Law 7/2024 of 20 December 2024 establishing a top-up tax to ensure a global minimum level of taxation for multinational groups and large-scale domestic groups, a tax on the net interest and commission income of certain financial institutions and a tax on liquids for e-cigarettes and other tobacco-related products, and amending other tax rules.

Head of State
Official State Gazette No 307, of 21 December 2024
Reference: BOE-A-2024-26694

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CONSOLIDATED TEXT
Latest amendment: Tuesday 24 December 2024

FELIPE VI

KING OF SPAIN

Let it hereby
be known to all: That the Cortes Generales have approved and I come to sanction the following Law:

Preamble

I

Regulatory developments in the international context in recent years tend to be reflected in the adoption of measures to strengthen the fight against aggressive tax planning in a globalised market. In this area, the recommendations made by the Organisation for Economic Co-operation and Development (OECD), based on the Base Erosion and Profit Shifting (BEPS) initiative, started a path that has led to an evolution of domestic tax rules to achieve fairer and more equitable taxation.

In recent years, the European Union has taken measures to strengthen the fight against aggressive tax planning in the internal market, including the anti-tax avoidance directives, Council Directive (EU) 2016/1164 of 12 July 2016, laying down rules against tax avoidance practices that directly affect the functioning of the internal market, and Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries, known as ATAD 1 and ATAD 2 respectively. These directives converted into European Union law the recommendations made by the OECD in the context of the initiative against base erosion and profit shifting.

In a continued effort to put an end to the tax practices of multinational enterprises (MNEs) that allow them to shift profits to countries or territories where they are not taxed or are subject to low taxation, the OECD has continued to develop a set of international tax measures, including those aimed at limiting tax competition in relation to corporate profit tax rates by setting an overall minimum level of taxation for MNEs with a net consolidated turnover of EUR 750 million or more. That legislative policy objective was translated into the document entitled ‘Tax challenges arising from the digitalisation of the economy – Anti-Base Erosion Model Rules (Pillar Two)’, hereinafter ‘OECD Model Rules’, approved on 14 December 2021 by the OECD/G20 Inclusive Framework on BEPS to which the Member States of the European Union acceded.

At the level of the European Union, in the report to the European Council on tax matters, approved by the Council on 7 December 2021, the Council reiterated its strong support for the reform of the global minimum level of taxation and committed to implement it through Union law since, in closely integrated economies, it is essential that the application of the global minimum level of taxation is consistent and coordinated. It was thus concluded that, taking into account the scale, detail and technical aspects of these new international tax measures, only a common Union framework will prevent fragmentation of the internal market in their implementation.

In line with the above, Council Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union was adopted, hereinafter Directive (EU) 2022/2523 or the Directive. This Directive must be transposed by all Member States, as provided for in Article 56 thereof.

The Directive closely follows the content and structure of the ‘OECD Model Rules’, although, for the purposes of ensuring compatibility with EU primary law, in particular with the principle of freedom of establishment, some of its provisions, in particular those relating to its subjective scope, have been designed in such a way as to avoid any risk of discrimination between cross-border situations and domestic situations.

Directive (EU) 2022/2523 establishes a top-up tax through two interlocked rules, under which it is ensured that income earned by large-scale domestic groups located in Member States of the European Union or by multinational groups whose parent company is located in a Member State of the European Union, in the latter case whether the group companies are located in the European Union or outside it, is effectively taxed at an overall minimum rate of 15 %. These interlocked rules are the Income Inclusion Rule and the Undertaxed Profit Rule, the latter supporting the former.

Thus, when the effective tax rate of the constituent entities of large-scale domestic groups or multinational groups, in a given jurisdiction, is less than 15 %, an additional tax, the top-up tax, will be collected to reach the global minimum rate of 15 %, either through the Income Inclusion Rule or, failing that, the Undertaxed Profit Rule.

However, Article 11 of Directive (EU) 2022/2523 provides that Member States may choose to levy a qualified domestic top-up tax on constituent entities that are located in their territory and do not reach a minimum tax rate of 15 %, within the jurisdiction of that Member State. In the absence of the qualified domestic top-up tax, the top-up tax corresponding to those entities would be attributed to the jurisdiction in which the entity holding the ownership interests in the entities located in the jurisdiction that had not opted to implement the qualified domestic top-up tax is situated, through the application of the Income Inclusion Rule, provided that said jurisdiction had included it in its domestic law or, failing that, to those jurisdictions that had implemented the Undertaxed Profit Rule in their domestic legislation.

The purpose of this law is to give due effect to the aforementioned obligation to transpose.

On the basis of the above, this Law lays down rules to ensure a minimum level of effective taxation for large multinational groups and large-scale exclusively domestic groups (those whose net consolidated turnover is equal to or greater than EUR 750 million in at least two of the last four immediately preceding financial years) operating in the single market, which are consistent with the Agreement reached by the Inclusive Framework in 2021, and which closely follow the OECD Model Rules agreed by the Inclusive Framework.

This Agreement reached by the Inclusive Framework establishes a minimum tax rate of 15 %, at the jurisdictional level. The complementary taxation rule that gives rise to a top-up tax is based on calculating a differential tax rate, which is the top-up tax rate, based on the difference between the effective tax rate of a jurisdiction and 15 %. Once the tax rate of the jurisdiction is calculated, it must be applied to the net qualifying income in each jurisdiction, reduced by an amount calculated according to the substance of the group in the jurisdiction, for the purpose of determining the amount of the top-up tax generated at the jurisdictional level.

In order to allocate the amount of the top-up tax that corresponds to each constituent entity of the multinational or large-scale domestic group, the aforementioned jurisdictional top-up tax must be allocated to each constituent entity of the group, in that jurisdiction, in the proportion existing between the qualifying income of each constituent entity and the qualifying income of the jurisdiction.

It should again be emphasised that the extension of the minimum taxation to domestic groups is intended to avoid any risk of discrimination in a Member State between an entity belonging to a group with an international presence and a group with an exclusively national presence.

As noted above, this regulation is adopted in an international context determined by the initiatives adopted within the framework of the OECD, where the Model Rules are highlighted, and in the European Union, Directive (EU) 2022/2523 of which this Law is a transposition.

In that context, and in the framework of Article 3(1) of the Civil Code, the OECD Model Rules and the criteria derived from the Commentaries, Administrative Guides and other principles or criteria developed and publicly disclosed by that Organisation or by the European Union should, in particular, be taken into account as interpretative criteria.

In turn, apart from the above, it is expressly stated for this purpose that, where appropriate, these criteria can be expressly recognised and advertised as such through the decisions of the head of the Directorate-General for Taxes of the Ministry of Finance referred to in Article 12(3) of Law 58/2003, of 17 December 2003, General Taxation.

II

This Law consists of fifteen titles, with fifty-five articles, three additional provisions, six transitional provisions, and twenty-two final provisions.

The Preliminary Title of the regulation contains general provisions that regulate the nature and purpose of the top-up tax, as well as its scope of application. The top-up tax is a direct and personal tax, applicable throughout the Spanish territory, structured through interconnected and mandatory rules, such as the income inclusion rule and the Undertaxed Profit Rule. The configuration of the top-up tax is based on three modalities, the first two respond to the Income Inclusion Rule and the third to the Undertaxed Profit Rule: the domestic top-up tax, the primary top-up tax and the secondary top-up tax.

First, the domestic top-up tax is the result of applying the Income Inclusion Rule with respect to the income obtained by those constituent entities of multinational groups and large-scale domestic groups that reside in Spanish territory.

Second, the primary top-up tax is the result of applying the Income Inclusion Rule with respect to the income obtained by those constituent entities of multinational groups that do not reside in Spanish territory.

Finally, the secondary top-up tax, as a result of applying the Undertaxed Profit Rule, makes it possible to guarantee minimum taxation in respect of those incomes obtained by the multinational group that could not have been taxed by application of a qualified Income Inclusion Rule.

As indicated *supra,* Directive (EU) 2022/2523 allows Member States to opt to apply a qualified domestic top-up tax. Thus, Spain, making use of this option, establishes a domestic top-up tax whose main purpose is to guarantee, in any case, the imposition by the Spanish Tax Administration of the top-up tax applicable to the constituent entities of the multinational or large-scale domestic group, resident in Spanish territory, and not reaching a minimum taxation of 15 % in Spanish territory.

Therefore, this Law incorporates a national top-up tax regime in order to ensure that the minimum effective taxation of the net qualifying income of the constituent entities, located in Spanish territory, yields at least an equivalent result to that resulting from calculating the top-up tax in accordance with Directive (EU) 2022/2523 and the OECD Model Rules. Thus, the domestic top-up tax that is calculated and paid in the Spanish territory will be considered a 'qualified domestic tax' in so far as it provides at least a result coincident with that resulting from applying the Income Inclusion Rule with respect to income obtained in Spanish territory by the constituent entities of a multinational or large-scale domestic group, provided that said group is subject, in Spain, to an effective tax rate lower than the minimum tax rate of 15 %.

In this regard, it should be noted that the domestic top-up tax provided for in this Law has been configured in such a way as to produce an equivalent result in accordance with the foregoing, without prejudice to its particularities. In this regard, it is emphasised that, since there is identity between the taxpayer and the income that is subject to taxation, it is not necessary to regulate priority rules equivalent to those provided for in the application of the primary top-up tax or the compensation rules provided for in Article 27 of this Law. Thus, to the extent that, unlike the primary top-up tax, due to the very configuration of this modality, for the purposes of calculating the amount of the domestic top-up tax of these entities, the percentage ownership interest held in them is irrelevant, with no need to take into account that percentage ownership interest to determine their domestic top-up tax. Likewise, for the purposes of the domestic top-up tax, Article 25(3) regulates certain cases in which some of the rules for the specific allocation of covered taxes borne by certain constituent entities provided for in Article 20 of this Law will not apply.

Thus, under the domestic top-up tax, each constituent entity of a national or multinational group, located in Spain, will be subject to the top-up tax for the income obtained by that entity, when it has been taxed, at the jurisdictional level, at an effective rate lower than the minimum tax rate.

Under the primary top-up tax, the parent entity of a multinational group, located in Spanish territory, shall calculate the portion allocable to it of the top-up tax corresponding to the income of those constituent entities of the multinational group that do not reside in Spanish territory, when such income has been taxed, at the jurisdictional level, at a tax rate lower than the minimum tax rate (Income Inclusion Rule).

Under the secondary top-up tax, by application of the Undertaxed Profits Rule, a constituent entity of a multinational group, located in Spanish territory, shall be obliged to pay the amount of the top-up tax corresponding to the income obtained by the constituent entities

of the multinational group that do not reside in Spanish territory and that are not subject to a qualified Income Inclusion Rule, when such income has been taxed, at the jurisdictional level, at a tax rate lower than the minimum tax rate.

Thus, the Undertaxed Profit Rule supports the Income Inclusion Rule by reallocating any residual amount of the top-up tax when the parent entity of the multinational group is unable to collect the full amount of the top-up tax relating to low-taxed entities through the application of the Income Inclusion Rule.

In accordance with the provisions of Title I of the Law, the top-up tax is levied not only on the obtaining of income by the constituent entities of a multinational group or large-scale domestic group, provided that said income is taxed, at the jurisdictional level, at an effective tax rate lower than the minimum tax rate, but also on the income imputed to them in accordance with the provisions of this Law.

Title II of the Law, in Article 5, sets out in general the definitions of the various concepts that are developed and applied throughout the regulation. It was essential to include such a provision given the novelty of the tax and given that it is a regulation subject to Community harmonisation that will have a very significant impact on other jurisdictions, not only at the European Union level but also at the OECD level. All this makes it imperative that concepts that may be infrequent in the domestic legal system must be regulated or at least defined in this Law, insofar as they may have an impact on other jurisdictions and require a harmonised interpretation.

Notwithstanding the foregoing, when in a certain Title, or even in a certain Article, the Law contains specific figures that may respond to particular situations or more specific assumptions, with the aim of facilitating the reading and understanding of the regulation of such specific regimes, the definitions of such figures are included in the Title or Article of the Law itself.

Title III of this law regulates the subjective scope of application of the top-up tax. It is a tax that only applies to entities located in Spanish territory that are members of multinational enterprise groups or large-scale domestic groups whose net consolidated turnover is at least EUR 750 million in at least two of the four tax periods immediately prior to the beginning of the tax period. The above threshold of EUR 750 million laid down in this Law is consistent with the threshold laid down in other international tax agreements in force. Thus, the figure coincides with that required of multinational groups for the presentation of country-by-country information, which was introduced into our legal system in 2015.

Next, the Law defines the three modalities which make up the top-up tax: domestic top-up tax, primary top-up tax and secondary top-up tax.

In general, the constituent entities of the multinational or domestic group located in Spain will be considered taxpayers. However, those who must, by legal imperative, and instead of the taxpayer, comply with the main tax obligation, as well as the formal obligation inherent in the payment of the tax (presentation of the corresponding self-assessment), are those constituent entities identified by the legislator as a substitute for the taxpayer. Thus, in accordance with the provisions of this Law, it may occur that the taxpayer of the top-up tax holds the status of taxpayer of the top-up tax and as a substitute for the rest of the taxpayers of the group, multinational or domestic, who reside in Spanish territory.

For the purposes of this Law, all member entities that are part of a multinational group or large-scale domestic group are referred to as ‘constituent entities’. Given the vast array of constituent entities that can be part of a multinational group or large-scale domestic group, according to their different commercial, fiscal or substantive regimes, and given that the multinational group or large-scale domestic group may be present in a large number of jurisdictions, it is necessary to establish a localisation rule for such entities, contained in Article 8 of the Law.

Likewise, certain entities should be excluded from the scope of this Law, taking into account the purpose they pursue or their special nature. Thus, excluded entities are those which, in general, do not engage in a commercial or business activity or carry out activities of general interest.

In particular, public entities, international organisations, pension funds and non-profit organisations are excluded from the application of this Law. Similarly, investment funds and real estate investment vehicles are considered excluded entities when they are regarded as the ultimate parent entity of the multinational group or large-scale domestic group, the latter being a technical exclusion, insofar as the income obtained by those entities is taxed at the

level of their holders.

Titles IV, V, and VI of this Law then regulate the taxable base, adjusted covered taxes, and the effective tax rate, respectively.

The tax base of the top-up tax, regulated in Title IV, is based on of the accounting result of the constituent entity, which must be adjusted in accordance with the provisions of this Law, in order to determine the 'qualifying income or loss'. Therefore, the qualifying income or loss of a constituent entity is obtained by making a series of adjustments to the accounting result of that constituent entity, in the tax period, determined in accordance with the acceptable or authorised financial accounting standard used in the preparation of the consolidated financial statements of the ultimate parent entity, before carrying out the consolidation eliminations. If it is not possible to determine the accounting result of a constituent entity in accordance with the above, the accounting result of the constituent entity for the tax period may be determined using another acceptable financial accounting standard or an authorised financial accounting standard, as defined in Article 5(32) of this Law.

Notwithstanding the foregoing, in the case of the domestic top-up tax, the rule states that the accounting result of the constituent entity may be determined, either on the basis of the accounting standard used in the preparation of the consolidated financial statements of the ultimate parent, before carrying out the consolidation eliminations, or on the basis of the accounting standards generally accepted in Spanish territory used in the preparation of the financial accounts of the constituent entity when it is not possible to determine, in a reasonable manner, the accounting result of the constituent entity in accordance with the aforementioned.

The adjustments to be made to determine the qualifying income or loss include, among others, the accounting expense of the tax levied on corporate profits; so-called excluded dividends, which are those deriving from a holding of 10 % or more or from a holding of less than 10 % with a holding period of at least one year; negative or positive income arising from the transfer of a holding in which a percentage of 10 % or more is held; charges for fines amounting to EUR 50 000 or more. These adjustments, together with the rest of those set out in Article 10 of this Law, reflect the significant differences of a permanent nature that usually exist in most tax systems between the accounting profit and the taxable base of a tax levied on corporate profits.

In addition, a series of specific rules are established to adjust the amount of certain transactions, some of them mandatory and others optional, at the choice of the constituent entity or the ultimate parent entity, as the case may be. The former include expenses arising from certain intra-group financing agreements or transactions that must be valued at market value in compliance with the arm's length principle. The latter include staff costs that correspond to payments based on equity instruments or eliminations made in consolidated financial statements arising from transactions between constituent entities located in the same jurisdiction and included in a fiscal consolidation group. Similarly, under certain circumstances, income from international shipping and ancillary income from such transport of a constituent entity shall be excluded from the calculation of its qualifying income or loss.

The special rules for the distribution of qualifying income or loss between the main entity and a permanent establishment are also regulated, provided that such entities are considered constituent entities under this Law, as well as the special rules for the imputation of qualifying income or loss obtained by flow-through entities to their members.

For the purposes of determining the top-up tax base in each of the low-tax jurisdictions where the multinational group or large-scale domestic group is present, the net qualifying profit, the difference between qualifying profit and qualifying loss of the constituent entities of the jurisdiction, shall be reduced by the so-called substance-based income exclusion, i.e. by an amount determined on the basis of the costs associated with employees and the value of the material assets of the constituent entities located in the jurisdiction, in order to ensure a proportionate result in situations where the risks of base erosion and profit shifting are low.

By virtue of all the foregoing, the tax base of the top-up tax of a jurisdiction with a low tax level, either in the modality of the domestic top-up tax or in that of the primary top-up tax, in the tax period, will be the positive amount resulting from reducing the net qualifying income of the constituent entities of the jurisdiction by the amount of the substance-based income exclusion, in accordance with the provisions of this Law.

Likewise, the tax base of the top-up tax for taxpayers referred to in paragraphs 2 and 3 of Article 6 of this Law, in a jurisdiction and during the tax period, shall be the amount resulting

from multiplying the tax base of the top-up tax of a jurisdiction with a low tax level by the proportion that the taxpayer's qualifying income, obtained in the tax period, represents in relation to the aggregate qualifying income of each jurisdiction with a low tax level.

After the determination of the net qualifying income of the jurisdiction, the effective tax rate of that jurisdiction must be determined.

To that end, the jurisdiction's adjusted covered taxes should first be determined on the basis, as a general rule, of the current tax expense levied on the entity's profits and recorded in the financial statements of each of the constituent entities of the jurisdiction, to which a number of adjustments are to be made.

Thus, by way of illustration, the covered taxes should be increased by the amount of taxes that meet the definition of covered taxes and that have been recognised as an expense in determining the profit before tax, i.e. that are not recorded as an accounting expense for current tax.

In parallel, reductions will be made for the amounts of current tax expense corresponding to income excluded from the calculation of qualifying income or loss, or current tax expense that is not expected to be effectively paid in the three years following the end of the tax period, among others.

Likewise, the total amount of the deferred tax adjustment, as regulated in Article 18 of the Law, must be taken into account, based on the deferred tax expense or income recorded in the financial statements of a constituent entity, to which a series of adjustments must be made.

Once the net qualifying income and the adjusted covered taxes have been determined, both calculated at the jurisdictional level, the effective tax rate of the jurisdiction, for the tax period, will be the result of dividing the adjusted covered taxes of the constituent entities located in that jurisdiction, determined in accordance with the rules indicated above, by the net qualifying income of the constituent entities located in that jurisdiction.

However, in calculating the effective tax rate, account shall be taken of the special provisions provided for in this Law in relation to stateless entities, investment entities, joint ventures, or minority-owned constituent entities.

Title VII of the Law, entitled 'Tax liability', governs, in Chapter I and Chapter II, respectively, the tax rate and the calculation of the amount of top-up tax. To do this, the top-up tax rate for a jurisdiction for a tax period is determined as the positive difference between the minimum tax rate of 15 % and the effective tax rate calculated at the jurisdictional level.

Therefore, when the effective tax rate of a jurisdiction in a tax period is lower than the minimum tax rate, the constituent entities of the group shall be obliged to bear the top-up tax corresponding to that jurisdiction, in any of its forms: the domestic top-up tax, the primary top-up tax, or the secondary top-up tax.

The rate of the top-up tax of each constituent entity, located in the jurisdiction, must coincide with the rate of tax obtained for that jurisdiction, calculated as the difference between the minimum tax rate and the effective tax rate of the jurisdiction; the rate of tax to be applied on the tax base for the period of each constituent entity of the multinational group or large-scale domestic group in the jurisdiction, calculated in the terms set out above, for the purpose of determining the amount of the entity's top-up tax.

In accordance with the provisions of Chapter II of Title VII of this Law, the amount of the top-up tax of a constituent entity located in Spanish territory in the tax period shall be the result of adding to the amount of the domestic top-up tax, the amount of the primary top-up tax and the amount of the secondary top-up tax.

The amount of the domestic top-up tax shall be the top-up tax that corresponds to the taxpayers provided for in Article 6(2) of this Law. Its calculation will be the result of applying the domestic top-up tax, regulated in Chapter III of this Law, in accordance with Article 24 of this Law.

The amount of the primary top-up tax shall be the top-up tax that corresponds to the taxpayers provided for in Article 6(3) of this Law. Its calculation will be the result of applying the Income Inclusion Rule regulated in that article, in accordance with Article 24 of this Law.

The secondary top-up tax rate shall be that which has been allocated to the taxpayers referred to in Article 6(4) of this Law, in accordance with the provisions of Article 29 of this Law.

Title VIII regulates the tax period and the accrual of the top-up tax.

Title IX of the Law contains a *de minimis* exclusion in order to strike a balance between

the objectives of the reform of the overall minimum level of taxation and the administrative burden on tax administrations and taxpayers.

Thus, where the average of the qualifying income of the constituent entities located in a jurisdiction is less than EUR 10 million and the average of the qualifying income or loss of all the constituent entities in that jurisdiction is less than EUR 1 million, the reporting constituent entity may opt for the top-up tax due by the constituent entities located in that jurisdiction to be equal to zero.

In the same vein, and in order to reduce compliance costs and administrative costs, the application of safe harbours is foreseen in Article 34 of the Law.

Thus, the primary top-up tax shall not be required, in the tax period, in respect of the taxpayers referred to in Article 6(3) of this Law, in relation to their constituent entities located in another jurisdiction, where that jurisdiction requires a qualified domestic top-up tax that has been determined in the relevant tax period in accordance with the acceptable financial accounting standard of the ultimate parent entity or with international financial reporting standards (IFRS or IFRS adopted by the Union in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards), or where that jurisdiction requires a qualified domestic top-up tax that ensures that the effective level of taxation of the constituent entities subject to that tax meets the conditions of a qualifying international agreement on safe harbours.

Likewise, to ensure the applicability of future safe harbours that may be approved at the international level, Article 34 of the Law states that in the tax period, the top-up tax will not be required in respect of the taxpayers indicated in Article 6 of this Law, in relation to those constituent entities located in a jurisdiction that meets the conditions of a qualifying international agreement on safe harbours, under the terms established in said international agreement.

Title X of the Law regulates special schemes applicable to different situations where specific rules are necessary. Thus, Chapter I of Title X of the Law regulates restructuring operations and joint ventures, while Chapters II and III of that Title regulate, respectively, the systems of neutrality and distribution, as well as the particularities that are applicable with respect to investment entities. Finally, Chapter IV of Title X regulates the specificities of minority-owned constituent entities.

In particular, Chapter I of Title X regulates corporate restructuring and joint ventures, and lays down special quantitative and temporal criteria for determining when the threshold for the application of this Law is reached after the completion of certain corporate restructuring operations, or the impact on the configuration of the multinational or large-scale domestic group, in cases of merger, division, or entry or exit of an entity from the group as a result of the acquisition or transfer of a direct or indirect interest in that entity or in cases in which an entity becomes the parent entity of a new group in the tax period in which the acquisition takes place. Special rules are also provided for the identification of the ultimate parent entity in cases of joint ventures or multi-parented multinational groups.

For its part, Chapter II of Title X of this Law regulates the systems of neutrality and distribution of dividends. Where the ultimate parent entity of a multinational group or a large-scale domestic group is fiscally transparent, rules are required to modulate the qualifying income and loss at its level, to the extent that the taxation of its income at the level of its members is ensured, and such qualifying income or loss has been attributed to them. In such cases, the covered taxes of those entities shall be reduced proportionately by the amount of qualifying income that has been imputed to their members.

In the case of tax regimes that apply a single level of taxation to the income of the holders of the ownership interests of an entity, deducting or excluding from the income of the entity the profits distributed to the holders, the rule also provides for the ultimate parent entities subject to these regimes to reduce their qualifying income when they are taxed at the level of their holders, in pursuit of the principle of neutrality.

Likewise, if taxation does not occur at the time the profits are earned, but at the time of their distribution, as is the case in some distribution tax regimes, the option is provided to compute the tax that should have been levied on the profits in the tax period in which they were earned, provided that the profits are distributed in the following four years.

Finally, for investment entities that are not ultimate parent entities, a mechanism is provided for calculating the effective tax rate on an entity-by-entity basis, given the low

taxation to which these entities are subject in their jurisdiction, to avoid adversely affecting the calculation of the effective rate for the rest of the group in the jurisdiction in which they are located. Alternatively, it is also permitted to choose to consider these entities as fiscally transparent or to apply a distribution tax system.

Following the provisions of Title XI and Title XII of this Law, the administration of the top-up tax rests on two main pillars.

Chapter I of Title XI refers to the formal obligations and establishes a reporting obligation configured for all entities that are part of a multinational group or large-scale domestic group, in the form of an informative declaration, although those entities may identify a single constituent entity as a designated entity to submit, in their name and on their behalf, the informative declaration of the multinational group or large-scale domestic group. Detailed information is required, including the identification data of the constituent entities, the structure of the group, and all the data necessary for the calculation of the effective tax rate, the top-up tax, and the allocation of the latter to each jurisdiction and each entity, as well as the details of the options exercised by the entities of the group. Chapter I of Title XI has also introduced a specific sanctioning regime in relation to the reporting obligations of the top-up tax, pursuant to Article 46 of Directive (EU) 2022/2523. The aforementioned Title XI also includes a Chapter II, which regulates the exercise of the options provided for in this Law.

Title XII, concerning the administration of the top-up tax, establishes that its self-assessment and payment is generally the responsibility of the constituent entities of the multinational or domestic group located in Spain. However, in certain cases, those who must assume by law the formal and material obligations of some taxpayers for the declaration and payment of the tax are those constituent entities identified by the legislator as substitutes for the taxpayer.

The self-assessment of the top-up tax and the payment of the self-assessed tax liability must be carried out by the taxpayer or, where appropriate, by the entity designated by the legislator as a substitute for the taxpayer in the place and form determined by the Minister of Finance.

Title XIII regulates the powers of the Administration to determine the tax base and other elements of the top-up tax, for which it will apply the accounting rules provided for in Article 9 of the Law and other regulations provided for in the aforementioned legal text.

In turn, Title XIV regulates a possible equivalence assessment of the national law applicable in other jurisdictions.

Finally, Title XV assigns to the administrative justice system, after exhaustion of the economic-administrative route, the exclusive competence to resolve any disputes arising from this law.

In addition, the Law is supplemented by three additional provisions, six transitional provisions, and twenty-two final provisions.

The first additional provision establishes the deductions in the Personal Income Tax for energy efficiency improvement works.

The second additional provision concerns the tax benefit for hiring in non-professional non-profit sports entities.

The third additional provision contains a series of exemptions from the payment of Personal Income Tax and Inheritance and Gift Tax for the amounts paid extraordinarily by employers to their employees and/or family members to cover the personal injury and material damage suffered due to the DANA that occurred in 2024.

The first transitional provision regulates the tax treatment of deferred tax assets and liabilities and of assets transferred during the transition tax period.

The second transitional provision sets out percentages for the substance-based income exclusion applicable on a transitional basis in order to achieve a tempered application of the new tax until 2032.

For its part, the third transitional provision stipulates that the domestic top-up tax shall not be required from the ultimate parent entity and its constituent entities located in Spanish territory, nor from the intermediate parent entity and its constituent entities located in Spanish territory, when the ultimate parent entity is an excluded entity, within the first five years of the initial phase of the international activity of the multinational group or in the tax periods that begin within the first five years from the first day of the tax period in which the large-scale domestic group is subject to the application of this law for the first time. In particular, mention should be made of the introduction of a specific system of penalties regarding the failure to

submit the communications provided for in the third transitional provision of this Law in due time.

Likewise, the fourth transitional provision of this Law regulates the non-applicability of the top-up tax in the tax periods commencing between December 31, 2023, and December 31, 2026, in which eligible country-by-country reporting is presented, by jurisdiction and period.

The fifth transitional provision lays down a specific time limit for the submission of the information return and the self-assessment during the transition tax period.

Finally, the sixth transitional provision establishes that the Undertaxed Profit Rule shall yield a null result with respect to the jurisdiction in which the ultimate parent entity is located for those multinational groups whose tax period commences before 31 December 2025 and ends before 31 December 2026, provided that the ultimate parent entity has been subject to corporate income tax at a nominal rate of at least 20 %.

The final provisions relate to the following: first, amendment of Law 37/1992 of 28 December 1992 on Value Added Tax; second, amendment of Law 38/1992 of 28 December 1992 on Excise Duties; third, amendment to the Value Added Tax Regulation, approved by Royal Decree 1624/1992 of 29 December 1992 on the VAT settlement period for transactions relating to tax warehouses, petrol, diesel and other fuels; fourth, amendment to Law 19/1994 of 6 July 1994 amending the Economic and Fiscal Regime of the Canary Islands; fifth, amendment to the Excise Duty Regulation, approved by Royal Decree 1165/1995 of 7 July 1995; sixth, amendment to General Tax Law 58/2003 of 17 December 2003; seventh, amendment to Law 35/2006 of 28 November 2006 on Income Tax on Natural Persons and partially amending the Laws on Corporate Tax, Non-Resident Income Tax and Wealth Tax. eighth, amendment to Law 27/2014 of 27 November 2014 on Corporate Tax; ninth, concerning the tax on the net interest and commission income of certain financial institutions; tenth, amendment of Royal Decree 1514/2007 of 16 November 2007 approving the General Accounting Plan in order to provide for a temporary derogation from the accounting and reporting of deferred taxes arising from the implementation of the Law establishing a top-up tax to ensure a global minimum level of taxation for multinational groups and large-scale domestic groups and other national rules approved to ensure a global minimum level of taxation for multinational groups and large-scale domestic groups; eleventh, amendment to Royal Decree 1159/2010 of 17 September 2010 approving the Rules for the Formulation of Consolidated Annual Accounts and amending the General Accounting Plan approved by Royal Decree 1514/2007 of 16 November 2007 and the General Accounting Plan for Small and Medium-sized Enterprises approved by Royal Decree 1515/2007 of 16 November 2007 in order to provide for a temporary derogation from the accounting and reporting in the notes to the financial statements of deferred taxes arising from the implementation of the Law establishing a top-up tax and other national rules approved to ensure a global minimum level of taxation for multinational groups and large-scale domestic groups; twelfth, amendment of Law 56/2007 of 28 December 2007 on Measures to Promote the Information Society; thirteenth, amendment of Royal Legislative Decree 8/2015 of 30 October 2015 approving the revised text of the General Social Security Act. Fourteenth, amendment of Law 38/2022 of 27 December 2022 establishing temporary levies on energy and on credit institutions and financial credit establishments, and creating the temporary solidarity tax on large fortunes, and amending certain tax rules; fifteenth, safeguarding the rank of regulatory provisions; sixteenth, concerning the processing to be carried out by the State Tax Administration Agency to determine the origin and, where appropriate, make the refunds derived from the case law established by the Supreme Court in relation to the second transitional provision of Law 35/2006 of 28 November 2006 on Personal Income Tax and partial modification of the laws on Corporate Tax, Non-Resident Income Tax and Wealth Tax, in relation to the tax periods 2019 to 2022; seventeenth, concerning VAT on short-term housing leases. In addition, the latest final provisions concern: eighteenth, the title of competence under which this regulation is issued; nineteenth, the transposition of Directive (EU) 2022/2523; twentieth, concerning the empowerment of the General State Budget Law to modify certain aspects of this Law; twenty-first, concerning the regulatory authorisation for the development and implementation of the provisions of this Law; and, finally, the twenty-second, concerning the entry into force and application, providing that it will take effect for tax periods starting on or after 31 December 2023, except, as regards the Undertaxed Profit Rule, that will have effect for tax periods starting on or after 31 December 2024.

III

In accordance with the provisions of Law 39/2015 of 1 October 2015 on the Common Administrative Procedure of Public Administrations, the drafting of this Law has been carried out in accordance with the principles of necessity, effectiveness, proportionality, legal certainty, transparency and efficiency.

Thus, the principle of necessity and effectiveness is fulfilled, inasmuch as the approval of a law is necessary, since a new tax is established in the Spanish legal system, the power for such establishment being vested in the State, by law, in accordance with Article 133(1) of the Spanish Constitution.

The principle of proportionality is also complied with, as the objectives of the Community legislation, which undoubtedly required the measures set out in this legislation to be established, have been exclusively observed.

Regarding the principle of legal certainty, the coherence of the text has been guaranteed with the rest of the national legal system, and with that of the European Union. In fact, it responds to the need to transpose Directive (EU) 2022/2523 and its incorporation into Spanish law.

The principle of transparency has been ensured through the publication, on the web portal of the Ministry of Finance, of a document subject to prior public consultation, allowing comments and observations by those potentially affected by the future regulation, as well as the publication of the regulation on said website, and its Regulatory Impact Analysis Report, so that this text could be made known to all citizens during the hearing and public information process.

Finally, in relation to the principle of efficiency, although the new tax will require the modification of internal management systems for the adaptation of large national and multinational groups to the new paradigms of international taxation, efforts have been made to ensure that the rule generates the lowest administrative burdens for citizens, as well as the lowest indirect costs, promoting the rational use of public resources. In this sense, the information and documentation requirements that are needed of taxpayers are strictly essential to guarantee the control of their activity by the Tax Administration.

In recent years, the marketing of so-called electronic cigarettes as substitutes for tobacco products has been increasing, both in Spain and in other countries.

The proportion of adolescents and young adults who have tried or use e-cigarettes is notable and is experiencing a significant increase, as various surveys show.

The liquids used in e-cigarettes are mainly composed of glycerine, propylene glycol and nicotine in varying amounts. In addition to this base, some liquids may contain flavourings and aromas to enhance their palatability.

Although some of the compounds are deemed safe when consumed orally, as they are present in a large number of food products, their use by inhalation can lead to harmful health effects. This also applies to nicotine pouches or other nicotine products which are not covered by the scope of the Tobacco Products Tax.

In this context, in order to facilitate the proper functioning of the internal market of the European Union for tobacco-related products, the ingredients, marketing requirements and obligations of manufacturers and importers of these products were regulated by Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC.

The same regulation also seeks to ensure a high level of protection of human health, especially as regards young people, as well as to fulfil the Union’s obligations under the WHO Framework Convention on Tobacco Control.

Tax harmonisation of these products has not yet been achieved due to the failure to update Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco, which is the legislative framework to address the taxation of novel tobacco products, as well as other substitutes for tobacco products, such as e-cigarettes, nicotine pouches or other nicotine products.

Until the aforementioned Directive is amended, many neighbouring countries have established tax measures in their territorial areas that tax the consumption of these products.

It has been deemed appropriate to add Spain to this list through the creation of the Tax on Liquids for E-cigarettes and other Tobacco-related Products.

This is a tax that applies to the consumption of liquids for electronic cigarettes, nicotine pouches, and other nicotine products throughout Spanish territory, except in Ceuta, Melilla, and the Canary Islands, as they are territories excluded from the application of the aforementioned Directive.

Considered a special manufacturing tax, it is regulated in Law 38/1992, of 28 December 1992, on Excise Duties, as well as in the Regulation on Excise Duties, approved by Royal Decree 1165/1995, of 7 July 1995, whereby this Law proceeds to modify certain provisions of these regulations.

PRELIMINARY TITLE

General provisions

Article 1. *Nature and object.*

1. The top-up tax is a direct and personal tax levied on the income of the constituent entities of a multinational group or large-scale domestic group, as provided for in Article 6(1) of this Law, when they are located in a jurisdiction with an effective tax rate, calculated at the jurisdictional level, lower than the minimum tax rate, in accordance with the rules of this Law and Council Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union.

