taxpayers' regime.

Without prejudice to the preceding paragraph, the representative entity shall submit to each of the Administrations the consolidated accounts of the group of entities.

Second. The group of entities shall be, in any case, tax liable to one Administration and to the other according to the business turnover performed in each territory.

For these purposes, the relative business turnover performed in each territory shall consist of the sum or aggregation of the transactions, that each of the entities in the group performs therein, before any applicable inter-group elimination.

3. For the determination of the business turnover performed in each territory in the cases referred to in the second paragraph of Section One. c) Article 7, in the second paragraph of Section One. First a) Article 9, and in the second paragraph of Section Two Article 23, the business turnover of the group of entities as defined in the second rule of Section 2 above will be taken into consideration.

CHAPTER 4. NON-RESIDENT Income Tax

Article 21. Applicable legislation.

One. The Non-resident Income 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.

The above paragraph notwithstanding, permanent establishments with fiscal domicile in the Basque Country of persons or entities with fiscal domicile abroad shall abide by

autonomous legislation on this tax, in accordance with the provisions contained in Article 14.

When the taxpayer makes the option to be liable under the Personal Income Tax, having complied with the requirements laid down in the Non-resident Income Tax legislation, the rules of the Provincial *Foral* Government competent in each Historical Territory shall apply for the purposes of the application of the optional system, provided a majority of the total income obtained in Spain is generated in the Basque territory. If the taxpayer is entitled to a refund, it shall be paid by the Provincial *Foral* Governments, regardless of where the income was obtained within Spanish territory.

Two. An individual or an entity shall be understood to operate through a permanent establishment when, by whatever title, they make continuous or frequent use of installations or work premises of any kind, in which they carry out all or part of their activity, or acts in it through an agent authorized to enter into contracts, on behalf of the non-resident taxpayer, and who regularly exercises such powers.

More specifically, the following are understood to be permanent establishments: executive headquarters, branches, offices, factories, workshops, warehouses, shops or other establishments, mines, oil or gas wells, quarries, agricultural, forestry or livestock holdings, or any other place of prospection or extraction of natural resources, and any construction, installation or assembly works with duration exceeding 6 months.

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 a permanent establishment, the tax shall be levied by the competent Provincial *Foral* Government in each Historical Territory, when said income is understood to have been obtained or produced in the Basque Country according to the following criteria:

a) Income from economic activities, when they are performed in the Basque territory.

b) Income from the supply of services, such as studies, designs or projects, technical assistance, management support services and professional services, when the service is supplied or used in Basque territory. Services shall be understood to be used in Basque territory when they serve business or professional activities performed in Basque territory or are concerned with goods located therein.

When the place of use of the service differs from the place of supplying, the former shall be taken for tax purposes.

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

a') When it arises from a personal activity carried out in the Basque Country.

b') Pensions and similar benefits when they derive from jobs performed in the Basque territory.

c') Remunerations of any kind received by executive directors or members of the management boards, or of the boards of directors, or of any other type of governing boards, 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 performance, 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 from equity holdings in private entities, in the amount envisaged in Section Four of this article.

f) Interest, royalties and other earnings from movable capital:

a') Paid by individuals with fiscal residence in the Basque Country or by Basque public entities, as well as those paid by private entities or permanent establishments in the amount envisaged in Section Four of this article.

b') When generated in return for capital investment used in the Basque territory.

When these criteria fail to be met, the place of utilization of the capital whose investment is remunerated shall apply for tax purposes.

g) Income earned, directly or indirectly, from immovable goods located in Basque territory or from rights on such goods.

h) Income imputed to individual taxpayers from urban immovable goods 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 immovable goods located in Basque territory or from rights which must be exercised in said territory. 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 consist mainly of immovable goods located in Basque territory.

b') Capital gains arising from the transfer of rights or shares in a resident or non-resident entity entitling the holder the right of use of immovable goods located in Basque territory.

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

Three. When, pursuant to the criteria set out in the previous Section, income can be understood to be generated in both territories, the levying thereof shall correspond to the Historical Territories when the payer, in the event of an individual, has their fiscal domicile in the Basque Country; if the payer is a legal entity or a 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 in letters e), f) and i) of Section Two here above, and in the case envisaged in Section 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 under exclusive taxation to the Basque Country, the total amount of the paid income.

b) In the event of entities or permanent establishments under joint taxation to both Administrations, the portion of the income paid in proportion to the business turnover 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 competent Administration for tax inspection of the persons, entities or permanent establishments that submit tax returns on behalf of the non-resident in accordance with the criteria in this Economic

Agreement, without prejudice to the compensation to be made to the other Administration for the portion corresponding to the relative business turnover performed in the territory of the latter.

Moreover, any refunds payable to non-resident taxpayers shall be paid by the competent Administration for tax inspection of the persons, entities or permanent establishments that submit tax returns on behalf of the non-resident in accordance with the criteria in this Economic Agreement, without prejudice to the compensation to be made to the other Administration for the portion corresponding to the business turnover of the paying entity performed in the territory of the latter.

Five. The Special Tax on Immovable Property of Non-resident Entities shall be levied by the Provincial *Foral* Government competent in each Historical Territory, when the property is located in the Basque Country.

Six. In the case of non-resident taxpayers carrying out activities without a permanent establishment, the Special Tax on Lottery Prizes and Bets shall be levied by the State administration or by the Provincial *Foral* Governments in each Historical Territory, depending on whether the point of sale wherein the prizewinning lottery tenth, fraction or ticket is purchased, is located in the common or in the Basque territory.

Article 23. Payments on account.

One. Advanced payments made by permanent establishments, and withholdings on income in cash and in kind obtained by them shall be levied in accordance with the rules laid down in Chapters 2 and 3 here above.

Two. Withholdings on income in cash and in kind obtained by taxpayers operating without a permanent establishment shall be levied 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, tax inspection shall be performed by the tax inspectorate of the competent Administrations according to the same article.

The previous paragraph notwithstanding, in the cases referred to in Section Two, letters e), f) and i) of the preceding article, and in the case envisaged in Section Three, said withholdings on income in cash and in kind shall be levied by the Provincial *Foral* Governments, in proportion to the relative business turnover performed by the withholder in the Basque Country, applying the rules laid down in Chapter 3 here above.

Three. Moreover, the provisions laid down in Article 12 on the effectiveness of payments on account made in one of the other Administration shall apply.

Four. The withholdings on account of the Special Tax on Lottery Prizes and Bets levied to non-resident tax payers operating without a permanent establishment shall correspond to the State Administration or to the Provincial *Foral* Governments in each Historical Territory, depending on whether the point of sale wherein the prizewinning lottery tenth, fraction or ticket is purchased, is located in the common or in the Basque territory.

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

One. When taxing income obtained through a permanent establishment subject to joint taxation, the administrative rules contained in Article 18 here above shall apply.

Two. In the case of income obtained through permanent establishment, tax inspection shall be performed by the competent Administration, applying the rules laid down in Article 19 here above.

CHAPTER 4A. TAX on 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 are able to establish the tax rates within the limits and under the conditions in force at any given time in the common territory.

Moreover, the competent Institutions of the Historical Territories may adopt their own tax returns, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each tax 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 Provincial *Foral* Government in each Historical Territory depending on whether the headquarters, branches or offices where third parties´ funds are kept, are located in the common or in the Basque territory.

Nevertheless, the levying of the tax on funds kept through remote marketing systems or through systems unable to be territorialized shall be assigned to the Historical Territories of the Basque Country in the same proportion as the territorialized fund deposits.

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.

CHAPTER 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 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 tax returns, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each tax 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 Provincial *Foral* Government in each Historical Territory depending on whether the electricity generation plants are in the common or in the 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.

CHAPTER 4C. Tax on the Production of Spent Nuclear Fuel Generation and Radioactive Waste from the Generation of Nuclear Electric Power, and Tax on the Storage of Spent Nuclear Fuel and Radioactive Waste in Centralized Facilities

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

One. The Tax on the Production of Spent Nuclear Fuel Generation and Radioactive Waste from the Generation of Nuclear Electric Power, and the Tax on the Storage of Spent Nuclear Fuel and Radioactive Waste in Centralized Facilities 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 tax returns, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each tax settlement period, which shall not be substantially different from those set by the Administration of the State.

Two. The Tax on the Production of Spent Nuclear Fuel Generation and Radioactive Waste from the Generation of Nuclear Electric Power shall be levied by the Administration of the State or by the competent Provincial *Foral* Government in each Historical Territory, depending on whether the facilities, wherein the spent nuclear fuel generation and radioactive waste from the generation of nuclear electric power is produced, are located in the common or in the Basque territory.

Three. The Tax on the Storage of Spent Nuclear Fuel and Radioactive Waste in Centralized Facilities shall be levied by the Administration of the State or by the competent Provincial *Foral* Government in each Historical Territory, depending on whether the facilities, wherein the fuel and waste are stored are located in the common or in the Basque territory.

Four. 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.

CHAPTER 4D. TAX ON THE VALUE OF EXTRACTION OF GAS, OIL AND CONDENSATES

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

One. The Tax on the Value of Extraction of Gas, Oil and Condensates 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 tax returns, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each tax 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 Provincial Foral Government in each Historical Territory depending on whether the area included within the reference perimeter of the exploitation concession of the site, referred to in Article 22 of the 8/2015 Law, May 21, amending 34/1998 Law, October 7, regulating the Hydrocarbons Sector, and establishing certain tax and non-tax measures concerning the exploration, investigation and exploitation of hydrocarbons, is located.