2. The purpose of this Law is to regulate a top-up tax that guarantees a minimum effective taxation of the income of a multinational group or large-scale domestic group, defined in Article 6(1) of this Law, obtained in those jurisdictions with a low level of taxation, in the form of:

a) a domestic top-up tax, under which all the constituent entities of a multinational group or large-scale domestic group, located in Spanish territory, shall be taxed on the tax base obtained by said entities, in accordance with the provisions of this law, applying the rate of tax provided for in Article 23 of this law; a primary top-up tax, under which the parent entity of a multinational group, located in Spanish territory, shall be subject to its allocable share of top-up tax, determined in accordance with this Law, with respect to the income of those constituent entities of the multinational group that do not reside in Spanish territory, when such income has been taxed, at the jurisdictional level, at a tax rate below the minimum tax rate, in accordance with this Law (Income Inclusion Rule);

b) a secondary top-up tax, under which a constituent entity of a multinational group, located in Spanish territory, will be subject to the amount of top-up tax, determined in accordance with this Law, with respect to the income of those constituent entities of the multinational group that do not reside in Spanish territory and that are not subject to an qualified Income Inclusion Rule, when said income has been taxed, at a jurisdictional level, at a tax rate lower than the minimum tax rate, in accordance with this Law (Undertaxed Profit Rule).

Article 2. *Territorial scope of application.*

1. The top-up tax shall apply throughout the Spanish territory.

For the purposes of the provisions of the previous paragraph, Spanish territory also includes those areas adjacent to the territorial waters over which Spain can exercise the rights to which it is entitled, relating to the sea floor and subsoil, overlying waters, and their natural resources, in accordance with Spanish law and international law.

2. The provisions of the previous paragraph shall be without prejudice to the regional tax regimes of economic agreement and convention in force, respectively, in the Historical Territories of the Autonomous Community of the Basque Country and in the Foral Community of Navarra.

Article 3. *Treaties and conventions.*

The provisions of this Law shall be without prejudice to the provisions of international treaties and conventions that have become part of the domestic legal system, in accordance with Article 96 of the Spanish Constitution.

TITLE I

Taxable event

Article 4. *Taxable event.*

1. The taxable event of the top-up tax shall be the obtaining of income by the constituent entities with a low level of taxation, in accordance with the provisions of this Law.

2. Likewise, the constituent entities of a multinational group or large-scale domestic group shall be deemed to obtain the income imputed to them in accordance with the provisions of this Law.

TITLE II

Definitions

Article 5. *Definitions.*

For the purposes of this Act the following shall have the meaning as set out below:

1) 'qualified refundable tax credit' means:

a) a refundable tax credit designed in such a way that it is paid in cash, or by equivalent means, to a constituent entity within four years of the date on which the constituent entity is entitled to receive the refundable tax credit under the law of the jurisdiction granting the credit; or

b) if the tax credit is partially refundable, the portion of the refundable tax credit that is payable in cash or by equivalent means to a constituent entity within four years of the date on which the constituent entity is entitled to receive the partially refundable tax credit;

a qualified refundable tax credit shall not include any amount of a refundable or creditable tax pursuant to a qualified imputation tax or a disqualified refundable imputation tax;

2) 'non-qualified refundable tax credit' means a tax credit that is not a qualified refundable tax credit, but is partially or fully refundable;

3) 'material competitive distortion' means, with respect to the application of a specific principle or procedure, within a set of generally accepted accounting principles, a situation where there is an aggregate change in revenue or expenditure of more than EUR 75 million in a tax period compared to the amount that would have been determined by applying the relevant principle or procedure under International Financial Reporting Standards (IFRS or IFRS as adopted by the Union in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards);

4) 'entity' means any legal person or legal arrangement keeping separate financial accounts.

5) 'constituent entity' means:

a) an entity that is part of a multinational group or a large-scale domestic group; and

b) any permanent establishment of a main entity that is part of a multinational group referred to in point (a) above;

6) 'low-taxed constituent entity' means:

a) a constituent entity of a multinational group or a large-scale domestic group located in a low-tax jurisdiction; or

b) a stateless constituent entity that, with respect to a tax period, has qualifying income and an effective tax rate that is lower than the minimum tax rate;

7) 'filing constituent entity' means an entity filing an informational top-up tax return pursuant to Article 47 of this Law;

8) 'investment entity' means:

a) an investment fund or a real estate investment vehicle;

b) an entity which is at least 95 % directly owned by an entity referred to in point (a) above, or through a chain of such entities, and which operates exclusively or almost

exclusively to hold assets or invest funds for their benefit; or

c) an entity that is at least 85 % owned by an entity covered by point (a) above, provided that all of its income is substantially derived from dividends or capital income or loss that are excluded from the calculation of qualifying income or loss for the purposes of this Law;

9) 'pension services entity' means an entity that is incorporated and operated exclusively or almost exclusively to invest funds for the benefit of the entities referred to in point 22(a) or to carry out activities that are ancillary to the regulated activities referred to in point 22(a), provided that the pension services entity is part of the same group as the entities carrying out those regulated activities;

10) 'designated filing entity' means the constituent entity, other than the ultimate parent entity, that has been designated by the multinational group or large-scale domestic group to fulfil the filing obligations set out in Article 47 of this Law on behalf of the multinational group or large-scale domestic group;

11) 'parent entity' means an ultimate parent entity that is not an excluded entity, an intermediate parent entity, or a partially-owned parent entity;

12) 'intermediate parent entity' means a constituent entity that holds, directly or indirectly, an ownership interest in another constituent entity of the same multinational group or large-scale domestic group and that cannot be considered an ultimate parent entity, a partially-owned parent entity, a permanent establishment, an investment entity or an insurance investment entity;

13) 'partially owned parent entity' means a constituent entity that holds, directly or indirectly, an ownership interest in another constituent entity of the same multinational group or large-scale domestic group, and more than 20 % of the ownership interest in its profits is held, directly or indirectly, by one or more persons that are not constituent entities of that multinational group or large-scale domestic group, and that does not qualify as an ultimate parent entity, a permanent establishment, an investment entity, or an insurance investment entity;

14) 'ultimate parent entity' means:

a) an entity that holds, directly or indirectly, a controlling interest in any other entity and that is not owned, directly or indirectly, by another entity that holds control or a controlling interest in it; or

b) the main entity of a group as defined in point 24(b).

Sovereign wealth funds that meet the definition of public entity set out in point 16 of this Article shall not be considered ultimate parent entities;

15) 'main entity' means an entity that includes in its financial statements the accounting result of a permanent establishment;

16) 'public entity' means any entity that meets all of the following criteria:

a) it is wholly owned by, or part of, a public administration, including any subdivision or local authority thereof;

b) it does not engage in any commercial or business activity and has as its main objective:

i) performing a public administration function; or

ii) managing or investing the assets of the public administration or jurisdiction by making and maintaining investments, asset management, and related investment activities with respect to the assets of that administration or jurisdiction;

c) it reports to a public administration on its overall performance and provides annual information; and

d) at the time of its dissolution, its assets are attributed to a public administration and, to the extent that it distributes net profits, those profits are distributed exclusively to that administration, without any part of those profits benefiting any individual;

17) 'constituent entity-holder' means a constituent entity that owns, directly or indirectly, an ownership interest in another constituent entity of the same multinational group or large-scale domestic group;

18) 'transparent entity' means an entity to the extent that it is transparent for tax purposes with respect to its income, expenditure, gains or losses in the jurisdiction in which it was created, unless it is tax resident and subject to a covered tax on its income or profits in another jurisdiction;

a transparent entity is considered to be:

a) an entity that is transparent for tax purposes with respect to its income, expenditure, gains, or losses to the extent that it is transparent for tax purposes in the jurisdiction in which its owner is located;

b) a reverse hybrid entity with respect to its income, expenditure, losses or gains, to the extent that it is not transparent for tax purposes in the jurisdiction in which the holder of its ownership interests is located.

for the purposes of this definition, 'fiscally transparent entity' means an entity whose income, expenditure, gains or losses are treated by the laws of a jurisdiction as if they corresponded directly to the owner of that entity in proportion to their interest in that entity.

Where the ownership interest in an entity or permanent establishment that meets the definition of a constituent entity is held indirectly through a chain of entities that are transparent for tax purposes, that ownership interest shall be deemed to be held through a transparent structure for tax purposes.

a constituent entity that is not tax resident and not subject to a covered tax or qualified domestic top-up tax based on its place of management, place of establishment or similar criteria shall be considered a transparent entity and a tax transparent entity with respect to its income, expenditure, gains or losses to the extent that:

a) its owners are located in a jurisdiction that treats the entity as transparent for tax purposes;

b) it does not have an establishment in the jurisdiction in which it was created; and

c) the income, expenditure, gains or losses are not attributable to a permanent establishment;

19) 'permanent establishment' means:

a) a place of business, or a place considered as such, located in a jurisdiction in which it is treated as a permanent establishment in accordance with an applicable tax convention, provided that such jurisdiction taxes the income attributed to it under a provision similar to Article 7 of the Model Tax Convention on Income and on Capital of the OECD, as last revised;

b) if there is no applicable tax convention, a place of business, or a place considered as such, located in a jurisdiction that taxes the income attributable to that establishment on net terms in a similar way to which it taxes its own tax residents;

c) if a jurisdiction does not have a corporate income tax regime, a place of business, or a place deemed to be such, located in such jurisdiction that would be treated as a permanent establishment under the OECD Model Tax Convention on Income and on Capital, as revised, provided that such jurisdiction would have been entitled to tax the income that would have been attributable to the establishment in accordance with Article 7 of that Convention; or

d) a place of business, or a place considered as such, not described in points (a) to (c) above through which transactions are carried out outside the jurisdiction in which the entity is located, provided that such jurisdiction grants an exemption to income attributable to such transactions;

20) 'consolidated financial statements' means:

a) financial statements prepared by an entity in accordance with an acceptable financial accounting standard according to which the assets, liabilities, income, expenses and cash flows of that entity or any entity in which it has control or a controlling interest are presented as those of a single economic unit;

b) for groups defined in point 24(b) of this Article, the financial statements prepared by the entity in accordance with an acceptable financial accounting standard;

c) financial statements of the ultimate parent entity that have not been prepared in accordance with an acceptable financial accounting standard and that have been subsequently adjusted to avoid any significant competitive distortion; and

d) where the ultimate parent entity does not prepare financial statements as described in points (a), (b) or (c) above, the financial statements that would have been prepared if the ultimate parent entity were required to prepare those financial statements in accordance with:

i) an acceptable financial accounting standard; or

ii) another financial accounting standard, provided that such financial statements have been adjusted to avoid any significant competitive distortion;

21) 'investment fund' means an entity or arrangement that meets the following conditions:

a) it is designed to pool financial or non-financial assets from a number of investors, some of whom are unrelated;
b) it invests according to a defined investment policy;
c) it enables investors to reduce operational, research and analysis costs or to distribute risk collectively;
d) it is designed primarily to generate investment income or profit, or to provide protection against a particular or general event or outcome;
e) its investors are entitled to returns derived from the assets of the fund or income obtained from those assets, depending on the contribution they have made; the investment fund, or its management, is subject to the regulatory regime for investment funds in the jurisdiction in which it is established or managed, in particular that it is subject to appropriate anti-money laundering and investor protection regulations; and
f) it is managed by investment fund management professionals on behalf of the investors;

22) 'pension fund' means:

a) an entity that is incorporated and operates in a jurisdiction exclusively or almost exclusively to manage or provide retirement benefits and ancillary or supplementary benefits to natural persons, and provided that:

i) the entity is regulated as such by that jurisdiction or one of its political subdivisions or local authorities; or
ii) such benefits are guaranteed or otherwise protected by national law and are financed by a pool of assets held through a fiduciary agreement or trustor to ensure compliance with the relevant pension obligations in the event of insolvency of multinational groups and large-scale domestic groups;

b) a pension services entity;

23) 'qualifying income or loss' means the financial accounting result of a constituent entity adjusted in accordance with the rules set out in this Law;
24) 'group' means
a) a set of entities that are related through control or a controlling interest, as defined in the acceptable financial accounting standard for the preparation of consolidated financial statements by the ultimate parent entity, including any entity that may have been excluded from the consolidated financial statements of the ultimate parent entity solely on the basis of its size, materiality, or the fact that it is held for sale; or
b) a main entity and one or more permanent establishments, provided that the main entity is not part of another group in accordance with point (a) above;

25) 'multinational group' means any group that includes at least one entity or permanent establishment that is not located within the jurisdiction of the ultimate parent entity;
26) 'large-scale domestic group' means any group in which all the constituent entities are located in Spanish territory;
27) 'top-up tax' means the domestic top-up tax, the primary top-up tax (Income Inclusion Rule) and secondary top-up tax (Undertaxed Profit Rule), calculated in accordance with the provisions of this Law;
28) 'qualified domestic top-up tax' means a top-up tax that is applied under the national law of a jurisdiction, provided that such jurisdiction does not provide any benefit related to those rules and that:

a) provides for the determination of the tax base of constituent entities located in that jurisdiction in accordance with the rules laid down in Council Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union or, as regards third-country jurisdictions, with the OECD Model Rules, and the application of the minimum tax rate to that

tax base for the jurisdiction and constituent entities in accordance with the rules laid down in that Directive or, as regards third-country jurisdictions, with the OECD Model Rules; and

b) is administered in a manner consistent with the standards set out in that Directive or, as regards third-country jurisdictions, with the OECD Model Rules;

29) 'disqualified refundable imputation tax' means any tax, other than qualified imputation tax, due or paid by a constituent entity that is:

a) repayable to the beneficial owner of a dividend distributed by that constituent entity in respect of that dividend or is attributable by the beneficial owner to a tax liability other than a tax liability in respect of those dividends; or

b) repayable to the company distributing a dividend to a shareholder at the time of such distribution.

For the purposes of this definition, 'qualified refundable imputation tax' means a covered tax accrued or paid by a constituent entity, including permanent establishments, that can be refunded or imputed to the beneficial owner of the dividend distributed by the constituent entity or, in the case of a covered tax accrued or paid by a permanent establishment, a dividend distributed by the main entity, to the extent that the refund is recognised or the credit granted:

a) by a jurisdiction other than the one that imposed the covered taxes;

b) to a beneficial owner of the taxed dividends who is subject to tax at a nominal rate equal to or higher than the minimum tax rate on the dividends received under the national law of the jurisdiction that applied the taxes to the constituent entity; or

c) to a natural person who is the beneficial owner of the dividends and a tax resident in the jurisdiction that imposed the covered taxes on the constituent entity and who is subject to tax at a nominal rate equal to or higher than the tax rate applicable to ordinary income; or

d) to a public entity, an international organisation, a resident non-profit organisation, a resident pension fund, a resident investment entity that is not part of the multinational group or large-scale domestic group, or a resident life insurance entity to the extent that the dividend is received in connection with the activities of the resident pension fund and is taxed in a manner similar to a dividend received by a pension fund.

For the purposes of this point (d):

i) a non-profit organisation or pension fund is resident in a jurisdiction if it is created and managed in that jurisdiction;

ii) an investment entity is resident in a jurisdiction if it is created and regulated in that jurisdiction;

iii) A life insurance company is resident in the jurisdiction in which it is located.

30) 'real estate investment vehicle' means a widely owned entity which mainly holds, directly or indirectly, immovable property and which is subject to a single level of taxation, either on it or on its interest holders, with a maximum of one year of deferral;

31) 'low-tax jurisdiction' means, in respect of a multinational group or a large-scale domestic group in any tax period, a jurisdiction of a Member State or a third jurisdiction where the multinational group or large-scale domestic group has qualifying income and is subject to an effective tax rate lower than the minimum tax rate;

32) 'acceptable financial accounting standard' means International Financial Reporting Standards [IFRS or IFRS adopted by the Union in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards] and the generally accepted accounting principles of Australia, Brazil, Canada, the Member States of the European Union, the Member States of the European Economic Area, Hong Kong (China), Japan, Mexico, New Zealand, the People's Republic of China, the Republic of India, the Republic of Korea, Russia, Singapore, Switzerland, the United Kingdom and the United States of America;

33) 'authorised financial accounting standard' means, in respect of an entity, a set of generally accepted accounting principles permitted by an authorised accounting body in the jurisdiction in which that entity is located; for the purposes of this definition, 'authorised accounting body' means a body with legal authority in a jurisdiction to issue, establish or accept accounting standards for financial reporting purposes;

34) ‘international organisation’ means any intergovernmental organisation, including supranational organisations, or any wholly-owned agency or instrumentality thereof, which meets all of the following criteria:

a) it is composed mainly of governments;
b) it effectively has a headquarters agreement or a substantially similar agreement with the jurisdiction in which it is established, such as agreements granting privileges and immunities to the offices or establishments of the organisation in such jurisdiction; and
c) the legislation or statutes that govern it prevent its income from being recorded for the benefit of an individual;

35) ‘non-profit organisation’ means any entity that meets all of the following criteria:

a) it is established and operates in its territory of residence:

i) exclusively for religious, charitable, scientific, artistic, cultural, sporting, educational or other similar purposes; or
ii) as a professional organisation, trade promotion association, chamber of commerce, trade union organisation, agricultural or horticultural organisation, civic association or organisation dedicated exclusively to the promotion of social welfare;

b) most of the income from the activities referred to in point (a) is exempt from tax on business profits in its jurisdiction of residence;
c) it does not have shareholders or members who have a proprietary or beneficial interest in its income or assets;
d) the income or assets of the entity may not be distributed to an individual or a non-charitable entity, nor used for their benefit, except:

i) in carrying out the charitable activity of the entity;
ii) as payment for services rendered or for the use of goods or capital; or
iii) as payment for what would constitute a fair value of the items acquired by the entity;

e) upon termination, liquidation, or dissolution of the entity, all of its assets must be distributed or revert to a non-profit organisation or public administration (including any public entity) in the jurisdiction of residence of the entity or any political subdivision thereof;
f) it does not engage in a commercial or business activity that is not directly related to the purposes for which it was created;

36) ‘controlling interest’ means an ownership interest in the own funds of an entity in which the holder of that interest is required, or would have been required, to consolidate the assets, liabilities, income, expenses and cash flows of the entity using the full consolidation method, in accordance with an acceptable financial accounting standard; a main entity is considered to hold the controlling interests in its permanent establishments. A sovereign wealth fund meeting the definition of a public entity within the meaning of point 16 of this Article is deemed not to hold controlling interests;
37) ‘ownership interest in an entity’ means any interest in the own funds of an entity which entails the right to participate in the profits, capital or reserves of an entity or in the assets of a permanent establishment;
38) ‘tax period’ means the accounting period for which the ultimate parent entity of a multinational group or large-scale domestic group prepares its consolidated financial statements or, if the ultimate parent entity does not prepare consolidated financial statements, the calendar year;
39) ‘controlled foreign company tax regime’ means a set of tax rules other than a qualified Income Inclusion Rule under which a direct or indirect shareholder of a foreign entity or the main entity of a permanent establishment is subject to taxation on its share of some or all of the income earned by that foreign constituent entity, irrespective of whether that income is distributed to the shareholder;
40) ‘eligible distribution tax system’ means a corporate tax system that:

i) taxes profits only when those profits are distributed or deemed to be distributed to shareholders, or when the company incurs certain expenses not specific to its activity;
ii) imposes a tax rate equal to or higher than the minimum tax rate; and
iii) was in force on or before 1 July 2021;

41) ‘qualified Undertaxed Profit Rule’ means a set of rules that apply in the domestic law of a jurisdiction, provided that the jurisdiction does not provide any benefit related to those rules, and that:

a) they are equivalent to the rules laid down in Council Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union, or, as regards third-country jurisdictions, the OECD Model Rules, under which a jurisdiction collects its allocable share of the top-up tax of a multinational group for which the Income Inclusion Rule did not apply in respect of the low-taxed constituent entities of that group;

b) they are applied in a manner consistent with the standards set out in that Directive or, as regards third-country jurisdictions, with the OECD Model Rules;

42) ‘qualified Income Inclusion Rule’ means a set of rules incorporated into the domestic law of a jurisdiction, provided that such jurisdiction does not provide any benefit related to those rules, and that:

a) they are equivalent to the rules laid down in Council Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union or, as regards third-country jurisdictions, to the OECD Model Rules, according to which the parent entity of a multinational group or large-scale domestic group shall calculate and pay its allocable share of the top-up tax in respect of the low-taxed constituent entities of the group;

b) they are applied in a manner consistent with the standards set out in that Directive or, as regards third-country jurisdictions, with the OECD Model Rules;

43) ‘minimum tax rate’ means 15 %;

44) ‘net book value of tangible assets’ means the average of the initial and final values of the tangible assets after accounting for depreciation, depletion or impairment, as recorded in the financial statements.

TITLE III

Subjective scope and rules of application

Article 6. *Taxable persons and rules of application.*

1. The constituent entity located in Spanish territory, in accordance with the provisions of Article 8 of this Law, in the terms provided for in paragraphs 2, 3, 4 and 5 below and forming part of a multinational group or large-scale domestic group, shall be subject to the top-up tax when, in at least two of the four tax periods immediately prior to the beginning of the tax period, the net amount of the turnover of all the entities that are part of the group, including that of the excluded entities referred to in Article 7 of this Law, is equal to or greater than EUR 750 million according to the consolidated financial statements of the ultimate parent entity.

Where the duration of one or more of the tax periods referred to in the previous subparagraph is more than or less than 12 months, the net amount of turnover referred to in that subparagraph shall be adjusted proportionately for each of those tax periods.

2. The constituent entities of the groups referred to in the previous paragraph shall be taxpayers of the domestic top-up tax for the income obtained in the tax period, when the effective tax rate of the group in Spanish territory is lower than the minimum tax rate, in the terms indicated in this Law.

3. The following constituent entities will be taxpayers of the primary top-up tax of a multinational group, referred to in paragraph 1 of this Article, for the part allocable to its holdings, direct or indirect, in other constituent entities, stateless or located in other jurisdictions, in respect of income obtained by such entities provided that they have been taxed, at the jurisdictional level, at an effective tax rate lower than the minimum tax rate, in the terms indicated in this Law:

i) the ultimate parent entity.

ii) an intermediate parent entity whose ultimate parent entity is located in a third-country

jurisdiction or is an excluded entity located in a Member State, except that:

– the ultimate parent entity is subject to and applies a top-up tax in accordance with a qualified Income Inclusion Rule, or

– the intermediate parent entity that is located in Spanish territory, and is subject to a top-up tax under an Income Inclusion Rule admissible in its jurisdiction.

iii) a partially-owned parent entity, unless another partially-owned parent entity holds, directly or indirectly, all of the ownership interest in respect of the former and is subject to a top-up tax under an Income Inclusion Rule eligible in its jurisdiction.

4.Constituent entities of a multinational group, referred to in paragraph 1 of this Article, shall be taxpayers of the secondary top-up tax for the part of the top-up tax allocable to other constituent entities with a low tax level, stateless or located in other jurisdictions, and when the ultimate parent entity resides in a jurisdiction that does not apply a qualifying Income Inclusion Rule or resides in a jurisdiction with a low tax level, as well as when the ultimate parent entity is an excluded entity, in the terms indicated in this Law.

The constituent entities of a multinational group, referred to in paragraph 1 of this Article, shall also be contributors to the secondary top-up tax for the part of the top-up tax allocable to other low-taxed constituent entities whose ultimate parent entity is located in a Member State that has chosen not to apply the Income Inclusion Rule and the Undertaxed Profit Rule pursuant to Article 50 of Directive (EU) 2022/2523.

The provisions of this paragraph shall not apply to constituent entities that are investment entities.

5. Notwithstanding the foregoing, in any case, one of the following entities constituting a multinational group or large-scale domestic group shall be considered a substitute for the taxpayer of the top-up tax provided for in paragraph 1 of this Article, being obliged to submit the declaration or declarations and to pay the tax liability or liabilities in the terms provided for in Article 50 and Article 51 of this Law, in accordance with the following order of priority:

i) the ultimate parent entity when it is located in Spanish territory, insofar as it is not considered an excluded entity or, failing that,

ii) that parent entity, located in Spanish territory, whose net book value of the tangible assets defined in Article 5(44) of this Law is, in the tax period, the largest among the parent entities of the group that are located in Spanish territory, insofar as it is not considered an excluded entity or, failing that, that constituent entity of the group, located in Spanish territory, whose net book value of the tangible assets defined in Article 5(44) of this Law is, in the tax period, the largest among the constituent entities of the group that reside in Spanish territory, insofar as it is not considered an excluded entity.

In particular, the verification actions shall be carried out with the constituent entity that would have been considered a substitute for the taxpayer in the terms developed by regulation.

6. Constituent entities of the multinational or large-scale domestic group that are considered taxpayers and are not obliged to pay, in accordance with this Article, shall be jointly and severally liable for the payment of all the tax liabilities of the constituent entities of that group.

Article 7. *Excluded entities.*

1. The following shall be considered excluded entities and shall not be subject to this Law:

a) a public entity, an international organisation, a non-profit organisation, a pension fund, an investment fund that is an ultimate parent entity or a real estate investment vehicle that is an ultimate parent entity;

b) an entity where at least 95 % of its value is owned by one or more of the entities referred to in point (a), directly or through one or more excluded entities, except pension service entities, and that:

i) operates exclusively or almost exclusively to own assets or invest funds for the benefit of the entity or entities referred to in point (a); or

ii) performs only activities ancillary to those performed by the entity or entities referred to in point (a);

c) an entity whose own funds are owned, at least 85 %, by one or more of the entities referred to in point (a), directly or through one or more excluded entities, except pension service entities, provided that all of its profits derive substantially from dividends or from capital gains or losses that are excluded from the calculation of qualifying income or loss, in accordance with Article 10(2)(b) and (c) of this Law.

2. By way of derogation from the previous paragraph, the filing constituent entity may choose, in accordance with Article 49(1) of this Law, not to consider any entity referred to in points (b) and (c) of paragraph 1 of this Article as an excluded entity.

Article 8. *Location of the constituent entities.*

For the purposes of this Law:

1. an entity, other than a transparent entity, is located in the jurisdiction in which it is considered resident for tax purposes based on its place of management, place of creation, or similar criteria;

Where the jurisdiction in which a constituent entity, other than a transparent entity, is located cannot be determined in accordance with the preceding paragraph, it shall be deemed to be located in the jurisdiction where it was created.

2. A transparent entity shall be deemed to be stateless, unless it is the ultimate parent entity of a multinational group or large-scale domestic group or is required to apply an Income Inclusion Rule in accordance with this Law, in which case the transparent entity shall be deemed to be located in the jurisdiction where it was created.

3. The permanent establishment referred to in Article 5(19)(a) of this Law shall be deemed to be located in the jurisdiction in which it is treated as a permanent establishment and is subject to taxation under the applicable tax convention.

The permanent establishment referred to in Article 5(19)(b) of this Law shall be deemed to be located in the jurisdiction in which it is subject to taxation under the terms set out in that point.

The permanent establishment referred to in Article 5(19)(c) of this Law shall be deemed to be located in the jurisdiction in which it is situated as referred to in that point.

The permanent establishment referred to in Article 5(19)(d) of this Law shall be deemed to be stateless.

4. Where a constituent entity is located in two jurisdictions that have entered into an applicable tax convention that is in force, the constituent entity shall be deemed to be located in the jurisdiction in which it is considered resident for tax purposes under that tax convention.

The provisions of the following paragraph 5 shall apply if the said tax convention requires the competent authorities to reach a mutual agreement on the deemed residence for tax purposes of the constituent entity, and this agreement is not reached.

Where there is no relief for double taxation under the applicable tax convention, due to the fact that a constituent entity is resident for tax purposes in both contracting parties, the provisions of paragraph 5 below shall apply.

5. Where a constituent entity is deemed to be located in two jurisdictions and those jurisdictions do not have an applicable tax convention, the constituent entity shall be deemed to be located in the jurisdiction where the highest amount of covered taxes for the tax period has been paid, without taking into account, for this purpose, the amount arising from the application of the special regime for controlled foreign companies.

If the amount of covered taxes referred to in the previous paragraph in both jurisdictions is the same or zero, the constituent entity shall be considered to be located in the jurisdiction in which the amount of substance-based income exclusion, corresponding to the tax period, calculated by the entity in accordance with the provisions of Article 14 of this Law, is greater.

If the amount of substance-based income exclusion in both jurisdictions is the same or zero, the constituent entity shall be deemed to be stateless, unless it is an ultimate parent entity, in which case it shall be deemed to be located in the jurisdiction where it was created.

6. Where, as a result of the application of paragraphs 4 and 5 above, a parent entity is located in a third-country jurisdiction where it is not subject to a qualified Income Inclusion Rule, the other jurisdiction that has a qualified Income Inclusion Rule may require that parent

entity to apply that Rule, unless an applicable tax convention prohibits the application of the Rule.

If, in accordance with the previous subparagraph, the qualified Income Inclusion Rule refers to the Rule applicable by a Member State, the parent entity shall apply that Rule, unless an applicable tax convention prohibits its application.

7. Where a constituent entity changes location in the course of a tax period, it shall be deemed to be located in the jurisdiction in which, pursuant to this Article, it was located at the beginning of that tax period.

TITLE IV
Tax base

Article 9. *Accounting result. Accounting standards.*

1. The qualifying income or loss of a constituent entity shall be calculated by making the adjustments set out in Articles 10 to 13 of this Law to the accounting result of the constituent entity for the tax period, prior to any consolidation adjustment for elimination of intra-group transactions, in accordance with the acceptable or authorised financial accounting standard used in the preparation of the consolidated financial statements of the ultimate parent entity.

2. Where it is not reasonably possible to determine the accounting result of a constituent entity in accordance with the preceding paragraph, the accounting result of the constituent entity for the tax period may be determined using another acceptable financial accounting standard or an approved financial accounting standard, provided that:

a) the financial accounts of the constituent entity are prepared using that accounting standard;

b) the information contained in the financial accounts is reliable; and

c) permanent differences of more than EUR 1 million arising from the application of a particular principle or rule to items of income, expenses or transactions, where such principle or rule differs from the financial standard used in the preparation of the consolidated financial statements of the ultimate parent entity, are adjusted to align with the treatment required for that item in the accounting standard used in the preparation of the consolidated financial statements.

3. Consolidated financial statements of an ultimate parent entity that have not been prepared in accordance with an acceptable financial accounting standard and have not been adjusted within the meaning of Article 5(20)(c) of this Law shall be adjusted to avoid any significant competitive distortion.

4. Where an ultimate parent entity does not prepare consolidated financial statements in accordance with Article 5(20)(a), (b) and (c) of this Law, such consolidated financial statements shall, in accordance with Article 5(20)(d) of this Law, be those that would have been prepared if the ultimate parent entity had been required to prepare such consolidated financial statements in accordance with:

a) an acceptable financial accounting standard; or

b) an approved financial accounting standard, provided that such consolidated financial statements are adjusted to avoid any significant competitive distortion.

5. Where the application of a specific principle or procedure under a set of generally accepted accounting principles results in a significant competitive distortion, the accounting treatment of any item or transaction subject to that principle or procedure shall be adjusted to align with the treatment required for that item or transaction under International Financial Reporting Standards [IFRS or IFRS adopted by the Union in accordance with Regulation (EC) No 1606/2002].

Article 10. *Adjustments to determine qualifying income or loss.*

1. For the purposes of this Article, the following definitions shall apply:

a) ‘net taxes expense’ means the net amount of the following elements:

i) covered taxes accrued as an expense and any current and deferred covered taxes included in the expenditure for the tax levied on corporate profits or income, in particular, covered taxes on income excluded in the calculation of qualifying income or losses;

ii) deferred tax assets attributable to a loss in the tax period;

iii) qualified domestic top-up taxes accrued as an expense;

iv) taxes resulting from the provisions of this Law, Council Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union, or the provisions of the OECD Model Rules in relation to third jurisdictions, accrued as an expense; and

v) disqualified refundable imputation taxes accrued as an expense.

b) ‘excluded dividend’ means a dividend or other amount distributed, received or accrued, in relation to an ownership interest in an entity, except:

i) if it is a portfolio shareholding.

A portfolio shareholding means an ownership interest in which:

– the percentage of the group’s ownership interest in an entity is less than 10 % of the own funds or voting rights of that entity on the date on which the distributed profit becomes due or on the date of transmission; and

– the constituent entity that receives or is entitled to receive the dividends or other distributed profits holds such a portfolio shareholding for less than one year on the date on which the distributed profit becomes due;

ii) it is an ownership interest in an investment entity that is subject to the option provided for in Article 45 of this Law;

c) ‘excluded equity gain or loss’ means a net gain or loss included in the accounting result of the constituent entity arising from:

i) changes in the fair value of an ownership interest, except in the case of a portfolio shareholding;

ii) an ownership interest in an entity registered in accordance with the equity method; and

iii) the transfer of the ownership interest in an entity, except in the case of the transfer of a portfolio shareholding;

d) ‘included revaluation method gain or loss’ means a gain or loss, increased or decreased by any associated covered tax, in the tax period, arising from the application of an accounting method or practice which, in relation to property, plant and equipment:

i) periodically adjusts the carrying value of such property, plant and equipment to its fair value;

ii) records such changes in value under ‘other comprehensive income’; and

iii) such variations are not subsequently included in the accounting result;

e) ‘asymmetric foreign currency gain or loss’ means a gain or loss in foreign currency of an entity whose accounting functional currency and fiscal functional currency are different and which is:

i) included in the calculation of the taxable gains or losses of the constituent entity and is attributable to fluctuations in the exchange rate between its accounting functional currency and its fiscal functional currency;

ii) included in the calculation of the financial accounting result of the constituent entity and is attributable to fluctuations in the exchange rate between its accounting functional currency and its fiscal functional currency;

iii) included in the calculation of the financial accounting result of the constituent entity and is attributable to fluctuations in the exchange rate between a third foreign currency and the accounting functional currency of the constituent entity; and

iv) attributable to fluctuations in the exchange rate between a third foreign currency and the fiscal functional currency of the constituent entity, regardless of whether such gain or loss in that third foreign currency is included in taxable income.

Fiscal functional currency means the functional currency used to determine the taxable

gains or losses of the constituent entity for a covered tax in the jurisdiction in which the constituent entity is located. Accounting functional currency means the functional currency used to determine the financial accounting result of the constituent entity. A third foreign currency means a currency that is neither the accounting functional currency nor the fiscal functional currency of the constituent entity;

f) 'ineligible expenses consisting of illegal payments, fines and penalties' means:

i) expenses accrued by the constituent entity for illegal payments, including bribes and commissions; and

ii) expenses accrued by the constituent entity for fines and penalties equal to or greater than EUR 50 000 or an equivalent amount in the functional currency in which the accounting result of the constituent entity is calculated;

g) 'errors and changes in accounting criteria' means a variation in the equity of a constituent entity at the beginning of the tax period that corresponds to:

i) the correction of an error in the determination of the accounting result of a previous tax period that would have affected the income or expenses that could have been included in the calculation of the qualifying income or loss in that tax period, unless the correction of that error would result in a significant decrease in the liability for covered taxes pursuant to Article 21 of this Law; and

ii) a change in accounting principles or policies that has affected the income or expenses included in the calculation of qualifying income or loss;

h) 'accrued pension expense' means the difference between the amount of expenditure accrued by pension commitments included in the accounting result and the amount contributed to a pension fund during the tax period.

2. The financial accounting result of a constituent entity shall be adjusted for the amount of the following items to determine its qualifying income or loss:

a) net taxes expenses;

b) excluded dividends;

The reporting constituent entity may opt for each constituent entity of the multinational group or large-scale domestic group not to apply the exclusion of these dividends for a minimum period of 5 tax periods.

c) excluded capital gains or losses;

d) gains or losses included under the revaluation method;

e) gains or losses arising from the disposal of assets and liabilities excluded under Article 37 of this Act;

f) asymmetric gains or losses in foreign currency;

g) ineligible expenses consisting of illegal payments, fines and penalties;

h) errors and changes in accounting criteria;

i) accrued pension expenses.

3. Where a constituent entity uses payments based on equity instruments as a remuneration formula, it may, for the purposes of determining the qualifying income and loss for the tax period, at the choice of the reporting constituent entity, replace the amount of expense that corresponds to that remuneration, recorded in its financial statements, with the amount of that expense in the tax period that is considered tax-deductible in the tax levied on the income of the constituent entity.

Where the holder of the equity-based option does not exercise it, and the constituent entity has opted for the provisions of the preceding paragraph, the amount of expenses that the constituent entity would have accounted for in determining its qualifying income or loss shall be added to its gain or loss in the tax period in which the equity-based option expires.

In the tax period in which the constituent entity chooses to apply the first subparagraph of this paragraph, in any event, before the equity-based option is exercised, if part of the amount of equity-based remuneration expenses has been recorded in the financial statements of the constituent entity, in tax periods prior to that tax period, an amount equal to the difference between the total amount of equity-based remuneration expenses that would have been taken into account for the calculation of its qualifying income or loss in those previous tax periods and the total amount of expenses that would have been considered tax-deductible in the tax charged on the income of the constituent entity in those previous periods if the option

provided for in this paragraph had been made in those tax periods.

The exercise of the option provided for in this paragraph shall be carried out in accordance with Article 49(1) of this Law and shall be applied consistently by all constituent entities located in the same jurisdiction in the tax period in which the option is exercised and in all subsequent tax periods until that option is revoked.

In the tax period in which the option provided for in this paragraph is revoked, the amount of unpaid equity-based remuneration expenses, counted as qualifying income or loss of the constituent entity under the option referred to in the first subparagraph of this paragraph, that exceeds the accrued accounting expenses, shall be included in the calculation of the qualifying income or loss of the constituent entity.

4. Transactions between constituent entities located in different jurisdictions that are not recorded in the same amount in the financial statements of both constituent entities or that are not valued at their market value in accordance with the arm's length principle shall be adjusted so that they appear at the same amount and are in accordance with the arm's length principle.

Losses arising from a sale or other transfer of assets between two constituent entities located in the same jurisdiction that are not recorded in accordance with the arm's length principle shall be adjusted on the basis of that principle if that loss is included in the calculation of qualifying income or loss.

For the purposes of this paragraph, the ‘principle of free competition’ means that transactions between constituent entities must be recorded at their market value, which is understood to mean the market value that would have been agreed between independent undertakings in comparable transactions and in comparable circumstances.

The adjustment referred to in this paragraph shall not be made when it generates double taxation or double counting of losses within the scope of this Law.

5. Eligible repayable tax credits referred to in Article 5(1) of this Law shall be treated as income for the calculation of the qualifying income or losses of a constituent entity. Non-eligible repayable tax credits shall not be treated as income for the calculation of the qualifying income or loss of a constituent entity.

6. The reporting constituent entity may choose to apply the realisation method for those assets and liabilities that are recorded under the fair value or impairment method in the consolidated financial statements, during the tax period, for the purpose of calculating qualifying income or loss.

Accounting gains or losses that result from applying the fair value or impairment approach to an asset or liability shall be excluded from the calculation of the qualifying income or loss of a constituent entity in accordance with the preceding subparagraph.

The carrying value of an asset or liability for the purposes of determining a gain or loss under the realisation method shall be the carrying value at the time the asset or liability was acquired or the carrying value on the first day of the tax period in which the option under this paragraph is exercised, whichever is the later.

The option shall be carried out in accordance with the provisions of Article 49(1) of this Law and shall be applied by all constituent entities located in the jurisdiction for which the option is exercised and in respect of all assets and liabilities that are recorded using the fair value or impairment method, unless the reporting constituent entity chooses to limit the application of the option in respect of the tangible assets of the constituent entities or investment entities.

In the tax period in which the option provided for in this paragraph is revoked, the amount of the difference between the fair value of the asset or liability and its book value on the first day of that tax period shall be included, if the fair value is greater than the book value, or deducted, if the book value is greater than the fair value, in the calculation of the qualifying income or loss of the constituent entities.

7. The reporting constituent entity may opt not to include in the qualifying income or loss of a jurisdiction, in the tax period, the net gains arising from the transfer to third parties of local qualifying tangible assets located in that jurisdiction. For these purposes, local eligible tangible assets are immovable assets that are located in that jurisdiction.

No covered tax corresponding to a net gain or net loss, in the period in which the option regulated in this paragraph is exercised, shall be included in the adjusted covered taxes of the period.

The net gain from the transfer of the local qualifying tangible assets referred to in the

previous paragraph, in the tax period in which the option provided for in this paragraph is exercised, shall be offset proportionately against any net loss obtained by the constituent entities located in that jurisdiction, arising from the transfer to third parties, of local qualifying tangible assets produced in the tax period in which the option is exercised or in the four tax periods preceding that tax period (hereinafter the five-year period). That net gain shall be offset, first, against any net loss that may have occurred in the earliest tax period of that five-year period and has not been previously offset. The residual amount of net gain shall be attributed successively to subsequent tax periods, included in the five-year period, and shall be offset against net losses arising in those periods which have not previously been offset.

Any residual amount of net profit remaining after the application of the preceding subparagraph shall be distributed evenly over the five-year period and allocated to each of the constituent entities in that jurisdiction based on the proportion of the constituent entity's net profit in the period in which the option is exercised to the net profit of all the constituent entities in that same period.

For the purposes of calculating that formula, the net profit constituent entities to be taken into consideration are those entities that, in each of the attribution periods (five-year period), were located in the jurisdiction in respect of which this option has been exercised. Any residual amount of net profit that could not have been attributed under the above formula shall be attributed uniformly to the constituent entities located in that jurisdiction in each of the attribution periods.

Adjustments made pursuant to this paragraph in the tax periods prior to the tax period in which the option is exercised shall be taken into account for the purposes of applying the provisions of Article 30(1) of this Law.

The option provided for in this paragraph shall be exercised annually and in accordance with the provisions of Article 49(2) of this Law.

8. Expenses arising from a financing agreement under which one or more constituent entities extend credit to, or otherwise invest in, one or more constituent entities of the same group (hereinafter referred to as an ‘intra-group financing agreement’) shall not be taken into account in the calculation of the qualifying income or loss of a constituent entity if the following conditions are met:

a) the constituent entity is located in a low-tax jurisdiction or a jurisdiction that would have been low-tax if the expenses had not been accrued by the constituent entity;

b) it can be reasonably anticipated that, during the intended term of the intra-group financing agreement, that agreement will increase the amount of expenses that are taken into account for the calculation of the qualifying income or loss of that constituent entity, without leading to a proportional increase in the taxable income of the constituent entity granting the credit (hereinafter, the ‘counterparty’);

c) the counterparty is located in a jurisdiction that does not have a low level of taxation or in a jurisdiction that would not have had a low level of taxation if the income related to the expenses had not been accrued by the counterparty.

9. An ultimate parent entity may choose to apply its consolidated accounting treatment to eliminate income, expenses, income or loss arising from transactions between constituent entities, located in the same jurisdiction and included in a tax consolidation group, for the purpose of calculating the qualifying income or loss of those constituent entities.

The option shall be exercised in accordance with the provisions of Article 49(1) of this Law.

In the tax period in which the option is exercised or revoked, adjustments shall be made so that qualifying income or loss are not taken into account more than once or omitted as a result of that exercise or revocation.

10. Insurance undertakings shall exclude from the calculation of their qualifying income or loss any amount charged to policyholders for taxes paid by the insurance undertaking in relation to benefits to policyholders.

Insurers shall include in the calculation of their qualifying income or loss any benefit to policyholders that is not reflected in their accounting profit or loss, to the extent that the corresponding increase or decrease in liability to policyholders is reflected in their accounting profit or loss.

11. An amount recorded as a decrease in the equity of a constituent entity that is the result of distributions made or due in relation to an instrument issued by that constituent entity

under regulatory prudential requirements (hereinafter additional tier one capital) shall be treated as an expense in the calculation of its qualifying income or loss.

Any amount recorded as an increase in the capital of a constituent entity that is the result of distributions received or receivable in relation to additional tier one capital held by the constituent entity shall be included in the calculation of its qualifying income or loss.

Under no circumstances shall equity adjustments arising from the issuance or redemption of such instruments (additional tier one capital) be included in the qualifying income or loss of the constituent entity.

Article 11. *Exclusion of income derived from international shipping.*

1. For the purposes of this Article, the following definitions shall apply:

a) 'international shipping income' means the net income obtained by a constituent entity arising from the following activities, provided that the transportation is not carried out by inland waterways within the same jurisdiction:

i) transportation of passengers or cargo by ship in international maritime traffic, whether the ships are owned, leased or otherwise made available to the constituent entity; transportation of passengers or cargo by ship in international maritime traffic under slot-chartering arrangements;

ii) the leasing of a ship to be used for the transportation of passengers or cargo in international maritime traffic, fully equipped, crewed, and supplied;

iii) the leasing of a ship used for the transportation of passengers or cargo in international maritime traffic, on a bareboat charter basis, to another constituent entity;

iv) participation in a consortium, joint venture or international operating body for the transportation of passengers or cargo by ship in international maritime traffic; and

v) the sale of a ship used for the transportation of passengers or cargo in international maritime traffic, provided that it has remained in the possession of the constituent entity for use for at least one year;

b) 'qualified ancillary international shipping income' means net income obtained by a constituent entity arising from the following activities, provided that such activities are carried out primarily in connection with the transportation of passengers or cargo by ships in international maritime traffic:

i) the leasing of a ship on a bareboat basis to another shipping company which is not a constituent entity, provided that the duration of the charter does not exceed three years;

ii) the sale of tickets issued by other shipping companies for the domestic leg of an international voyage;

iii) short-term rental and storage of containers or detention costs for late return of containers;

iv) providing services to other shipping companies by engineers, maintenance personnel, dockers, catering personnel, and customer service personnel; and

v) investment income, when the investments that generate the income are made as an integral part of the exercise of the activity of operating ships in international traffic.

2. The international shipping income and the qualified ancillary international shipping income of a constituent entity shall be excluded from the calculation of its qualifying profit or loss, provided that the constituent entity demonstrates that the strategic or commercial management of all affected vessels is effectively carried out from the jurisdiction in which the constituent entity is located.

3. Where the calculation of a constituent entity's international shipping income and qualified ancillary international shipping income results in a loss, the loss shall be excluded from the calculation of the qualifying income or loss of the constituent entity.

4. The aggregated qualified ancillary international shipping income of all constituent entities located in a jurisdiction shall not exceed 50 % of the international shipping income of those constituent entities.

5. Costs incurred by a constituent entity that are directly attributable to its international shipping activities listed in point (a) of paragraph 1 and qualified ancillary international shipping activities listed in point (b) of paragraph 1 shall be allocated to those activities for the

purpose of calculating the net international shipping income and the net qualified ancillary international shipping income of the constituent entity.

The costs incurred by a constituent entity indirectly arising from its international shipping activities and its qualified ancillary international shipping activities shall be deducted from the revenues of those activities for the purpose of calculating the international shipping income and qualified ancillary international shipping income of the constituent entity on the basis of its revenues from such activities in proportion to its total revenues.

6. Direct and indirect costs attributed to a constituent entity's international shipping income and qualified ancillary international shipping income, in accordance with paragraph 5 above, shall be excluded from the calculation of its qualifying income or loss.

Article 12. *Allocation of qualifying income or loss between a main entity and a permanent establishment.*

1. Where a constituent entity is a permanent establishment as defined in Article 5(19)(a), (b) or (c) of this Law, its financial accounting result shall be the result reflected in the separate financial accounts of that permanent establishment.

Where a permanent establishment does not keep separate financial accounts, its financial accounting result shall be the amount that would have been reflected in its separate financial accounts if they had been prepared independently and in accordance with the accounting standard used in the preparation of the consolidated financial statements of the ultimate parent entity.

2. Where a constituent entity meets the definition of a permanent establishment in Article 5(19)(a) or (b) of this Law, its financial accounting result shall be adjusted to reflect only the amounts and items of income and expenses attributable to it in accordance with the applicable tax convention or the national law of the jurisdiction in which it is located, irrespective of the amount of taxable income and the amount of tax-deductible expenses in that jurisdiction.

Where a constituent entity meets the definition of a permanent establishment in Article 5(19)(c) of this Law, its financial accounting result shall be adjusted to reflect only the amounts and items of income and expense that would have been attributable to it in accordance with Article 7 of the OECD Model Tax Convention on Income and Capital, as revised.

3. Where a constituent entity meets the definition of a permanent establishment in Article 5(19)(d) of this Law, its financial accounting result shall be calculated on the basis of the amounts and items of income that are exempt in the jurisdiction in which the main entity is located, and that are attributable to transactions outside that jurisdiction, and on the basis of the amounts and items of expenditure that are not deductible for tax purposes in the jurisdiction in which the main entity is located and that are attributable to such transactions.

4. The financial accounting result of a permanent establishment, in accordance with the preceding paragraphs, shall not be taken into account when calculating the qualifying income or loss of the main entity, except in the cases referred to in paragraph 5 below.

5. A qualifying loss of a permanent establishment shall be treated as an expense of the main entity, and not of the permanent establishment, for the purposes of calculating its qualifying income or loss to the extent that such loss of the permanent establishment would have been treated as a tax deductible loss for the tax levied on the profits of that main entity provided that it was not offset against an item subject to tax on profits under both the law of the jurisdiction of the main entity and the jurisdiction of the permanent establishment.

Qualifying income that is subsequently earned by the permanent establishment shall be treated as qualifying income of the main entity, and not of the permanent establishment, up to the amount of the qualifying loss that was previously treated as an expense of the main entity in accordance with the preceding subparagraph.

Article 13. *Allocation of the qualifying income or loss of a transparent entity.*

1. The financial accounting result of a constituent entity that is a transparent entity in the jurisdiction of its incorporation shall be reduced by the amount that can be allocable to the holders of its ownership interests that are not entities of the multinational group and that hold such units in the transparent entity, directly or through a chain of fiscally transparent entities, unless:

a) the transparent entity is an ultimate parent entity; or

b) the transparent entity is owned, directly or through a chain of fiscally transparent entities, by an ultimate parent entity referred to in point (a) above.

2. The financial accounting result of a constituent entity that is a transparent entity shall be reduced by the amount of the financial accounting result to be attributed to another constituent entity in accordance with this Law.

3. Where a transparent entity carries out all or part of its activities through a permanent establishment, its financial accounting result remaining after the application of paragraph 1 above shall be allocated to that permanent establishment in accordance with the provisions of Article 12 of this Law.

4. Where a fiscally transparent entity is not the ultimate parent entity, the financial accounting result of the fiscally transparent entity that remains after the application of paragraphs 1 to 3 above shall be allocated to the constituent entities that own the fiscally transparent entity in accordance with their ownership interests in the fiscally transparent entity.

5. Where a fiscally transparent entity is a fiscally transparent entity that is the ultimate parent entity or a reverse hybrid entity, any financial accounting result of the fiscally transparent entity that remains after the application of paragraphs 1 to 3 above shall be allocated to the ultimate parent entity or the reverse hybrid entity.

6. The provisions of paragraphs 3, 4 and 5 above shall apply separately to each of the holders of ownership interests in the transparent entity.

Article 14. *Substance-based income exclusion.*

1. For the purposes of this Article, the following definitions shall apply:

a) ‘eligible employees’ means full-time or part-time employees of a constituent entity and independent contractors involved in the regular operating activities of the multinational group or large-scale domestic group under the direction and control of the multinational group or domestic group;

b) ‘eligible payroll costs’ means personnel costs, including salaries and wages and other expenses which constitute consideration or utility and provide a direct and individualised personal benefit to the employee, such as health insurance and contributions paid to the pension scheme, payroll and employment taxes, and employer's social security contributions;

c) ‘eligible tangible assets’ means:

i) property, plant and equipment located in the jurisdiction;

ii) natural resources located within the jurisdiction;

iii) the right of the lessee to use tangible assets located in the jurisdiction; and

iv) the granting, licensing or similar administrative instrument for the use of immovable property or the exploitation of natural resources involving a significant investment in tangible assets.

2. Unless the filing constituent entity of a multinational group or a large-scale domestic group, in accordance with Article 49(2) of this Law, chooses not to apply the substance-based income exclusion in the tax period, the net qualifying income for a jurisdiction shall be reduced, for the purpose of calculating the top-up tax, by the amount resulting from the sum of the exclusion of payroll referred to in paragraph 3 of this Article and the exclusion of tangible assets referred to in paragraph 4 of this Article for each constituent entity located in the jurisdiction.

3. The exclusion from the payroll of a constituent entity located in a jurisdiction shall be equal to 5 % of the eligible payroll costs of eligible employees performing activities for the multinational group or large-scale domestic group in that jurisdiction, with the exception of eligible payroll costs which are:

a) capitalised and included in the book value of eligible tangible assets;

b) attributable to income that is excluded in accordance with Article 11 of this Law.

4. The exclusion of tangible assets of a constituent entity located in a jurisdiction shall be equal to 5 % of the book value of eligible tangible assets located in the jurisdiction, with the exception of:

a) the book value of assets, including land and buildings, intended for sale, lease, or investment;

b) the book value of the tangible assets used to obtain income that is excluded in accordance with Article 11 of this Law.

5. For the purposes of paragraph 4 above, the book value of eligible tangible assets shall be the average of the net book value of eligible tangible assets at the beginning and end of the tax period, as recorded for the purposes of preparing the consolidated financial statements of the ultimate parent entity, taking into account the amount of impairment and accumulated depreciation, as well as the amount of capitalised payroll expenses.

6. For the purposes of paragraphs 3 and 4 of this Article, the eligible payroll costs and eligible tangible assets of a constituent entity that is a permanent establishment shall be those included in its separate financial accounts in accordance with paragraphs 1 and 2 of Article 12 of this Law, provided that the eligible payroll costs and eligible tangible assets are located in the same jurisdiction as the permanent establishment.

The eligible payroll costs and eligible tangible assets of a permanent establishment shall not be taken into account in determining the eligible payroll costs and eligible tangible assets of the main entity.

Where the income of a permanent establishment has been excluded in whole or in part in accordance with Article 13(1) or Article 40(6) of this Law, the eligible payroll costs and eligible tangible assets of that permanent establishment shall be excluded in the same proportion from the calculation provided for in this Article.

7. Eligible payroll costs of eligible employees paid by a flow-through entity that have not been allocated pursuant to paragraph 6, and eligible tangible assets owned by that entity, shall be allocated to:

a) the constituent entities holding the ownership interest in the transparent entity, in proportion to the amount allocated to them in accordance with Article 13(4) of this Law, provided that the eligible employees and eligible tangible assets are located within the jurisdiction of the holders of the ownership interest of the transparent entity; and

b) the transparent entity if it is the ultimate parent entity, reduced proportionately by the income excluded from the calculation of the qualifying income of the transparent entity in accordance with paragraphs 2 and 3 of Article 40 of this Law, provided that the eligible employees and eligible tangible assets are located in the jurisdiction of the transparent entity.

All other eligible payroll costs and eligible tangible assets of the transparent entity shall be excluded from the substance-based income exclusion calculations of the multinational group or large-scale domestic group.

8. The substance-based income exclusion of each stateless constituent entity shall be calculated, for each tax period, individually and independently of the substance-based income exclusion of all other constituent entities.

9. The substance-based income exclusion calculated in accordance with this Article in a jurisdiction shall not include the exclusion of payroll or the exclusion of tangible assets of constituent entities that are investment entities in that jurisdiction.

10. For the purposes of point 1 of this Article:

a) the definition of ‘eligible employees’ includes employee-members and employee partners of cooperative societies.

b) the definition of ‘eligible payroll costs’ includes the remuneration received by employee-members and employee partners, in particular:

1. Salary advances.

2. Social security contributions, both those paid by the cooperative society and those it pays to the Special Scheme for Self-Employed Workers on behalf of its members.

3. Remuneration of contributions to share capital.

Article 15. *Determination of the tax base.*

1. The tax base of the top-up tax of a jurisdiction with a low tax level, either in the modality of the domestic top-up tax or in that of the primary top-up tax, in the tax period, shall be the positive amount, resulting from reducing the net qualifying income of the constituent entities of the jurisdiction by the amount of the substance-based income exclusion, in

accordance with the provisions of this Law.

2. The taxable base of the top-up tax for taxpayers provided for in Article 6(2) of this Law, in Spanish territory during the tax period, shall be the amount resulting from multiplying the taxable base of the top-up tax by the proportion representing the taxpayer's qualifying income, obtained in the tax period, with respect to the aggregate qualifying income in Spanish territory.

The taxable base of the top-up tax for taxpayers provided for in Article 6(3) of this Law, in a jurisdiction and during the tax period, shall be the amount resulting from multiplying the taxable base of the top-up tax of a jurisdiction with a low tax level by the proportion representing the qualifying income of each investee constituent entity, obtained in the tax period, relative to the aggregate qualifying income of each jurisdiction with a low tax level, and this multiplied by the percentage of ownership interest held, directly or indirectly, in each investee constituent entity which is stateless or located in another jurisdiction.

3. The taxable base of the taxpayers referred to in Article 6(4) of this Law, in the tax period, shall be the amount determined in accordance with Article 29(10) of this Law divided by the tax rate of the low-tax jurisdiction.

TITLE V

Determination of adjusted covered taxes

Article 16. *Taxes covered.*

1. The covered taxes of a constituent entity, for the purposes of this Law, shall include:

a) taxes recorded in the profit and loss account of the constituent entity that tax the income or profits of that entity, or the income or profits obtained by another constituent entity in proportion to the percentage of ownership interest that the entity holds in that entity;

b) taxes on distributed profits, deemed profit distributions, and non-business expenses taxed under an eligible distribution tax scheme;

c) taxes levied in lieu of a generally applicable tax on the income or business profits of companies;

d) taxes levied on the undistributed profits or share capital of the constituent entity, including taxes levied on multiple components based on income and capital.

2. The covered taxes of a constituent entity shall not include:

a) the top-up tax accrued in Spanish territory in accordance with the provisions of this Law;

b) the top-up tax that is the result of applying a qualified Income Inclusion Rule;

c) the qualified domestic top-up tax of another jurisdiction;

d) the top-up tax attributed to a constituent entity as a result of the application of a qualified Undertaxed Profit Rule;

e) the disqualified refundable imputation tax;

f) taxes paid by an insurance entity which correspond to amounts that have been excluded in accordance with Article 10(10) of this Law.

3. Covered taxes attributable to a net gain or loss arising from the disposal of local eligible tangible assets referred to in the first subparagraph of Article 10(7), during the tax period in which the option referred to in that subparagraph is exercised, shall be excluded from the determination of covered taxes.

Article 17. *Adjusted covered taxes.*

1. The adjusted covered taxes of a constituent entity in the tax period shall be calculated by adjusting the current tax expense in the profit and loss account that corresponds to the taxes covered for the tax period, by the following amounts:

a) the net amount of increases and reductions in covered taxes for the tax period, as provided for in paragraphs 2 and 3 of this Article;

b) the total amount of the adjustment for deferred taxes in accordance with the provisions of Article 18 of this Law;

c) any increase or decrease in covered taxes recorded in equity or in the item ‘other

comprehensive income', which corresponds to the amounts included in the calculation of qualifying income or loss, which shall be subject to taxation in the jurisdiction in which the constituent entity is located.

2. The covered taxes of a constituent entity in the tax period shall be increased by:

a) those covered taxes that have been recorded as an expense for the period, in the profit and loss account, reducing the financial result before taxes;

b) the deferred tax asset corresponding to the qualifying loss applied in the tax period, in accordance with the provisions of Article 19(2) of this Law;

c) covered taxes actually paid in the tax period, attributable to an uncertain tax position, to the extent that they correspond to amounts that have been treated in a previous year as a reduction of covered taxes in accordance with paragraph 3(d) of this Article;

d) the portion of the qualified refundable tax credit that has reduced the current tax expense for the period.

3. The covered taxes of a constituent entity in a tax period shall be reduced by:

a) the current tax expense corresponding to income excluded from the calculation of qualifying income or loss under this Law;

b) the part of the non-qualified refundable tax credit that has not been recorded as a reduction of current tax expense;

c) any amount of covered taxes reimbursed or charged to a constituent entity that has not been recorded as an adjustment to current tax expense in the profit and loss account, unless related to a qualified refundable tax credit;

d) the current tax expense corresponding to an uncertain fiscal position;

e) the current tax expense that is not expected to be paid within three years of the end of the tax period.

4. For the purposes of calculating adjusted covered taxes, the same covered tax may be taken into account only once, even if it could be subsumed under more than one of the preceding paragraphs.

5. In the tax period in which no net qualifying income is earned in the jurisdiction and the amount of adjusted covered taxes in that jurisdiction is negative and lower than the expected adjusted covered taxes, the amount corresponding to the difference between the expected adjusted covered taxes and the adjusted covered taxes shall be considered as an additional top-up tax in that tax period and shall be attributed to each constituent entity of the jurisdiction in accordance with Article 30(3) of this Law.

Notwithstanding the foregoing, the reporting constituent entity may opt to consider the difference between the expected adjusted covered taxes and the adjusted covered taxes, referred to in the preceding paragraph, as an additional top-up tax in a subsequent tax period, in which qualifying income is earned in the jurisdiction, reducing the adjusted covered taxes of the subsequent tax period, until they are annulled. The excess, if any, will be carried over to the following tax periods and will be imputed under the conditions set out in this section.

The exercise of the option provided for in this paragraph shall be carried out in accordance with Article 49(3) of this Law and shall apply in all subsequent tax periods until the difference referred to in the previous paragraph has been fully integrated in the subsequent tax periods as an additional top-up tax.

In the event that the multinational group or large-scale domestic group ceases to have constituent entities in the jurisdiction, the outstanding amount to be integrated as an additional top-up tax will be carried forward to the following tax periods and will be allocated under the conditions established in this section from the tax period in which the group once again has constituent entities in that jurisdiction.

For the purposes of this paragraph, 'expected adjusted covered taxes' shall mean the result of multiplying the jurisdiction's net qualifying loss by the minimum tax rate.

6. For the purposes set out in this Article, the tax credit on the full amount of Corporate Tax provided for in Article 34(2) of Law 20/1990 of 19 December 1990 on the Tax Regime for Cooperatives, applicable to specially protected cooperatives, shall be considered an 'eligible refundable tax credit', thereby increasing the entity's covered taxes in the tax period.

Deductions and/or tax credits on the gross tax payable established specifically for specially protected cooperatives in the respective Autonomous Community Regulations

governing the Tax Regime for Cooperatives in the Historical Territories of the Autonomous Community of the Basque Country and in the Autonomous Community of Navarre will receive similar treatment.

Article 18. *Total deferred tax adjustment.*

1. For the purposes of this Article, the following definitions shall apply:

a) 'disallowed accrual' means:

i) any variation in deferred tax expense in the profit and loss account of a constituent entity that corresponds to an uncertain tax position;

ii) any variation in the deferred tax expense in the profit and loss account of a constituent entity that corresponds to a profit distribution from a constituent entity.

b) 'unclaimed accrual' means any increase in a deferred tax liability recognised in the financial statements of a constituent entity during a tax period that is not expected to be effectively satisfied within the time period set out in paragraph 7 of this Article and that, at the option of the filing constituent entity in accordance with Article 49(2) of this Law, exercised annually, is not included in the total deferred tax adjustment amount for that tax period.

2. The total deferred tax adjustment amount of a constituent entity in the tax period shall be the deferred tax expense or income in its profit and loss account that corresponds to the covered taxes, adjusted in accordance with paragraphs 3 to 6 of this Article, to the extent that, for the purposes of its determination, the applicable tax rate is equal to or lower than the minimum tax rate.

In the event that the tax rate applied, for the purpose of calculating the deferred tax expense or income, is higher than the minimum tax rate, the deferred tax expense or income shown in the profit and loss account corresponding to the covered taxes shall be recalculated at the minimum tax rate.

3. The total deferred tax adjustment amount shall be increased by:

a) any amounts corresponding to a disallowed accrual or an unclaimed accrual that have been paid during the tax period;

b) any amount of recaptured deferred tax liability, determined in a previous tax period, that was paid during the tax period.

4. In the event that, in the tax period, the deferred tax asset that corresponds to a loss is not recorded in the financial statements because the accounting recognition criteria are not met, the total deferred tax adjustment amount shall be reduced by the amount that would have been deducted from the total tax adjustment amount had the recognition criteria been met.

5. The total deferred tax adjustment amount shall not include:

a) deferred tax expense or income that corresponds to items excluded from the calculation of qualifying income or loss under this Law;

b) deferred tax expense or income corresponding to disallowed accruals and unclaimed accruals;

c) the effects of an accounting recognition or valuation adjustment on a deferred tax asset;

d) the change in deferred tax expense or revenue resulting from a change in the applicable domestic tax rate;

e) the deferred tax expense or income that corresponds to the generation and use of tax credits.

6. Where a deferred tax asset corresponding to a qualifying loss of a constituent entity has been recorded during a tax period at a rate below the minimum tax rate, that asset may be recalculated at the minimum tax rate in the same tax period, provided that the taxpayer can demonstrate that the deferred tax asset corresponds to a qualifying loss.

Where a deferred tax asset is increased in accordance with the preceding paragraph, the total deferred tax adjustment amount shall be reduced accordingly.

7. Where a deferred tax liability has not been reversed and the amount has not been satisfied within the following five tax periods, the liability shall be recaptured to the extent that it was taken into account in the total deferred tax adjustment amount of a constituent entity,

provided that the provisions of the following paragraph do not apply.

The amount of deferred tax liability recaptured in the current tax period shall decrease the taxes covered in the fifth tax period prior to the current tax period, and the effective tax rate, as well as the top-up tax of the latter tax period shall be recalculated, in accordance with the provisions of Article 30(1) of this Law. The deferred tax liability recaptured in the current tax period shall correspond to the amount of the increase in the deferred tax liability that was included in the total amount of the deferred tax adjustment in the fifth tax period preceding the current tax period that was not reversed by the end of the last day of the current tax period.

8. The provisions of paragraph 7 above shall not apply in the case of the following deferred tax liabilities accrued in the period, which shall not be subject to recapture, even if they are not reversed or paid in the following five years. The deferred tax liability not subject to recapture shall be the amount of tax expense accrued in the period that corresponds to changes in the deferred tax liability associated with the following items:

a) value adjustments for cost recovery of tangible assets;

b) cost of a government licence, concession or equivalent mechanism for the use of immovable property or the exploitation of natural resources involving a significant investment in tangible assets;

c) research and development expenditure;

d) costs of dismantling, removal or rehabilitation;

e) changes in value arising from the application of the fair value criterion to unrealised net gains;

f) net gains on foreign exchange rate differences;

g) insurance technical provisions and insurance policy deferred acquisition costs;

h) positive income from the transfer of tangible assets located in the same jurisdiction as the constituent entity that is reinvested in tangible assets in the same jurisdiction;

i) additional amounts accrued as a result of changes in accounting criteria for the items listed in points (a) to (h).

Article 19. *Qualifying loss election.*

1. By way of derogation from Article 18 of this Law, the filing constituent entity may make a qualifying loss election for a jurisdiction. Thus, in each tax period in which there is a net qualifying loss in the jurisdiction in respect of which the option has been exercised, a deferred tax asset attributable to that qualifying loss will be calculated, the amount of which will be the result of multiplying the net qualifying loss of the jurisdiction, obtained in the tax period, by the minimum tax rate.

The option provided for in this paragraph shall not apply in the case of jurisdictions with an eligible distribution tax system under the terms established in Article 42 of this Law.

2. The deferred tax asset corresponding to a net qualifying loss, determined in accordance with the preceding paragraph, shall be applied in any subsequent tax period in which the jurisdiction makes net qualifying income, in the amount resulting from multiplying the net qualifying income by the minimum tax rate or, if lower, in the amount of the deferred tax asset attributable to the net qualifying loss outstanding.

3. The deferred tax asset corresponding to a net qualifying loss determined in accordance with paragraph 1 above shall be reduced by the amount applied in a tax period and the outstanding balance, if any, shall be carried forward to subsequent tax periods.

4. In the event of revocation of the qualifying loss election, the outstanding deferred tax asset balance corresponding to a net qualifying loss, which would have been determined in accordance with paragraph 1 of this Article, shall be reduced to zero with effect from the first day of the first tax period in which the qualifying loss election no longer applies.

5. The qualifying loss election can only be exercised in the first top-up tax information declaration of the multinational group or large-scale domestic group, referred to in Article 47 of this Law, which includes the jurisdiction for which the option is exercised.

6. Where a transparent entity that is the ultimate parent entity of a multinational group or a large-scale domestic group opts for the qualifying loss election under this Article, the deferred tax asset corresponding to a net qualifying loss shall be calculated on the basis of the net qualifying loss of the transparent entity following the reduction made pursuant to Article 40(3) of this Law.

Article 20. *Specific allocation of covered taxes incurred by certain types of constituent entities.*

1. Covered taxes that have been included in the financial statements of a constituent entity that correspond to qualifying income or loss of a permanent establishment shall be allocated to the permanent establishment.

2. Covered taxes that have been included in the financial statements of a fiscally transparent constituent entity that correspond to qualifying income or loss allocated to the holders of the ownership interests of that constituent entity, in accordance with Article 13(4) of this Law, shall be allocated to those holders.

3. Covered taxes included in the financial statements of holders of a direct or indirect ownership interest in a constituent entity subject to a controlled foreign corporation tax regime shall be allocated to that constituent entity in the share that corresponds to the profits subject to tax under the controlled foreign corporation regime.

4. Covered taxes that have been included in the financial statements of the holder of the ownership interests of a constituent entity that is a hybrid entity or a reverse hybrid entity and that relate to qualifying income of that constituent entity shall be allocated to the hybrid entity or the reverse hybrid entity, where applicable.

A hybrid entity is an entity that is considered fiscally transparent in the jurisdiction where the holder of its ownership interests is located, but lacks such consideration in the jurisdiction where the entity is located.

In accordance with the provisions of Article 5(18)(b) of this Law, a reverse hybrid entity is an entity considered fiscally transparent in the jurisdiction in which the entity is located, but which lacks such consideration in the jurisdiction in which the holder of its ownership interests is located.

5. Covered taxes on distributions made by constituent entities that have been included in the financial statements of the direct holders of the constituent entity's ownership interests shall be allocated to the constituent entities that have made the distributions in the tax period.

6. Constituent entities to which covered taxes have been allocated in accordance with paragraphs 3 and 4 of this Article, corresponding to passive income, shall include those covered taxes in their adjusted covered taxes in an amount equal to the allocated covered taxes associated with that passive income.

Notwithstanding the foregoing, the constituent entities referred to in the preceding paragraph shall include in their adjusted covered taxes the amount resulting from multiplying the jurisdiction's top-up tax rate by the amount of the constituent entity's passive income subject to a controlled foreign corporation tax regime or a tax transparency rule where the result is lower than the amount calculated in accordance with the preceding paragraph. For the purposes of this paragraph, the jurisdiction's top-up tax rate shall be calculated without taking into account covered taxes attributable to the holder of the constituent entity's ownership interests in relation to such passive income.

Covered taxes of the holder of the ownership interests of the constituent entity that correspond to passive income remaining after the application of this paragraph shall not be allocated under paragraphs 3 and 4.

For the purposes of this paragraph, ‘passive income’ means the following types of income included in qualifying income, to the extent that the holder of the ownership interests of the constituent entity has been subject to taxation by application of a controlled foreign company tax regime or by having an ownership interest in a hybrid entity:

a) dividends or other income or revenue of a similar nature;
b) interest or other income or revenue of a similar nature;
c) rents;
d) royalties;
e) income from capitalisation and insurance operations; or
f) net gains derived from immovable property generating income described in points (a) to (e) above.

7. In the event that the qualifying income of a permanent establishment is considered as qualifying income of the main entity, in accordance with Article 12(5) of this Law, the covered taxes pertaining to the jurisdiction in which the permanent establishment is located and associated with such income shall be treated as covered taxes of the main entity in an

amount not exceeding the result of multiplying such income by the highest ordinary income tax rate applied in the jurisdiction in which the main entity is located.

Article 21. *Post-filing adjustments and variations in tax rates.*

1. Where a constituent entity makes a correction to its financial statements that involves an increase in its covered taxes for a prior tax period, it shall be considered as an adjustment to the taxes covered in the tax period in which the correction is made.

Where the correction results in a decrease in covered taxes included in the constituent entity's adjusted covered taxes for a previous tax period, the effective tax rate and the top-up tax for that tax period shall be recalculated in accordance with Article 30(1) of this Law. In case of recalculation, the adjusted covered taxes shall be reduced by the amount corresponding to the decrease of the covered taxes in the tax period. Qualifying income from the tax period and previous tax periods shall be adjusted accordingly.