Should the aforementioned area be located in both, common and Basque, territories, the levying of the tax shall be proportionally assigned to both Administrations.

Three. Payments on account shall be levied by one or the other Administration pursuant to the criteria contained in Section Two here above.

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

CHAPTER 5. WEALTH TAX

Article 24. Applicable legislation and levying of the tax.

The Wealth Tax is an agreed tax subject to autonomous legislation.

The tax shall be levied by the competent Provincial *Foral* Government in each Historical Territory or by the State, according to whether the taxpayer is subject to the Personal Income Tax to one Administration or to the other, regardless of the territory where the patrimonial elements subject to taxation are located.

In the case of taxpayers subject to limited tax liability rules, the tax shall be levied by Provincial *Foral* Government in each Historical Territory, when the greatest value of the goods and rights lie in Basque territory. For these purposes, goods 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 taxpayer whose last fiscal residence was in the Basque Country chooses to be taxed under unlimited tax liability rules, they may do so in the common or in the Basque territory pursuant to the respective legislation.

CHAPTER 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. It shall be levied by the competent Provincial *Foral* Government in each Historical Territory in the following cases:

a) Inheritances or other acquisitions *'mortis causa'* and income received by life insurance beneficiaries, when the decedent's fiscal residence is in the Basque Country on the date of accrual of the tax. Should the decedent have their fiscal residence abroad, when the taxpayers have their fiscal residence in the Basque Country.

b) Donations or gifts of immovable goods and rights thereon, when such goods are located in Basque territory. Should said good be located abroad, when the donee has their fiscal residence in the Basque Country on the date of accrual of the tax.

For the purposes of the provision contained in this letter, free of charge transfers of shares referred to in article 314 of 4/2015 Royal Legislative Decree, October 23, approving the Codified Text of the Securities Market, shall have the consideration of gifts of immovable goods.

c) In all other gifts, when the fiscal residence of the donee is in the Basque Country on the date of the accrual of the tax.

d) In the event that the taxpayer has their fiscal residence abroad, when the greatest value of the goods and rights lie in Basque territory, and in the case of receipt of sums from life insurance policies when the contract was signed with insurance entities with fiscal domicile in Basque territory, or when the contract was concluded in the Basque Country with non-resident entities operating therein.

For the purposes of this letter, goods and rights shall be deemed to lie in Basque territory when they are located, may be exercised, or must be fulfilled in said territory.

Two. In the cases envisaged in letters a) and c) of the Section above, the Provincial *Foral* Governments shall apply the regulations in force in the common territory when the decedent or donee has remained in the common territory for a longer time during the 5-year period prior to the date of accrual of the tax. This rule shall not apply to persons who have retained the political status of Basque pursuant to article 7.2 of the Statute of Autonomy.

Three. When in a document the same donor gratuitously transfers goods or rights to the same donee, and by virtue of Section One here above, the income must be attributed to both common and Basque territory, it shall correspond to each one the result of applying to the value of said transferred goods the average rate which, according to its rules, corresponds to the value of the totality of the transferred goods or rights.

Four. In the case of accumulation of donations, it shall correspond to the Basque Country the result of applying to the value of said accumulated goods the average rate which, according to its rules, corresponds to the value of the totality of the accumulated goods or rights.

For these purposes, the totality of the accumulated goods and rights shall take into consideration those from prior donations and those that are the object of the actual transfer.

CHAPTER 7. VALUE ADDED TAX

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 tax returns, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each tax settlement period, which shall not be substantially different from those set by the Administration of the State.

Article 27. Levying of the tax.

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

First. Taxpayers operating solely in the Basque territory shall be taxed exclusively by the Provincial *Foral* Governments and those operating solely in the common territory shall be taxed exclusively by the Administration of the State.

Second. Taxpayers operating in both the common and Basque territory shall be under joint taxation to both Administrations in proportion to the relative business turnover performed in each territory, determined in accordance with the connecting factors set out in the following article.

Third. Taxpayers whose total business turnover in the preceding tax year did not exceed 10 million euros shall be in every case, wherever their business turnover is generated, subject to the Administration of the State whenever their fiscal domicile is located in the common territory, and to the competent Provincial *Foral* Government whenever their fiscal domicile is located in the Basque Country.

Two. Business turnover shall be understood as the total amount, net of Value Added Tax and the equivalency surcharge, where applicable, obtained in a tax year from supplies of goods and services performed by the taxpayer in the course of their economic activity.

When starting economic activities, the 10 million euros figure shall be computed on the basis of the business turnover performed 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 taken into account for computing the aforesaid figure. Until the turnover and the place of performance of the transactions in the tax year are known, those estimated by the taxperson based on their expected transactions for the start-up year shall be taken as such to all effects.

Three. For the purposes of this Chapter, a taxpayer shall be deemed to operate in one territory or in the other when, pursuant to the criteria laid down in Article 28, said taxpayer performs the supply of goods or services therein.

Four. The tax on operations related to the intra-community traffic of goods, with the exception of the cases specified in the following Sections in this article, shall be levied according to the terms laid down in Section 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 the 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 Provincial *Foral* Government in each Historical Territory, depending on whether the taxable person has their fiscal domicile in common or Basque territory, in the following cases:

a) Intra-community acquisitions of goods subject to the tax either by option or due to having exceeded the quantitative limit set in the legislation regulating the tax, carried out by taxpersons 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 perform entrepreneurial or professional activities.

b) Intra-community acquisitions of goods under the simplified system, the special system for agriculture, livestock and fishing activities, and the equivalency surcharge system.

Seven. In the case of the special scheme for taxable entrepreneurs or professionals, established in the European Union but not in the Member State of consumption, who supply services to non-taxable persons, make distance sales of goods within the European Union, and certain domestic supplies of goods by electronic interfaces, and of the special scheme for distance sales of goods imported from third territories or third countries, based on the tax at destination principle and on the one-stop-shop mechanism, when Spain is the identification Member State, the tax shall be levied by the Administration of the State or by the Provincial *Foral* Government, depending on which one is entitled to the tax inspection of the entrepreneurs or professionals, established in the spatial scope of the tax, who have opted to apply the abovementioned schemes, according to the terms laid down in Article 29, Section Six.

However, in the case of the special scheme for distance sales of goods imported from third territories or third countries, should the taxable person be represented by an intermediary, the tax shall be levied by the Administration of the State or by the Provincial *Foral* Government, depending on which one is entitled to the tax inspection of the appointed intermediaries, according to the terms laid down in Article 29, Section Six.

Article 28. Determination of the 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:

1º. Supplies of movable tangible property when delivery to the purchaser is performed from Basque territory. When the goods must be transported in order to be delivered to the purchaser, supplies shall be understood to have been performed in the place where the goods were located at the moment of initiating the dispatch or transport. 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 the Basque territory if the final processing of the supplied goods 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 understood to be made in Basque territory, if the preparation and manufacturing work is done in said territory and the cost of the installation or assembly does not exceed 15 per cent of the total remuneration.

Conversely, supplies involving the installation of industrial facilities in the Basque Country shall not be understood to be made 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 transported from another EU Member State and which meet the requirements laid down in the legislation regulating the Value Added Tax for application of the distance selling system, supplies shall be understood to be made in Basque territory when said transport finalizes in said territory.

2º. Supplies made by electric power producers, when the power generation plants are located in Basque territory.

3º. Supplies of immovable goods, when the properties are located in Basque territory.

B) Supplies of services:

1º. Supplies of services shall be understood to be made in Basque territory, when they are provided from that territory.

2º. Exceptions to the preceding paragraph are services directly related to immovable goods, which shall be understood to be made in the Basque Country when said goods are located in Basque territory.

3º. Moreover, exceptions to the provisions contained in the preceding paragraphs are insurance and capitalization 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, the levying of the tax shall be the competence of the Administration of the State whenever the fiscal domicile of the taxpayer is located in the common territory, and of the Provincial *Foral* Governments whenever the taxpayer´s fiscal domicile is located in the Basque Country, for the following transactions:

1º. Supplies of unprocessed natural products directly from farming or catching made by agricultural, forestry, livestock or fishing operators, and by fishing boat owners.

2º. Transport services, including removals, towing and crane operations.

3º. Lease or rental of means of transport.

Two. Entities not performing the transactions set forth in this article shall be levied by the Provincial *Foral* Governments whenever they have their fiscal domicile in the Basque territory.

Article 29. Tax administration and inspection.

One. The result of the tax returns shall be attributed to the competent Administrations in proportion to the remuneration, net of Value Added Tax, for the taxable supplies of goods and services, and for 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 calculated by the taxpayer on the basis of their estimation 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 Legislative Evaluation Committee pursuant to Chapter 2 of Part III of the present Economic Agreement, a different proportion may be applied in the following cases:

a) Mergers, divisions, contribution of assets and exchange of shares.

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 submitted at the year-end, the taxpayer shall calculate the definitive proportions according to the transactions actually performed in said period, and shall adjust as necessary the tax returns submitted in the previous settlement tax periods with each of the Administrations.