Notwithstanding the provisions of the previous paragraph, the reporting constituent entity may opt annually, in accordance with Article 49(2) of this Law, to consider a non-significant decrease in covered taxes as an adjustment to the covered taxes in the tax period in which the correction is made. A non-significant decrease in covered taxes shall be considered a decrease in adjusted covered taxes whose total amount is less than EUR 1 million per jurisdiction and tax period.

2. Deferred tax expense resulting from the reduction of the applicable national tax rate below the minimum tax rate shall be considered as an adjustment to the tax expense of the constituent entity for covered taxes taken into account for the purposes of Article 17 of this Law for a previous tax period.

3. In the event that the deferred tax expense has been determined at a rate lower than the minimum tax rate and the applicable tax rate is subsequently increased, the amount of the deferred tax expense resulting from that increase shall, at the time of payment, be considered as an adjustment to the amount due by the constituent entity for the covered taxes taken into account for the purposes of Article 17 of this Law, corresponding to a previous tax period.

The amount of the adjustment referred to in the previous paragraph shall not exceed the amount of deferred tax expense recalculated at the minimum rate.

4. Where the amount of the current tax of a constituent entity that has been included in its adjusted covered taxes in a tax period exceeds EUR 1 million and that amount is not effectively paid in the three years following the end of that tax period, the effective tax rate and the top-up tax shall be recalculated, in accordance with Article 30(1) of this Law, for the tax period in which the amount not paid was taken into account as covered tax. The amount that has not been paid will be excluded from adjusted covered taxes.

TITLE VI

Effective tax rate

Article 22. *Determination of the effective tax rate.*

1. The effective tax rate of a multinational group or a large-scale domestic group shall be calculated for each tax period and for each jurisdiction in which net qualifying income exists.

The effective tax rate of the jurisdiction shall be the result of dividing the adjusted covered taxes by the net qualifying income of the constituent entities located in that jurisdiction, expressed in percentage terms, rounded to four decimal places.

2. The adjusted covered taxes of the constituent entities shall be the sum of the adjusted covered taxes of all the constituent entities located in the jurisdiction determined in accordance with the provisions of this Law.

3. The net qualifying income or loss of the constituent entities that are located in the jurisdiction in a tax period shall be the difference between the qualifying income and the qualifying losses of those constituent entities.

The qualifying income of the constituent entities shall be the positive sum of the qualifying income of all constituent entities within the jurisdiction, determined in accordance with the provisions of this Law.

The qualifying losses of the constituent entities shall be the sum of the qualifying losses of all constituent entities within the jurisdiction, determined in accordance with the provisions of this Law.

4. Adjusted covered taxes and qualifying income or loss of constituent entities that are investment entities shall be excluded from the calculation of the effective tax rate and the calculation of net qualifying income referred to in paragraphs 1 and 2 of this Article.

5. The effective tax rate of each stateless constituent entity shall be calculated, for each tax period, individually and independently of the effective tax rate of all other constituent entities.

TITLE VII
Tax liability

CHAPTER I

Tax rate

Article 23. *Tax rate of the top-up tax.*

For the purpose of calculating the top-up tax, the tax rate applicable to the taxpayers provided for in paragraphs 2, 3 and 4 of Article 6 of this Law, in the tax period and in relation to each jurisdiction, shall be the positive difference between the minimum tax rate referred to in Article 5(43) of this Law and the effective tax rate in each jurisdiction, determined in accordance with the provisions of Article 22 of this Law, expressed in percentage terms.

CHAPTER II

Amount of top-up tax

Article 24. *Amount of top-up tax.*

1. The top-up tax of a constituent entity located in Spanish territory in the tax period shall be the result of adding to the amount of the domestic top-up tax the amount of the primary top-up tax and the amount of the secondary top-up tax.

The amount of the domestic top-up tax shall be the top-up tax that corresponds to the taxpayers provided for in Article 6(2) of this Law. Its amount will be the result of applying the domestic top-up tax, regulated in Chapter III of this Title, in accordance with paragraph 5 of this provision.

The amount of the primary top-up tax shall be the top-up tax that corresponds to the taxpayers provided for in Article 6(3) of this Law. Its amount will be the result of applying the Income Inclusion Rule regulated in Chapter IV of this Title, in accordance with paragraph 5 of this provision.

The amount of the secondary top-up tax shall be that which has been allocated to the taxpayers referred to in Article 6(4) of this Law, in accordance with the provisions of Chapter V of this Title.

2. Where in the tax period the effective tax rate of the jurisdiction in which the constituent entities of a multinational group or large-scale domestic group are located is lower than the minimum tax rate, the taxpayers provided for in Article 6(2) and (3) of this Law shall calculate the top-up tax of that jurisdiction. They will also determine the top-up tax that corresponds to each of the constituent entities that have qualifying income and that have been included in the calculation of the net qualifying income of that jurisdiction.

For the purposes of this paragraph, the rules contained in Chapters III, IV, V and VI of this Title shall be taken into account.

3. The rate of the top-up tax of a jurisdiction, in the tax period, shall be the positive difference, in percentage points, between the minimum tax rate and the effective tax rate calculated in accordance with the provisions of Article 22 of this Law.

4. The top-up tax of a jurisdiction with a low tax level, in the tax period, will be the positive

amount, if any, resulting from multiplying the tax rate of the aforementioned jurisdiction, referred to in the previous paragraph, by the tax base of the jurisdiction, determined in accordance with the provisions of Article 15(1) of this Law.

Finally, the amount of the top-up tax of a jurisdiction in the tax period will be increased by the additional top-up tax that, where applicable, is payable and will be reduced by the amount of the admissible domestic top-up tax that would have been demanded in other jurisdictions with a low tax level.

For the purposes of the preceding paragraph, the following definitions shall apply:

– 'additional top-up tax' means the amount of tax calculated, in accordance with Article 30 of this Law, in the tax period;

– 'qualifying domestic top-up tax' means the amount of the qualifying domestic top-up tax of another jurisdiction, in the tax period, when it does not meet the requirements of Article 34 of this Law, provided that the accounting result of the constituent entities located in that jurisdiction has been determined in accordance with the provisions of Article 9(1) of this Law or in accordance with another acceptable financial accounting standard or an authorised financial accounting standard duly adjusted to prevent any significant distortion of competition.

5. The top-up tax of a constituent entity, in the tax period, shall be the result of multiplying the top-up tax of the jurisdiction in which it is located by the proportion existing between the qualifying income of the constituent entity and the aggregate qualifying income of all the constituent entities located in the jurisdiction.

Qualifying income of the constituent entity for a jurisdiction in the tax period is that which has been determined in accordance with the provisions of this law.

Aggregated qualifying income of all constituent entities of the jurisdiction in the tax period shall be understood as the sum of the qualifying income of all constituent entities that are located in that jurisdiction in the tax period.

6. If the top-up tax of a jurisdiction with a low tax rate corresponds to a recalculation made in accordance with Article 30(1) of this Law with respect to a jurisdiction, and no net qualifying income is recorded in that jurisdiction in the tax period in which the recalculation is carried out, the additional top-up tax shall be attributed to each constituent entity that resides in that jurisdiction, using the formula established in paragraph 4 of this Article, taking into account the qualifying income of the constituent entities in the tax periods affected by the recalculation, in accordance with Article 30(1) of this Law.

7. The top-up tax of each non-resident constituent entity will be calculated, for each tax period, individually and independently of the top-up tax corresponding to all other constituent entities.

8. The amount of the top-up tax of the Spanish territory for the tax period shall be the result of adding to the amount of the top-up tax of the Spanish jurisdiction, for the period, either in the form of domestic top-up tax or primary top-up tax, determined in accordance with paragraph 4 of this Article, the amount of the secondary top-up tax attributed to the Spanish jurisdiction in accordance with the provisions of paragraph 1 of Article 29 of this Law.

9. For the purposes of the provisions of this Title, the exchange rate in force on the last day of the period established in Article 50 of this law shall be used for payment in the voluntary period or on the date of payment, if this is earlier.

CHAPTER III

Domestic top-up tax

Article 25. *Domestic top-up tax.*

1. The taxpayers referred to in Article 6(2) of this Law shall be subject to the domestic top-up tax referred to in this Chapter.

The domestic top-up tax shall be determined in accordance with the provisions of Article 24 of this Law, without prejudice to the special provisions for certain entities established in Title X of this Law, which shall determine it in accordance with their specific rules. For these purposes, in the domestic top-up tax, the term jurisdiction shall refer to the Spanish territory.

2. The accounting result of the constituent entities for the purposes of calculating the domestic top-up tax shall be determined in accordance with the provisions of Article 9(1) of this Law. When it is not possible to determine, in a reasonable manner, the accounting result of the constituent entity in accordance with the above, the accounting result of the entity, in the tax period, shall be determined in accordance with the accounting standards generally accepted in Spanish territory used in the preparation of the financial accounts of the constituent entity.

In this case, permanent differences of more than EUR 1 million resulting from the application of a particular principle or rule to items of income or expenditure or transactions, where such principle or rule differs from the financial standard used in the preparation of the consolidated financial statements of the ultimate parent entity, shall be adjusted to align with the treatment required for that item under the accounting standard used in the preparation of the consolidated financial statements.

In any case, if the tax period of the constituent entity differs from the accounting period of the ultimate parent entity taken into account in the preparation of the consolidated financial statements, the provisions of Article 9 of this Law shall apply.

3. For the purposes of calculating the effective tax rate, in accordance with Article 22 of this Law, of the taxpayers referred to in Article 6(2) of this Law, the following shall not be taken into account:

a) the covered taxes of the holders of a direct or indirect ownership interest in a constituent entity subject to a controlled foreign company tax regime, which have been attributed, in accordance with Article 20(3) of this Law, to that constituent entity located in Spanish territory;

b) the covered taxes of the main entity that have been attributed, in accordance with Article 20(1) of this Law, to a permanent establishment located in Spanish territory;

c) the covered taxes of the holder of the ownership interests of a constituent entity that is a hybrid entity, which have been attributed, in accordance with Article 20(4) of this Law, to the hybrid entity located in Spanish territory;

d) the covered taxes of the holder of the ownership interests of a constituent entity that have been attributed, in accordance with Article 20(5) of this Law, to the constituent entity that has made the distributions, located in Spanish territory; in any case, the covered taxes that correspond to withholding taxes on distributions made by a constituent entity located in Spanish territory will be attributed to that entity for the purposes of calculating the domestic top-up tax.

4. Notwithstanding the foregoing, the amount of the domestic top-up tax that corresponds to those constituent entities that are considered securitisation entities or mechanisms must be paid by the remaining constituent entities of the multinational group or large-scale domestic group, located in Spanish territory, with qualifying income in the tax period, in the proportion of the eligible income of each of the other constituent entities, obtained in the tax period, relative to the aggregate qualifying income in Spanish territory. However, if there are no other constituent entities of the multinational or large-scale domestic group, with qualifying income in the tax period, other than the constituent entities that have the status of securitisation entities or mechanisms, it will be the latter that will be obliged to pay the share of the domestic top-up tax of the period.

A securitisation entity or mechanism means an entity or mechanism that participates in a securitisation agreement and that meets the following requirements:

a) the entity or mechanism only carries out activities that allow the adoption of one or more securitisation agreements;

b) its assets guarantee the rights of its creditors or of the creditors of another entity or securitisation mechanism;

c) the cash flows generated by its assets are used to pay its creditors or the creditors of another entity or securitisation mechanism, on an annual basis or more frequently, except for:

i) cash flows to be retained to cover an amount of profits, required in the securitisation agreement, for possible distribution to holders of ownership interests or shareholders;

ii) cash flows that, in accordance with the securitisation agreement, allow either or both of the following purposes to be covered:

1. provide provisions for future payments set out in the securitisation agreement;
2. maintain or improve the creditworthiness of the entity or mechanism.

An entity or mechanism with profits shall not be considered a securitisation entity or mechanism unless the profits referred to in point (i) of this paragraph are negligible in relation to the income of the entity or mechanism.

A securitisation agreement shall mean an agreement that:

a) it is held for the purpose of grouping and regrouping a portfolio of assets (or risks associated with such assets) for investors who are not constituent entities of the multinational group or large-scale domestic group, in such a way that one or more well-identified groups of assets are legally segregated; and

b) it seeks to limit investors' exposure to the risk of insolvency of the entity holding the legally segregated assets by controlling the ability of identified creditors of that entity (or of another entity provided for in the agreement) to file claims against it through binding contracts entered into by those creditors.

CHAPTER IV

Primary top-up tax: allocation of the tax and compensation of the income inclusion rule

Article 26. *Attribution of the primary top-up tax.*

1. The primary top-up tax due by the taxpayer referred to in Article 6(3) of this Law, which corresponds to a constituent entity located in another jurisdiction with a low tax rate, shall be equal to the top-up tax of that constituent entity, calculated in accordance with the provisions of Article 24 of this Law, in the proportion that corresponds to the parent entity calculated in accordance with the provisions of the following paragraph.

The aforementioned taxpayer will also be subject to the primary top-up tax applicable to the non-resident constituent entities with a low tax rate, in which they participate.

2. The portion attributable to the parent entity of the primary top-up tax that corresponds to a low-taxed constituent entity shall be the proportion in which the parent entity participates in the qualifying income of the low-taxed constituent entity. That proportion shall be equal to the result of dividing the qualifying income of the low-taxed constituent entity in the tax period, reduced by the amount of such income attributable to the interests held by other holders, by the qualifying income of that constituent entity.

The amount of qualifying income attributable to participations in a low-taxed constituent entity held by other holders shall be the amount that would have been considered attributable to those holders under the principles of the acceptable financial accounting standard used in the consolidated financial statements of the ultimate parent entity if the net accounting income of the low-taxed constituent entity was equal to its qualifying income and:

a) the parent entity would have prepared the consolidated financial statements in accordance with that accounting standard (hereinafter referred to as 'the hypothetical consolidated financial statements');

b) the parent entity held such a controlling interest in the low-taxed constituent entity and all income and expenses of the low-taxed constituent entity were consolidated by the full integration method with those of the parent entity in the hypothetical consolidated financial statements;

c) all qualifying income of the low-taxed constituent entity was attributable to transactions with persons who are not group entities; and

d) all ownership interests not held directly or indirectly by the parent entity were held by persons other than the group entities.

Article 27. *Compensation rules.*

Where a parent entity, a taxpayer in accordance with the provisions of Article 6(3) of this Law, holds an indirect ownership interest in a low-tax constituent entity, through an intermediate parent entity or a partially-owned parent entity that is subject to a qualified Income Inclusion Rule, in the tax period the primary top-up tax due by that taxpayer shall be

reduced by an amount equal to the part of the top-up tax due by the intermediate parent entity or partially-owned parent entity that is to be attributed to it in accordance with Article 26(2) of this Law.

CHAPTER V

Secondary top-up tax: application of the Undertaxed Profit Rule

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Article 28. *Application of the Undertaxed Profit Rule.*

1. Where the ultimate parent entity of a multinational group is located in a third-country jurisdiction that does not apply a qualified Income Inclusion Rule, or where that parent entity is an excluded entity, the constituent entities referred to in Article 6(4) of this Law shall be subject, in the tax period, to the amount of top-up tax allocated to Spanish territory under the Undertaxed Profit Rule, in accordance with the provisions of Article 29 of this Law.

2. Where the ultimate parent entity of a multinational group is located in a third-country jurisdiction with a low level of taxation, the constituent entities referred to in Article 6(4) of this Law shall be subject, in the tax period, to the amount of the top-up tax corresponding to that ultimate parent entity and its constituent entities located in the same jurisdiction, attributed to Spanish territory under the Undertaxed Profit Rule, in accordance with the provisions of Article 29 of this Law.

The provisions of the preceding paragraph shall not apply where the ultimate parent entity in the low-tax jurisdiction is subject, in the tax period, to a qualified Income Inclusion Rule in relation to itself and its constituent entities located in that low-tax jurisdiction.

3. Where the ultimate parent entity of a multinational group is located in a Member State that has opted for the deferred application of the Income Inclusion Rule and the Undertaxed Profit Rule in accordance with Article 50(1) of Council Directive (EU) 2022/2523 of 15 December 2022, the taxpaying constituent entities referred to in Article 6(4) of this Law shall be subject to the amount of the top-up tax referred to in paragraphs 1 and 2 of this Article, allocated to Spanish territory under the Undertaxed Profits Rule in accordance with Article 29 of this Law, during the tax periods in which that option is in force.

4. Constituent entities that are investment entities shall not be subject to this Article.

Article 29. *Calculation and attribution of the secondary top-up tax associated with the Undertaxed Profit Rule.*

1. The amount of the secondary top-up tax to be attributed to Spanish territory shall be calculated by multiplying the total amount of top-up tax associated with the Undertaxed Profit Rule, determined in accordance with the provisions of paragraph 2 of this Article, by the Spanish territory's Undertaxed Profit Rule percentage, determined in accordance with the provisions of paragraph 5 of this Article.

2. The total amount of secondary top-up tax associated with the Undertaxed Profit Rule in the tax period shall be equal to the sum of the top-up taxes calculated, in the tax period, for each constituent entity of the multinational group located in a jurisdiction with a low tax level, in accordance with the provisions of Article 24 of this Law, without prejudice to the adjustments set out in paragraphs 3 and 4 of this Article.

3. The top-up tax associated with the Undertaxed Profit Rule of a low-taxed constituent entity shall be equal to zero in those cases where, in the tax period, all the ownership interests in that constituent entity corresponding to the ultimate parent entity are held, directly or indirectly, in that tax period by one or more parent entities required to apply a qualified Income Inclusion Rule with respect to that constituent entity.

4. Where the provisions of paragraph 3 above do not apply, the top-up tax associated with the Undertaxed Profit Rule of a low-taxed constituent entity shall be reduced by the ultimate parent entity's allocable share of the top-up tax of that constituent entity that is levied under a qualified Income Inclusion Rule.

5. The Undertaxed Profit Rule percentage corresponding to the Spanish territory shall be calculated, for each tax period and multinational group, by adding the following two factors:

i) 50 % of the ratio between the number of employees in the Spanish territory and the

number of employees in all jurisdictions with an Undertaxed Profit Rule.

ii) 50 % of the ratio between the total value of tangible assets in the Spanish territory and the total value of tangible assets in all jurisdictions with an Undertaxed Profit Rule.

For the purposes of this paragraph, it shall be considered that:

a) the number of employees in the Spanish territory is the total number of employees of all the constituent entities of the multinational group located in Spanish territory;

b) the number of employees in all jurisdictions with an Undertaxed Profit Rule is the total number of employees of all the constituent entities of the multinational group located in a jurisdiction with a qualified Undertaxed Profit Rule in effect in the tax period;

c) the total value of the tangible assets in Spanish territory is equal to the sum of the net book value of the tangible assets of all the constituent entities of the multinational group located in Spanish territory;

d) the total value of tangible assets in all jurisdictions with an Undertaxed Profit Rule is the sum of the net book value of tangible assets of all the constituent entities of the multinational group located in a jurisdiction with a qualified Undertaxed Profit Rule in effect in the tax period.

6. The number of employees shall be the number of employees in full-time equivalent positions of all constituent entities located in the relevant jurisdiction, including independent contractors, provided that they participate in the ordinary operating activities of the constituent entity.

Tangible assets shall include the tangible assets of all constituent entities located in the relevant jurisdiction, but shall not include cash, cash equivalent, intangible or financial assets.

7. Employees whose payroll costs are included in the separate financial accounts of a permanent establishment within the meaning of Article 12(1) of this Law, and adjusted in accordance with Article 12(2) of this Law, shall be allocated to the jurisdiction in which the permanent establishment is located.

The tangible assets included in the separate financial accounts of a permanent establishment within the meaning of Article 12(1) of this Law, and adjusted in accordance with Article 12(2) of this Law, shall be allocated to the jurisdiction in which the permanent establishment is located.

The number of employees and the tangible assets attributed to the jurisdiction of a permanent establishment shall not be taken into account for the calculation of the number of employees and tangible assets in the jurisdiction of the parent entity.

The number of employees and the net book value of tangible assets held by an investment entity shall be excluded from the formula set out in paragraph 5 of this Article.

The number of employees and the net book value of the tangible assets of a transparent entity shall be excluded from the formula referred to in paragraph 5 of this Article, unless they are allocated to a permanent establishment or, in the absence of a permanent establishment, to the constituent entities that are located in the jurisdiction in which the transparent entity was created.

8. Notwithstanding paragraph 5 above, the Undertaxed Profit Rule percentage of a jurisdiction for a multinational group shall be considered zero during a tax period where the amount of the top-up tax associated with the Undertaxed Profit Rule attributed to that jurisdiction in a previous tax period did not result in the constituent entities of that multinational group located in that jurisdiction being subject to the amount of the associated top-up tax for that previous tax period attributed to that jurisdiction.

In that case, the number of employees and the net book value of the tangible assets of the constituent entities of a multinational group located in a jurisdiction with an Undertaxed Profit Rule percentage of zero in a tax period shall be excluded from the elements of the formula for attributing the total amount of the top-up tax associated with the Undertaxed Profit Rule to the multinational group in that tax period.

9. Paragraph 8 of this Article shall not apply to the tax period if all jurisdictions with a qualified Undertaxed Profit Rule in force in that tax period have an Undertaxed Profit Rule percentage of zero for a multinational group in that tax period.

10. The amount of top-up tax attributed to Spanish territory in accordance with the provisions of the preceding paragraphs of this article shall be attributed to the constituent entities referred to in Article 6(4) of this Law, provided that they are constituent entities that do

not have the status of securitisation entities or mechanisms as defined in Article 25(4) of this Law, through the formula used in paragraph 5 of this Article, in which the numerator shall refer to the number of employees and the total value of the tangible assets of each of the constituent entities and the denominator to the number of employees and the total value of the assets for all the aforementioned constituent entities.

Notwithstanding the foregoing, in the event that all the constituent entities of the multinational group located in Spanish territory are considered to be securitisation entities or mechanisms, the allocation provided for in this section shall be made using the formula used in paragraph 5 of this Article, in which the numerator shall refer to the number of employees and the total value of the tangible assets of each of the constituent entities and the denominator to the number of employees and the total value of the assets for all the aforementioned constituent entities.

CHAPTER VI

Additional top-up tax

Article 30. *Additional top-up tax.*

1. Where, in accordance with Article 10(7), Article 18(7), Article 21(1) and (4), the following paragraph 5 of this provision and Article 42(4) of this Law, an adjustment of covered taxes or qualifying income or loss results in a recalculation of the effective tax rate and the top-up tax of the multinational group or large-scale domestic group for a previous tax period, the effective tax rate and the top-up tax shall be recalculated in accordance with the rules laid down in Article 14 and Chapters II, III, IV and V of Title VII of this Law for that previous tax period. Any incremental top-up tax derived from the recalculation shall be considered an additional top-up tax for the purposes of Article 24(4) of this Law for the tax period during which the recalculation is made.

2. When an additional top-up tax is accrued and no net qualifying income is recorded in the jurisdiction in the tax period, the qualifying income of each constituent entity that resides in that jurisdiction shall be the result of dividing the additional top-up tax attributed to those constituent entities, in accordance with Article 24(5) and (6) of this Law, by the minimum tax rate.

3. Where, in accordance with Article 17(5) of this Law, an additional top-up tax is due, the qualifying income of each constituent entity located in the jurisdiction shall be the result of dividing the additional top-up tax attributed to that constituent entity by the minimum tax rate. The attribution shall be made to each constituent entity, taking into account the percentage that results from dividing the qualifying income or loss of the constituent entity multiplied by the minimum tax rate, and that product reduced by the amount of adjusted covered taxes of the constituent entity, between the qualifying income or loss of all constituent entities multiplied by the minimum tax rate, and that product reduced by the amount of adjusted covered taxes of all constituent entities.

The additional top-up tax shall only be allocated to constituent entities that record a negative adjusted covered tax amount lower than the product of the qualifying income or loss of those constituent entities by the minimum tax rate.

4. Where a constituent entity is allocated additional top-up tax in accordance with this Article and Article 24(5) and (6) of this Law, that constituent entity shall be considered a low-taxed constituent entity for the purposes of this Law.

5. Where the total or partial amount of qualifying domestic top-up tax from another jurisdiction has not been paid in the four tax periods following the end of the tax period in which it became chargeable, the amount of tax not paid shall be added to the amount of top-up tax determined in accordance with Article 24 of this Law, the amount of which pursuant to Article 11(3) of Directive (EU) 2022/2523 shall not be collected by the jurisdiction in which it became chargeable.

TITLE VIII

Tax period and accrual

Article 31. *Tax period*

The top-up tax period of the constituent entities of a multinational group or large-scale domestic group shall coincide with the financial year of the ultimate parent entity of the multinational group or large-scale domestic group if it prepares consolidated financial statements or, failing that, shall coincide with the calendar year.

Article 32. *Tax accrual.*

Top-up tax shall become due on the last day of the tax period.

TITLE IX

Non-liability for top-up tax

Article 33. *De minimis exclusion.*

1. Without prejudice to the provisions of Articles 14, 22, 23, 24, 30 and 46 of this Law, if the filing constituent entity exercises the option provided for in this article, the top-up tax due for constituent entities that reside in a jurisdiction will be zero, in the tax period in which the following requirements are met:

a) the average qualifying income of the constituent entities located in that jurisdiction is less than EUR 10 million; and

b) the average of the qualifying income or loss of all constituent entities in that jurisdiction results in a loss or in a profit of less than EUR 1 million.

The exercise of the option provided for in this paragraph shall be carried out annually, in accordance with the provisions of Article 49(2) of this Law.

2. For the calculation of the average qualifying income and the average qualifying income or loss referred to in the previous paragraph, the current tax period and the two previous tax periods shall be taken into account.

If in either of the two preceding tax periods there is no constituent entity located in the jurisdiction with qualifying income or qualifying loss, that tax period shall be excluded from the calculation of the average amount of qualifying income or the average amount of qualifying income or loss in that jurisdiction.

3. The amount of qualifying income of the constituent entities of a jurisdiction and of a tax period will be the sum of the net amount of the income of each of the constituent entities that reside in that jurisdiction, making the corresponding adjustments in accordance with the provisions of Articles 9 to 13 of this Law.

4. The qualifying income or loss of the constituent entities located in a jurisdiction in the tax period shall be the net qualifying income or loss of that jurisdiction, calculated in accordance with Article 22 of this Law.

5. The provisions of this Article shall not apply to stateless constituent entities or investment entities. The amount of qualifying income and qualifying income or loss of those entities shall not be taken into account for the purpose of calculating the *de minimis* exclusion provided for in this Article.

Article 34. *Non-enforceability of the top-up tax.*

1. The primary top-up tax in respect of the taxpayers referred to in Article 6(3) of this Law, in relation to their constituent entities established in another Member State, shall be zero in the tax period, where that Member State requires a qualifying domestic top-up tax which has been determined in the tax period in accordance with the acceptable financial accounting standard of the ultimate parent entity or with the international financial reporting standards (IFRS or IFRS as adopted by the Union in accordance with Regulation (EC) 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards), except for the part of that additional top-up tax which is applicable pursuant to Article 30 of this Law that has not been included in the aforementioned qualifying domestic top-up tax.

2. The primary top-up tax in respect of the taxpayers referred to in Article 6(3) of this Law, in relation to their constituent entities that are subject to a domestic top-up tax in another jurisdiction, shall be zero in the tax period, when that jurisdiction requires a qualifying domestic top-up tax that ensures that the effective level of taxation of the constituent entities subject to such tax meets the conditions of a qualifying international agreement on safe harbours.

3. The top-up tax of the taxpayers indicated in Article 6 of this Law, in relation to those constituent entities located in a jurisdiction that meets the conditions of a 'qualifying international agreement on safe harbours', will be zero in the tax period, in the terms established in that international agreement.

4. For the purposes of paragraphs 2 and 3 of this Article,
'qualifying international agreement on safe harbours' means an international set of rules and conditions which all jurisdictions have accepted and which guarantees groups within the scope of the OECD Model Rules the possibility of opting to benefit from one or more safe harbours for a jurisdiction.

TITLE X

Special schemes

CHAPTER I

Corporate restructuring and joint ventures

Article 35. *Determination of the threshold for the application of restructuring, merger and demerger operations.*

1. For the purposes of this Article, the following definitions apply:

a) 'merger' means any agreement in which:

i) all or most of the entities of two or more separate groups are subject to common control in such a way that they constitute entities of a combined group.

ii) An entity that is not a member of any group is subject to common control with another entity or group in such a way that they constitute entities of a combined group.

b) 'demerger' means any arrangement in which entities in the same group are divided into two or more different groups that are no longer consolidated by the same ultimate parent entity.

2. The net turnover referred to in Article 6(1) of this Law shall be deemed to be achieved by the groups resulting from the merger of two or more groups, provided that the sum of the net turnover of the merged groups included in each of their consolidated financial statements is equal to or greater than EUR 750 million in two of the last four tax periods preceding the tax period in which the merger takes place.

3. Where an entity that is not a member of a group (hereinafter referred to as the 'acquiring entity') merges with an entity or a group (hereinafter referred to as the 'acquired entity'), and neither the acquired entity nor the acquiring entity has prepared consolidated financial statements in any of the four consecutive tax periods immediately preceding the period in which the merger transaction is carried out, the group resulting from the merger shall be included within the scope of application of the tax in that tax period if the sum of the net turnover included in each of its financial statements or in the consolidated financial statements in that period is equal to or greater than EUR 750 million.

4. Where a group of entities falling within the scope of the tax is split into two or more groups, each split group shall be deemed to remain within the scope if:

i) in the first tax period following the tax period in which the demerger operation is carried out, the net amount of the turnover of the divided group is equal to or greater than EUR 750 million.

ii) in the second to fourth tax periods following the one in which the demerger operation is carried out, the net amount of the turnover of the divided group is equal to or greater than

EUR 750 million in at least two of those three tax periods.

Article 36. *Inclusion or exclusion of constituent entities within a multinational group or large-scale domestic group.*

1. Where a constituent entity becomes part of, or ceases to be part of, a multinational group or a large-scale domestic group as a result of the transfer of a direct or indirect ownership interest in that entity, or becomes the ultimate parent entity of a new group in the tax period in which the acquisition takes place, the following rules shall apply for the purposes of calculating the effective tax rate and the top-up tax of the constituent entity:

a) The constituent entity shall be considered as part of the aforementioned multinational group or large-scale domestic group in which it is integrated, if it consolidates under the global integration method in the consolidated financial statements of the ultimate parent entity in the tax period of its acquisition.

b) In the tax period of its acquisition, only the accounting result and adjusted covered taxes of the acquired constituent entity that are included in the consolidated financial statements of the ultimate parent entity shall be taken into account.

c) In both the acquisition tax period and subsequent tax periods, the qualifying income or loss and adjusted covered taxes of the acquired entity shall be based on the book value of its assets and liabilities.

d) For the purposes of the application of the substance-based income exclusion, only those wage costs that appear in the consolidated financial statements of the ultimate parent entity shall be taken into account, and the book value of the eligible tangible assets of the constituent entity shall be adjusted, where applicable, in proportion to the period in which that entity was part of the multinational or domestic group during the acquisition period.

e) The deferred tax assets and liabilities of the constituent entity, with the exception of deferred tax assets attributable to losses that have benefited from the loss choice system provided for in this Law, shall be taken into account by the acquiring group as if that entity had been part of the group when they were generated.

f) The deferred tax liabilities of the constituent entity that have been previously included in the total amount of the deferred tax adjustment shall be considered as reversed by the transferring group and simultaneously shall be understood as having been generated in the acquiring group in the tax period in which the acquisition of the aforementioned constituent entity has been carried out, starting to count again the 5-year period provided for in Article 18(7) of this Law for its reversal.

The provisions of the preceding paragraph shall not apply to deferred tax liabilities under Article 18(8) of this Law that are not subject to reversal, in which case they shall reduce the amount of taxes covered in the tax period of acquisition of the constituent entity in which the amount is recovered.

g) If the constituent entity is simultaneously considered to be the ultimate parent entity and dependent on two or more groups in the acquisition tax period, the income inclusion rule shall be applied separately in proportion to its share of the top-up tax attributable to the low-taxed entities of each of those groups.

2. Notwithstanding the provisions of the previous paragraph, the acquisition or transfer of a controlling interest in a constituent entity shall be considered as the acquisition or transfer of assets, provided that the jurisdiction where that entity is located, or, in the case of a fiscally transparent entity, the jurisdiction in which the assets are located, considers both transactions as equivalent.

In addition, such jurisdiction is required to impose on the transferor a covered tax based on the difference between the consideration received by the seller, or the fair value of the assets and liabilities, and the tax value, for the purposes of this Law, of the assets and liabilities acquired.

Article 37. *Transfer of assets.*

1. For the purposes of this Article, the following definitions shall apply:

a) ‘reorganisation’ means the transformation or transfer of assets in the context of a merger, demerger, liquidation or similar transaction, provided that the following circumstances are met:

i) the consideration arising from the transfer consists, in whole or in large part, of shares issued by the acquiring constituent entity, or by a person or entity related to it, or, in the event of liquidation, of the cancellation of the shares of the acquired entity.

The provisions of the preceding paragraph shall not apply where the issue of shares is of no economic significance.

ii) the gain or loss of the transferring constituent entity in respect of these assets is not subject to taxation in whole or in part; and

iii) the jurisdiction where the acquiring constituent entity is located obliges it to calculate the taxable income after the transfer or acquisition on the basis of the tax value of the assets in the transferring constituent entity, adjusted, where appropriate, by the amount of any non-qualifying gain or loss derived from the transfer or acquisition, in accordance with the terms of this Law.

b) 'non-qualifying gain or loss' means the lesser of the gain or loss of the transferring constituent entity arising from a reorganisation transaction taxed in its jurisdiction and the accounting gain or loss arising from the reorganisation transaction.

2. The transferring constituent entity shall include the gain or loss arising from the transfer of assets in the calculation of its qualifying income or loss.

The acquiring constituent entity, for its part, shall determine its qualifying income or loss on the basis of the accounting value of the acquired assets determined in accordance with the accounting rules applied by the ultimate parent entity in formulating the consolidated financial statements.

3. Notwithstanding the provisions of the preceding paragraph, where assets are transferred or acquired in the context of a reorganisation operation, the following rules shall apply:

a) the transferring constituent entity shall not include the qualifying income or loss arising from the transfer of the assets in the calculation of its qualifying income or loss.

b) The acquiring constituent entity shall determine its qualifying income or loss based on the carrying value of the assets acquired in the transferring entity at the time of the transfer.

4. However, paragraphs 2 and 3 shall not apply where the transfer or acquisition of assets takes place as part of a reorganisation operation and results in a non-qualifying gain or loss on the transferring entity. In this case, the following rules shall apply:

a) the transferring entity shall integrate the gain or loss arising from the transfer into the calculation of its qualifying profit or loss up to the amount of the non-qualifying gain or loss.

b) the acquiring entity shall determine its qualifying gain or loss after the acquisition on the basis of the carrying value of the assets of the transferring entity, adjusted in accordance with the local tax rules of the acquiring entity, to take account of the non-qualifying gain or loss.

5. For transfers where a jurisdiction requires or permits the constituent entity of a group to adjust the value of its assets to fair value for tax purposes, the constituent entity may:

a) include in the calculation of its qualifying income or loss, the amount of gains or losses attributable to each of its assets that will be:

i) equal to the difference between the fair value of the asset, after such a transfer or transformation, and the book value of the asset at the time prior to the transfer or transformation.

ii) reduced, or increased, by the non-qualifying gain or loss arising from the transfer or transformation of the asset.

b) use the fair value for accounting purposes immediately after the transfer or transformation of the assets, for the calculation of the qualifying income or loss of the tax periods ending after the transfer or transformation.

c) include the net total amount resulting from applying point (a) in the qualifying income or loss of the constituent entity:

i) either in the tax period in which the transfer or transformation takes place.

ii) or in fifths, starting from the tax period in which the transfer or transformation occurs and in the four subsequent tax periods, unless the constituent entity leaves the group, in

which case the remaining amount will be included in full in the tax period in which the exit takes place.