Four. Taxpayers shall submit the tax returns to the competent levying 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. Tax inspection shall be performed in accordance with the following criteria:

a) Inspection of taxpayers under exclusive taxation of the Provincial *Foral* Governments or, as the case may be, of the Administration of the State, shall be performed by the tax inspectorate of each Administrations.

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

First. Taxpayers having their fiscal domicile in the common territory: verification and inspection shall be performed by the State tax inspectorate, who shall regularize the taxpayer´s tax situation with respect to all the competent tax Administrations, including the proportion of the tax that corresponds to each of the different Administrations.

In the case of taxpayers who performed in the previous tax year in the Basque Country 75 per cent or more of their total operations, or 100 per cent of their operations for entities applying the special regime for entities groupings, in accordance with the agreed connecting factors, verification and inspection shall be competence of the Provincial *Foral* Government corresponding to each Historical Territory, without prejudice of the collaboration of the State Administration.

Second. Taxpayers having their fiscal domicile in Basque territory: verification and investigation shall be performed by the tax inspectorate of the Provincial *Foral*

Government corresponding to their fiscal domicile, without prejudice to the collaboration of the Administration of the State, and shall be effective in relation to all competent Administrations, including as regards the proportion of the tax liability corresponding to each of them. In the case of taxpayers who performed in the previous tax year in the common territory 75 per cent or more of their total operations, in accordance with the agreed connecting factors, the State Administration shall be the competent, without prejudice of the collaboration of the Provincial *Foral* Governments.

Should the tax inspection activity result in a tax debt or in 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 to which the other may be entitled. The tax inspectorate of the competent Administration shall communicate the result of its activity to the rest of the concerned Administrations.

Third. Rules provided in the preceding Sections are to be applied without prejudice to the faculties corresponding to the Provincial *Foral* Governments within the scope of their territories in matters of verification and investigation, although their activities cannot have economic effects on the taxpayers' final tax settlement made by the tax inspectorate of the competent Administrations.

Fourth. The proportions set in verifications by the competent Administration shall affect the taxpayer´s settled taxes, without prejudice to those proportions which, after said verifications, are finally set between the competent Administrations.

Fifth. Tax Administrations without inspection faculties can verify, regardless of where transactions are understood to be performed, all transactions which may affect the calculation of the business turnover corresponding to them, for the exclusive purposes of communicating the results of said verification to the tax Administration with inspection faculties, without having economic effects on the taxpayer.

Seven. Entities applying the special system for entity groupings shall be taxed in accordance with the rules laid down under Chapter 7 herein, with the following particularities:

First. Dependent entities whose inspection, according to the rules laid down in Section Six here above, shall be performed by tax inspectorate of an administration, *foral* or common, different from the one in charge of the dominant entity, shall be considered excluded from entity groupings.

Second. Entities comprising the entity grouping shall, in accordance with the general rules referred to in this Agreement, submit tax returns under the rules for individual taxation, 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 tax settlement attributable to each Administration, applying the rest of the rules laid down under Chapter 7 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 Provincial *Foral* Governments or to the State Administration, 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 entities comprising the group perform their transactions.

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 business turnover performed in each territory.

Eight. Recapitulative tax returns of intra-community supplies and acquisitions shall be submitted to the tax administration entitled to verify and inspect the relevant taxpayers.

Nine. Without prejudice to the preceding paragraphs in this article, in the case of taxpayers subject to the tax liability of a tax Administration in the tax settlement periods previous to the date of the start of regular supply of goods and services within the performance of their economic activities, and to a different tax Administration in the subsequent tax settlement periods, or when the proportion of business turnover corresponding to the different Administrations, common or *forals*, varies substantially in the aforementioned tax settlement periods, the taxpayers shall regularize the effective tax refunds in accordance with the rules in this Section.

Taxpayers referred to in the preceding paragraph must regularize the tax proportions in regard to the different Administrations corresponding to the tax settlement periods previous to the date of the start of regular supply of goods and services within the performance of their economic activities, in accordance with the tax proportions corresponding to the first full calendar year subsequent to the start of said regular supply of goods and services within the performance of their economic activities.

To this effect, taxpayers shall submit a specific tax return to all Administrations involved in the regularization within the same submission deadline as the one set for the final tax settlement corresponding to the first full calendar year subsequent to the start of said regular supply of goods and services within the performance of their economic activities.

In this way, Administrations shall make the tax refunds corresponding to the tax settlement periods previous to the date of the start of regular supply of goods and services within the performance of their economic activity, taking into account the tax proportion mentioned in the above paragraph, which shall result, as the case may be, in the pertaining compensations, without this regularization causing any economic effect on the taxpayers.

In this sense, the proportion of business turnover corresponding to the different Administrations, common or *forals*, shall be deemed to vary substantially in the tax settlement periods referred to in the first paragraph of this section, when the proportion corresponding to any of the involved Administrations changes in, at least, 40 percentage points.

Ten. When the levying of the tax corresponds to the Provincial *Foral* Governments, in regard to the special schemes and in accordance to the terms of Article 27, Section Seven, the taxable entrepreneurs and professionals, referred to in said Section, who opt to apply the special schemes, will fulfill the formal and material obligations with the corresponding Provincial *Foral* Government, regardless of the due financial flows and exchange of information between administrations.

CHAPTER 8. TRANSFER TAX AND STAMP DUTY

Article 30. Applicable legislation.

The Transfer Tax and Stamp Duty is an agreed tax subject to autonomous legislation, except for corporate operations, bills of exchange and documents used in their stead or serving the purposes of remittance, which shall be regulated by the common legislation. In the latter cases, the competent Institutions of the Historical Territories may adopt their own tax returns, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each tax 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 Provincial *Foral* Governments in the following cases:

One. In transfers for good and valuable consideration and leases of immovable goods, and in the constitution and transfer for good and valuable consideration of rights in-rem, including guarantees, when the immovable goods are located in Basque territory.

In the cases referred to in article 314 of Royal Legislative Decree 4/2015, October 23, approving the Codified Text of the Securities Market, when the immovable property comprising the assets of the entity whose securities are transferred is located in Basque territory.

Two. In transfers for good and valuable consideration of movable goods, livestock and loans, as well as in the constitution and transfer of rights thereon for valuable consideration, when the individual acquirer has their fiscal residence in the Basque Country or the corporate acquirers has its fiscal domicile therein.

The above notwithstanding, two exceptions are established:

a) In transfers of shares, subscription rights, debentures and similar securities, as well as company holdings, the place of formalization of the transaction shall apply.

b) In the constitution of chattel mortgages or pledges without transfer of possession, or concerning ships, vessels or aircraft, the territory where such acts are to be registered shall apply.

Three. In the constitution of simple loans, guarantee deposits, non-property leases and pensions, when the borrower, lessee, guaranteed individual or entity or pensioner is an individual and has their fiscal residence in the Basque Country or in regard to an entity when it has its fiscal domicile in said territory.

However, in cases of loans guaranteed by in-rem guarantees, when the mortgaged real property is located in Basque territory or when the corresponding mortgages or pledges without transfer of possession are registerable therein.

If a single loan is guaranteed with a mortgage on immovable goods located both in the common and in Basque territory or with a chattel mortgage or pledge without transfer of possession registerable in both territories, taxes shall be paid to each Administration in the proportion to the responsibility covered by the guarantees in each territory, and in the absence of this specification in the deed, the proportion shall correspond to the verified value of the assets.

Four. In administrative concessions of goods when located in the Basque Country, and in 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 on par with administrative concessions.

In case 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 case 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 case of concessions on provision of services 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 tax inspection shall be performed by the tax inspectorate of the Provincial *Foral* Goverment of each the Historical Territory, when the fiscal domicile of the concessionaire is located therein.

Five. In 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 registered office in the Basque Country, provided that the effective seat of management is not located within the territorial scope of the tax Administration of another EU 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 registered office are not located within the territorial scope of the tax Administration of another EU Member State, or if so located, said States do not impose a similar tax on such corporate operations.

Six. In the case of notarized statements, deeds and certificates, when they are authorized or issued in Basque territory.

The preceding paragraph notwithstanding, in cases subject to the sliding-scale rates for Stamp Duty purposes, when the registry where the assets or transactions are to be inscribed or registered is located in the Basque Country.

Seven. In regard to bills of exchange and documents used in their stead or for remittance purposes, as well as to 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 their fiscal residence or domicile in said territory.

Eight. In caveats, when made in the public registries located the Basque Country.

CHAPTER 9. TAX ON INSURANCE PREMIUMS

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 tax returns, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each tax 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 Provincial *Foral* Governments when the location of the risk or of the commitment, in insurance and capitalization operations, arises in Basque territory.

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

First. In cases of insurance on real property, when the immovable goods are located in said territory. The same rule shall apply when the insurance refers to immovable goods 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

immovable goods, with the exception of goods in commercial transit, when the immovable good wherein the movable goods are contained lies in said territory.

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

Second. In the event that the insurance covers vehicles of any kind, when the individual or entity under whose name the vehicle is registered has their fiscal residence or domicile in the Basque Country.

Third. In the event that the insurance covers risks arising during travel or outside the fiscal 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 their fiscal residence in the Basque Country, or if otherwise, when the corporate domicile or branch 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, in the case of life insurances, the policyholder has their fiscal residence therein for individuals, or its corporate domicile or branch, should the latter be referred to in the contract, is in said territory for legal persons.

Five. In the absence of specific rules of location pursuant to the Sections here above, insurance and capitalization 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 their business or professional activities, and has their effective seat of management in said territory, or has a permanent establishment therein, or in lieu thereof, their place of fiscal residence.

CHAPTER 10. EXCISE DUTIES

Article 33. Applicable legislation and levying of the taxes.

One. Excises Duties 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 are able to establish the tax rates within the limits and under the conditions in force at any given time in the common territory.

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

Two. Manufacturing Excise Duties shall be levied by the respective Provincial *Foral* Governments when their accrual occurs in the Basque Country.

Refunds of Manufacturing Excise Duties shall be made by the Administration of the territory where the tax liability in question was paid into. Nevertheless, in cases where it is not possible to determine in which Administration the duty was paid into, the refund shall be made by the Administration of the territory where entitlement to the refund is generated. Control and authorization over the establishments located in the Basque Country, under any of its regimes, shall be exercised by the respective Provincial *Foral* Governments. However, prior notice shall be given to the State Administration and to the Coordination and Legislative Evaluation Committee.

Three. The Excise Duty on Certain Means of Transport shall be levied by the respective Provincial *Foral* Governments when the fiscal residence or domicile of the individual or legal person who performs the taxable event is in the Basque territory.

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

Four. The Excise Duty on Coal shall be levied by the respective Provincial *Foral* Governments in each Historical Territory when the accrual of the duty occurs in the Basque Country.

The accrual is deemed to occur at the time of release for consumption or self-consumption.

Release for consumption is deemed to occur at the time of the first sale or delivery of coal following production, extraction, importation or intra-community acquisition.

Any subsequent sales or deliveries of coal made by business owners with the purpose of resale when the acquisition thereof is eligible for exemption for resale are also regarded as first sale or delivery.

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

Five. The Excise Duty on Electricity shall be levied by the respective Provincial *Foral* Governments in each Historical Territory in the following cases:

In the case of electricity supply, when the point of supply of the individual or entity acquiring electricity for their own consumption is located in the Basque Country.

In the case of consumption by the electric energy producers of the electricity produced by themselves, when the consumption occurs in the Basque Country.

Artículo 33a. Excise Duty on Non-Reusable Plastic Packaging.

One. The Excise Duty on Non-Reusable Plastic Packaging 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 are able to adopt their own tax returns, which shall contain at least the same information as those of the common territory, and to set the payment deadlines for each tax settlement period, which shall not be substantially different from those set by the Administration of the State.

Two. The Excise Duty shall be levied by the Administration of the State or by the respective Provincial *Foral* Government in each Historical Territory according to the following rules:

First. In the case of the manufacture of the products within the objective scope of the Excise Duty, the tax shall be levied by the Administration of the territory where the establishments in which the activity is carried out are located.

Second. In the case of intra-community acquisition of products within the objective scope of the Excise Duty, the tax shall be levied by the Administration of the territory where the fiscal domicile of the taxpayer is located. Should the intra-community acquisitions be made by a non-established taxpayer, the tax shall be levied by the Administration of the territory where the fiscal domicile of its representative is located.

Third. In the case of irregular possession of the products subject to the Excise Duty, the tax shall be levied by the Administration of the territory where the products are located at the time when the irregular introduction is proved.

Three. Any applicable refunds shall be made by the Administration of the territory where the tax liability in question was paid into. Nevertheless, in cases where it is not possible to determine in which Administration the duty was paid into, the refund shall be made by the Administration of the territory where entitlement to the refund arises.

Four. The registration and the register of taxpayers must be made by the Administration of the State or by the competent Provincial *Foral* Government in each Historical Territory pursuant to Section Two of this article.

Five. Verification and inspection shall be competence of the Administration entitled to levy the tax, without prejudice of the collaboration between Administrations.

CHAPTER 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 are able adopt their own tax returns, which shall contain at least the same information as those of the common territory, and to set the payment deadlines for each tax 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 respective Provincial *Foral* Government in each Historical Territory according to the following rules:

First. In the case of the manufacture of the gases within the objective scope of the tax, it shall be levied by the Administration of the territory where the establishments in which the activity is carried out are located.

Second. In the case of sales or supplies and self-consumption of gases by authorized taxpayers as storekeepers in accordance to the tax legislation, the tax shall be levied by the Administration of the territory where the establishments in which the activity is carried out are located.

Third. In the case of intra-community acquisition of products within the objective scope of the tax, it shall be levied by the Administration of the territory where the fiscal domicile of the taxpayer is located, except in the case of taxpayers authorized as storekeepers wherever the second rule above will apply. Should the intra-community acquisitions be made by a non-established taxpayer, the tax shall be levied by the Administration of the territory where the fiscal domicile of its representative is located.

Fourth. In the case of irregular tenure of the gases subject to the tax, it shall be levied by the Administration of the territory where the products are located at the time when the irregular tenure is proved.

Three. Any applicable refunds shall be made by the Administration of the territory where the tax liability in question was paid into. Nevertheless, in cases where it is not possible to determine in which Administration the tax liability was paid into, the refund shall be made by the Administration of the territory where entitlement to the refund arises.

Four. The registration and the register of taxpayers must be made by the Administration of the State or by the competent Provincial *Foral* Government in each Historical Territory pursuant to Section Two of this article.

Five. Verification and inspection shall be competence of the Administration entitled to levy the tax, without prejudice of the collaboration between Administrations.

CHAPTER 11A. TAX ON FINANCIAL TRANSACTIONS

Article 34a. Applicable legislation, levying and tax inspection.

One. The Tax on Financial Transactions 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 are able to adopt their own tax returns, which shall contain at least the same information as those of the common territory, and to set the payment deadlines for each tax settlement period, which shall not be substantially different from those set by the Administration of the State.

Two. Regardless of the location of their fiscal domicile, taxpayers shall submit their tax returns either to the Provincial *Foral* Governments, either to the Administration of the State, or jointly to both administrations, according to the business turnover allocated to each territory during the year.

The proportion of the business turnover must be allocated to each territory on the basis of the percentage that the taxable base corresponding to transactions relating to shares of companies with registered offices in common or *foral* territory represents with respect to the total taxable base of each taxpayer. This proportion will be expressed as a percentage of no more than two decimal numbers.

Three. The tax inspection shall be carried out by the competent Provincial *Foral* Government in each Historical Territory whenever the taxpayer has the fiscal domicile in the Basque Country, notwithstanding the collaboration of the other concerned tax Administrations, and shall be binding on all competent Administrations, including the proportion of the tax liability corresponding to each of them.

Should the tax inspection activity result in a tax debt or in an amount to be refunded corresponding to both Administrations, the collection or refund shall be made by the inspecting Administration, without prejudice to any compensations to which the other may be entitled.

The tax inspection of the competent Administration shall communicate the result of its activity to the rest of the concerned Administrations.

The proportions set in the tax audits made by the competent Administration shall affect the taxpayer’s paid-in taxes, without prejudice to the proportions which, after the abovementioned tax audit, are definitively agreed between the competent Administrations.

CHAPTER 11B. TAX ON CERTAIN DIGITAL SERVICES

Article 34b. Applicable legislation, levying and tax inspection.

One. The Tax on Certain Digital Services 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 are able to adopt their own tax returns, which shall contain at least the same information as those of the common territory, and to set the payment deadlines for each tax settlement

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

Two. Regardless of where they have their fiscal domicile, taxpayers shall submit their tax returns either to the Provincial *Foral* Governments, either to the Administration of the State, or jointly to both administrations, according to the proportion of digital services supply in each territory.

This proportion, expressed as a percentage of no more than two decimal numbers, must be allocated to each territory on the basis of the percentage that the income corresponding to the taxable provision of digital services in the territory of each administration represents with respect to the total taxable income in the Spanish territory. For this purpose, the Valued Added Tax and any other tax of the same kind will be discounted from the taxable income.

Three. The digital services shall be deemed to be provided in the common or *foral* territory, depending on the territory where the users are located, pursuant the rules for determining the users´ location laid down in the tax legislation.

Four. Taxpayers shall submit their tax returns either to the Administration entitled to levy the tax, stating the applicable proportions and the tax amount due to each administration.

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

Five. The tax inspection shall be carried out by the competent Provincial *Foral* Government in each Historical Territory whenever the taxpayer has the fiscal domicile in the Basque Country, notwithstanding the collaboration of the other concerned tax Administrations, and shall be binding on all competent Administrations, including the proportion of the tax liability corresponding to each of them.

Should the tax inspection activity result in a tax debt or in an amount to be refunded corresponding to both Administrations, the collection or refund shall be made by the inspecting Administration, without prejudice to any compensations to which the other may be entitled.

The tax inspection of the competent Administration shall communicate the result of its activity to the rest of the concerned Administrations. The proportions set in the tax audits made by the competent Administration shall affect the taxpayer’s paid-in taxes, without prejudice to the proportions which, after the abovementioned tax audit, are definitively agreed between the competent Administrations.

CHAPTER 11C. TAX ON THE DEPOSIT OF WASTE IN LANDFILLS, INCINERATION AND CO-INCINERATION OF WASTE

Article 34c. Applicable legislation and levying of the tax.

One. The Tax on the deposit of waste in landfills, incineration and co-incineration of waste 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 are able to increase the tax rates within the limits and under the conditions in force at any given time in the common territory.