Article 38. *Joint ventures.*

1. For the purposes of this Article, the following definitions shall apply:

a) 'joint venture' means any entity whose financial results are reported under the equity method in the consolidated financial statements of the ultimate parent entity, provided that the ultimate parent entity holds, directly or indirectly, a holding of at least 50 %.

The following shall not be regarded as joint ventures:

i) The ultimate parent entity of a multinational group or large-scale domestic group that has to apply the income inclusion rule.
ii) An entity that was considered excluded in accordance with Article 7 of this Law.
iii) An entity directly owned by an entity excluded in accordance with Article 7, provided that at least one of the following conditions is met:

– it operates exclusively or almost exclusively to manage assets or invest funds for the benefit of its investors;
– it carries out activities ancillary to those carried out by the excluded entity;
– all or almost all of its income is excluded from the calculation of qualifying income or loss in accordance with the provisions of Article 10(2)(b) and (c) of this Law.

iv) An entity owned by a multinational group or large-scale domestic group consisting entirely of excluded entities.
v) A joint venture affiliate.

b) 'joint venture affiliate' means:

i) an entity whose assets, liabilities, income, expenses, and cash flows are included in the consolidated financial statements of a joint venture in accordance with an acceptable financial accounting standard, or would have been included in the consolidated financial statements of the joint venture if the joint venture had been required to consolidate such assets in accordance with an acceptable financial accounting standard; or
ii) a permanent establishment whose main entity is a joint venture or an entity defined in point (i) immediately above.

c) 'joint venture group' means a joint venture and its affiliates.
2. Where a parent entity holds a direct or indirect ownership interest in a joint venture or a joint venture affiliate, that parent entity shall apply the Income Inclusion Rule in accordance with Article 6(3) and Article 27 of this Law with respect to its attributable share of the top-up tax on that joint venture or its subsidiary.
3. The calculation of the top-up tax of the joint venture group shall be carried out by applying the general rules on covered taxes and qualifying income and loss as if they were constituent entities of a separate multinational group or large-scale domestic group and the joint venture were the ultimate parent entity of that group.
4. The top-up tax due by the joint venture group shall be reduced by the portion attributable to each parent entity of the joint venture, in accordance with the provisions of paragraph 2 of this Article.
The excess of the top-up tax of the joint venture group, if any, will increase the total amount of the secondary top-up tax, in accordance with the provisions of Article 29(2) of this Law.
For the purposes of this paragraph, 'top-up tax due by the joint venture group' means the part of the top-up tax attributable to the parent entity of the joint venture group.

Article 39. *Multi-parented multinational groups.*

1. For the purposes of this Article, the following definitions shall apply:

a) 'multi-parented multinational group or large-scale domestic group' means two or more multinational or domestic groups in which the ultimate parent entities enter into an arrangement consisting of an inseparable structure or a dual-listed arrangement that includes

at least one entity or permanent establishment of the combined group which is located in a different jurisdiction from the location of the other entities of the combined group.

b) 'inseparable structure' means an agreement entered into by two or more entities that are the ultimate parents of different groups under which:

i) at least 50 % of the ownership interests in the ultimate parent entities of different groups are combined and cannot be transferred or traded independently due to the form of ownership, transfer restrictions, or other conditions, and if listed, they are quoted at a single price;

ii) one of the entities that is an ultimate parent prepares consolidated financial statements where the assets, income, expenses, and cash flows of all the entities of the affected groups are presented together as those of a single economic unit, and must be subject, in accordance with the applicable regulations, to audit by an auditor or independent audit firm.

c) 'dual-listed arrangement' means an arrangement entered into by two or more ultimate parent entities of different groups under which:

i) the ultimate parent entities agree to combine their activities by contract alone;

ii) in accordance with the agreement, the ultimate parent entities will distribute dividends and, if applicable, settle liquidation proceeds, on the basis of a fixed ratio;

iii) the activities of the ultimate parent entities shall be managed as a single economic activity under an agreement or contract, each retaining its own legal identity;

iv) the ownership interests of the ultimate parent entities entering into the agreement shall be traded or transferred independently in different capital markets;

v) the ultimate parent entities shall prepare consolidated financial statements in which the assets, income, expenses, and cash flows of all the entities of the groups concerned are presented together as a single economic unit and must be audited, in accordance with the applicable regulations, by an independent auditor or audit firm.

2. Where entities and constituent entities of two or more groups are part of a multi-parented multinational group or large-scale domestic group, they shall be considered as members of one multi-parented multinational group or large-scale domestic group.

An entity that does not qualify as an excluded entity under this Law shall qualify as a constituent entity if it is integrated by the global integration method into the consolidated financial statements of the multi-parented multinational group or large-scale domestic group or if it is controlled by entities of that multi-parented multinational group or large-scale domestic group.

3. Consolidated financial statements of the multi-parented multinational or domestic group shall be those combined consolidated financial statements referred to in the definitions of an inseparable structure or dual-listing arrangement set out in paragraph 1 of this Article, prepared in accordance with an acceptable financial accounting standard, which is considered to be the accounting standard of the ultimate parent entity.

4. The ultimate parent entities of each of the groups that make up the multi-parented multinational or domestic group shall each be considered as the ultimate parent entity of that group.

When applying this Law to a multi-parented multinational group or large-scale domestic group, any reference to an ultimate parent entity shall apply, as appropriate, as if it were a reference to multiple ultimate parent entities.

5. Parent entities of a multi-parented multinational group or large-scale domestic group, including ultimate parent entities, shall apply the Income Inclusion Rule in accordance with the provisions of this Law, with respect to their attributable share of the top-up tax of low-taxed constituent entities.

6. The constituent entities of the multi-parented multinational group or large-scale domestic group that are located in Spanish territory shall apply the rule on undertaxed profits in accordance with this Law, taking into account the top-up tax of each low-taxed constituent entity that is a member of the multi-parented multinational group or large-scale domestic group.

7. The ultimate parent entities of the multi-parented multinational group or large-scale domestic group shall be required to file the top-up tax return, unless they designate a single reporting entity.

The declaration referred to in the previous paragraph shall contain information relating to each of the groups that make up the multi-parented multinational or domestic group.

CHAPTER II

Neutrality and distribution systems

Article 40. *Fiscally transparent ultimate parent entity.*

1. The provisions of this Article shall apply to ultimate parent entities of a multinational group or a large-scale domestic group, resident or non-resident, which are fiscally transparent within the meaning of Article 5(18) of this Law.

2. The qualifying income of the entities referred to in the previous paragraph shall be reduced, during the tax period, by the amount of qualifying income attributable or imputable to the holders of the ownership interests of those entities, provided that the following circumstances are met:

a) Those holders are subject to taxation at a nominal rate of at least the minimum tax rate in the tax period ending within 12 months following the conclusion of the period in which the reduction is applied.

b) It is reasonable to expect that the aggregate amount of adjusted covered taxes of the ultimate parent entity and the taxes paid by the holder of the ownership interests, on such gains, in the tax period ending within 12 months following the conclusion of the period in which the reduction is made, will be equal to or greater than an amount equal to the product of such gains by the minimum tax rate.

3. The qualifying income of the entities referred to in paragraph 1 of this Article shall be reduced during the tax period by the amount of qualifying income attributable or imputable to the holders of the ownership interests of those entities, provided that those holders are:

a) A natural person resident for tax purposes in the jurisdiction in which the ultimate parent entity is located, provided that they have a percentage of direct ownership interest in the own funds of the entity of less than or equal to 5 %.

b) A public entity, international organisation, non-profit organisation, or pension fund, as defined in Article 5 of this Law, that is tax resident in the jurisdiction in which the ultimate parent entity is located, provided that it has a percentage of direct ownership interest in the own funds of the entity of less than or equal to 5 %.

4. The qualifying losses of the entities referred to in paragraph 1 of this Article shall be reduced by the amount of those losses that would have been attributed to the holders of the ownership interest in the entity. The foregoing shall be without prejudice to the provisions of Article 19 of this Law.

This shall not apply to the extent that the holder of the interest in the entity is not authorised to offset such losses against their personal taxation.

5. The covered taxes of the entities provided for in this Article shall be reduced by the same proportion by which qualifying income has been reduced in accordance with paragraphs 2 and 3 of this Article.

6. Paragraphs 2 to 5 of this Article shall apply to a permanent establishment in any of the following cases:

a) where the entities referred to in paragraph 1 carry out all or part of their activity through that permanent establishment;

b) where a transparent entity, as defined in Article5(18) of this Law, carries out all or part of its activity through that permanent establishment, provided that the entity is wholly owned by an entity referred to in paragraph 1 of this Article, either directly or through a chain of fiscally transparent entities.

Article 41. *Ultimate parent entity subject to a deductible dividend regime.*

1. For the purposes of this Article, the following definitions shall apply:

a) ‘deductible dividend regime’ means a tax regime that applies a single level of taxation to the income of the owners of an entity by deducting or excluding from the income of the

entity the profits distributed to the owners or by exempting a cooperative entity from taxation;

b) 'deductible dividend' means, with respect to a constituent entity subject to a deductible dividend regime:

i) a distribution of profits to the holder of the ownership interest in the constituent entity that is deductible from the taxable income of the constituent entity under the law of the jurisdiction in which it is located; or

ii) a return to a member of a cooperative; and

c) 'cooperative' means an entity that collectively markets or acquires goods or services on behalf of its members and that is subject to a tax regime in the jurisdiction in which it is located that ensures tax neutrality with respect to goods or services sold or acquired by its members through the cooperative.

2. The provisions laid down in this Article shall apply to ultimate parent entities of a multinational group or a large-scale domestic group, which are not at the same time dependent on another entity, resident or non-resident, and which are subject to a deductible dividend regime.

3. The qualifying income of the entities referred to in the previous paragraph shall be reduced to zero, during the tax period, by the amount of dividends distributed in the 12 months following the end of the tax period, provided that any of the following circumstances are met:

a) the dividends distributed are taxed, at the recipient's level, at a nominal rate of at least the minimum tax rate, in the tax period ending within 12 months of the end of the ultimate parent entity's tax period.

b) it is reasonable to expect that the aggregate amount of adjusted covered taxes of the ultimate parent entity distributing the dividend and the taxes paid by the recipients of the dividend is equal to or greater than an amount equal to that dividend multiplied by the minimum tax rate.

4. The qualifying income of the entities referred to in paragraph 2 of this Article shall be reduced to zero, during the tax period, by the amount of dividends distributed in the 12 months following the end of the tax period, provided that the recipient is:

a) a natural person and the dividend received is a cooperative return from a supply cooperative;

b) a natural person resident for tax purposes in the same jurisdiction in which the ultimate parent entity is located, who holds a percentage of direct ownership interest in the entity that is less than or equal to 5 %; or

c) a public entity, an international organisation, a non-profit organisation, or a pension fund, other than a pension service entity, as defined in Article 5 of this Law, which is tax resident in the jurisdiction in which the ultimate parent entity is located.

5. The covered taxes of the entities referred to in paragraph 2 of this Article shall be reduced in the same proportion in which qualifying income has been reduced, in accordance with paragraphs 3 and 4 of this Article. In addition, the qualifying income of the entities referred to in paragraph 2 of this Article shall be reduced by the amount of tax expense calculated in accordance with the provisions of Article 10(2)(a) of this Law, for the purpose of determining the qualifying income or loss for the period.

6. Paragraphs 3 to 5 of this Article shall apply to any constituent entity, other than that referred to in paragraph 2, provided that it is subject to a deductible dividend regime, and the following requirements are met:

a) it is owned by the entity referred to in paragraph 2 of this Article, directly or through a chain of constituent entities.

b) it is resident in the jurisdiction of the ultimate parent entity.

c) the entity referred to in paragraph 2 of this Article distributes dividends to recipients who meet the requirements set out in paragraphs 3 and 4 of this Article.

7. Cooperative returns distributed by supply cooperatives shall be deemed taxable in the hands of the beneficiary where such return reduces the deductible expense or cost in the calculation of the taxable gains or losses of the recipient.

Article 42. *Eligible distribution tax systems.*

1. The filing constituent entity may, in respect of itself or in respect of another constituent entity that is subject to an eligible distribution tax system, opt to include the amount of deemed distribution tax, calculated in accordance with paragraph 3 below, in the adjusted covered taxes of the constituent entity in the tax period.

The option provided for in this Article shall be exercised in accordance with Article 49(2) of this law, and shall apply to all constituent entities that reside in the same jurisdiction and are subject to an eligible distribution tax system.

2. The amount of deemed distribution tax shall be the lesser of the following two amounts:

a) the amount necessary to adjust the effective tax rate of the jurisdiction to the minimum tax rate, calculated in accordance with Article 22 of this Law.

b) the amount of tax that would have been due if the constituent entities located in the jurisdiction had distributed all their profits subject to the eligible distribution tax system during that tax period.

3. Where the option referred to in paragraph 1 of this Article is exercised, a deemed distribution tax recovery account shall be created for each tax period and jurisdiction.

The amount of the deemed distribution tax calculated for a given tax period and by jurisdiction, in accordance with the previous paragraph, shall be included in the recovery account of the deemed distribution tax for the tax period.

At the end of each tax period, the outstanding balances of the deemed distribution tax recovery accounts, determined in previous tax periods, shall be reduced, starting with the oldest account and until they are nullified, in the following order:

a) taxes paid by the constituent entities during the tax period in relation to actual or deemed distributions;

b) an amount equal to the net qualifying losses of a given jurisdiction multiplied by the minimum tax rate.

4. Any residual amount of net eligible losses, after applying point (b) of the previous paragraph, multiplied by the minimum tax rate, shall be carried forward to subsequent tax periods and shall reduce any residual amount of deemed distribution tax recovery accounts remaining after the application of paragraph 3 above.

5. The outstanding balance, if any, of the deemed distribution tax recovery account on the last day of the fourth tax period following that in which that account was created shall reduce the adjusted covered taxes previously determined in that tax period. The effective tax rate and the top-up tax in that tax period shall be recalculated accordingly, in accordance with Article 30 of this Law.

6. Taxes paid in the tax period in relation to actual or deemed distributions shall not be included in adjusted covered taxes to the extent that they reduce a deemed distribution tax recovery account in accordance with the preceding paragraphs.

7. Where a constituent entity that has exercised the option referred to in paragraph 1 of this Article leaves the multinational group or large-scale domestic group or the majority of its assets are transferred to a person that is not a constituent entity of the same multinational group or large-scale domestic group, or that is not located in the same jurisdiction, any outstanding balance of deemed distribution tax recovery accounts created in previous tax periods shall be considered a reduction of the adjusted covered taxes for each of those tax periods, in accordance with Article 30 of this Law.

In order to establish the additional top-up tax due in the jurisdiction, the amount resulting from applying the provisions of the preceding paragraph shall be multiplied by the ratio resulting from dividing the qualifying income of the constituent entity leaving the group or transferring the majority of its assets to a person other than a constituent entity of the same group by the jurisdiction's net qualifying income.

For this purpose, the qualifying income of the constituent entity that leaves the group or transfers the majority of its assets to a person that is not a constituent entity of the same group shall be determined in accordance with Title IV of this Law for each tax period in which there is an outstanding balance of the deemed distribution tax recovery accounts for the jurisdiction, while the net qualifying income for the jurisdiction shall be determined in

accordance with Article 22 of this Law, for each tax period in which there is an outstanding balance of the deemed distribution tax recovery accounts for the jurisdiction.

CHAPTER III

Investment entities and insurance investment entities

Article 43. *Determination of the effective tax rate and the top-up tax.*

1. For the purposes of this and the following Article, an 'insurance investment entity' shall mean an entity that would meet the definition of an investment fund set out in Article 5(21) or a real estate investment vehicle set out in point 30 of the same Article if it had not been established in relation to liabilities arising from an insurance contract or annuity insurance and was not wholly owned by a regulated entity in the jurisdiction in which it is established as an insurance company.

2. The provisions laid down in this Article shall apply where one of the constituent entities of a multinational group or large-scale domestic group:

a) is an investment entity within the meaning of Article 5(8) of this Law or is an insurance investment entity;

b) is not considered to be a fiscally transparent entity in the terms provided for in Article 5 of this Law;

c) has not exercised the option provided for in Articles 44 and 45 of this Law.

3. For the entity referred to in the previous paragraph, the effective tax rate shall be calculated separately from the effective tax rate of the jurisdiction in which it is located.

4. The effective tax rate of the entity referred to in paragraph 1 of this Article shall be the quotient resulting from the computation of:

a) in the numerator, the entity's adjusted covered taxes;

b) in the denominator, the entity's qualifying income or loss in the portion attributable to the multinational group or large-scale domestic group.

Where two or more investment entities or insurance investment entities are located in a jurisdiction, their effective tax rate shall be calculated taking into account the adjusted covered taxes of those entities, as well as the qualifying income or loss of those entities in the part attributable to the multinational group or large-scale domestic group.

5. The adjusted covered taxes of an entity referred to in paragraph 2 of this Article shall be the sum of:

a) the adjusted covered taxes attributable to the qualifying income of the investment entity or insurance investment entity in the portion attributable to the multinational group or large-scale domestic group;

b) the covered taxes attributed to the entity in accordance with Article 20 of this Law.

In no case shall an entity's adjusted covered tax referred to in paragraph 2 of this Article include a covered tax accrued by that entity that is attributable to gains not included in the portion attributable to the multinational group or large-scale domestic group.

6. The top-up tax of the entity referred to in paragraph 2 of this Article shall be equal to the product of the top-up tax rate of the entity and the difference between the qualifying income of the entity in the part attributable to the multinational group or large-scale domestic group and the substance-based income exclusion calculated for that entity.

The top-up tax rate of the entity referred to in paragraph 2 of this Article shall be a positive amount equal to the difference between the minimum tax rate and the effective tax rate of that entity.

7. Where two or more investment entities or insurance investment entities are located in a jurisdiction, the effective tax rate of those entities shall be calculated by taking into account the qualifying income of those entities in the portion attributable to the multinational group or large-scale domestic group, as well as the substance-based income exclusions of those entities.

8. The substance-based income exclusion of an entity referred to in this Article shall be determined in accordance with Article 14 of this Law.

The eligible payroll costs of employees who meet the requirements of this Law and the eligible tangible assets of the investment entity or insurance investment entity shall be reduced in the proportion resulting from dividing the qualifying income of the investment entity or insurance investment entity in the portion attributable to the group by the total qualifying income of that investment entity.

9. For the purposes of this Article, the qualifying income or loss of an entity referred to in paragraph 2 of this Article in the part attributable to the group shall be determined in accordance with Article 26 of this Law, taking into account only the ownership interests of those who have not exercised the options provided for in Articles 44 or 45 of this Law.

Article 44. *Fiscally transparent investment entity or fiscally transparent insurance investment entity.*

1. Constituent entities holding ownership interests in a constituent entity that is an investment entity or an insurance investment entity may choose to consider that investment entity or insurance investment entity as a transparent entity, under the terms set out in this Article.

This option may be exercised by the reporting constituent entity, under the conditions provided for in Article 49 of this Law

2. A constituent entity that is an investment entity or an insurance investment entity may be considered a fiscally transparent entity, within the meaning of Article 5(18) of this Law, if the following conditions are met:

a) the constituent entity holding the ownership interests in the constituent entity that is an investment entity or an insurance investment entity is subject to taxation, in the jurisdiction where it is located, at the fair value of its ownership interests or is subject to taxation under a similar regime based on annual changes in the fair value of its ownership interests in the investment entity or insurance investment entity;

b) the tax rate to which the holder is subject, in respect of such income, is equal to or higher than the minimum tax rate.

3. If a constituent entity indirectly holds an ownership interest in an investment entity or an insurance investment entity through a direct ownership interest in another investment entity or insurance investment entity, it shall be considered taxable at the fair value of its ownership interests in the entity indirectly owned or taxed under a similar regime based on annual changes in the fair value of those interests, if the constituent entity is taxable at the fair value of its interests in the entity directly owned or taxed under a similar regime based on annual changes in the fair value of those interests.

4. If the option provided for in this Article is revoked, any gain or loss arising from the disposal of an asset or liability held by the investment entity or by the insurance investment entity shall be determined on the basis of the fair value of the asset or liability on the first day of the period in which the option is revoked.

Article 45. *Distribution tax system.*

1. Constituent entities holding ownership interests in a constituent entity that is an investment entity or an insurance investment entity may choose to apply a taxable distribution method with respect to their participation in the investment entity or insurance investment entity, as provided for in this Article.

This option may be exercised by the reporting constituent entity, under the conditions provided for in Article 49 of this Law.

2. A constituent entity holding the ownership interests of an investment entity or insurance investment entity may apply a taxable distribution method with respect to its participation in that entity, provided that:

a) the constituent entity is not itself an investment entity or an insurance investment entity; and

b) the constituent entity can reasonably be expected to be subject to taxation on the distributions of the investment entity or insurance investment entity at a tax rate equal to or higher than the minimum tax rate.

3. The taxable distribution method referred to in the preceding paragraph shall mean that:

a) distributions and deemed distributions of the qualifying income of an investment entity or insurance investment entity shall be included in the qualifying income of the constituent entity referred to in paragraph 2 of this Article, where the constituent entity has received the distribution;

b) the amount of covered taxes borne by the investment entity or insurance investment entity that corresponds to the tax liability of the constituent entity referred to in paragraph 2 of this Article, arising from the distribution of the investment entity or insurance investment entity, is included in the qualifying income and adjusted covered taxes of the constituent entity referred to in that paragraph 2 that received the distribution;

c) the portion of the undistributed net qualifying income of the investment entity or insurance investment entity, as defined in paragraph 4 below, shall be considered as qualifying income of the constituent entity referred to in paragraph 2 of this Article in the tax period, provided that such undistributed net qualifying income occurred in the third period prior to the tax period.

For the purposes of this Law, the amount of the proceeds of such qualifying income at the minimum tax rate shall be considered a top-up tax of the constituent entity with a low tax level in the tax period.

d) The qualifying income or loss of an investment entity or an insurance investment entity and the adjusted covered taxes attributable to such income, in the tax period, are excluded from the calculation of the effective tax rate in accordance with Title VI and Article 43 of this Law, with the exception of the amount of covered taxes referred to in point (b) of this paragraph.

4. For the purposes of the preceding paragraph, undistributed net qualifying income of an investment entity or an insurance investment entity shall mean net qualifying income obtained in the third period prior to the tax period, reduced, until cancelled, in the following amounts:

a) covered taxes of the investment entity or insurance investment entity;

b) distributions and deemed distributions made to holders of ownership interests in the investment entity or insurance investment entity, other than investment entities or insurance investment entities, during the period beginning on the first day of the third period preceding the tax period and ending on the last day of the tax period;

c) qualifying losses incurred during the period beginning on the first day of the third period preceding the tax period and ending on the last day of the tax period; and

d) any amount of qualifying losses, arising during the period beginning on the first day of the third period preceding the tax period and ending on the last day of the tax period, that exceeds the undistributed net qualifying income of the investment entity or insurance investment entity during the specified period may be carried forward to subsequent years.

5. Notwithstanding the preceding paragraph, the undistributed net qualifying income of an investment entity or insurance investment entity shall not be reduced by the following amounts:

a) the amount of distributions or deemed distributions that have already reduced the undistributed net qualifying income of that investment entity or insurance investment entity for prior periods, in accordance with point (b) of the previous paragraph;

b) the amount of qualifying losses that have already reduced the undistributed net qualifying income of that investment entity or insurance investment entity in previous periods, in accordance with point (c) of the previous paragraph.

6. For the purposes of this Article, a deemed distribution shall exist where a direct or indirect ownership interest in the investment entity or insurance investment entity is transferred to an entity that is not a member of the multinational group or large-scale domestic group, and the amount of the deemed distribution is equal to the portion of the undistributed net qualifying income corresponding to that direct or indirect ownership interest on the date of transfer, determined in accordance with the preceding paragraph.

7. If the option provided for in this Article is revoked, the share of the constituent entity referred to in paragraph 2 of this Article in the undistributed net qualifying income of the investment entity or insurance investment entity that occurred in the three periods prior to the tax period in which the revocation is exercised shall be considered, in the amount that

corresponds to the end of the tax period prior to the tax period in which the revocation is exercised, as qualifying income of that investment entity or insurance investment entity in the tax period in which the revocation is carried out. For the purposes of this Law, the amount of the proceeds of such qualifying income at the minimum tax rate shall be considered a top-up tax of a low-taxed constituent entity in the tax period.

CHAPTER IV

Minority-owned constituent entities

Article 46. *Minority-owned constituent entity.*

1. For the purposes of this Article, the following definitions shall apply:

a) A 'minority-owned constituent entity' means a constituent entity in which the ultimate parent entity has a direct or indirect ownership interest of 30 % or less.

b) An 'ultimate minority-owned parent entity' means a minority-owned constituent entity that has, directly or indirectly, a controlling ownership interest in another minority-owned constituent entity. Such consideration shall not be given where a minority-owned constituent entity has, directly or indirectly, controlling ownership interests.

c) A 'minority-owned subgroup' means an ultimate minority-owned parent entity and its minority-owned subsidiaries.

d) A 'minority-owned subsidiary' means a minority-owned constituent entity over which an ultimate minority-owned parent entity holds, directly or indirectly, controlling ownership interests.

2. Entities that are part of a minority-owned subgroup shall calculate the effective tax rate and the top-up tax of the jurisdiction in which they are located, in accordance with the provisions of this Law, with the particularity that each minority-owned subgroup shall be treated as if it were a separate multinational group or large-scale domestic group.

Adjusted covered taxes and qualifying income or loss of members of a minority-owned subgroup shall be excluded for the purposes of calculating the effective tax rate of the group and the net qualifying income of the multinational group or large-scale domestic group in accordance with Article 22(1), (2) and (3) of this Law.

3. A minority-owned constituent entity that is not part of a minority-owned subgroup shall calculate the effective tax rate and the top-up tax in accordance with the provisions of this Law, with the particularity that the aforementioned calculations shall be carried out individually for that entity.

Adjusted covered taxes and qualifying income or loss of the minority-owned constituent entity shall be excluded for the purposes of calculating the effective tax rate of the group and the net qualifying income of the multinational group or large-scale domestic group in accordance with Article 22(1), (2) and (3) of this Law.

The provisions of this paragraph shall not apply to a minority-owned constituent entity that is an investment entity.

TITLE XI

Formal obligations

CHAPTER I

Reporting obligation and penalty regime

Article 47. *Obligation to inform.*

1. For the purposes of this Article, the following definitions shall apply:

a) 'designated local entity' means the constituent entity of a multinational group or large-scale domestic group that is located in Spain and has been designated by the other constituent entities of the multinational group or large-scale domestic group located in the same territory to file the top-up tax information return or notifications in accordance with this

Article on their behalf;

b) 'qualifying competent authority agreement' means a bilateral or multilateral agreement or arrangement between two or more competent authorities providing for the automatic exchange of annual top-up tax information returns.

2. Any constituent entity of a multinational group or large-scale domestic group located in Spanish territory must submit a top-up tax information return, in the place and form determined by regulation.

3. By way of derogation from paragraph 2, a constituent entity shall not be required to submit
a top-up tax return if this return has been submitted in accordance with this Article by:

a) an ultimate parent entity located in Spanish territory or in a jurisdiction which has, in the tax period for the purposes of information exchange, a qualifying competent authority agreement in force with the Kingdom of Spain;

b) a constituent entity, other than an ultimate parent entity, located in Spanish territory, designated by the multinational group or by the large-scale domestic group to submit such information on behalf of the constituent entities located in Spanish territory that are part of the group;

c) a constituent entity, other than an ultimate parent entity, designated by the multinational group, which is located in another jurisdiction with which there is, in the tax period, a qualifying competent authority agreement in force with the Kingdom of Spain for the purposes of information exchange.

In the case provided for in point (b) above, where there are several constituent entities located in Spanish territory, if one of them has been designated as the local entity by the multinational group or the large-scale domestic group to submit the top-up tax information return, only that entity shall be obliged to submit the declaration in accordance with the previous paragraph, provided that it can obtain all the information necessary to submit the information in accordance with the provisions of this Article. Otherwise, the provisions of the previous paragraph shall apply.

Likewise, in the event that a constituent entity, located in Spanish territory, which does not have the status of ultimate parent entity, has been designated by the multinational group to which it belongs to submit the top-up tax information return, it must request the information corresponding to that group from the ultimate parent entity of the multinational group.

For the purposes of this section, any constituent entity located in Spanish territory that is part of a multinational group or large-scale domestic group required to file the declaration established herein must communicate to the tax administration the identification and the country or territory of residence of the ultimate parent entity or the entity designated to file the declaration, in the form and time period determined by regulation.

4. The top-up tax information return shall include, among others and with the specifics established by regulation, the following information:

a) identification of the constituent entities, with their tax identification numbers and, where applicable, the jurisdiction in which they are located, as well as their status in accordance with the provisions of this Law;

b) the general structure of the group, including direct or indirect controlling interests in the constituent entities of the group, as well as information on interests in entities excluded from the application of the top-up tax rules and any changes in the configuration of the group that occurred during the tax period to which the declaration refers;

c) the information necessary for the calculation of:

i) the effective tax rate for each jurisdiction and the top-up tax of each constituent entity;
ii) the top-up tax of a member of a joint venture group;
iii) the allocation to each jurisdiction of the amount of top-up tax;

d) a record of the options exercised in accordance with this Law;

e) any other data that are relevant for the purposes of this declaration.

5. By way of derogation from paragraph 4 of this Article, where a constituent entity is located in Spanish territory and the ultimate parent entity is located in a third-country jurisdiction that applies rules that have been assessed as equivalent to the rules of this Law, in accordance with Article 54 of this Law, the constituent entity or the designated local entity

shall submit an top-up tax information return containing the following information:

a) all information necessary for the application of point (iii) of Article 6(3), and in particular:

i) the identification of all constituent entities in which a partially-owned parent entity holds, directly or indirectly, an ownership interest at any time during the tax period and the structure of those interests;

ii) all information that is necessary to calculate the effective tax rate of jurisdictions in which a partially-owned parent entity holds ownership interests in constituent entities identified in subparagraph (i) and the top-up tax due; and

iii) the relevant information for this purpose in accordance with Articles 25, 26 and 27 of this Law;

b) all information necessary for the application of Article 28(2), including:

i) the identification of all constituent entities located in the jurisdiction of the ultimate parent entity and the structure of their ownership interests;

ii) all information necessary to calculate the effective tax rate of the jurisdiction of the ultimate parent entity and the top-up tax due from that entity; and

iii) all information necessary for the allocation of said top-up tax by applying the Undertaxed Profit Rule established in Article 28 and Article 29 of this Law;

c) all information necessary for the application of a qualifying domestic top-up tax by any jurisdiction that has opted to apply such a top-up tax.

6. The top-up tax return shall be submitted, in the terms determined by regulation, to the tax authorities, in accordance with the provisions of paragraph 2 of this Article, no later than the last day of the fifteenth month following the last day of the tax period, without prejudice to the provisions of the fifth transitional provision of this Law. Any other relevant communication shall be submitted on the terms to be determined by regulation.

Article 48. *Sanctions regime.*

1. The following constitute tax offences:

a) Failure to submit the information declaration referred to in Article 47 of this Law within the time limit.

The infringement shall be serious and the penalty shall consist of a fixed pecuniary fine of EUR 10 000 for each piece of data or set of data that should have been included in the declaration, with a maximum limit equal to 1 % of the net turnover of the set of entities that are part of the multinational group or large-scale domestic group, including that of the excluded entities, in accordance with the consolidated financial statements of the ultimate parent entity for the tax period.

The penalty and the maximum limit provided for in the previous paragraph shall be reduced by half when the return has been filed after the deadline without prior request from the tax administration.

If incomplete, inaccurate or false declarations have been submitted within the time limit and a supplementary or replacement declaration has subsequently been submitted after the deadline without prior notice, the infringement referred to in point (b) of this paragraph shall not occur in relation to the declarations submitted within the time limit, and the penalty resulting from the application of this paragraph shall be imposed in respect of those declared after the time limit.

b) The presentation of incomplete, inaccurate or false data in the information declaration referred to in Article 47 of this Law.

The infringement shall be serious and the penalty shall consist of a fixed pecuniary fine of EUR 10 000 for each piece of data or set of data that should have been included in the declaration, with a maximum limit equal to 1 % of the net turnover of the set of entities that are part of the multinational group or large-scale domestic group, including that of the excluded entities, in accordance with the consolidated financial statements of the ultimate parent entity for the tax period.

c) The infringements and sanctions regulated in this section shall be incompatible with those established in Articles 198 and 199 of Law 58/2003, of 17 December 2003, General Tax Law.

2. Failure to submit within the prescribed period any of the communications referred to in Article 47(3) and Article 5 of the third transitional provision of this Law constitutes a serious tax offence. The penalty shall consist, respectively, of a fixed pecuniary fine of EUR 10 000.

CHAPTER II

Exercising the options

Article 49. *Exercising the options.*

1. The options referred to in Article 7(2), Article 10(2)(b), (3), (6) and (9), and Articles 44 and 45 of this Law shall apply from the tax period in which they are exercised and may be waived five years after the beginning of that tax period. The waiver shall have a minimum duration of five years from the beginning of the tax period in which it occurs.

2. The options referred to in Article 10(7), Article 14(2), Article 18(1)(b), Article 21(1), Article 33(1), and Article 42(1) of this Law shall apply from the tax period in which they are exercised and in subsequent periods that end before the notification of the exercise of the waiver.

3. The option referred to in Article 17(5) of this Law shall be irrevocable and shall apply from the tax period in which it is exercised and thereafter under the terms laid down in that provision.

4. The options indicated in the three previous paragraphs shall be exercised by the reporting constituent entity or by the reporting entity designated in the top-up tax information declaration provided for in paragraph 2 of the previous Article, and the provisions of Article 119(3) of General Tax Law 58/2003 of 17 December 2003 shall apply to them.

The options indicated in paragraphs 1 and 2 above may be waived by the reporting constituent entity or by the reporting entity designated in the top-up tax information declaration provided for in paragraph 2 of the previous article, and the provisions of Article 119(3) of General Tax Law 58/2003 of 17 December 2003 shall apply to them.

TITLE XII

Administration of the tax

Article 50. *Tax declaration.*

1. Taxpayers or, where applicable, taxpayer substitutes established by this law must submit the tax declaration for the top-up tax, in the place and form determined by the Minster of Finance, within 25 calendar days following the fifteenth month after the end of the tax period, unless the provisions of the fifth transitional provision of this law apply.

2. The taxpayer's substitute may claim from the taxpayer the amount of the tax liability paid.

Article 51. *Self-assessment and payment of the tax liability.*

1. Taxable persons obliged to file the tax declaration, in the terms provided for in Article 50 of this Law or, where appropriate, in the fifth transitional provision, at the time of submitting their declaration, must determine the corresponding liability and pay it in the place and form determined by the Minster of Finance.

2. The payment of the tax liability may be made by delivery of assets belonging to the Spanish Historical Heritage that are registered in the General Inventory of Movable Assets or in the General Register of Goods of Cultural Interest, in accordance with the provisions of Article 73 of Law 16/1985, of 25 June 1985, on Spanish Historical Heritage.

Article 52. *Provisional assessment.*

The tax management bodies may issue the provisional assessment as appropriate in accordance with the provisions of Articles 133 and 139 of Law 58/2003, of 17 December 2003, General Tax Law, without prejudice to the subsequent verification and investigation

that may be carried out by the Tax Inspectorate.

TITLE XIII

Powers of the Administration to determine the tax base

Article 53. *Powers of the Administration to determine the tax base and other tax elements.*

For the purposes of determining the tax base and other elements of the top-up tax, the Tax Administration shall apply the accounting rules provided for in Article 9 of this Law and other applicable regulations.

TITLE XIV

Equivalence assessment

Article 54. *Equivalence assessment.*

1. The legal framework applied in the national law of a third-country jurisdiction shall be considered equivalent to a qualified Income Inclusion Rule set out in this Law, and shall not be treated as a controlled foreign company tax regime provided that it meets the following conditions:

a) it requires compliance with a set of rules under which the ultimate parent entity of a multinational group shall calculate and pay its attributable share of the top-up tax in respect of the low-taxed constituent entities of the multinational group;
b) it sets a minimum effective tax rate of at least 15 %, below which a constituent entity is considered to have a low tax level;
c) for the purpose of calculating the minimum effective tax rate, it only allows the combination of income of entities located in the same jurisdiction;
d) for the purpose of calculating a top-up tax under the equivalent qualifying Income Inclusion Rule, it establishes a deduction for any top-up tax paid under the qualifying Income Inclusion Rule and for any qualifying domestic top-up tax.

2. The simplified notification procedures referred to in Article 55 of Directive (EU) 2022/2523 shall apply where they have been agreed in accordance with that Article.

TITLE XV

Jurisdiction

Article 55. *Jurisdiction.*

After exhaustion of the economic-administrative route, the administrative justice system shall be assigned the exclusive competence to resolve disputes over matters of fact and law arising between the tax authority and taxpayers, with regard to any of the matters referred to in this Law.

First additional provision. *Deductions in Personal Income Tax for energy efficiency improvement works.*

Under Component 2 ‘Plan for housing renovation and urban regeneration’ of Spain’s Recovery, Transformation and Resilience Plan, deductions from personal income tax that are approved by the competent institutions of the Autonomous Community of the Basque Country, in accordance with the provisions of the Economic Agreement with the Autonomous Community of the Basque Country, approved by Law 12/2002 of 23 May 2002, which are intended to carry out renovation works that contribute to achieving improvements in energy efficiency, accredited through the corresponding certificate, of the usual dwelling or leased housing that satisfies the permanent need for housing of the tenant, as well as of buildings for predominantly residential use, provided that the actions that give rise to the right to the

deduction meet the following requirements:

1. That they fall under milestone C02.I01 ‘Rehabilitation programme for economic and social recovery in residential environments’ set out in point 26 of the Annex to the proposal for a Council Implementing Decision of 16 June 2021 (COM/2021/322 final) on the approval of the assessment of the recovery and resilience plan for Spain (CID).

2. That they correspond to the intervention field 025a ‘Energy efficiency renovation of existing buildings, demonstration projects and support measures compliant with energy efficiency criteria’ of Annex VI to Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility.

3. That their development and implementation respect the principle of not causing significant environmental harm, as defined in the Commission’s Communication Technical Guidance (2021/C 58/01), on the application of the principle of ‘do no significant harm’ under the Recovery and Resilience Facility Regulation, climate and digital labelling, as well as the other specific conditions that apply to them, especially those contained in the Annex to the CID and in paragraphs 3, 6, and 8 of the document of Component 2 of the Recovery, Transformation and Resilience Plan of Spain.

The competent institutions of the Autonomous Community of the Basque Country shall annually certify to the corresponding Ministry of the Government of Spain the amount of the deduction generated by the taxpayers of the Basque Country in the Personal Income Tax in order to justify the amount to be paid for the execution of the objectives set out in the aforementioned Component 2 ‘Housing renovation and urban regeneration plan’ of Spain’s Recovery, Transformation and Resilience Plan.

Second additional provision. *Tax benefit for hiring in non-professional non-profit sports entities.*

1. Non-profit-making non-professional sports clubs, associations or entities shall be entitled to a 100 % exemption from the employer's contribution to social security for common contingencies for workers in their service who act as coaches or instructors dedicated to the training, preparation or coaching of persons under the age of 18.

In any event, for the purposes of this provision, non-professional sports shall be deemed to be those in which the athletes are not subject to an employment relationship as provided for in Article 1(Two) of Royal Decree 1006/1985 of 26 June 1985 regulating the special employment relationship of professional athletes, regardless of the discipline, modality or category to which they are assigned. In this sense, a non-profit sports club, association or entity may have both non-professional sports and professional sports, in which case the tax benefit shall only apply to coaches and monitors of non-professional sports.

2. The legal regime applicable to this tax benefit with respect to the contribution, in terms of application, control and coordination, shall be that established in Articles 36 to 42 of Royal Decree-Law 1/2023 of 10 January 2023 on urgent measures regarding incentives for hiring artists and improving their social protection.

Third additional provision. *Donations by companies to workers affected by the DANA.*

The amounts paid on an extraordinary basis by employers to their employees and/or family members to cover personal injury and material damage to housing, belongings and vehicles suffered by employees and/or their family members due to the cut-off low (‘DANA’) that occurred in 2024 shall be exempt from Personal Income Tax and Inheritance and Gift Tax.

For the purposes of this exemption:

a) Any amounts paid by employers to their employees to cover the damages caused by the DANA and that are additional to the salary received by the latter shall be considered extraordinary.

b) The status of being affected by the DANA and the amount of the damages must be certified by means of a certificate from the insurance company indicating the status of being affected and quantifying the damages, or alternatively, if there is no insurance, by a Public Authority.

c) The exemption shall be limited to the amounts paid between 29 October 2024 and

31 December 2024, and up to the limit of the certified damages.

d) The amounts received by the workers shall be included in the tax base insofar as they exceed the amount of damages certified by the insurance company.

First transitional provision. *Tax treatment of deferred tax assets and liabilities and transferred assets during the transition tax period.*

1. The 'transition tax period' means the first tax period in which the taxpayers referred to in Article 6 of this Law must apply the provisions of this Law for the first time in relation to each jurisdiction.

Notwithstanding the foregoing, the transition tax period shall be understood as the first period in which the provisions of the fourth transitional provision of this Law do not apply in the corresponding jurisdiction.

2. When determining the effective tax rate in each jurisdiction during the transition tax period, as well as in each successive tax period, the value of all deferred tax assets and liabilities, provided that they are recorded or disclosed in the financial statements of the constituent entities of the jurisdiction, existing at the beginning of the transition tax period, shall be taken into account for the purposes of adjusted covered taxes.

The value of all deferred tax assets and liabilities shall be the lower of the value at which they have been disclosed in the financial statements referred to in the previous subparagraph and the value resulting from their calculation by applying the minimum tax rate.

The value resulting from the application of the minimum tax rate shall be the result of multiplying the minimum tax rate by the quotient of deferred tax assets relating to outstanding tax credits recorded or disclosed in the financial statements to the nominal tax rate at which they were recorded corresponding to the tax period preceding the transitional period.

Notwithstanding the foregoing, deferred tax assets accounted for at a tax rate below the minimum tax rate may be valued at the minimum tax rate if the taxpayer can demonstrate that such tax asset is attributable to a loss that would have been admissible in accordance with the provisions of this Law.

Changes resulting from valuation adjustments or accounting recognition of a deferred tax asset shall not be taken into account.

3. Deferred tax assets arising from items that would have been excluded for the purposes of determining qualifying income or loss in accordance with Title IV of this Law shall not be taken into account for the purposes of the calculation referred to in paragraph 2 above, where those assets were generated in a transaction that took place after 30 November 2021 and before the start of the transition tax period.

4. In the event of a transfer of assets between constituent entities after 30 November 2021 and before the start of the transition tax period, the value of the acquired assets, other than inventories, shall be the book value of the transferred assets that appear in the financial statements of the transferring entity, at the time of the transfer, with deferred tax assets and liabilities determined on that value.

5. Without prejudice to the provisions of the previous paragraph, the multinational group or large-scale domestic group may take into account a deferred tax asset associated with the income derived from the transfer, provided that it is possible to prove that the transferring entity has paid an income tax derived from said transfer.

The deferred tax asset referred to in the preceding subparagraph shall not exceed the lesser of the following two amounts:

i) The value resulting from multiplying the minimum tax rate by the difference between the tax value of the asset determined in accordance with the law of the jurisdiction in which the acquiring entity is located and the value referred to in paragraph 4 above.

ii) The tax paid by the transferring entity on the income derived from the transfer increased, where applicable, by the amount of the deferred tax asset corresponding to the loss that would have been taken into account by the transferring entity in accordance with paragraph 2 of this transitional provision, if the income derived from the transfer had not been deductible in the calculation of taxable income in the tax period in which the transfer takes place.

The deferred tax asset determined in accordance with this paragraph shall be applied on the basis of the recorded depreciation of the corresponding asset or, where applicable, when

it is transferred or derecognised. In any event, the recognition of that deferred tax asset shall not reduce the amount of the acquiring entity's adjusted covered taxes.

6. Without prejudice to Article 18(5)(e) of this Law, deferred tax assets that correspond to tax credits recorded or disclosed in the financial statements of the constituent entity prepared in accordance with the acceptable or authorised financial accounting standard used in the preparation of the consolidated financial statements of the ultimate parent entity, existing at the beginning of the transition tax period, shall be taken into account for the purposes of determining the effective tax rate of the transitional tax period and, where applicable, subsequent tax periods.

7. If the value at which the deferred tax assets referred to in the previous paragraph have been reported has been calculated using a tax rate lower than the minimum tax rate, the amount of such deferred tax assets shall be the amount of deferred tax assets disclosed in the consolidated financial statements of the constituent entity.

8. If the value at which the deferred tax assets referred to in paragraph 6 above have been reported was calculated using a tax rate greater than or equal to the minimum tax rate, the amount of such deferred tax assets shall be equal to the result of multiplying the minimum tax rate by the quotient of the deferred tax assets corresponding to tax credits outstanding, recorded or disclosed in the financial statements prepared in accordance with the acceptable or authorised financial accounting standard used in the preparation of the consolidated financial statements of the ultimate parent entity, to the nominal tax rate at which they were recorded that corresponds to the tax period prior to the transitional period.

Where, in a tax period after the transition tax period, the tax rate of a jurisdiction changes, the amount of deferred tax assets shall be recalculated in accordance with the formula determined in the previous subparagraph, maintaining the amount of tax credits in the financial statements prepared in accordance with the acceptable or authorised financial accounting standard used in the preparation of the consolidated financial statements of the ultimate parent entity at the beginning of the tax period in which the change in the tax rate occurred. The change in the amount of deferred tax assets resulting from the recalculation as a result of the change in the tax rate shall not be included in the total amount of the deferred tax adjustment in that tax period. To determine the adjustment for deferred tax in the tax period in which the recalculation was made and in subsequent tax periods, the amount of the deferred tax asset resulting from the recalculation shall be used.

9. By way of derogation from paragraph 4, where the group can demonstrate that the transferring entity has paid income tax on the transfer of the assets referred to in paragraph 4, which is equal to or higher than the result of multiplying the minimum tax rate by the income derived from the transfer, it may apply the following subparagraph.

In such a case, the acquired assets may be valued at the book value recorded by the acquiring entity on the acquisition date, determined in accordance with the financial accounting standard used in the preparation of the financial statements of the acquiring entity, with the provisions of paragraph 5 above not being applicable.

Second transitional provision. *Applicable percentages in relation to the substance-based income exclusion.*

1. For the purposes of Article 14(3) of this Law, the percentage of 5 % shall be replaced, for each tax period beginning on or after 31 December of the calendar years shown in the following table, by the percentage established for that year:

Year of application	Applicable percentage (%)
2023	10
2024	9.8
2025	9.6
2026	9.4
2027	9.2
2028	9.0
2029	8.2
2030	7.4
2031	6.6
2032	5.8

2. For the purposes of Article 14(4) of this Law, the percentage of 5 % shall be replaced, for each tax period beginning on or after 31 December in the calendar years shown in the table below, by the percentage established for each year:

Year	Percentage (%)
2023	8
2024	7.8
2025	7.6
2026	7.4
2027	7.2
2028	7.0
2029	6.6
2030	6.2
2031	5.8
2032	5.4

Third transitional provision. *Transitional non-enforceability of the top-up tax for multinational groups and large-scale domestic groups.*

1. The domestic top-up tax, referred to in Article 25 of this Law, of the ultimate parent entity and its constituent entities that are located in Spanish territory and of the intermediate parent entity and its constituent entities located in Spanish territory, when the ultimate parent entity is an excluded entity, shall be zero:

a) in the first five years of the initial phase of the international activity of the multinational group;

b) in the first five years from the first day of the tax period in which the large-scale domestic group is subject to the application of this law for the first time.

2. The secondary top-up tax referred to in Article 29(2) of this Law, of the taxpayers referred to in Article 6(4) of this Law, shall be zero in the first five years of the initial phase of the international activity of that group.

3. A multinational group shall be considered to be at the initial stage of its international activity if, in a tax period, the following conditions are met:

a) its constituent entities do not reside in more than six different jurisdictions; and

b) the sum of the net book value of the tangible assets of all the constituent entities of the multinational group located in jurisdictions other than the reference jurisdiction does not exceed EUR 50 million.

For the purposes of this paragraph, ‘reference jurisdiction’ shall mean the jurisdiction in which the total net book value of all tangible assets of all constituent entities of the multinational group located in that jurisdiction is the highest during the tax period in which the multinational group first falls within the scope of this Law.

4. The five-year period referred to in point (a) of paragraph 1 and paragraph 2 of this transitional provision shall start to run from the beginning of the first tax period in which the multinational group falls, for the first time, within the scope of this Law.

5. The filing constituent entity shall inform the tax administration of the jurisdiction where it is located of the start of the initial phase of the international activity of the multinational group.

When the filing constituent entity referred to in Article 47 of this Law is located in Spanish territory, it shall inform the Spanish tax administration of the start of the initial phase of the international activity of the multinational group. Likewise, the filing constituent entity of a large-scale domestic group located in Spanish territory shall notify the Spanish tax authorities of the start of the five-year period provided for in point (b) of paragraph 1 of this transitional provision. The communication referred to in this paragraph shall be presented in the terms determined by regulation.

Fourth transitional provision. *Non-enforceability of the top-up tax in accordance with the eligible country-by-country reporting.*

1. For the purposes of this transitional provision, the following definitions shall apply:

a) ‘Eligible country-by-country reporting’ means country-by-country reporting prepared and submitted to the relevant tax administration using acceptable financial statements. The country-by-country reporting is that referred to in the OECD/G20 Base Erosion and Profit Shifting Project Action 13 Final Report ‘Transfer Pricing Documentation and Country-by-Country Reporting’; in Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation and Articles 13 and 14 of the Corporate Tax Regulation approved by Royal Decree 634/2015 of 10 July 2015.

b) Acceptable financial statements:

i) Financial statements prepared in accordance with the acceptable or authorised financial accounting standard used in the preparation of the consolidated financial statements of the ultimate parent entity.

ii) The financial statements of each constituent entity provided that they are prepared in accordance with an acceptable or authorised financial accounting standard and the information contained in those financial statements has been recorded in accordance with that accounting standard and is reliable.

iii) The financial statements of the constituent entity that are used for the preparation of the country-by-country reporting of the multinational group when that entity does not consolidate under the comprehensive integration method in the consolidated financial statements of the parent entity solely for reasons of relative importance or materiality.

c) Transition period: tax periods starting from 31 December 2023 until 31 December 2026.

d) Transitional rate:

15 % for tax periods starting in 2023 and 2024;
16 % for tax periods starting in 2025;
17 % for tax periods starting in 2026;

e) Gross income of the group: as reported in an eligible country-by-country report received by the Spanish tax administration for the relevant jurisdictions.

f) Profit or loss before corporation tax or taxes of the same or similar nature: the amount of profit or loss before corporation tax or taxes of an identical or analogous nature reported in an eligible country-by-country report received by the Spanish tax administration for the relevant jurisdictions.

g) Simplified covered taxes: the tax expense on corporate profits recorded in the financial statements of the constituent entities of the corresponding jurisdictions, reduced by the amount of taxes that are not considered covered taxes, in accordance with the provisions of Article 16(2) of this Law, and by the tax expense related to uncertain tax positions.

h) Simplified effective tax rate: the result of dividing the amount of simplified covered taxes by the results before corporate income tax or tax of the same or similar nature reported in the eligible country-by-country report received by the Spanish tax administration for the relevant jurisdictions.

2. The top-up tax regulated in this Law will be zero, during the transitional period referred to in this transitional provision, for taxpayers who belong to a multinational group that presents an eligible country-by-country report, received by the Spanish Tax Administration, in relation to those jurisdictions and tax periods in respect of which one of the following three requirements is met:

a) The amount of the group's gross income and the profit before tax on corporate profits or taxes of an identical or similar nature for the jurisdiction is less than or equal to EUR 10 million and EUR 1 million, respectively.

This requirement shall be deemed to be fulfilled where the profit before tax on corporate profits is zero or negative.

For the purposes of calculating the amount of the gross income of the group referred to in this point, account shall be taken of the gross income of the constituent entities held for sale that are located in the jurisdiction.

b) The jurisdiction's simplified effective tax rate for each tax period of the transitional period shall be equal to or higher than the transitional rate established for that period.

c) Profits before tax on corporate profits or taxes of an identical or similar nature are less

than or equal to the amount corresponding to the substance-based income exclusion of such jurisdiction determined in accordance with the provisions of this Law.

This requirement shall be deemed to be fulfilled where the profit before tax on corporate profits is zero or negative.

3. Special rules.

a) The provisions of paragraph 2 of this transitional provision shall apply to joint ventures and their subsidiaries referred to in Article 38 of this Law as if they were constituent entities of a separate multinational group, although for the purposes of determining qualifying income or loss and total gross income, the acceptable financial statements shall be used as a basis.

b) The provisions of paragraph 2 of this transitional provision shall not apply to investment entities that are considered tax residents in a jurisdiction for the purposes of eligible country-by-country reporting, and must determine their top-up tax in accordance with the provisions of this Law, unless:

i) the investment entity and all its holders of ownership interests are resident in the same jurisdiction;

ii) the options provided for in Articles 44 and 45 of this Law have not been exercised in relation to that investment entity.

Where, in accordance with the foregoing, the provisions of paragraph 2 of this transitional provision apply, the profit before tax on corporate profits or taxes of the same or similar nature, the gross income, and the covered taxes of the investment entity shall be taken into account exclusively in the jurisdiction of the direct holders of its ownership interests, in proportion to those interests, irrespective of the jurisdiction in which the investment entity is included in the country-by-country report.

For the purposes of this point (b), an investment entity includes an insurance investment entity.

c) The provisions of paragraph 2 of this transitional provision shall not apply with respect to the jurisdiction of residence of the ultimate parent entities when these are transparent entities that apply the provisions of Article 40 of this Law, unless they are wholly owned by eligible persons.

If an ultimate parent entity applies the provisions of Articles 40 or 41 of this Law, the profit before tax on corporate profits or taxes of an identical or similar nature shall be reduced by the proportion to be attributed or distributed to an eligible person.

For the purposes of this point (c), eligible persons shall mean those referred to in points (a) and (b) of Article 40(2) and (3) of this Law, where applicable, and those referred to in points (a), (b) and (c) of Article 41(4) of this Law, where applicable.

d) An unrealised net loss on fair value of more than EUR 50 million in a jurisdiction shall be excluded from profit or loss before tax on corporate profits or taxes of an identical or similar nature. For this purpose, an unrealised net loss on fair value shall mean the sum of all losses, reduced by any gain, arising from changes in the fair value of ownership interests in another entity, except for portfolio shareholdings.

4. Paragraph 2 of this transitional provision shall not apply in relation to the following constituent entities or multinational groups:

a) stateless constituent entities;

b) multi-parented multinational groups referred to in Article 39 of this Law when the information of the combined groups is not included in a single eligible country-by-country report received by the Spanish Tax Administration;

c) constituent entities that are located in jurisdictions in respect of which the application of the eligible distribution tax system referred to in Article 42 of this Law has been chosen.

5. If a multinational group falls within the scope of this Law and does not apply the provisions of this transitional provision in respect of any of the jurisdictions included in the eligible country-by-country reporting in the tax period, it may not apply it in respect of that jurisdiction in a subsequent tax period.

6. The provisions of this transitional provision shall apply to tax periods starting before 1 January 2027 and ending before 1 July 2028.

Fifth transitional provision. *Information declaration and tax declaration of the top-up tax*

corresponding to the transition tax period.

1. By way of derogation from Article 47(6) of this Law, the top-up tax information return and the communications referred to in that Article shall be submitted to the tax authorities by the last day of the eighteenth month following the end of the first tax period in which a multinational group or large-scale domestic group first falls within the scope of a top-up tax in accordance with a qualified Income Inclusion Rule or an eligible Undertaxed Profit Rule.

2. The tax declaration referred to in Article 50 of this Law shall be filed within 25 calendar days following the eighteenth month after the conclusion of the first tax period in which a multinational group or large-scale domestic group first falls within the scope of a top-up tax pursuant to a qualified Income Inclusion Rule or an eligible Undertaxed Profit Rule.

Sixth transitional provision. *Temporary non-enforceability of the Undertaxed Profit Rule.*

For those multinational groups whose tax period does not exceed 12 months, starts before 31 December 2025 and ends before 31 December 2026, the amount of top-up tax that would result from applying the Undertaxed Profit Rule, in accordance with Article 28 of this Law, in respect of the jurisdiction in which the ultimate parent entity is located, shall be zero, provided that the ultimate parent entity has been subject to a tax levied on corporate profits at a nominal tax rate of at least 20 % in each of the tax periods to which this provision applies.

First final provision. *Amendment of Law 37/1992 of 28 December 1992 on Value Added Tax.*

Law 37/1992 of 28 December 1992 on Value Added Tax is amended as follows:

One. Article 19(5.º) is amended to read as follows:

'5.º The cessation of the situations referred to in Article 23 or the termination of the arrangements covered by Article 24 of this Law, for goods whose intra-Community supply or acquisition, in order to be placed in those situations or linked to those arrangements would have benefited from the exemption from tax under the provisions of those Articles and Article 26(1), or would have been the subject of supplies or services equally exempted by those Articles.

By way of derogation from the preceding paragraph, the cessation of the situations referred to in Article 23 and the termination of the arrangements referred to in Article 24 of this Law shall not constitute an operation treated as imports of the following goods: tin (CN code 8001), copper (CN codes 7402, 7403, 7405 and 7408), zinc (CN code 7901), nickel (CN code 7502), aluminium (CN code 7601), lead (CN code 7801), indium (CN codes ex 8112 92 and ex 8112 99), silver (CN code 7106) and platinum, palladium and rhodium (CN codes 7110 11 00, 7110 21 00 and 7110 31 00).

In these cases, the cessation of the situations or the termination of the aforementioned arrangements will lead to the settlement of the tax in the terms established in section six of the Annex to this Law.

In the case of petrol, diesel and biofuels intended to be used as fuel under headings 1.1, 1.2.1, 1.2.2, 1.3, 1.13 and 1.14 of Tariff 1 of Article 50(1) of Law 38/1992 of 28 December 1992 on Excise Duties, discharge of the warehousing procedure other than customs warehousing referred to in Article 24(1)(f) of this Law shall in any event be deemed to have been effected by the last depositor of the product to be extracted from the tax warehouse, to whom the corresponding Hydrocarbon Tax shall be passed on and who shall be required to pay Value Added Tax in respect of the transaction treated as importation, or by the holder of the tax warehouse if they are the owner of the product. Likewise, the last depositor of the product extracted, or the holder of the tax warehouse if they are the owner of the product, shall be obliged to guarantee the payment of the Value Added Tax corresponding to the subsequent taxable and non-exempt supply of the goods extracted from the tax warehouse, in the manner provided for in paragraph 11 of the Annex to this Law.

However, the cessation of the situations referred to in Article 23 or the termination of the arrangements referred to in Article 24 shall not constitute an operation treated as imports where it determines a supply of goods to which the exemptions provided for in

Articles 21, 22 or 25 of this Law apply.'

Two. Section Two(1)(1.º) of Article 91 is amended and reads as follows:

'Two. The rate of 4 % shall be applied to the following operations:

1. Supplies, intra-Community acquisitions or imports of the following goods:

1.º The following products:

a) common bread, as well as frozen common bread dough and frozen common bread intended exclusively for the production of common bread;

b) bread flour;

c) the following types of milk produced by any animal species: natural, certified, pasteurised, concentrated, skimmed, sterilised, UHT, evaporated, powdered and fermented;

d) cheese;

e) eggs;

f) fruit, vegetables, pulses, tubers and cereals, which have the status of natural products in accordance with the Food Code and the provisions enacted for its development;

g) olive oil.'

Three. An eleventh paragraph is added to the Annex, which reads as follows:

'Eleventh. Guarantees for the payment of Value Added Tax on certain fuels leaving the non-customs warehousing procedure referred to in the third paragraph of Article 19(5) of this Law.

1.º The last depositor of the products referred to in the third paragraph of Article 19(5) of this Law that are extracted from the tax warehouse, or the holder of the tax warehouse if they are the owner of said products, shall be obliged to establish and maintain a guarantee that ensures the payment of Value Added Tax corresponding to the taxable and non-exempt supplies that are subsequently made of said goods.

2.º The above shall not apply when the last depositor or, where applicable, the holder of the tax warehouse fulfils any of the following requirements:

a) they have the status of authorised economic operator recognised in accordance with Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code;

b) they have the status of reliable operator recognised for meeting the following conditions:

a') be registered in the register of extractors;

b') have a volume of extractions during the previous calendar year of at least 1 billion litres of petrol, diesel and biofuels intended for use as fuel referred to in the third paragraph of Article 19(5.º) of this Law;

c') have carried out operations as a wholesale operator during the previous 3 years; and

d') comply with the financial solvency requirements laid down in Article 39 of Regulation (EU) No 952/2013 and in Article 26 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015.

By order of the Minister of Finance, the procedure for recognising the status of reliable operator will be determined and the creation and maintenance of a register of reliable operators will be regulated.

3.º The guarantee referred to in point 1.º shall take one of the following forms:

a) Guarantee from a credit institution, financial institution, or insurance company accredited in the European Union, which globally guarantees the payment of the Value Added Tax corresponding to the taxable and non-exempt supplies made subsequently and meets the following requirements:

– the minimum amount of the guarantee shall be 110 % of the amount of Value Added Tax corresponding to the transactions treated as imports referred to in the third

paragraph of Article 19(5.º) of this Law carried out in the two months immediately preceding;

– where no transactions treated as imports as referred to in the third paragraph of Article 19(5) of this Law have been carried out in the previous two months, the minimum amount of the guarantee shall be established on the basis of the forecast of activity duly justified, with a minimum of EUR 3 million;

– the amount of the guarantee shall be updated monthly and, in any case, when the guarantee is insufficient to reach 110 % of the Value Added Tax corresponding to the operation treated as the import to be carried out, after deducting the amounts corresponding to the guaranteed extractions carried out;

– the guarantee shall be lodged in favour of the tax administration or administrations competent for the levying of the guaranteed tax;

– the competent authority may execute the guarantee when, three months after the removal of the goods from the tax warehouse and abandonment of the non-customs warehousing procedure, there is no justification either for the payment of the Value Added Tax corresponding to a taxable and non-exempt supply of the goods made by the taxable person after the removal of those goods from the tax warehouse, or for the use by that taxable person of the said goods in a use other than the making of such a supply;

– by order of the Minister of Finance, the requirements and management processes of these guarantees will be developed.

b) Payment on account of the Value Added Tax corresponding to a taxable and non-exempt supply of such goods made subsequently. Payment on account shall be for an amount equal to 110 % of the Value Added Tax corresponding to the transaction treated as importation referred to in the third paragraph of Article 19(5) of this Law and shall be made in the place, form and document established by the competent tax authorities referred to in point
(a) above. The payment on account may be deducted by the taxable person in the self-assessment for the assessment period in which the Value Added Tax was recorded (or declared) for the subsequent supply or the justified use of the product extracted from the tax warehouse by that taxable person in a use other than the making of such a supply.

4.º The last depositor, before the extraction of the products from the tax warehouse, must justify to the holder of the tax warehouse any of the following circumstances:

– That they are an authorised economic operator or reliable operator, certified by the competent tax administration for the verification and review of compliance with the corresponding requirements.

– That there is a sufficient guarantee, by certification from the tax authority referred to in point 3.º(a) above in the case of a guarantee or, in the case of payment on account of the tax, by proof of the payment made that incorporates the Complete Reference Number ('NRC'), the volume and the type of product to which it refers.

Once the competent tax authority has verified the adequacy of the guarantee or sufficiency of the payment, it will authorise the removal of the product from the tax warehouse.

The procedure for authorising the removal of the product from the tax warehouse shall be concluded by an express decision of the competent tax authority, in which the removal of the product from the tax warehouse shall be agreed or refused, which may be done by means of an electronic code.

If the holder of the tax warehouse allows fuels to leave the warehouse without prior proof of any of the aforementioned circumstances, they shall be jointly and severally liable for the payment of the tax liability corresponding to the supply subject to and not exempt from Value Added Tax referred to in the previous point 1.º. Unless there is proof to the contrary, it shall be presumed that the amount of Value Added Tax of the tax liability payable by the jointly and severally liable party is 110 % of the amount of Value Added Tax corresponding to the transaction treated as importation referred to in the third paragraph of Article 19(5) of this Law.

5.º1 During the month following the entry into force of the Order referred to in

point 2.º(b) above, the last depositor of the products, or the holder of the tax warehouse if they are the owner of the products, shall not be obliged to guarantee the payment of the Value Added Tax corresponding to the taxable and non-exempt supply that they themselves subsequently make of said goods.

2. During that same period, the depositor or, where appropriate, the holder of the tax warehouse, may request recognition of the status of reliable operator in the terms provided for in said Order.

3. The transitional regime shall cease to apply when such a request for the recognition of the status of reliable operator is decided and, in any case, after the month following the entry into force of this paragraph of the Annex.

The end of the transitional period due to the expiration of the previous period without having resolved the request for recognition of the status of reliable operator will determine the obligation to ensure the payment of the Value Added Tax corresponding to the taxable and non-exempt supply that the last depositor of the products, or the holder of the tax warehouse if they are the owner of the products, subsequently makes of said goods in the terms provided in the previous point 3.

4. The tax authorities shall provide the holders of tax warehouses with the technical systems necessary to verify the application of this transitional regime.'

Second final provision. *Amendments to Law 38/1992 of 28 December 1992 on Excise Duties.*

The following amendments are made to Law 38/1992 of 28 December 1992 on Excise Duties, which shall take effect from 1 April 2025, with the exception of those relating to Article 15(7) and Article 53(7), which shall take effect from the entry into force of this Law, and Article 60(1), which shall take effect from 1 January 2025:

One. A paragraph 4 is added to Article 2, to read as follows:

'4. The Tax on Liquids for E-cigarettes and other Tobacco-related Products.'

Two. The first paragraph of Article 4(32) is amended to read as follows:

'32. 'Duty-free shops' means establishments located on the premises of an airport or port, in the area under customs control intended for the embarkation, transit or arrival of the passenger after passing security control and/or passport control for access, located on the Spanish mainland or on the Balearic Islands, which, in compliance with the requirements laid down by regulation, make deliveries of alcoholic beverages or manufactured tobacco or e-cigarette liquids, or nicotine pouches, or other nicotine products, duty-free, to passengers who transport them as personal luggage, on a flight or sea crossing, to a third country or a third territory.'

Three. Article 5(3) is amended to read as follows:

'3. The provisions of the preceding paragraphs are without prejudice to the provisions of Articles 23, 40 and 64a of this Law.

Four. The first paragraph of Article 7(1) is amended to read as follows:

'1. Without prejudice to the provisions of Articles 23, 28, 37, 40 and 64c of this Law, the tax shall be chargeable:'

Five. The first paragraph of Article 9(1) is amended to read as follows:

'1. Without prejudice to the provisions of Articles 21, 23, 42, 51, 61 and 64g of this Law, the manufacture and importation of products subject to manufacturing excise duty intended for the following purposes shall be exempt, under the conditions established by regulation:'

Six. The first paragraph of Article 10(1) is amended to read as follows:

'1. Without prejudice to the provisions of Articles 9, 17, 22, 23, 40, 43, 52, 62 and 64h of this Law, the following shall be entitled to a refund of manufacturing excise duty, under the conditions laid down by regulation:'

Seven. Article 15(5, 7 and 9) are amended as follows:

‘5. Without prejudice to Article 10(1)(c), Article 22(c), Article 40(3), Article 52(d), Article 62(b), and Article 64h(b), in cases where products are returned to the establishment of origin because they could not be delivered to the consignee for reasons beyond the control of the authorised dispatching warehousekeeper and in cases where the establishment in which the products are exempt ceases to operate, the entry into factories and tax warehouses of products subject to manufacturing excise duty for which the tax has already been incurred shall not be permitted.’

‘7. The movement and holding of products subject to manufacturing excise duty, for commercial purposes, must be covered by the documents established by regulation that prove that the tax has been paid in Spain or is under a duty suspension arrangement, under an exemption or an intra-Community or internal movement system with tax due, without prejudice to the provisions of Article 44(3).

As regards proof of payment of the tax in Spain, the above condition shall not be deemed to have been met where the tax authority establishes that the corresponding tax has not been paid to the Treasury.’

‘9. For the purposes of point (e) of the preceding paragraph, products shall be deemed to be held for commercial purposes, unless there is proof to the contrary, where the quantities exceed the following:

a) Tobacco products:

1.º cigarettes, 800 units;
2.º cigarillos, 400 units;
3.º cigars, 200 units;
4.º other tobacco products, 1 kilogram.

b) Alcoholic beverages:

1.º derived beverages, 10 litres;
2.º intermediate products, 20 litres;
3.º wines and fermented beverages, 90 litres;
4.º beers, 110 litres.

c) Tax on Liquids for E-cigarettes and other Tobacco-related Products:

1.º liquids for e-cigarettes: 40 millilitres;
2.º nicotine pouches: 400 units;
3.º other nicotine products: 500 grams.’

Eight. A paragraph 7 is added to Article 53, which reads as follows:

‘7. For the purposes of Article 8.2(h) of the Law, when the possession of hydrocarbons is for their distribution or for the refuelling of vehicles intended for the transport of goods or passengers, the invoice or equivalent document indicating the charge of the tax or the corresponding movement document shall not be sufficient to prove the payment of the Tax on Hydrocarbons in any of the following cases:

a) where the presence of products other than duly authorised tracers or markers and components permitted in the technical specifications is detected in such hydrocarbons;

b) when they have been acquired from operators not included in the list published by the National Energy Commission in accordance with Article 42(2) of Law 34/1998 of 7 October 1998 on the hydrocarbons sector.’

Nine. Article 60(1) is amended to read as follows:

‘1. The tax shall be levied at the following rate:

Heading 1. Cigars and cigarillos: except where the following paragraph applies, cigars and cigarillos shall be taxed at the rate of 15.8 %.

The amount of tax may not be less than the single rate of EUR 47 per 1 000 units.

Heading 2. Cigarettes: except where the last subparagraph of this heading applies,

cigarettes shall be taxed simultaneously at the following rates:

a) Proportional tax: 48.5 %.
b) Specific tax: EUR 33.50 per 1 000 cigarettes.

The amount of the tax may not be less than the single rate of EUR 150 per 1 000 cigarettes.

Heading 3. Roll-your-own tobacco: except in cases where the last paragraph of this heading applies, roll-your-own tobacco shall be taxed simultaneously at the following rates:

a) Proportional tax: 37.68 %.
b) Specific tax: EUR 33.4 per kilogram.

The amount of the tax may not be less than the single rate of EUR 112.5 per kilogram.

Heading 4. Other tobacco products: 34 %.

Other tobacco products shall be taxed at the single rate of EUR 30 per kilogram if the amount resulting from the application of the rate laid down in the preceding paragraph is less than the amount of that single rate.'

Ten. Chapter IX of Title I is amended to read as follows:

'CHAPTER IX

Tax on Liquids for E-cigarettes and other Tobacco-related Products

Article 64. *Objective scope.*

1. The target scope of the tax consists of liquids for electronic cigarettes, nicotine pouches and other nicotine products not covered by the scope of the Tobacco Products Tax, when these are not regarded as medicinal products.

2. For the purposes of this tax, liquids for e-cigarettes are liquids which, whether or not containing nicotine, may be used in e-cigarettes or similar vaporising devices or for refilling e-cigarettes or similar vaporising devices.

3. E-cigarette means a product that can be used for the consumption of vapour through a mouthpiece or any component of such a product, including a cartridge, a tank, and the device without a cartridge or tank, and that can be disposable or refillable by means of a refill container or tank, or refillable with single-use cartridges.

4. Nicotine pouches are products for oral administration containing nicotine but not tobacco, mixed with plant fibres or equivalent substrate, presented in a porous sachet or equivalent format.

5. For the purposes of this tax, other nicotine products shall mean products for final consumption containing nicotine, but not tobacco, other than nicotine pouches as defined in the preceding paragraph and e-cigarette liquids as defined in paragraph 1.