Moreover, the competent Institutions of the Historical Territories are able to adopt their own tax returns, which shall contain at least the same information as those of the common territory, and to set the payment deadlines for each tax 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 Provincial *Foral* Government in each Historical Territory in which the landfill or the incineration or co-incineration facility where the waste subject to the tax is to be deposited is located.

Three. The registration and the register of taxpayers must be made by the respective Provincial *Foral* Government in each Historical Territory whenever the landfill or the incineration or co-incineration facility where the waste subject to the tax is to be deposited is located in the Basque Country.

CHAPTER 12. OTHER INDIRECT TAXES

Article 35. Applicable legislation.

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

CHAPTER 13. GAMING DUTIES

Article 36. Gaming Activities Tax.

One. The Gaming Activities 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.

In any event, taxpayers shall include in the tax returns to be submitted to each of the Administrations involved all information corresponding to the taxable activities.

The above notwithstanding, as regards the activities of operators, organizers or whoever carries out the taxable activity with a fiscal residence in the Basque Country, the competent Institutions of the Historical Territories are able to raise the tax rates to a maximum of 20 per cent with respect to the rates established at any given time by the State. This increase shall be applied, exclusively, to the proportional part of the tax base corresponding to the participation in gaming by tax residents in the Basque territory.

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

Two. Taxpayers shall pay, no matter where their fiscal domicile is, into the Provincial *Foral* Governments, into the Administration of the State, or into both Administrations in proportion to the business turnover performed in each territory during the tax year.

The proportion of the business turnover performed in each territory during the tax year shall be determined in accordance with the relative weight of the amounts spent on each type of game by players who have their fiscal domicile in the Basque Country and in common territory. This proportion, which shall be expressed as a percentage of no more than two decimal numbers, shall also be applied to the tax liability corresponding to players who do not have fiscal domicile in the Spanish territory.

The types of games wherein the identification of the fiscal domicile of the taxpayer is not required shall be levied exclusively by the respective Provincial *Foral* Governments or by the Administration of the State corresponding to the fiscal domicile of the taxpayer, without prejudice to the required subsequent compensations to be made between administrations.

Notwithstanding the provisions of the paragraphs here above, the levying of the tax on bets on sports and charitable gaming, and on bets on horses in state betting establishments, wherein the fiscal domicile of the player is not identified shall be levied by the Administration of the State or by the respective Provincial *Foral* Governments in each Historical Territory, depending on whether the point of sale wherein the bet is placed is located in the common or in the Basque territory.

Three. Taxpayers shall submit their tax returns to the competent Administrations for their levying, stating, in any case, the applicable proportion and the tax liability corresponding to each Administration.

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

Five. The inspection of taxpayers shall be carried out by the tax inspectorate of the Administration corresponding to their fiscal residence or to that of their representative in the case of non-resident taxpayers, notwithstanding the collaboration of the other tax Administrations concerned, and shall be effective in relation to all competent Administrations, including the proportion of the tax liability corresponding to each of them.

Notwithstanding, inspection of the taxpayers with fiscal domicile in the Basque Country shall correspond to the Administration of the State when, in the previous year, the aggregate sum of amounts played exceeds 7 million euros and the proportion played in common territory, pursuant to the connecting factors specified in Section Two here above, are equal to or higher than 75 per cent.

Moreover, inspection of the taxpayers with fiscal domicile in the Basque Country shall correspond to the Provincial *Foral* Government in each Historical Territory when, in the previous year, the aggregate sum of amounts played exceeds 7 million euros, and all operations were performed in Basque territory pursuant to the connecting factors specified in Section Two here above.

Should tax inspection result in 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 to which the other may be entitled.

The tax inspectorate of the competent Administration shall communicate the result of its activities to the rest of the concerned Administrations.

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 activities cannot have economic effects on the taxpayers' final tax settlement made by the bodies of the competent Administrations.

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

Article 37. Other Gaming Duties.

One. Other Gaming Duties are agreed taxes subject to autonomous legislation, whenever their authorization shall be issued in the Basque Country. The same legislation as enacted at any time by the State with regards to the taxable event and the taxpayer shall be applied.

Two. Duties on Games of Chance and Gambling shall be levied by the Provincial *Foral* Government in each 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 Provincial *Foral* Government in each Historical Territory, when the authorization thereof must be obtained in the Basque Country.

CHAPTER 14. FEES

Article 38. Competence for levying fees.

Provincial *Foral* Governments shall levy fees on the special use or exploitation of their public domain for services rendered or activities performed by them under public law.

CHAPTER 15. MUNICIPAL TREASURIES

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 immovable property located in the respective Historical Territory.

Article 40. Tax on Economic Activities.

One. The Tax on Economic 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 levy the Tax on Economic Activities performed in their territory, in accordance with the following rules:

a) In cases of minimum municipal tax liabilities or modified, when the accrual occurs in the municipalities of the Historical Territory.

b) In cases of provincial tax liabilities, when the activity is performed in the corresponding Historical Territory.

c) In cases of tax liabilities entitling the taxpayer to perform their activity in more than one province, when the taxpayer has their fiscal residence or fiscal domicile in the Basque Country, as the case may be. Payment of said tax liability to the corresponding Administration of the common or Basque territory shall entitle the taxpayer to exercise their activity in both territories.

Article 41. Tax on Motor Vehicles.

The Tax on Motor Vehicles shall be regulated by the rules laid down by the competent Institutions of the Historical Territories, when the address stated on the driver's licence corresponds to a municipality 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 tax system governing the remaining municipal taxes, pursuant to the criteria specified below:

a) Attention to the general structure established for the municipal tax system under the common regime, and to the principles on which said structure is based, complying with any harmonization rules envisaged in Article 3 hereof that are applicable to this field.

b) Non establishment of indirect taxes other than those of the common regime, whose revenues might be transferred or passed on outside the territory of the Basque Country.

Article 43. Fiscal residence and fiscal domicile.

One. For the purposes of the provisions in the present Economic Agreement, it shall be understood that fiscal resident individuals have their fiscal 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 the Inheritance and Gift Tax, Transfer Tax and Stamp Duty, and the Excise Duty on Certain Means of Transport.

For the purpose of the remaining taxes, the fiscal residence of individuals shall be the same as that used for Personal Income Tax purposes 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 the Basque Country when this is the location of their habitual dwelling.

Second. When said territory is wherein they have their main center of interests, considering as such the territory where they obtain most of their taxable base for Personal Income Tax purposes, excluding, in this regard, income and capital gains arising from moveable capital, and imputed tax bases under the tax transparency system, except for the applicable system to professionals.

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

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

Three. When it is presumed that an individual is fiscal resident in the Spanish territory on the basis of the fiscal residence in the Basque Country of their not legally separated spouse and dependent minor children, said individual shall be considered to have their fiscal residence in the Basque Country.

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

a) Individuals who have their fiscal residence in the Basque Country.

b) Legal persons and other entities subject to Corporate Income Tax when their registered office is in said territory, provided that the administrative management and direction of their business is effectively centralized therein. Otherwise, provided that said management or direction takes place in the Basque Country.

In cases where the place of the fiscal domicile cannot be determined by applying the aforesaid criterion, the place wherein the greatest value of fixed assets is located shall apply.

c) Permanent establishments when the administrative management and direction of their business takes place in the Basque Country. In cases where the place of domicile cannot be determined by applying the aforesaid criterion, the place wherein the greatest value of fixed assets is located shall apply.

d) Civil societies and entities without independent legal status when the administrative management and direction takes place in the Basque Country. In cases where the

place of fiscal domicile cannot be determines by applying the aforesaid criterion, the place wherein the greatest value of fixed assets is located shall apply.

Five. Taxpayers for Corporate Income Tax and permanent establishments of non-resident entities shall be obliged to inform both Administrations of the changes of fiscal domicile resulting in modifications of the competence to levy said tax. For Personal Income Tax purposes, the communication shall be understood to be made via submission of the annual Personal Income Tax return.

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

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

Moreover, when, by virtue of the provisions contained in this Section, it is presumed that no change of residence has taken place, individuals must submit the corresponding supplementary tax returns, including interest for late payment.

Changes of residence for the main purpose of achieving lower tax liability shall not be 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 taxable base is at least 50 per cent higher than the taxable base in the year prior to the change. If joint tax returns are filed, individualization 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 fiscal residence in said territory.

Eight. Unless there is evidence to the contrary, it shall be presumed that no change of fiscal domicile of legal persons has taken place, if in the year before or after the change they become dormant companies or cease trading.

Nine. Changes in taxpayer´s domicile may be raised 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 of such change. 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 Section Six of the present article.

Prior to remitting a proposal of change of domicile, the interested Administration can, in collaboration with the other Administration, proceed to effectuate census verifications of the fiscal domicile.

In the event of a change ex officio in the fiscal domicile, prior agreement between both Administrations, or as a result of an administrative decision by the Board of Arbitration, it shall be presumed, unless evidence to the contrary, that the new fiscal domicile determined in such a way shall remain in place for three years after the date of the administrative decision.

Article 44. Tax offence.

In cases where the tax Administration considers that administrative tax infringements could constitute a tax offence against the Public Treasury, it will refer the guilt to the competent jurisdiction in accordance with the Criminal Code.

When, as provided for in Article 305.5 of the Criminal Code, the tax Administration have the faculty to continue with the proceedings in order to determine and collect the tax liability, said proceedings shall be carried out by the competent Administration for tax inspection with the application of the pertinent tax regulations in accordance with the present Economic Agreement.

When, as provided for in Article 305.7 of the Criminal Code, the Judge or Court may request the assistance of the tax Administration´s services to enforce the fine and civil liability, said assistance shall be provided by the competent tax Administration in accordance with the present Economic Agreement.

The provisions in this article shall apply without prejudice to the pertinent compensations between the concerned Administrations.

Article 45. Cooperation of financial entities in tax administration and tax inspection proceedings.

One. The Provincial *Foral* Governments of the Basque Country shall be responsible for the tax inspection of the accounts and credit and passive operations both of financial entities and of any individuals or legal persons engaged in banking and credit traffic, in order to levy the taxes under their competence.

Two. Investigation and verification proceedings which, within the scope of competence assigned in the present Economic Agreement to the Provincial *Foral* Governments, must be performed outside their territory, shall be carried out by the competent tax bodies of the State, or by those of the competent Autonomous Communities when dealing with assigned taxes to them, at the request of the competent body of the aforesaid Provincial *Foral* Governments. Regarding said proceedings, the State Administration and the Provincial *Foral* Governments shall sign cooperation and mutual assistance agreements in order to coordinate proceedings, as provided in Article 4 of the present Economic Agreement.

Three. The proceedings for acquisition of information in order to levy taxes under the competence of the Provincial *Foral* Governments shall be performed by the competent bodies of said governments, without prejudice to the signature of cooperation and mutual assistance agreements in order to coordinate said proceedings, as provided in Article 4 of the present Economic Agreement.

Four. When the competent bodies of the State or of the Provincial *Foral* Governments detect, as a result of their inspection and verification activities, facts of fiscal relevance for the other Administration, it shall notify the latter of same as specified on the terms laid down by regulations.

Article 46. Obligations to provide information.

One. Information returns of withholdings on income in cash and in kind shall be submitted, pursuant to the respective legislation, to the competent Administration for levying withholdings on income in cash and in kind, which shall be included therein.

Entities that are depositories or administrators of collecting income from securities which, in accordance with the corresponding legislation, require annual information returns on withholdings on income in cash and in kind, shall submit said returns, pursuant to the respective legislation, to the competent Administration for verification and investigation of said entities.

Entities liable to payment of the Corporate Income Tax levied by the State and by the Provincial *Foral* Governments shall submit annual returns on withholdings on income in cash and in kind referred to in Article 7.One, c), Article 9.One, First, a), and Article 23.Two of the present Economic Agreement, in accordance with the rules on place, form and submission deadline determined by each one of the competent Administration for levying the tax, including the total income and withholdings on said income in the returns submitted to each one of them.

Two. Information returns for the purpose of fulfilling the different legal obligations for providing general tax information shall be submitted, in accordance with the respective legislation, to the competent Administration of the State or to the Provincial *Foral* Governments in each Historical Territory, according to the following criteria:

a) In the case of taxable persons who perform economic activities, to the competent Administration for the verification and investigation of said activities.

b) In the case of taxable persons who do not perform economic activities, depending on whether their fiscal domicile is in the common or *foral* territory.

For the purposes of that laid down in the letters here above, in the case of inheritances in abeyance, communities of property or other entities with no legal personality, said information returns shall likewise be submitted to the Administration wherein their members or partners have their fiscal domiciles.

Three. Tax register returns shall be submitted, in accordance with the respective legislation, to the competent Administration wherein lies the fiscal domicile of the individual or legal person obliged to submit them, and also to the Administration to which said person or entity must submit, one or more of the following tax returns, in accordance with the rules laid down in the present Economic Agreement:

- Tax return for withholdings on income in cash and in kind.

- Corporate Income Tax return.

- Value Added Tax return.

- Tax on Economic Activities return.

- Tax on Certain Digital Services return.

Article 47. Corporate mergers and divisions.

In mergers and divisions operations of companies wherein tax benefits, if any, must be recognized by both Administrations pursuant to the taxation criteria envisaged in Article 14 here above, the Provincial *Foral* Governments of the Historical Territories shall apply identical regulations as those in force at any given time in the common territory, and the corresponding administrative tax proceedings shall be conducted before each Administration.

Article 47a. Assignment and revocation of the Tax Identification Number.

Legal persons and entities without legal personality must request the assignment of the Tax Identification Number to the Administration corresponding to their fiscal domicile.

Non-resident entities without permanent establishments should request the assignment of the Tax Identification Number to the Administration of the territory wherein they are going to perform activities of fiscal relevance, unless a Tax Identification Number had been formerly assigned by another tax Administration.

The revocation of the Tax Identification Number shall be responsibility of the Administration corresponding to the fiscal domicile, unless the verification and investigation competence corresponds to another Administration, in which case, it will

correspond to the latter. In the case of non-resident entities without permanent establishments the competent Administration for the revocation is the one which assigned it.

In both cases a good coordination and exchange of information between both Administrations shall be ensured.

Article 47b. Coordination on tax levy and inspection competences.

One. In the situations in which, in accordance with the criteria laid down in the present Economic Agreement, tax inspection for the regularization of the transactions referred to in the Section Two below corresponds to more than one Administration, they must coordinate their levying and inspection competences with the rest of the involved Administrations in the regularization in accordance with the present article.

Two. The coordination of competences shall be applicable to the following situations:

a) Regularization of transactions carried out between related persons or entities.
b) Different transactions assessment from the one stated in the tax return by the taxpayer, provided that it causes a modification in the input or output taxes in regard to indirect taxes with tax shifting mechanism.

Three. In the situations referred to in the above Section, the Administration, which is acting in regard to any of both situations by virtue of its competences, shall communicate, before submitting its resolution to the taxpayer or concluding the tax inspection, the reasons in fact and in law for the regularization to the other Administrations concerned.

Should no comments on the regularization proposal be made by the other Administrations concerned in two months´ time, said proposal shall be deemed adopted and all Administrations shall be bound by it with respect to the taxpayers, to whom said criteria shall be applied.

Should comments be made, they will be referred to the Coordination and Legislative Evaluation Committee wherein an agreement on the comments made may be reached.

In any case, if two months´ time after making the comments, no agreement has been reached, the Coordination and Legislative Evaluation Committee, as well as any of the concerned Administration may refer the disagreement to the Arbitration Board in one month´s time. After the referral, the Arbitration Board shall resolve the discrepancy, prior hearing of the interested party, through the summary procedure in accordance with Article 68 of this Economic Agreement.

Four. Once the discrepancy has been resolved or, if it has not, after expiry of the given periods in Article 68.2 of the present Economic Agreement without a resolution by the Arbitration Board, the acting Administration may continue any proceedings and issue the pertinent administrative acts, whose effects between Administrations will be suspended until the Arbitration Board issues its resolution.

PART II. Financial Relations

CHAPTER 1. GENERAL REGULATIONS

Article 48. General principles.

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 exercise 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, although this shall not lead to, in any way whatsoever, a lower level of autonomy of Basque Municipalities 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 in 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, the methodology to set the Quota for the five-year period shall be determined, in accordance with the general principles laid down in this Agreement, 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 established by the law referred to in the preceding Section.

Three. The principles underlying the methodology for setting the quota herein may be amended by the Quota Law, when the circumstances and the experience gained in its implementation so require.

Article 51. Basque Municipalities' share in income from non-agreed taxes.

In cases of indirect contribution through a participation in non-agreed taxes, the Provincial *Foral* Governments shall distribute the amounts which, pursuant to the general apportionment rules, correspond to the Municipalities in their respective Historical Territory.

CHAPTER 2. METHODOLOGY FOR DETERMINING THE QUOTA

Article 52. Charges of the State non-assumed by the Autonomous Community

One. Charges of the State non-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 net budget allocation which, raised to State level, corresponds to the competences assumed by the Autonomous Community, as of the entry into force of the transfer established in the corresponding Decrees, shall be deducted from the total State budget expenditure.

Three. Among others, the following shall be considered non-assumed charges 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 non-assumed charge shall be made by means of the procedure laid down in the Quota Law.

b) Transfers or subsidies granted by the State to public entities, provided that the competences said entities exercise have not been assumed by the Autonomous Community of the Basque Country.

c) The State debt interest payments and repayments, as determined in the Quota Law.

Four. Imputation to the Historical Territories of their share in non-assumed charges shall be made by applying the indexes referred to in Article 57 here below.

Article 53. Adjustment to consumption for the Value Added Tax.

One. For the purpose of improving the accuracy of the imputation of the Value Added Tax income, an adjustment mechanism is set up between the collection capacity index and the consumption index of the Basque Country.

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

$$FC_{BC} = RC_{BC} + a^* RC_{IM} + a^* RC_{OSS} + (a - b) * H$$

Where:

$$H = \frac{RC_{BC}}{b} \text{ if } \frac{RC_{BC}}{RC_{CT}} \leq \frac{b}{1 - b}$$

$$H = \frac{RC_{CT}}{1 - b} \text{ if } \frac{RC_{BC}}{RC_{CT}} \geq \frac{b}{1 - b}$$

FC_{BC} = Final annual collection of the Basque Country.

RC_{BC} = Real annual collection of the Basque Country.

RC_{CT} = Real annual collection of the common territory.