Article 64a. *Taxable event.*

In addition to the provisions of Article 5, the introduction into the domestic territory of products falling within the objective scope of the tax from the territory of other Member States shall be subject to the tax.

The movement and holding of the products subject to the tax, from the place of entry into the domestic territory to the place of receipt by the consignee, must be accompanied by a commercial document correctly identifying the date of commencement of dispatch, the consignor, the consignee, as well as the nature and quantity of the goods transported.

Article 64b. *Exemption.*

The introduction into the domestic territory of e-cigarette liquids, nicotine pouches, or other nicotine products shall not be subject to tax in the cases regulated by Article 6 of this Law.

Article 64c. *Payment.*

In addition to the provisions of Article 7 of this Law, the tax shall become chargeable in the event of the introduction into the domestic territory of the products subject to the tax, at the time of receipt by the recipient in that territorial area. However, where such products are introduced directly into a factory or tax warehouse, they shall be introduced under a duty suspension arrangement.

Article 64d. *Taxpayers.*

1. In addition to the provisions of Article 8 of this Law, in the event of the introduction of the products subject to the tax into the domestic territory, the consignors shall be taxpayers, unless such introduction is for commercial purposes, in which case the recipients of the products shall be taxpayers.

In any case, the holders of the electronic platforms that facilitate the delivery of the products subject to the tax within the domestic territory shall be considered consignors.

2. Travellers from a non-domestic Community territory who personally drive, shall also be taxpayers for products subject to the tax.

Article 64e. *Tax base.*

1. The taxable amount shall be constituted by the volume, expressed in millilitres, for e-cigarette liquids and by the weight of the product content, expressed in grams, for nicotine pouches and for other nicotine products.

2. If that volume or weight is expressed as a decimal number, it shall be rounded up to the next whole number when the first decimal place is five or more. It shall be rounded down in all other cases.

Article 64f. *Tax rate.*

The tax shall be levied at the following rates:

Heading 1: Liquid for e-cigarettes not containing nicotine or containing 15 milligrams of nicotine or less, per millilitre of product: EUR 0.15 per millilitre.

Heading 2: E-cigarette liquid containing more than 15 milligrams of nicotine per millilitre of product: EUR 0.20 per millilitre.

Heading 3: Nicotine pouches: EUR 0.10 per gram.

Heading 4: Other nicotine products: EUR 0.10 per gram.

Article 64g. *Exemptions.*

1. In addition to the provisions of Article 9 of this Law, the following shall be exempt under the conditions that, where applicable, are established by regulation:

a) The importation or introduction into the internal territory of the products subject to the tax carried personally by travellers over 17 years of age from territories other than the internal territory, provided that, in the case of liquids for e-cigarettes, they do not exceed 20 millilitres, or 200 units in the case of nicotine pouches or 200 grams in the case of other nicotine products.

b) The importation or introduction into the internal territory of the products subject to the tax, dispatched, on an occasional basis, from a territory other than the internal territory by an individual to another individual, without payment of any kind, provided that, in the case of liquids for e-cigarettes, they do not exceed 10 millilitres, or 30 units in the case of nicotine pouches or 150 grams in the case of other nicotine products.

c) The manufacture, importation, or introduction into the domestic territory of products subject to the tax that leave the domestic area for the territory of the Union and are under an excise duty suspension arrangement, which shall be deemed to have been discharged.

d) The manufacture, importation, or introduction into the domestic territory of products subject to the tax that are intended for scientific analyses or analysis related to the quality of the products, from factories or tax warehouses.

2. The manufacture, importation, or introduction into the domestic territory of

products subject to the tax that are intended to be delivered by duty-free shops and transported in the personal luggage of travellers who move, by air or sea, outside the domestic territory shall also be exempt.

3. The introduction into the domestic territory of products subject to the tax which are intended for the uses provided for in Article 9(1) of this Law shall be exempt from the tax.

Article 64h. *Refunds.*

In addition to the provisions of Article 10(1)(a) and (b) of this Law, the following shall be entitled to a refund of the tax in the form and under the conditions laid down, where appropriate, by regulation:

a) Owners of e-cigarette liquids, nicotine pouches, or other nicotine products, who destroy them under the control of the Tax Administration.

b) Owners of e-cigarette liquids, nicotine pouches or other nicotine products who return them to the factory for recycling.

c) Those who dispatch the products subject to the tax from the domestic territory to the territory of other Member States.

It shall be presumed, unless there is proof to the contrary, that the products have been dispatched outside the domestic territory when their supply is exempt from Value Added Tax, as it is an intra-Community supply, in accordance with the provisions of the regulations on Value Added Tax.

Article 64i. *Special provisions concerning intra-Community movement.*

The following provisions relating to intra-Community movement contained in Chapter I of Title I of this Law shall not apply to this tax. In particular:

a) Article 4(8), (10), (11), (12), (14), (15), (16), (27) and (34).
b) Article 7(1)(c), (d), (f), (g), (i) and (m).
c) Article 8(2)(c), (d), (e) and Article 8(3), (4), (6) and (9);
d) Article 10(1)(c), (d) and (e).
e) Article 13(2).
f) Article 15(7).
g) Article 16(2), (3) and (4).
h) Article 17.'

Eleven. A ninth transitional provision is added, worded as follows:

'Ninth transitional provision. *Filing of an informative return on the Tax on Liquids for E-cigarettes and other Tobacco-related Products.*

During the 30 days following the entry into force of the Tax on Liquids for E-cigarettes and other Tobacco-related Products, those who store products subject to it for commercial purposes shall submit to the electronic headquarters of the State Tax Administration Agency an informative declaration specifying the type and quantity of product stored at the time of the entry into force of the tax. In particular, that declaration must indicate the classification of the products according to the sections corresponding to the tax rates regulated in Article 64e of this Law.

It is a serious tax infringement not to submit the previous return on time, or to submit it incompletely, inaccurately, or with false information. The penalty shall consist of a fixed pecuniary fine of EUR 500 and the provisions of Article 188 of Law 58/2003 of 17 December 2003 shall apply.'

Twelve. A tenth transitional provision is added, worded as follows:

'Tenth transitory provision. *Regularisation of products subject to the Tax which are stored at the entry into force of the Tax on Liquids for E-cigarettes and other Tobacco-related Products.*

The possession of products subject to the Tax on Liquids for E-cigarettes and other

Tobacco-related Products that are stored for commercial purposes at the time of the entry into force of said Tax will be subject to the Tax.

Those who own these products will be taxpayers.

The chargeable event shall occur on the date of entry into force of the Tax, unless those products are placed under the excise duty suspension arrangement within a factory or tax warehouse.

The applicable tax rate is that laid down in Article 64f.

The self-assessment must be submitted from 1 to 20 July 2025, under the conditions and using the models determined by the Minister of Finance.'

Thirteen. An eleventh transitional provision is added, worded as follows:

'Eleventh transitional provision. *Deadline for submission of the self-assessments for the Tax on Liquids for E-cigarettes and other Tobacco-related Products corresponding to the first three months following the entry into force of the Tax.*

Self-assessments for the settlement periods of April, May and June 2025 shall be submitted from 1 to 20 July 2025.'

Fourteen. A paragraph is added to the second final provision, which reads as follows:

'Furthermore, in relation to the Tax on Liquids for E-cigarettes and other Tobacco-related Products, the Budget Laws of each year may amend the objective scope, the definitions of the taxed products, and the headings under which the tax rates are determined.'

Third final provision. *Amendment of the Value Added Tax Regulation, approved by Royal Decree 1624/1992 of 29 December 1992, on the VAT settlement period for transactions relating to tax warehouses, petrol, diesel and other fuels.*

Amendment of the Value Added Tax Regulation, approved by Royal Decree 1624/1992 of 29 December 1992.

A new point 5.º is added to Article71(3) with the following wording:

'5.º Holders of tax warehouses for petrol, diesel or biofuels falling within the scope of the Hydrocarbons Tax, as well as entrepreneurs or professionals who extract these products from tax warehouses.'

Fourth final provision. *Amendments to Law 19/1994 of 6 July 1994 Amending the Economic and Fiscal Regime of the Canary Islands.*

With effect for tax periods starting on or after 1 January 2025, the following amendments to Article 27(4) and (8) of Law 19/1994 of 6 July 1994 amending the Economic and Fiscal Regime of the Canary Islands shall be introduced:

One. Article 27(4) is amended to read as follows:

'4. The amounts allocated to the reserve for investments in the Canary Islands must be materialised within a maximum period of three years, counted from the date of the accrual of the tax corresponding to the financial year in which the reserve was set aside, in the realisation of any of the following investments:

A. Initial investments consisting of the acquisition of new tangible or intangible assets as a result of:

– The creation of an establishment.
– The extension of an establishment.
– Diversification of the activity of an establishment for the elaboration of new products.
– Substantial transformation in the production process of an establishment.

In no case may the reserve for investments in the Canary Islands be used for the acquisition of real estate for housing for tourist purposes.

Investments in land, whether built or not, shall also be considered as initial investments, provided that they have not previously benefited from the scheme

provided for in this Article and that they are used for:

– the development of protected housing, where this classification is appropriate in accordance with the provisions of Decree 27/2006, of 7 March 2006, which regulates the actions of the Housing Plan of the Canary Islands, and the housing is intended for lease by the developer company;

– the renovation of protected housing, in accordance with the provisions of Law 2/2003, of 30 January 2003, on Housing on the Canary Islands, intended for rental by people registered in the Public Registry of Applicants for Protected Housing of the Canary Islands, in accordance with the provisions of the Order of 24 September 2009, which regulates the system of registration, operation and structure of said Registry;

– the development of industrial activities included in divisions 1 to 4 of the first section of the rates of the Tax on Economic Activities, approved by Royal Legislative Decree 1175/1990, of 28 September 1990, approving the rates and the instruction of the Tax on Economic Activities;

– socio-health activities, residential centres for the elderly, geriatric centres and neurological and physical rehabilitation centres;

– commercial areas that are subject to a renovation process;

– the tourist activities regulated in Law 7/1995, of 6 April 1995, on the Regulation of Tourism in the Canary Islands, the acquisition of which is for the purposes of the restoration of a tourist establishment.

For the sole purpose of including in the amount of the materialisation of the Reserve the value corresponding to the land, the actions aimed at the renovation, extension or improvement will be considered rehabilitation works provided that they meet the necessary conditions to be incorporated into the tangible fixed assets as an increase in the value of the property.

In the case of intangible fixed assets, these must be rights of use of industrial or intellectual property, non-patented knowledge, in the terms determined by regulation, and administrative concessions, and must meet the following requirements:

– they are used exclusively in an establishment which satisfies the conditions set out in this point;

– they are amortisable;

– they are acquired from third parties under market conditions. In the case of administrative concessions, it shall be understood that they are acquired under market conditions when they are the subject of a competitive procedure;

– they are included in the assets of the company.

In the case of taxpayers who meet the conditions of Article 101 of Law 27/2014, of 27 November 2014, on Corporate Tax, in the tax period in which the profit against which the reserve is allocated is obtained, the investment may consist of the acquisition of used fixed assets, provided that the acquired assets have not previously benefited from the regime provided for in this Article. In the case of land, the conditions laid down in this point must in any case be complied with.

The terms under which it is understood that the creation or expansion of an establishment and the diversification and substantial transformation of its production occur shall be determined by regulation.

B. The creation of jobs directly related to the investments provided for in point A, occurring within a period of six months from the date of entry into operation of such investment.

The creation of jobs will be determined by the increase in the average total workforce of the taxpayer in that period compared to the average workforce in the 12 months prior to the date of entry into operation of the investment, provided that said increase is maintained for a period of five years, except in the case of taxpayers who meet the conditions of Article 101 of Law 27/2014, of 27 November 2014, on Corporate Tax, in the tax period in which the profit from which the reserve is allocated is obtained, who must maintain this increase for three years.

For the calculation of the average total workforce of the company and its increase, the persons employed will be taken into account in the terms established by the employment legislation, taking into account the contracted day in relation to the full

working day.

Ba. The creation of jobs carried out in the tax period that cannot be considered as an initial investment because they do not meet any of the requirements set out in point B above, with the limit of 50 % of the allocations to the Reserve made by the taxpayer in the tax period.

C. The acquisition of tangible or intangible fixed assets that cannot be considered as an initial investment because they do not meet any of the conditions established in letter A above, the investment in assets that contribute to the improvement and protection of the environment in the Canary Islands, as well as those research and development expenses that are determined by regulation.

Under no circumstances may the reserve for investment in the Canary Islands be used for the refurbishment or renovation of properties intended for housing for tourist purposes.

In the case of vehicles for transport of passengers by sea or road, they must be dedicated exclusively to public services in the scope of functions of general interest that correspond to the public needs of the Canary Islands.

In the case of land, whether built on or not, it must be used for:

– the development of protected housing, where this classification is appropriate in accordance with the provisions of Decree 27/2006, of 7 March 2006, which regulates the actions of the Housing Plan of the Canary Islands, and the housing is intended for lease by the developer company;

– the renovation of protected housing, in accordance with the provisions of Law 2/2003, of 30 January 2003, on Housing on the Canary Islands, intended for rental by people registered in the Public Registry of Applicants for Protected Housing of the Canary Islands, in accordance with the provisions of the Order of 24 September 2009, which regulates the system of registration, operation and structure of said Registry;

– the development of industrial activities included in divisions 1 to 4 of the first section of the rates of the Tax on Economic Activities, approved by Royal Legislative Decree 1175/1990, of 28 September 1990, approving the rates and the instruction of the Tax on Economic Activities;

– socio-health activities, residential centres for the elderly, geriatric centres and neurological and physical rehabilitation centres;

– commercial areas that are subject to a renovation process;

– the tourist activities regulated in Law 7/1995, of 6 April 1995, on the Regulation of Tourism in the Canary Islands, the acquisition of which is for the purposes of the restoration of a tourist establishment.

For the sole purpose of including the value corresponding to the land in the amount of the materialisation of the Reserve, the actions aimed at the renovation, extension or improvement will be considered rehabilitation works, provided that they meet the necessary conditions to be incorporated into the tangible fixed assets as an increase in the value of the property.

D. The subscription of:

1.º Shares or ownership interests in the capital issued by companies as a result of their constitution or increase of capital that carry out their activity in the archipelago, provided that the following requirements are met:

these companies shall make the investments provided for in points A, B, Ba and C above, under the conditions laid down in this Article, without prejudice to the provisions of the second subparagraph of paragraph 1 of this Article; provided that both the entity subscribing to the capital and the entity making the investment meet the conditions of Article 101 of Law 27/2014, of 27 November 2014, on Corporate Tax, in the tax period in which the profit against which the reserve is allocated is obtained, it will be possible to make the investments of the aforementioned letters A, B, Ba and C under the terms and conditions provided for this type of taxpayer;

these companies must make these investments within three years of the date on which the tax accrued corresponding to the year in which the taxpayer who acquired the shares or ownership interests in their capital had set up the reserve regulated in this article;

the assets thus acquired must be kept in operation in the Canary Islands under the terms provided for in this article;

the amount of the acquisition value of the investments made by the investee company must reach, at least, the amount disbursed for the shares or ownership interests acquired by the taxpayer;

the investments made by the investee company shall not give rise to the application of any other tax benefits, except those provided for in Article 25 of this Law.

For this purpose, the subscriber to the capital shall duly communicate to the issuing company the nominal value of the shares or ownership interests acquired as well as the date on which the period for the materialisation of its investment ends. The issuing company shall duly communicate to the entity subscribing to its capital the investments made in respect of its shares or ownership interests whose subscription has led to the materialisation of the reserve as well as the date of the investments. Investments made shall be deemed to be financed by funds derived from shares or ownership interests issued in the order in which they were actually disbursed. In the case of disbursements made on the same date, they shall be deemed to contribute proportionately to the financing of the investment.

2.º Shares or ownership interests in the capital issued by entities of the Canary Islands Special Zone as a result of their constitution or increase in capital, provided that the requirements and conditions established in point 1.º of this letter D and those provided for in Chapter I of Title V of this Law are met. In addition, the following conditions must be met:

The amount of the issue or increase in capital intended for the materialisation of the Reserve may not be applied, in any case, to the fulfilment of the minimum investment requirements of the entities of the Canary Special Zone regulated in Article 31 of this Law.

The person or entity that subscribes the shares or ownership interests issued may not transfer or assign the use to third parties of the assets affected by their economic activity, existing in the financial year prior to the subscription, in that financial year or in the four subsequent financial years, unless their useful life has ended and they are replaced or they are transactions carried out in the normal course of their activity by taxpayers who are engaged, through economic operation, in the lease or assignment to third parties for their use of the fixed assets, provided that there is no link, directly or indirectly, with the lessees or assignees of said assets, in the terms defined in Article 18(2) of Law 27/2014, of 27 November 2014, on Corporate Tax, nor are they financial leasing operations. Under no circumstances may they be transferred or assigned to the entity of the Canary Special Zone whose shares they subscribe or to another person linked to the latter in the terms indicated above.

The person or entity that subscribes the shares or ownership interests issued shall not reduce its average total workforce, existing in the financial year prior to the subscription, in the four subsequent financial years. For the calculation of the average total workforce of the company, the persons employed will be taken into account in the terms established by the employment legislation, taking into account the contracted day in relation to the full working day.

3.º Any financial instrument issued by financial institutions, provided that the funds raised for the purpose of materialising the Reserve are destined for the financing in the Canary Islands of private projects, whose investments are eligible in accordance with the provisions of this article, provided that the issuances are supervised by the Government of the Canary Islands, and have a binding report from the State Tax Administration Agency, in the terms established by regulation.

For these purposes, the taxpayer who materialises the Reserve will duly proceed to communicate to the financial institution the amount of it as well as the date on which the deadline for materialisation ends. The latter, in turn, will duly inform the taxpayer of the investments made as well as their date. Investments made shall be deemed to be financed in the order in which the actual disbursement took place. In the case of disbursements made on the same date, they shall be deemed to contribute proportionately to the financing of the investment.

The investments made will not give rise to the application of any other tax benefit,

except those provided for in Article 25 of this Law.

4.º Public debt securities of the Autonomous Community of the Canary Islands, of the Canary Islands Local Corporations or of their public companies or autonomous bodies, provided that they are used to finance investments in infrastructure and equipment or for the improvement and protection of the environment in the Canary Islands territory, or for the rehabilitation of protected housing intended for rental by people registered in the Public Registry of Applicants for Protected Housing of the Canary Islands, with a limit of 50 % of the allocations made in each financial year.

For this purpose, the National Government will approve the amount and destination of the issues, based on the proposals that the Autonomous Community of the Canary Islands formulates in this regard, following a report from the Public Investment Committee.

5.º Securities issued by public bodies that proceed to the construction or operation of infrastructure or equipment of public interest or to the rehabilitation of protected housing intended for rental by people registered in the Public Registry of Applicants for Protected Housing of the Canary Islands, for the public administrations in the Canary Islands, when the financing obtained with said issuance is exclusively destined for such construction or operation, with a limit of 50 % of the allocations made in each financial year.

For this purpose, the National Government will approve the amount and destination of the issues, based on the proposals that the Autonomous Community of the Canary Islands formulates in this regard, following a report from the Public Investment Committee.

6.º Securities issued by entities that proceed to the construction or operation of infrastructure or equipment of public interest for public administrations in the Canary Islands, once the corresponding administrative concession or administrative title has been obtained, when the financing obtained with said issuance is exclusively destined for such construction or operation, with a limit of 50 % of the allocations made in each financial year and in accordance with the terms laid down by regulation. The issue of the corresponding securities shall be subject to prior administrative authorisation by the competent administration for the granting of the corresponding enabling administrative title.

For these purposes and in the case of public sector entities, the National Government will approve the amount and destination of the issues, based on the proposals that the Autonomous Community of the Canary Islands may formulate in this regard, following a report from the Public Investment Committee.'

Two. Article 27(8) is amended to read as follows:

'8. The assets in which the investment reserve referred to in paragraph 4(A) and (C) have been materialised, as well as those acquired under point (D) of that paragraph, must remain in operation in the acquirer's business for at least five years, without being transferred, leased or transferred to third parties for their use. Where they are held for less than that period, this requirement shall not be deemed to have been breached where another asset is acquired to replace it with its net book value, either before or within six months of its derecognition from the balance sheet, which satisfies the requirements for the application of the reduction provided for in this Article and which remains in operation for the time necessary to complete that period. It cannot be understood that this new acquisition implies the materialisation of the amounts allocated to the reserve for investments in the Canary Islands, except for the amount of it that exceeds the net book value of the asset item that is replaced and that was considered to materialise the reserve regulated in this article. In the case of land acquisition, the term shall be ten years.

In cases of loss of the asset item, it must be replaced in the terms provided in the previous paragraph.

Taxpayers engaged in the economic activity of leasing or cession to third parties, for their use, of fixed assets may benefit from the investment reserve system, provided that there is no link, directly or indirectly, with the lessees or transferees of said assets, in the terms defined in Article 18(2) of Law 27/2014, of 27 November 2014, on Corporate Tax, nor are they financial leasing operations. For these purposes, it will be understood that the leasing of real estate is carried out as an economic activity only when the circumstances provided for in Article 27(2) of Law 35/2006 are met.

In the case of leasing of real estate, in addition to the conditions provided for in the previous paragraph, the taxpayer must either be considered a tourist company in accordance with the provisions of Law 7/1995, of 6 April 1995, on the Regulation of Tourism in the Canary Islands; be engaged in the leasing of protected housing by the developer; be engaged in the leasing of protected housing rehabilitated for people registered in the Public Registry of Applicants for Protected Housing of the Canary Islands; be engaged in real estate for the development of industrial activities included in divisions 1 to 4 of the first section of the rates of the Tax on Economic Activities, approved by Royal Legislative Decree 1175/1990, of 28 September 1990, approving the rates and the instruction of the Tax on Economic Activities; or engaged in commercial zones located in areas whose tourist offer is in decline, due to the need for integrated interventions for the rehabilitation of urban areas, according to the terms defined in the general planning guidelines of the Canary Islands, approved by Law 19/2003, of 14 April 2003.

In the case of the securities referred to in paragraph 4(D), they must remain in the assets of the taxpayer for five uninterrupted years, without the rights of use or enjoyment associated with them being transferred to third parties.'

Fifth final provision. *Amendment of the Excise Duty Regulation, approved by Royal Decree 1165/1995 of 7 July 1995.*

With effect from 1 April 2025, the Excise Duty Regulation, approved by Royal Decree 1165/1995 of 7 July 1995, is hereby amended as follows:

One. Article 1(4) and (5) are amended to read as follows:

'4. Electronic administrative document. The electronic document established by Council Directive 2020/262/EU of 19 December 2019 laying down the special arrangements for excise duty, and the Commission Delegated Regulation (EU) 2022/1636 of 5 July 2022 covering the intra-Community movement, under suspension of excise duty, of products subject to manufacturing excise duty, excluding the Tax on Liquids for E-cigarettes and other Tobacco-related Products.

The electronic administrative document, with the adaptations and exceptions provided for in this Regulation and in the implementing legislation, shall also be used to cover the movement of products subject to manufacturing excise duty, under a duty suspension arrangement or with the application of an exemption or at a reduced rate, originating in and intended for the domestic territory.'

'5. Simplified electronic administrative document. The electronic document established by Directive 2020/262/EU to cover the intra-Community movement of products subject to manufacturing excise duty, excluding the Tax on liquids for cigarettes and other tobacco-related products, according to the guaranteed shipment procedure.'

Two. Article 4(2, 4 and 5) are amended as follows:

'2. In the case of the exemption relating to purchases made by the armed forces referred to in Article 9(1)(c) and (g) of the Law, in the case of products subject to taxes on alcohol and alcoholic beverages, the Tax on Tobacco Products, fuels within the objective scope of the Tax on Hydrocarbons or products subject to the Tax on Liquids for E-cigarettes and other Tobacco-related Products, the procedure for the application of the benefit shall begin with the request to the Ministry of Defence for accreditation of compliance with the conditions set out in the respective international conventions signed by Spain in the scope of NATO or in the applicable provisions of Union law, as appropriate in each case. Once this accreditation has been obtained, the beneficiary of the exemption shall request its application from the managing office. This request, which will be accompanied by the previously mentioned accreditation, shall specify the class and quantity of products to be purchased with exemption, according to the anticipated needs.

The managing office shall issue the supply authorisation with exemption from manufacturing excise duty, for the quantity appropriate to the justified consumption needs. The exemption certificate shall specify the nature and quantity of the excisable

goods which may be supplied with exemption, the value of the goods and the identity of the exempt consignee.'

'4. The products referred to in paragraphs 2 and 3 above shall be supplied as follows:

a) In the case of products imported or having the customs status of non-Union goods, from the customs office of release for free circulation or, where applicable, from a free zone or from a customs warehouse.

b) In the case of products located in the internal territory, from a factory, tax warehouse or bonded warehouse.

c) The data entries in the accounts of the establishments referred to in points (a) and (b) above shall be supported by the relevant supply authorisations and copies of the movement document referred to in point (e) below.

d) Except in the case of products subject to the Tax on Liquids for E-cigarettes and other Tobacco-related Products, in the case of products, which are supplied from the territory of other Member States, the beneficiaries of the exemptions may receive them directly under excise duty suspension arrangements. In this case, the supply authorisations shall be issued in the form of an "exemption certificate", specifying the nature and quantity of the excisable goods to be delivered, the value of the goods and the identity of the exempted consignee, a specimen of which shall be drawn up on behalf of the Minster of Finance and shall accompany the document in which the Administrative Reference Code (ARC) is reflected. The beneficiary of the exemption shall complete the electronic notification of receipt.

e) Where, in the cases referred to in points (a) and (b) above, the products are moved from and to the internal territory, their movement from the place of dispatch to their destination shall be covered by an electronic administrative document. The beneficiary of the exemption shall formalise the notification of receipt. The managing office may, at the request of that beneficiary, authorise the notification to be made by means other than electronic means.'

'5. In the cases of exemption referred to in Article 9(1)(e) and (f) of the Law, in relation to excise duties on alcohol and alcoholic beverages, the Tax on Tobacco Products and the Tax on Liquids for E-cigarettes and other Tobacco-related Products, the destination shall be accredited in accordance with the provisions of the customs regulations in force.

The Minster of Finance shall determine the maximum quantity of alcoholic beverages, tobacco products, liquids for e-cigarette, nicotine pouches or other nicotine products with which ships and aircraft carrying out international sea or air navigation may be supplied, with exemption from tax, taking into account the duration of such navigation, as well as the number of crew and passengers.'

Three. Article 19(2), (3) and (7) are amended to read as follows:

'2. Products subject to manufacturing excise duty which are imported pursuant to the exemptions provided for in Article 21(2), Article 51(5) and (6), Article 61(2) and Article 64g(1)(a) of that Law shall not need a document to cover their movement.

3. Products subject to manufacturing excise duty which are bought within their territory by private individuals for their own consumption and which these individuals transport themselves shall not require a document to cover their movement, provided that they are not intended for commercial purposes in accordance with the following rules:

a) Acquisitions made in the territory of other Member States. Where the goods acquired:

1.º Do not exceed the quantities listed in Article 15(9) of the Law in the case of alcoholic beverages, tobacco, liquids for e-cigarettes, nicotine pouches or other nicotine products, or 5 litres in the case of undenatured alcohol or of fully denatured alcohol.

2.º Do not circulate through atypical forms of transport, as defined in Article 15(10) of the Law, in the case of hydrocarbons and without prejudice to the provisions of paragraph 3.º below.

3.º Do not exceed 40 kilograms net in the case of liquefied petroleum gases in

cylinders or 20 kilograms in the case of kerosene.

b) Acquisitions made from retailers in the internal territory. Where the goods acquired:

1.º Do not exceed the quantities listed in Article 15(9) of the Law in the case of alcoholic beverages, tobacco, liquids for e-cigarettes, nicotine pouches or other nicotine products. However, in the case of derived beverages or tobacco products, they must bear the appropriate seal.

2.º Do not exceed 5 litres if it is undenatured alcohol or fully denatured alcohol.

3.º Do not exceed 200 litres or kilograms and do not circulate by atypical forms of transport, as defined in Article 15(10) of the Law, in the case of hydrocarbons and without prejudice to the provisions of the following point.

4. º Do not exceed 40 kilograms net in the case of liquefied petroleum gases in cylinders or 20 kilograms in the case of kerosene.'

'7. The movement of products subject to manufacturing excise duty, other than liquids for e-cigarettes, nicotine pouches or other nicotine products, outside the excise duty suspension arrangements, which starts and ends in the internal territory through the territory of another Member State shall be covered by a simplified electronic administrative document. In addition, the consignor and consignee of the taxed goods must communicate the dispatch and receipt of the goods to the managing offices to which they are attached.'

Four. Paragraph 16 is added to Article 43, to read as follows:

'16. Paragraphs 1 to 11 of this Article shall not apply to manufacturers, holders of tax warehouses or registered consignors of products subject to the Tax on Liquids for E-Cigarettes and other Tobacco-related Products, who shall provide a guarantee of EUR 6 000, except in the case of duty-free shops, which shall be exempt from the provision of that guarantee.'

Five. Article 44(3) is amended to read as follows:

'3. The settlement periods and deadlines for the submission of the self-assessment and, where applicable, simultaneous payment of the tax liability shall be as follows:

a) Taxes on Hydrocarbons, on Tobacco Products, and on Liquids for E-cigarettes and other Tobacco-related Products.

Settlement period: one calendar month.

Deadline: the first twenty calendar days following the end of the month in which the accruals have been incurred.'

Six. Chapter IX is added to Title I and reads as follows:

'CHAPTER IX

Tax on Liquids for E-cigarettes and other Tobacco-related Products

Article 130. *Destruction of the products subject to the tax.*

1. The destruction of the products subject to the tax so that it has the effects provided for in Article 64b of the Law, will be requested from the management offices corresponding to the factories or to tax warehouses.

2. The application shall state the reasons why destruction is advisable, the types and quantities of products to be destroyed and the procedure proposed for carrying out such operations.

3. The managing office shall, where appropriate, authorise the destruction by informing the applicant and the intervention service, so that the latter can witness the operations and take the appropriate steps to justify the appropriate entries in the statutory accounts.

4. The managing offices may authorise the destruction of products, in stock in factories or tax warehouses, outside these facilities, when there are reasons that make it impossible to carry out the destruction within them, having the effects provided for in

paragraph 1 above. In such cases, the destruction shall also be carried out under the supervision of the intervention services.

5. Compliance with the provisions of the previous paragraphs will not be necessary when the quantities to be destroyed, together with the losses incurred in the factory or tax warehouse, do not exceed the statutory percentages of losses.

Article 131. *Scientific analysis or analysis of quality.*

1. The application of the exemption provided for in Article 64g(1)(d) of the Law shall be requested from the intervention service of the factory or tax warehouse, indicating in the request the centre where the analyses are to be carried out, the nature of the analyses and the type and quantity of products that must be sent for the purposes of the analysis.

2. The controller of the establishment shall authorise, where appropriate, the dispatch of the necessary products which shall be covered by a movement order making reference to the authorisation granted.

3. Compliance with the provisions of the previous sections will not be necessary, when the amounts necessary for the analysis, together with the losses incurred in the factory or tax warehouse, do not exceed the statutory percentages of losses.

Article 132. *Exemption for duty-free shops.*

The application of the exemption referred to in Article 64g(2) of the Law shall be carried out in accordance with the following rules:

1. Duty-free shops, which must be registered in the territorial registers of the relevant managing offices as tax warehouses, shall require purchasers of taxable products to show the transport ticket, by air or sea, showing an airport or port located outside the internal territorial area as the final destination.

2. These shops must keep proof of sales of the products to which the exemption has been applied, stating the date of sale, the number of the flight or sea crossing to be made, the port or airport of final destination and the quantity of products sold.

Article 133. *Recycling and destruction.*

The refund benefit referred to in points (a) and (b) of Article 64h of the Law shall be applied in accordance with the following procedure:

1. The owner of the products will request the application of the benefit to the managing office corresponding to the establishment where the products are located. The written communication shall state the following:

a) Identification data of the applicant and the establishment where the products are located.

b) Class and quantity of products for which the refund is requested.

c) Cause for which the destruction or return of the products is requested.

d) Data relating to the supplier of the goods and the date on which it was purchased, and photocopies of the corresponding movement document and invoice must be attached.

e) Identification details of the authorised warehousekeeper to whom, where appropriate, the products are to be returned, as well as the factory or tax warehouse to which the products are to be sent, attaching a document accrediting the compliance of the authorised warehousekeeper with respect to the return of the products.

f) Proposed procedure for destruction, as well as the premises where such an operation may take place.

2. When the return of the products to the factory for recycling has been requested, the managing office, after carrying out the checks it deems appropriate, will resolve the request, authorising, where appropriate, the return of the products to the factory indicated in the request, determining the quota to be returned. This authorisation shall be notified to the managing office of the destination establishment.

3. The authorised warehousekeeper shall debit the products returned in the stock records, justifying the entry with the agreement of the managing office that authorised

the return. That depositary may deduct, from the amount corresponding to the tax period in which the returned products entered, the amount of the tax whose refund has been agreed.

4. The authorised warehousekeeper shall pay the amount of the refund to the applicant.

5. When the destruction of the products has been opted for, this will take place, once authorised by the managing office, in the presence of the inspection services who will draw up the corresponding report. The managing office, if applicable, will determine the amount to be refunded and will agree on its payment.

Article 134. *Special management rules.*

1. Those who hold the status of taxpayers in accordance with Article 64d(1) shall be required to register in the territorial register of the competent managing office corresponding to their tax domicile or establishment, within the meaning of Article 40.

2. Taxpayers will not be required to submit the self-assessment in those settlement periods in which there is no tax to be paid.

Article 134a. *Special provisions.*

1. The following shall not apply to the Tax on Liquids for E-cigarettes and other Tobacco-related Products:

a) The provisions on refunds laid down in Articles 8, 9, 10 and 23 of this Regulation.

b) The regulation of bonded warehouses and tax warehouses contained in Articles 12 and 13 of this Regulation.

c) For exports covered by electronic administrative documents of the products subject to the tax, the provisions of Article 14(9) of this Regulation shall not apply.

d) The rules relating to intra-Community movement laid down in Articles 16A, 17, 29A, 31A and 33 to 33f of that regulation.

2. For the purposes of Article 6 of the Law, the Minster of Finance may determine the qualifying percentages of losses.'

Sixth final provision. *Amendments to Law 58/2003 of 17 December 2003, General Taxes.*

With effect for tax periods beginning on or after 31 December 2023, Article 150(1) of General Tax Law 58/2003 of 17 December 2003 shall read as follows:

'Article 150. *Deadline for inspection proceedings.*

1. The inspection procedure must be completed within:

a) 18 months, in general.

b) 27 months, when any of the following circumstances occur in any of the tax obligations or periods subject to verification:

1.º the taxpayer's annual turnover is equal to or greater than that required to audit their accounts;

2.º the taxpayer is part of a group subject to the tax consolidation regime or the special regime for groups of entities that is being subject to inspection verification;

3.º the object of the procedure is the verification or investigation of the top-up tax.

When inspection actions are carried out with various related persons or entities in accordance with the provisions of Article 18 of Law 27/2014, of November 27 2014, on Corporate Tax, the concurrence of the circumstances provided for in this letter in any of them will determine the application of this deadline to the inspection procedures followed with all of them.

The duration of the procedure referred to in this paragraph may be extended in accordance with paragraphs 4 and 5.'

Seventh final provision. *Amendments to Law 35/2006 of 28 November 2006 on Income Tax*

on Natural Persons and Partially Amending the Laws on Corporate Tax, Non-Resident Income Tax and Wealth Tax.

With effect from 1 January 2025, the following amendments are made to Law 35/2006 of 28 November 2006, on Personal Income Tax, and partially amending the laws on Corporate Tax, Non-Resident Income Tax and Wealth Tax.

One. Article 66 is amended to read as follows:

'Article 66. *Tax rates on savings.*

1. The part of the taxable base for savings that exceeds, where applicable, the amount of the personal and family minimum referred to in Article 56 of this Law shall be taxed as follows:

1.º The rates indicated in the following scale will be applied to the taxable base for savings:

Taxable base for savings Up to EUR	Net tax liability Euros	Rest of the taxable base for savings — Up to EUR	Applicable rate Percentage
0	0	6,000	9.5
6,000.00	570	44,000	10.5
50,000.00	5,190	150,000	11.5
200,000.00	22,440	100,000	13.5
300,000.00	35,940	From here on	15

2.º The resulting amount will be reduced by the amount derived from applying to the part of the taxable base for savings corresponding to the personal and family minimum, the scale provided for in number 1.º above.