RC_{IM} = Real annual collection from imports.

RC_{OSS} = Real collection from the special schemes for distance sales of goods and certain domestic supplies of goods and services, based on the tax at destination principle and on the one-stop-shop mechanism.

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

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

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

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

f = Gross fixed capital formation of the Basque Country.

F = Gross fixed capital of the State (except for Canary Islands, Ceuta and Melilla).

e = Exports from the Basque Country.

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

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

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

Three. The value of the indexes referred to in Section One above shall be determined in accordance with the Quota Law.

Four. The provisional imputation of the aforesaid adjustment and the final regularization 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 improving the accuracy of the imputation of the income from Excise Duties on Alcohol and Alcoholic Beverages, Intermediate Products, Beer, Mineral Oils and Manufactured Tobacco, an adjustment mechanism is set up between the collection capacity index and the consumption index 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 said duties:

$$FC_{BC} = RC_{BC} + c * RC_{IM} + (c - d) * H$$

Where:

$$H = \frac{RC_{BC}}{d} \quad \text{if} \quad \frac{RC_{BC}}{RC_{CT}} \leq \frac{d}{1 - d}$$

$$H = \frac{RC_{CT}}{1 - d} \quad \text{if} \quad \frac{RC_{BC}}{RC_{CT}} \geq \frac{d}{1 - d}$$

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

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

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

RC_{IM} = Real annual collection from Excise Duties from imports of Alcohol and Alcoholic Beverages, Intermediate Products, Beer, Mineral Oils and Tobacco.

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

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

Three. The value of the indexes referred to in Section One above shall be determined in accordance with the Quota Law.

Four. The provisional imputation of the aforesaid adjustments and the final regularization 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 54a. Adjustment to consumption for the Excise Duty on Non-Reusable Plastic Packaging.

One. For the purpose of improving the accuracy of the imputation of the income from the Excise Duty on Non-Reusable Plastic Packaging, an adjustment mechanism is set up between the collection capacity index and the consumption index of the Basque Country.

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

$$FC_{BC} = RC_{BC} + f * RC_{IM} + (f - g) * H$$

Where:

$$H = \frac{RC_{BC}}{g} \text{ if } \frac{RC_{BC}}{RC_{CT}} \leq \frac{g}{1 - g}$$

$$H = \frac{RC_{CT}}{1 - g} \text{ if } \frac{RC_{BC}}{RC_{CT}} \geq \frac{g}{1 - g}$$

FC_{BC} = Final annual collection of the Basque Country.

RC_{BC} = Real annual collection of the Basque Country.

RC_{CT}= Real annual collection of the common territory.

RC_{IM} = Real annual collection from imports.

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

$$g = \frac{\text{Revenue capacity of the Basque Country}}{}$$

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

Three. The value of the indexes referred to in Section One above shall be determined in accordance with the Quota Law.

Four. The provisional imputation of the aforesaid adjustments and the final regularization 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 54b. Adjustment to consumption for the Tax on Fluorinated Greenhouse Gases.

One. For the purpose of improving the accuracy of the imputation of the income from the Tax on Fluorinated Greenhouse Gases, an adjustment mechanism is set up between the collection capacity index and the consumption index of the Basque Country.

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

$$FC_{BC} = RC_{BC} + h^* RC_{IM} + (h - i) * H$$

Where:

$$H = \frac{RC_{BC}}{i} \text{ if } \frac{RC_{BC}}{RC_{CT}} \leq \frac{i}{1 - i}$$

$$H = \frac{RC_{CT}}{1 - i} \text{ if } \frac{RC_{BC}}{RC_{CT}} \geq \frac{i}{1 - i}$$

FC_{BC} = Final annual collection of the Basque Country.

RC_{BC} = Real annual collection of the Basque Country.

RC_{CT}= Real annual collection of the common territory.

RC_{IM} = Real annual collection from imports.

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

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

Three. The value of the indexes referred to in Section One above shall be determined in accordance with the Quota Law.

Four. The provisional imputation of the aforesaid adjustments and the final regularization 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 improving the accuracy of the imputation of direct taxation, an adjustment shall be made to the amounts arising from the application of the rules laid down in Articles 9.One, First, b) and 7.Two of the present Economic Agreement.

Two. Similarly, in the Quota Law, other adjustment mechanisms could be established, as the case may be, which may improve the system for estimating the public income imputed to the Basque Country and to the rest of the State.

Three. The amounts resulting from the 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 deducted for compensation purposes:

a) The imputed portion of non-agreed taxes.

b) The imputed portion of budget revenue not from taxes.

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

Two. Imputation of the items stipulated in the Section above shall be made by applying the imputation indexes referred to in article 57 here below.

Article 57. Imputation indexes.

One. The imputation indexes 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. Said indexes shall be fixed in the Quota Law and shall be applied during the validity of said Law.

Article 58. Effects on the provisional Quota due to variations in assumed 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, raised 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 assumes said competences, and therefore, the Quota in the pertinent amount.

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

Two. The same procedure would apply 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 by for the year in question.

Once the budgetary 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 into the State Treasury in three identical instalments, during the months of May, September and December of each year.

PART III. Economic Agreement Committees and the Arbitration Board

CHAPTER 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 Provincial *Foral* Government plus the same number from the Basque Government, on the one hand, and on the other, of the same number of representatives from the Administration of the State.

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

Article 62. Functions.

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

a) 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 appointment and the rules governing the members of the Arbitration Board provided for in Chapter 3 of this Part, as well as on the operations, calls for and details of meetings, and on the system for adopting agreements.

e) Any and all agreements on tax and finance matters deemed necessary at any given time for the correct application and implementation of the provisions contained in the present Economic Agreement.

CHAPTER 2. COORDINATION AND LEGISLATIVE EVALUATION COMMITTEE

Article 63. Composition.

The Coordination and Legislative 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 Provincial *Foral* Governments.

Article 64. Functions of the Coordination and Legislative Evaluation Committee.

The Coordination and Legislative Evaluation Committee shall exercise the following functions:

a) Ascertain 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 draft legislation stated in Article 4, Section 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 analyze the alignment of the proposed legislation with the Economic Agreement and shall make all efforts, prior to the publication of the legislation in question, to encourage the Institutions and Administrations represented therein to reach an agreement on any discrepancies over the tax legislation.

b) Resolve any inquiries put forward on the application of connecting factors laid down in the present Economic Agreement. Inquiries shall be referred for analysis, together with a resolution proposal, within two months from reception thereof, to the rest of the Administrations concerned. If no observations are made on the resolution proposal in two months' time, said proposal shall be deemed approved.

In the event that the observations made are not accepted, an agreement can be reached on them within the Coordination and Legislative Evaluation Committee. In any case, if, after two months from the time said observations are made, no agreement is reached, the Coordination and Legislative Evaluation Committee or any of the Administrations concerned can refer the disagreement to the Arbitration Board within the following month.

c) Resolve the observations made in relation to the issues in Article 47b.

d) Make whatever studies they deem necessary for the adequate structural and functional linkage between the autonomous regime and the fiscal framework of the State.

e) Provide the competent Administrations with uniform action criteria, computer plans and programs, and agree and implement the instruments, resources, procedures or methods for the effective implementation of the cooperation principles and information exchange.

e) Analyze the cases and questions that have arisen over inspection matters between the Administration of the State and the respective Provincial *Foral* Governments, and examine valuation problems for tax purposes.

f) Issue reports requested by the Spanish Minister for Finance, the different Treasury Departments of the Basque Government and of the Provincial *Foral* Governments, and the Arbitration Board.

g) Any other functions related, in particular, to the application and implementation of the present Economic Agreement.

CHAPTER 3. ARBITRATION BOARD

Article 65. Composition.

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

Two. The arbitrators are appointed for a period of six years.

Three. Should there be a vacancy, it shall be filled according to the same procedure as for appointments. The new member shall serve during the time the replaced person still had to fulfil their term.

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

Article 66. Functions.

One. The Arbitration Board shall exercise the following functions:

a) Resolve all disputes arising between the Administration of the State and the Provincial *Foral* Governments, or between the latter and the Administration of any other Autonomous Community, over the application of the connecting factors for agreed taxes and over the determination of the proportion corresponding to each Administration in cases of joint taxation for the Corporate Income Tax or for the Value Added Tax purposes.

b) Resolve 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 fiscal domicile of taxpayers.

Two. In disputes over competence, the Administrations concerned shall notify the interested parties, causing the interruption of the time barring period, and shall refrain from taking any further action.

Disputes shall be resolved by the regulatory procedure wherein interested parties shall be given due hearing.

Three. In disputes over competence, until said disputes are solved, the Administration that had levied 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 moment the new tax competence came into effect, in accordance with the agreement of the Arbitration Board.

Article 67. Agreements of the Arbitration Board.

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

The agreements of the Arbitration Board shall, without prejudice to their enforceable nature, be subject only to appeals raised through judicial review before the relevant chamber of the Supreme Court.

Article 68. Special procedures.

One. The summary procedure, the extension of effects procedure and the enforcement procedure are special procedures of the Arbitration Board provided for in the present Economic Agreement.

Two. The summary procedure shall be applicable in the cases referred to in Article 64, b) and in Section Three of Article 47.b in the present Economic Agreement.

In these cases, the Arbitration Board shall admit the proceedings in a month´s time after the referral of the dispute, give a 10 day´s period for observations to all parties concerned, and issue a resolution in a month’s time subsequent to the 10 day´s period.

Three. Anyone who had referred a dispute to the Arbitration Board provided for in the present Economic Agreement, in regard to an issue which has an analogous application to another one which had already been resolved by a final Resolution of the Arbitration Board, may require the pending dispute to be resolved by the extension of effects of said final Resolution.

In this sense, the Arbitration Board shall submit the extension of effects pleadings to the rest of the parties concerned, who within 10 days shall make observations on the analogous application, and shall resolve in a month´s time either applying analogically the final Resolution, or continuing the arbitration proceedings in accordance with the general rules.

Four. By means of the enforcement procedure, anyone who had taken part in a procedure before the Arbitration Board provided for in the Economic Agreement may require the adoption of measures to implement the resolution of the Arbitration Board, whenever the Administration responsible hadn't fully implemented it.

ADDITIONAL PROVISIONS

First Additional Provision.

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 territory shall be applied, which, in all cases, shall be supplementary law in nature.

Second Additional Provision.

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 agreement on taxes, or of an alteration in the distribution of the regulatory competences affecting the scope of indirect taxation, or of the creation of 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 pertinent adaptation of the Economic Agreement shall specify the financial effects thereof.

Third Additional Provision.

The Provincial *Foral* Governments of the Historical Territories of Alava, Gipuzkoa and Bizkaia shall have the powers in economic and administrative matters provided by Article 15 of the Royal Decree of December 13, 1906 and which, by virtue of the general updating process of the *foral* regime envisaged in the First Additional Provision of the Spanish Constitution, are considered to remain, without prejudice to the basic legislation to which reference is made in Article 149.1.18 of the Spanish Constitution.

Fourth Additional Provision.

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 appropriate.

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 Quota as agreed in each case.

Fifth Additional Provision.

The Temporary Solidarity Tax on Large Fortunes, supplementary to the Wealth Tax, is an agreed tax subject to the terms laid down in Article 24 of the present Economic Agreement, with effect during all fiscal years the referred Temporary Solidarity Tax on Large Fortunes remains in force.

Sixth Additional Provision.

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

TRANSITIONAL PROVISIONS

First Transitional Provision.

Amendments in Articles 14, 15, 19 and 29.6 of this Economic Agreement shall apply to the tax year or to the tax settlement period, depending on the type of tax, starting on or after the entry into force of the Law passing by the modification of the Economic Agreement, as agreed by the Joint Committee on the Economic Agreement on July 19, 2017.

Moreover, regulations in Articles 29.9 and 47b in this Economic Agreement shall only apply to regularizations affecting tax years starting on or after the entry into force of the Law passing by the modification of the Economic Agreement, as agreed by the Joint Committee on the Economic Agreement on July 19, 2017.

Second Transitional Provision.

Taxes due prior to the entry into force of the present Economic Agreement shall be governed by the connecting factors in force at the time of their accrual.

The same rule shall apply to withholdings in cash and in kind and payments on account when the obligation to withhold in cash and in kind and to make payments on account incurs prior to the entry into force of the present Economic Agreement.

Procedures not finalized 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 Transitional Provision.

Notwithstanding the provisions contained in the Second Transitional Provision here above, the Committees and Board laid down in Part III of the present Economic Agreement shall deal, in accordance with the procedures and powers attributed thereto, with all cases pending decision between the two Administrations at the time of its entry into force.

Fourth Transitional Provision.

A Joint Committee with equal numbers of representatives from the State Treasury and from the Provincial *Foral* Government of the Historical Territory of Alava shall determine the compensation to be paid to said Provincial *Foral* Government 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 correspond to the State in provinces under the common regime, 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 this compensation shall not affect the rules for determining the Quota laid down in this Agreement, although said compensation shall be made effective through reduction of the amount of Quota corresponding to Alava by virtue of Article 41.2.e) of the Statute of Autonomy.

Fifth Transitional Provision.

The tax system applicable to economic interest groupings and joint ventures formed prior to the entry into force of the present Economic Agreement shall be that of the Basque Country when they do not exceed the territorial scope thereof.

Sixth Transitional Provision.

Repealed by 7/2014 Law, April 21.

Seventh Transitional Provision.

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:

$$FC_{BC} = RC_{BC} + c' * RC_{CT} - [(1 - c') * RC_{BC}]$$

Where:

FC_{BC} = Final annual collection for the Basque Country from Manufactured Tobacco

RC_{BC} = Real annual collection of the Basque Country from Manufactured Tobacco

RC_{CT} = Real annual collection of the Common Territory from Manufactured Tobacco

$$c' = \frac{\text{Manufactured Tobacco supplied to tobacco and stamp retailers in the Basque Country}}{\text{Manufactured Tobacco supplied to tobacco and stamp retailers located in the territory of application of the Excise Duty}}$$

Eighth Transitional Provision.

Partial refunds on the Tax on Mineral Oils from the setting up of the special reduced tax rate on diesel oil used as fuel for professional purposes, authorized under Council Directive 2003/96/EC, October 27, 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 Transitional Provision.

Extraordinary refunds on the Tax on Mineral Oils for farmers and stockbreeders due to the application of measures to offset the increase in inputs in the production plaguing

the agricultural sector, shall be made by the Administration corresponding to the fiscal domicile of the beneficiary of said refunds.

Tenth Transitional Provision.

The transitional regime of the newly agreed taxes effective as of January 16, 2021 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 regarding the administration, inspection, revision, and collection of the taxes referred to in the present provision.

Second. Settled tax liabilities accrued prior to the date of entry into force of the law by virtue of which the Economic Agreement with the Basque Country was amended to include the new agreed taxes, arising from situations that would have been subject to the Basque tax administrations, had the taxes referred to in the present provision been agreed, and which are paid in after the abovementioned date, shall correspond in their entirety to the Provincial *Foral* Governments of the Historical Territories.

Third. Amounts due, prior to the date of entry into force of the law, by virtue of which the Economic Agreement with the Basque Country was amended to include the new agreed taxes, and settled thereafter as a result of tax inspections, shall be distributed pursuant to the criteria and connecting factors laid down for the taxes referred to in the present provision.

Fourth. Any refunds that must be paid as a result of tax settlements made, or which should have been made, prior to the date of entry into force of the law, by virtue of which the Economic Agreement with the Basque Country was amended to include the new agreed taxes, shall be made by the Administration that would have been competent on the date of the tax accrual, pursuant to the criteria and connecting factors for taxes referred to in the present provision.

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

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

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

Seventh. The entry into force of the agreement on the taxes referred to in the present transitional provision shall not be detrimental to the rights of taxpayers acquired under laws passed prior to said date.

Eleventh Transitional Provision.

The transitional regime of the Excise Duty on Non-Reusable Plastic Packaging and the Tax on the deposit of waste in landfills, incineration, and co-incineration of waste 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 regarding the administration, inspection, revision, and collection of the taxes referred to in the present provision.

Second. Settled tax liabilities accrued prior to the date of entry into force of the law by virtue of which the Economic Agreement with the Basque Country was amended to include the new agreed taxes, arising from situations that would have been subject to

the Basque tax administrations, had the taxes referred to in the present provision been agreed, and which are paid in after the abovementioned date, shall correspond in their entirety to the Provincial *Foral* Governments of the Historical Territories.

Third. Amounts due, prior to the date of entry into force of the law, by virtue of which the Economic Agreement with the Basque Country was amended to include the new agreed taxes, and settled thereafter as a result of tax inspections, shall be distributed pursuant to the criteria and connecting factors laid down for the taxes referred to in the present provision.

Fourth. Any refunds that must be paid as a result of tax settlements made, or which should have been made, prior to the date of entry into force of the law, by virtue of which the Economic Agreement with the Basque Country was amended to include the new agreed taxes, shall be made by the Administration that would have been competent on the date of the tax accrual, pursuant to the criteria and connecting factors for the taxes referred to in the present provision.

Fifth. Appeals against administrative acts issued by the competent Institutions of the Historical Territories may be brought for administrative 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 administrative 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 rules.

Sixth. For the purposes of determining the existence of administrative tax infringements 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 agreement on the taxes referred to in the present provision shall have full validity and effect.

Seventh. The entry into effect of the agreement on the taxes referred to in the present transitional provision shall not be detrimental to the rights of taxpayers acquired under laws passed prior to said date.

Twelfth Transitional Provision.

The Gaming Activities Tax due on bets on sports and charitable gaming and on bets on horses in state betting establishments shall be levied by the Administration of the State, while their commercialization is carried out by the State entity "Sociedad Estatal de Loterías y Apuestas del Estado", notwithstanding the financial compensation that corresponds to the Basque Country. The State entity "Sociedad Estatal de Loterías y Apuestas del Estado" shall file an annual information return on the amounts played attributable to the Basque Country pursuant to Article 36.Two of the Economic Agreement.

Thirteenth Transitional Provision.

Article 34 of the Economic Agreement in its original wording provided by 12/2002 Law, May 23, establishing the Economic Agreement between the State and the Basque Country, shall be in force from January 1, 2013, in relation to the Excise Duty on Retail Sales of Certain Mineral Oils concerning tax years non-extinguished by time barring.

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 connecting factors previously in effect, any tax liabilities due prior to that date.