2. In the case of taxpayers who have their habitual residence abroad because of any of the circumstances referred to in Articles 8(2) and 10(1) of this Law, the taxable base for savings exceeding, where applicable, the amount of the personal and family minimum referred to in Article 56 of this Law shall be taxed as follows:

1.º The rates indicated in the following scale will be applied to the taxable base for savings:

Taxable base for savings Up to EUR	Net tax liability Euros	Rest of the taxable base for savings — Up to EUR	Applicable rate Percentage
0	0	6,000	19
6,000.00	1,140	44,000	21
50,000.00	10,380	150,000	23
200,000.00	44,880	100,000	27
300,000.00	71,880	From here on	30

2.º The resulting amount will be reduced by the amount derived from applying to the part of the taxable base for savings corresponding to the personal and family minimum, the scale provided for in number 1.º above.'

Two. Article 76 is amended to read as follows:

'Article 76. *Tax rate on savings.*

The part of the taxable base for savings that exceeds, where applicable, the amount of the personal and family minimum resulting from the increases or decreases referred to in Article 56.3 of this Law, will be taxed as follows:

1.º The rates indicated in the following scale will be applied to the taxable base for

savings:

Taxable base for savings Up to EUR	Net tax liability Euros	Rest of the taxable base for savings — Up to EUR	Applicable rate Percentage
0	0	6,000	9.5
6,000.00	570	44,000	10.5
50,000.00	5,190	150,000	11.5
200,000.00	22,440	100,000	13.5
300,000.00	35,940	From here on	15

2. º The resulting amount will be reduced by the amount derived from applying to the part of the taxable base for savings corresponding to the personal and family minimum resulting from the increases or decreases referred to in Article 56(3) of this Law, the scale provided for in number 1.º above.'

Three. Article 93(2)(e)(2.º) is amended to read as follows:

'2.º For the part of the taxable amount corresponding to the income referred to in Article 25(1)(f) of the consolidated text of the Law on the Income Tax of Non-Residents, the rates indicated in the following scale shall apply:

Taxable base for savings — Up to EUR	Net tax liability Euros	Rest of the taxable base for savings — Up to EUR	Applicable rate Percentage
0	0	6,000	19
6,000.00	1,140	44,000	21
50,000.00	10,380	150,000	23
200,000.00	44,880	100,000	27
300,000.00	71,880	From here on	30'

Four. An additional sixtieth provision is added to Law 35/2006, of 28 November 2006, on Personal Income Tax and partial amendment of the laws on Corporate Tax, Non-Resident Income Tax and Wealth Tax, which is worded as follows:

'Sixtieth additional provision. *Income from artistic activities, obtained on an exceptional basis.*

1. Where the total income from work obtained in the tax period, to which the reduction provided for in Article 18(2) of this Law does not apply, arising from the production of literary, artistic or scientific works referred to in Article 17(2)(d) of this Law and from the special employment relationship of artists engaged in performing, audiovisual and musical arts, as well as persons engaged in technical or auxiliary activities necessary for the development of such activity, exceeds 130 % of the average amount of such income imputed in the three preceding tax periods, that excess shall be reduced by 30 %.

The amount on which this reduction will be applied may not exceed EUR 150 000 per year.

2. Where the net income from economic activities obtained in the tax period, to which the reduction provided for in Article 32(1) of this Law does not apply, derived from activities included in groups 851, 852, 853, 861, 862, 864 and 869 of the second section and in groupings 01, 02, 03 and 05 of the third section, of the Tariffs for the Tax on Economic Activities, approved together with the Instruction for its application by Royal Legislative Decree 1175/1990 of 28 September 1990, or from the provision of professional services which, by their nature, if carried out as an employed person, would fall within the scope of the special employment relationship of artists carrying out their activity in the performing, audiovisual and musical arts, as well as of persons carrying out technical or auxiliary activities necessary for the development of that activity, exceeds 130 % of the average amount of such net income imputed in the three previous tax periods, that excess shall be reduced by 30 %.

For the purposes of calculating the net income from economic activities to which this reduction applies, as well as those of the three previous tax periods, the following rules shall be taken into account:

1.°) Deductible expenses that are common to other income from economic activities shall be apportioned proportionally according to the amount of the various full incomes from economic activities computed in that year.

2.°) If, in any of the previous three financial years, the net income is negative, it shall be treated as zero for the purpose of calculating that average.

The amount on which this reduction will be applied may not exceed EUR 150 000 per year.

The reduction shall apply subsequently, where appropriate, to the reductions provided for in Article 32(2) and (3) of this Law.'

Eighth final provision. *Amendments to Law 27/2014 of 27 November 2014 on Corporate Tax.*

One. With effect for tax periods starting on or after 1 January 2024, Article 15(b) is amended to read as follows:

'b) Those derived from the accounting of Corporate Tax and top-up tax. Those derived from such accounting shall not be considered to be revenue.'.

Two. With effect for tax periods starting on or after 1 January 2025, Article 25(1) is amended to read as follows:

'Article 25. *Capitalisation reserve.*

1. Taxpayers who pay tax at the rate provided for in Article 29(1) or (6) of this Law shall be entitled to a reduction in the tax base of 20 % of the amount of the increase in their own funds, provided that the following conditions are met:

a) That the amount of the increase in the entity's own funds is maintained for a period of 3 years from the end of the tax period to which this reduction corresponds, except for the existence of accounting losses in the entity.

b) That a reserve is provided for the amount of the reduction, which must appear on the balance sheet with absolute separation and appropriate title and will be unavailable during the period provided for in the previous point.

For these purposes, it will not be understood that the aforementioned reserve has been made available, in the following cases:

a) When the partner or shareholder exercises their right to separate from the entity.

b) When the reserve is eliminated, in whole or in part, as a result of operations to which the special tax regime established in Chapter VII of Title VII of this Law applies.

c) When the entity is required to apply that reserve by virtue of an obligation of a legal nature.

Without prejudice to the foregoing, the taxpayer shall be entitled to a reduction in the tax base, in the terms provided for in this paragraph, of 23 % of the amount of the increase in own funds, provided that the total average workforce of the taxpayer, in the tax period, has increased, with respect to the total average workforce of the previous immediate tax period by a minimum of 2 % without exceeding 5 %. In the event that the increase in the total average workforce of the taxpayer, in the tax period, compared to the total average workforce of the immediately preceding tax period, is between 5 % and 10 %, the taxpayer will be entitled to a reduction in the tax base of 26.5 % of the amount of the increase in own funds. When the aforementioned increase is greater than 10 %, the reduction to which the taxpayer will be entitled will be 30 %.

The aforementioned increase in workforce must be maintained for a period of 3 years from the end of the tax period to which the reduction corresponds.

In no case may the entitlement to the reduction provided for in this paragraph exceed the following amount:

i) 20 % of the positive tax base for the tax period prior to this reduction, the integration referred to in Article 11(12) of this Law and the offsetting of negative tax bases.

ii) 25 % of the positive tax base for the tax period prior to this reduction, the integration referred to in Article 11(12) of this Law and the offsetting of negative tax bases, in the case of taxpayers whose net turnover is less than EUR 1 million during the 12 months prior to the date on which the tax period to which this reduction corresponds begins.

However, in the event of an insufficient tax base to apply the reduction, the outstanding amounts may be applied in the tax periods ending in the two years immediately following the end of the tax period in which the right to the reduction was generated, together with the reduction that may be applicable, where appropriate, by virtue of the provisions of this Article in the corresponding tax period, and subject to the limit provided for in points (i) and (ii) above.'

Three. With effect for tax periods starting on or after 1 January 2025, Article 29(1) and (2) are amended to read as follows:

'Article 29. *The tax rate.*

1. The general tax rate for taxpayers of this Tax will be 25 %, except for entities whose net turnover for the previous immediate tax period is less than EUR 1 million, that will apply the rates indicated in the following scale, unless in accordance with the provisions of this Article they must be taxed at a different rate from the general one:

a) For the part of the tax base between 0 and EUR 50 000, at the rate of 17 %.

b) For the remaining part of the tax base, at the rate of 20 %.

Where the tax period is shorter than one year, the taxable portion to be taxed at the rate of 17 % shall be the result of applying to EUR 50 000 the quotient of the number of days of the tax period divided by 365 days, or the tax base of the tax period if this is lower.

For this purpose, the net amount of turnover shall be determined in accordance with Article 101(2) and (3) of this Law.

However, entities that comply with the provisions of Article 101 of this Law will be taxed at the rate of 20 %, unless in accordance with the provisions of this Article they must be taxed at a rate different from the general rate.

Finally, newly created entities carrying out economic activities will be taxed, in the first tax period in which the tax base is positive and in the next, at the rate of 15 %, unless, in accordance with the provisions of this Article, they must be taxed at a lower rate.

For this purpose, an economic activity shall not be deemed to have started:

a) when the economic activity had been previously carried out by other related persons or entities within the meaning of Article 18 of this Law and transferred, by any legal title, to the newly created entity;

b) when the economic activity was carried on in the year preceding the incorporation of the entity by a natural person who holds, directly or indirectly, more than 50 % of the capital or own funds of the newly created entity.

Entities that are part of a group under the terms established in Article 42 of the Commercial Code, regardless of residence and the obligation to prepare consolidated annual accounts, shall not be considered newly created entities.

The tax rates of 20 %, 17 % and 15 % provided for in this section will not be applicable to those entities that have the status of asset-holding entities, in the terms established in Article 5(2) of this Law.

2. Tax-protected cooperative societies shall be taxed at the rates resulting from a reduction of 3 % in the rates provided for in the previous paragraph, provided that the resulting rate does not exceed 20 %, except for non-cooperative results which shall be taxed at the rates provided for in the previous paragraph.

Credit unions and rural banks shall be taxed at the rates provided for in the preceding paragraph, except for non-cooperative results, which shall be taxed at the

rate of 30 %.'

Four. With effect for tax periods starting on or after 1 January 2025, Article 30a(1) is amended to read as follows:

'Article 30a. – *Minimum taxation.*

1. In the case of taxpayers whose net turnover is at least EUR 20 million during the 12 months preceding the date on which the tax period begins or that are taxed in the consolidated tax regime regulated in Chapter VI of Title VII of this Law, regardless of their net turnover, the net tax payable may not be lower than the result of applying 15 % to the tax base, reduced or increased, where applicable and as appropriate, by the amounts derived from Article 105 of this Law and reduced by the Investment Reserve regulated in Article 27 of Law 19/1994, of 6 July, amending the Economic and Fiscal Regime of the Canary Islands. This liability shall have the character of a minimum net liability.

The provisions of the previous paragraph shall not apply to taxpayers who pay taxes at the tax rates provided for in Article 29(3), (4) and (5) of this Law nor to the entities of Law 11/2009, of 26 October 2009, regulating Listed Real Estate Investment Companies.

For the purposes of determining the minimum net liability referred to in the first subparagraph of this paragraph, the percentage indicated therein shall be 10 % in newly created entities that pay tax at the rate of 15 % in accordance with the provisions of Article 29(1) of this Law, and 18 % in the case of entities that pay tax at the rate provided for in the first subparagraph of Article 29(6) of this Law.

In the case of entities whose net turnover for the preceding immediate tax period is less than EUR 1 million, for the purposes of determining the minimum net liability referred to in the first subparagraph of this paragraph, the percentage indicated therein shall be the result of multiplying the scale provided for in Article 29(1) of this Law by fifteen twenty-fifths, rounded up. In the case of entities complying with the provisions of Article 101 of this Law, the percentage referred to in the first subparagraph of this paragraph shall be the result of multiplying the rate of tax provided for in Article 29(1) of this Law by fifteen twenty-fifths, rounded up.

In the case of cooperatives, the minimum net liability may not be less than the result of applying 60 % to the full liability calculated in accordance with the provisions of Law 20/1990, of 19 December 1990, on the Tax Regime for Cooperatives.

In the entities of the Canary Islands Special Zone, the positive tax base on which the percentage referred to in this paragraph is applied shall not include the part of it corresponding to the transactions carried out materially and effectively within the geographical scope of that Zone which are taxed at the special tax rate regulated in Article 43 of Law 19/1994 of 6 July 1994 amending the Economic and Fiscal Regime of the Canary Islands.'

Five. With effect for tax periods starting on or after 1 January 2024 that have not ended on the entry into force of this Law, a fifteenth additional provision is added, which is worded as follows:

'Fifteenth additional provision. *Limits applicable to large companies in tax periods starting on or after 1 January 2024.*

Taxpayers whose net turnover is at least EUR 20 million during the 12 months preceding the starting date of the tax period shall apply the following special provisions:

1. The limits laid down in Article 11(12), the first subparagraph of Article 26(1), Article 62(1)(e) and Article 67(d) and (e) of this Law shall be replaced by the following:

– 50 %, when in the aforementioned 12 months the net amount of turnover is at least EUR 20 million, but less than EUR 60 million.

– 25 %, when in the aforementioned 12 months the net amount of turnover is at least EUR 60 million.

2. The amount of the deductions for the avoidance of international double taxation

provided for in Articles 31, 32 and 100(10), as well as the amount of those deductions for the avoidance of double taxation referred to in the twenty-third transitional provision of this Law, may not together exceed 50 % of the taxpayer's entire contribution.'

Six. With effect for tax periods starting on or after 1 January 2024 that have not ended on the entry into force of this Law, the nineteenth additional provision is amended to read as follows:

'Nineteenth additional provision. *Temporary measures in the determination of the tax base in the tax consolidation regime.*

1. With effect for the tax periods beginning in 2023, 2024 and 2025, the tax base of the tax group shall be determined in accordance with the provisions of Article 62 of this Law, although in relation to the provisions of the first indent of paragraph 1(a) of that Article, the sum shall refer to the positive tax bases and 50 % of the individual negative tax bases corresponding to each and every one of the entities that make up the tax group, taking into account the special provisions contained in Article 63 of this Law.

However, for tax periods starting in 2024 and 2025, the limitation on the integration of negative tax bases provided for in the previous section will not apply in the case of the individual tax bases corresponding to those foundations that are subject to the general regime of this Law and are part of the tax group.

2. With effect for successive tax periods, the amount of the individual negative tax bases not included in the tax base of the tax group by application of the provisions of the previous paragraph shall be integrated into the tax base of the tax group in equal parts in each of the first ten tax periods that begin:

a) from 1 January 2024, when the provisions of the previous paragraph apply with effect for tax periods starting in 2023;
b) from 1 January 2025, when the provisions of the previous paragraph apply with effect for tax periods starting in 2024;
c) from 1 January 2026, when the provisions of the previous paragraph apply with effect for tax periods starting in 2025.

This paragraph shall apply even if one of the entities with negative individual tax bases referred to in the previous paragraph is excluded from the group.

3. In the event of loss of the tax consolidation scheme or termination of the tax group, the amount of the individual negative tax bases referred to in the first paragraph that is pending integration into the tax base of the group shall be included in the last tax period in which the group is taxed under the tax consolidation scheme.'

Seven. With effect for tax periods starting on or after 1 January 2024 that have not ended on the entry into force of this Law, a paragraph 3 is inserted in the sixteenth transitional provision, which is worded as follows:

'3. In any event, the reversal of impairment losses on the capital or equity holdings of entities that have been tax deductible from the Corporate Tax base in tax periods starting before 1 January 2013 shall be included in at least equal shares in the tax base for each of the first three tax periods starting on or after 1 January 2024.

In the event of the reversal of a higher amount pursuant to paragraph 1 or 2 of this provision, the balance remaining shall be included at least equally between the remaining tax periods.

The limits established in paragraph 1 of the fifteenth additional provision of this Law on the amount of income corresponding to the reversal of impairment losses integrated into the taxable base of those tax periods pursuant to the provisions of this paragraph shall not apply, provided that the negative tax bases subject to offsetting originated from tax periods that began before 1 January 2021.

However, in the event of a transfer of the securities representing the holdings in the capital or own funds of entities during those tax periods, the amounts remaining to be reversed shall be included in the tax base for the tax period in which that transfer takes place, subject to the limit of the positive income resulting from that transfer.'

Eight. With effect for tax periods starting on or after 1 January 2025, the forty-fourth transitional provision is added and shall read as follows:

'Forty-fourth transitional provision. *Transitional application of the general tax rate for micro-enterprises and small entities.*

1. With effect for tax periods starting within the year 2025, for the purposes of Article 29(1) of the Corporate Tax Law, the following special provisions shall apply:

a) Entities whose net turnover for the immediately preceding tax period is less than EUR 1 million shall apply the following scale, unless they must be taxed at a rate different from the general rate:

i) For the part of the tax base between 0 and EUR 50 000, at the rate of 21 %.

ii) For the remaining part of the tax base, at the rate of 22 %.

Where the tax period is shorter than one year, the taxable portion to be taxed at the rate of 21 % shall be the result of applying to EUR 50 000 the quotient of the number of days of the tax period divided by 365 days, or the tax base of the tax period if this is lower.

For this purpose, the net amount of turnover shall be determined in accordance with Article 101(2) and (3) of this Law.

b) Entities that comply with the provisions of Article 101 of this Law shall be taxed at 24 %, unless they must be taxed at a rate different from the general rate.

2. With effect for tax periods starting within the year 2026, for the purposes of Article 29(1) of the Corporate Tax Law, the following special provisions shall apply:

a) Entities whose net turnover for the immediately preceding tax period is less than EUR 1 million shall apply the following scale, unless they must be taxed at a rate different from the general rate:

i) For the part of the tax base between 0 and EUR 50 000, at the rate of 19 %.

ii) For the remaining part of the tax base, at the rate of 21 %.

Where the tax period is shorter than one year, the taxable portion to be taxed at the rate of 19 % shall be the result of applying to EUR 50 000 the quotient of the number of days of the tax period divided by 365 days, or the tax base of the tax period if this is lower.

For this purpose, the net amount of turnover shall be determined in accordance with Article 101(2) and (3) of this Law.

b) Entities that comply with the provisions of Article 101 of this Law shall be taxed at 23 %, unless they must be taxed at a rate different from the general rate.

3. With effect for tax periods beginning within the year 2027, for the purposes of Article 29(1) of the Corporate Tax Law, entities that comply with the provisions of Article 101 of this Law shall be taxed at 22 %, unless they must be taxed at a rate different from the general rate.

4. With effect for tax periods beginning within the year 2028, for the purposes of Article 29(1) of the Corporate Tax Law, entities that comply with the provisions of Article 101 of this Law shall be taxed at 21 %, unless they must be taxed at a rate different from the general rate.'

Ninth final provision. *Tax on the net interest and commission income of certain financial institutions.*

With effect for the tax periods starting from January 1, 2024, the tax on the net interest and commission income of certain financial institutions is created, which will be governed by the following:

One. Nature and object.

The tax on the net interest and commission income of certain financial institutions is a direct tax that taxes, in the form and conditions provided for in this provision, the net interest and commission income obtained by credit institutions, branches of foreign credit institutions and financial credit establishments derived from the activity they carry out in Spanish territory.

Two. Scope.

1. The tax on the net interest and commission income of certain financial institutions will be applied throughout the Spanish territory.

2. The provisions of the preceding number shall apply without prejudice to the provincial tax systems under the Financial Agreement and Convention in force in the Historical Territories of the Basque Country and in the Autonomous Community of Navarre, respectively.

Three. Treaties and conventions.

The terms of this provision shall apply without prejudice to those of the international treaties and conventions that have been incorporated into internal law, pursuant to Article 96 of the Spanish Constitution.

Four. Taxable event.

The taxable event is the obtaining in Spanish territory of a positive net interest and commission income.

For this purpose, the net interest and commission income shall be understood to be obtained in Spanish territory if it results from computing all the interest and commission income and expenses of the taxpayers referred to in paragraph five(a) and (b), excluding those attributable to branches located abroad. In the case of the taxpayers referred to in paragraph five(c), the net interest and commission income that results from computing the income and expenses for interest and commissions attributable to said taxpayers in accordance with the provisions of Article 16 of the consolidated text of the Law on Income Tax for Non-Residents, approved by Royal Legislative Decree 5/2004, of March 5 2004 shall be deemed to be obtained in Spanish territory.

Five. Taxpayers.

The following are taxpayers for this tax:

a) Credit institutions established in Spain referred to in Article 1(2)(a), (b) and (c) of Law 10/2014 of 26 June 2014 on the organisation, supervision and solvency of credit institutions.

b) The financial credit institutions referred to in Article 6 of Law 5/2015 of 27 April 2015 on the promotion of business financing.

c) Branches established in Spanish territory of foreign credit institutions. Six. Tax

period.

The tax period will coincide with the taxpayer's financial year and may not exceed 12 months.

Seven. Tax accrual.

The tax shall become chargeable on the last day of the calendar month following the end of the tax period for those who have the status of taxpayers for this tax, in accordance with the provisions of paragraph five of this provision, on said accrual date.

Eight. Tax base.

1. The tax base shall consist of the positive balance resulting from integrating and offsetting the net interest and commission income and expenses derived from the activity carried out in Spain under the terms of paragraph four, which appear in the taxpayer’s profit and loss account or, where applicable, in their statement of income for the tax period, in accordance with the provisions of the applicable accounting regulations.

If the result of the integration and offsetting referred to in the previous paragraph shows a negative balance, the tax base shall be zero.

2. The tax base will be determined by the direct assessment method and, alternatively, by the indirect assessment method, in accordance with the provisions of Law 58/2003, of December 17 2003, General Tax Law.

3. In the direct assessment method, the tax base shall be calculated on the basis of the items of interest income and expenses and commission income and expenses determined in accordance with the rules laid down in the Commercial Code, in the other laws relating to such determination and in the provisions adopted in implementation of those rules.

Nine. Taxable amount.

The taxable amount shall be the result of reducing the tax base by EUR 100 million without, in any case, the taxable amount being negative.

When the tax period of the taxpayer is less than 12 months, the reduction of EUR 100 million will be prorated according to the days of duration of the tax period.

Ten. Tax rates and full tax liability.

The rates indicated in the following scale will be applied to the taxable amount to obtain the full tax liability:

Taxable amount Up to millions of euro	Net tax liability Millions of euro	Remaining taxable amount Up to millions of euro	Tax rate Percentage
0	0	750	1
750	7.5	750	3.5
1500	33.75	1500	4.8
3000	105.75	2000	6
5000	225.75	From here on	7

Ten a. Adjusted full tax liability.

The full tax liability shall be increased by 15 % of its amount for taxpayers who are acquirers in structural modification operations involving credit institutions, financial credit establishments or branches of foreign credit institutions, referred to in paragraph five of this provision, which have become extinct and whose net interest and commission income, in accordance with paragraph four of this provision, in the financial year in which the structural modification operation has accounting effects, exceeds the amount resulting from prorating the amount of EUR 100 million per year for the days elapsed in that year.

This increase shall be applied to the tax due for the tax period in which the structural modification operation has accounting effects.

The amount of the increase referred to in the preceding paragraphs may not exceed the limit set out below, in relation to the net interest and commission income of the extinguished entity that would not have been accounted for as income and expenses for the taxpayer that becomes the acquirer as a result of the structural modification operation, insofar as it exceeds the amount resulting from the pro rata established in the previous paragraph.

Excess net interest and commission income — Up to millions of euro	Limit – Millions of euro	Remaining excess net interest and commission income — Up to millions of euro	Limit – Percentage
0	0	750	1
750	7.5	From here on	3

Eleven. Net tax liability.

1. The net tax liability will be the result of reducing the full tax liability or, where applicable, adjusted full tax liability, by 25 % of the taxpayer’s net Corporate Tax or Non-Resident Income Tax liability for the same tax period.

When the taxpayer is part of a tax group taxed under the tax consolidation regime provided for in Chapter VI of Title VII of Law 27/2014, of 27 November 2014, on Corporate Tax, the proportion of the tax liability represented by the taxpayer's individual tax base shall be taken as the net corporate tax liability, determined in accordance with Articles 62 and 63 of Law 27/2014, after the corresponding eliminations and incorporations provided for in Articles 64 and 65 of the same Law and prior to the offsetting of negative tax bases, on the tax base of the tax group prior to the offsetting of negative tax bases.

For the purposes of the preceding paragraph, if the taxpayer’s tax base is negative, the deduction provided for in this paragraph shall not apply.

2. As a result of the reduction provided for in this paragraph, the tax liability may not be negative.

Twelve. Extraordinary deduction.

1. Where the indicator of the taxpayer's return on total assets is lower than the reference value of 0.7 %, a percentage shall be deducted from the tax liability corresponding to the proportion of the reduction in that indicator compared with that reference value, in accordance with the formula laid down in point 3.

2. The indicator of return on total assets referred to in the previous number shall be calculated as the quotient, multiplied by one hundred, resulting from dividing the accounting

result for the tax period, excluding the expenses corresponding to this tax, by the total assets at the end of the tax period.

For the purposes of the previous paragraph, the accounting result and the total assets of the taxpayer shall be determined in accordance with the provisions of the accounting regulations that apply to it with such specialties as may be established, where appropriate, by order of the Minister of Economy, Trade and Business.

3. The percentage of deduction shall be calculated by applying the following formula:

$$\text{Porcentaje de deducción} = \left(1 - \frac{\text{indicador de la rentabilidad sobre el activo total}}{0{,}7}\right) \times 100$$

4. The amount of the deduction shall be the result of applying that percentage to the net tax liability, but may not exceed the amount of that tax liability.

5. This deduction shall be taken into account for the determination of the amount of the instalment payment provided for in paragraph 14.

Thirteen. Non-deductibility of the tax.

This tax will not be deductible for Corporate Tax or Non-Resident Income Tax purposes.

Fourteen. Instalment payment.

Within the first 20 calendar days of the month after the month in which the tax is accrued, taxpayers must make an instalment payment as payment on account of the tax accrued for the corresponding tax period, in the form and under the conditions determined by the Minster of Finance.

The amount of the instalment payment shall be the result of multiplying the percentage of 40 % of the net tax liability for the aforementioned tax period or, where applicable, of the net tax liability less the extraordinary deduction provided for in paragraph twelve.

In the event that, within the period for self-assessment and payment of the instalment, said net tax liability is not definitively known, its amount will be provisionally estimated in accordance with a reliable calculation method. In particular, the estimate resulting from the duly drawn up accounts or, failing that, the estimate resulting from the audit work for the purposes of drawing up and formulating the accounts shall be considered to be reliable.

There will be no obligation to submit a self-assessment of the instalment payment when, in accordance with the rules governing the tax, the net tax liability or, where applicable, the net tax liability less the extraordinary deduction, is not positive.

Fifteen. Self-assessment and payment of the tax liability.

1. Taxpayers will be obliged to self-assess the tax and pay the tax liability within the first 20 calendar days of the eighth month after the month in which the tax is accrued, in the form and under the conditions determined by the Minister of Finance.

2. Taxpayers whose taxable amount is not positive will not be required to submit the corresponding self-assessment.

Sixteen. Refund.

1. When the instalment payment made exceeds the amount of the tax liability resulting from the self-assessment, the tax authorities shall, where appropriate, make a provisional assessment within six months of the end of the period laid down for the submission of the tax return.

Where the tax return has been submitted after the deadline, the six months referred to in the preceding paragraph shall be counted from the date of its submission.

2. Where the amount resulting from the self-assessment or, as the case may be, from the provisional assessment is lower than the instalment payment made, the tax authority shall automatically refund the excess over that amount, without prejudice to the practice of subsequent assessments, provisional or final, as appropriate.

3. If the provisional assessment has not been made within the period laid down in point 1 above, the tax authority shall automatically refund the excess over the self-assessed amount, without prejudice to the practice of subsequent provisional or final assessments that may be appropriate.

4. After the deadline established in number 1 has elapsed without the payment of the

refund having been ordered for reasons not attributable to the taxpayer, interest for late payment in the amount and form provided for in Articles 26(6) and 31 of Law 58/2003, of 17 December 2003, General Tax Law, will be applied to the amount pending refund.

5. The refund procedure will be that provided for in Articles 124 to 127, both inclusive, of Law 58/2003, of 17 December 2003, General Taxation, and in its implementing regulations.

Seventeen. Infringements and penalties.

Tax violations related to this tax will be classified and sanctioned in accordance with the provisions of Law 58/2003, of 17 December 2003, General Tax Law, and other rules of general application.

Eighteen. Powers of Administration.

For the purposes of determining the tax base, the tax authorities shall apply the rules referred to in paragraph 8.

Nineteen. Validity.

This tax shall be applicable for the first three consecutive tax periods starting on or after 1 January 2024.

Twenty. First instalment payment.

The instalment payment to be made in the year 2025 in accordance with paragraph fourteen shall be made within the first 20 calendar days of the fifth month following the month in which the tax is accrued.

Twenty-one.

Without prejudice to paragraph 2(2) of this provision, the revenue obtained shall be distributed to the Autonomous Communities of the common system in the calendar year following that in which the tax is to be self-assessed, according to their regional Gross Domestic Product as of 1 January of the calendar year in which the tax is to be self-assessed.

The amount collected shall be made available annually to the Autonomous Communities of the common system through treasury operations, the procedure for which shall be determined by regulation, and shall be carried out in the financial year following that in which the tax is collected.

Tenth final provision. *Amendment of Royal Decree 1514/2007 of 16 November 2007 approving the General Accounting Plan.*

An eighth transitional provision is added with the following content:

> **'Eighth transitional provision.** *Mandatory temporary derogation from the recognition and reporting of deferred tax assets and liabilities arising from the implementation of the law establishing a top-up tax and other national rules adopted to ensure a global minimum level of taxation for multinational groups or large-scale domestic groups.*
>
> By way of derogation from the requirements set out in the General Accounting Plan, an entity shall not recognise deferred tax assets and liabilities arising from the implementation of the law establishing a top-up tax and other national rules adopted to ensure a global minimum level of taxation for multinational groups and large-scale domestic groups, nor include information thereon in the annual accounts report.
>
> However, the entity shall provide the following information:
>
> 1. That the exemption has been applied to the recognition of deferred tax assets and liabilities arising from the implementation of the aforementioned legislation.
>
> 2. It shall report separately the expenditure (income) for current taxes derived from the implementation of the aforementioned legislation.
>
> 3. For periods in which the law establishing a top-up tax and other national legislation adopted to ensure a global minimum level of taxation for multinational groups and large-scale domestic groups have been enacted or are about to be enacted but are not yet effective, it shall include known or reasonably estimable qualitative and quantitative

information that helps to understand the entity's exposure to top-up tax at year-end. This information does not have to reflect all the specific requirements of that legislation and can be provided in the form of an indicative range.

To the extent that the entity is not aware of or cannot reasonably estimate such information, it shall instead publish a statement to that effect and report on its progress in assessing its exposure.'

Eleventh final provision. *Amendment of Royal Decree 1159/2010 of 17 September 2010 approving the Rules for the Formulation of Consolidated Annual Accounts and amending the General Accounting Plan approved by Royal Decree 1514/2007 of 16 November 2007 and the General Accounting Plan for Small and Medium-sized Enterprises approved by Royal Decree 1515/2007 of 16 November 2007.*

A seventh transitional provision is introduced, with the following content:

'Seventh transitional provision. *Mandatory temporary derogation from the recognition and reporting of deferred tax assets and liabilities arising from the implementation of the law establishing a top-up tax and other national rules adopted to ensure a global minimum level of taxation for multinational groups or large-scale domestic groups.*

By way of derogation from the requirements laid down in the rules for the preparation of consolidated annual accounts and in the General Accounting Plan, an entity shall not recognise deferred tax assets and liabilities arising from the implementation of the Top-up Tax Act and other national rules adopted to ensure an overall minimum level of taxation for multinational groups and large-scale domestic groups, nor include information thereon in the notes on the consolidated annual accounts.

However, the entity shall provide the following information:

1. That the exemption has been applied to the recognition of deferred tax assets and liabilities arising from the implementation of the aforementioned legislation.

2. It will report separately the expenditure (income) for current taxes related to the top-up tax derived from the implementation of the aforementioned legislation.

3. For periods in which the Top-up Tax Act and other national legislation adopted to ensure a global minimum level of taxation for multinational groups and large-scale domestic groups have been enacted or are about to be enacted but are not yet effective, it shall include known or reasonably estimable qualitative and quantitative information that helps to understand the entity's exposure to such legislation at year-end. This information does not have to reflect all the specific requirements of that legislation and can be provided in the form of an indicative range.

To the extent that the entity is not aware of or cannot reasonably estimate such information, it shall instead publish a statement to that effect and report on its progress in assessing its exposure.'

Twelfth final provision. *Amendment of Law 56/2007 of 28 December 2007 on Measures to Promote the Information Society.*

A new twenty-first additional provision is introduced in Law 56/2007, of 28 December 2007, on Measures to Promote the Information Society, with the following wording:

'Twenty-first additional provision. *Public electronic invoicing solution.*

1. The State Tax Administration Agency shall develop and manage, under the terms established by regulation, a public electronic invoicing solution that, for the purposes of the provisions of Article 2a of this Law, provides electronic invoicing services for those entrepreneurs or professionals who so choose and serves as a universal and mandatory repository for all electronic invoices issued, sent or received in accordance with this Law.

2. Invoicing platforms, solutions or systems used by entrepreneurs or professionals obliged to issue and receive electronic invoices, who do not use the

public electronic invoicing solution, shall be obliged to send, simultaneously to their issuance, a faithful electronic copy of each invoice to the aforementioned public solution under the terms provided for by regulation.

3. Entrepreneurs or professionals receiving electronic invoices shall be obliged to communicate electronically to the public electronic invoicing solution the full payment of the invoices or their rejection, in the terms determined by regulation.

4. The data stored in the public electronic invoicing solution will be reserved and will be subject to the same measures necessary to guarantee their confidentiality and proper use provided for in Article 95 of Law 58/2003, of 17 December 2003, General Tax Law for data with tax significance. They may only be used for the purposes provided for in this Law and for the effective application of the tax and customs system and the management of the other resources entrusted to the State Tax Administration Agency and, by means of the corresponding transfer in accordance with Article 95 of General Tax Law 58/2003 of 17 December 2003, for the effective application of taxes or resources whose management is the responsibility of the tax administrations of the Historical Territories of the Autonomous Community of the Basque Country and of the Autonomous Community of Navarre and the other tax administrations. Apart from the previous case, they may only be transferred or communicated to third parties in the cases and under the conditions provided for in Article 95 of Law 58/2003, of 17 December 2003, General Tax Law.

Except in the cases provided for in the previous paragraph, access to electronic invoices stored in the public electronic invoicing solution and to payment or rejection information shall only be allowed to issuers and recipients of the invoices or to persons or entities authorised by them.

The State Observatory of Private Late Payments will also have access to information stored in the public electronic invoicing solution, so that it can exercise the functions provided for in the sixth final provision of Law 18/2022, of 28 September 2022, on the creation and growth of companies; as will the Ministries of Economy, Trade and Enterprise, and of Industry and Tourism, so that they can exercise the functions assigned to them of monitoring, analysis and proposal of measures on commercial late payments.

5. The electronic invoices and the information related to them, stored in the public electronic invoicing solution will be kept on this platform during the conservation period provided for in Law 58/2003, of 17 December 2003, General Tax Law and its implementing regulations, without in any case being able to exceed 12 years.

6. The processing of personal data resulting from the management of the public electronic invoicing solution provided for in this provision shall be subject to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC and Organic Law 3/2018 of 5 December 2018 on the Protection of Personal Data and the guarantee of digital rights.

The State Tax Administration Agency shall have the status of Data Controller for the processing of personal data carried out in the performance of its function of managing the public electronic invoicing solution.

The State Tax Administration Agency shall adopt appropriate safeguards for the rights and freedoms of data subjects, in particular to ensure compliance with the principle of minimisation of personal data processed for the purposes pursued by the public electronic invoicing solution referred to in paragraph 1 of this provision. In particular, it shall take appropriate measures to prevent the disclosure, as a result of paragraph 4 of this provision, of data referred to in Article 9 of Regulation (EU) 2016/679 to third parties other than the issuer or recipient of the invoices and to the persons or entities authorised by them, unless one of the exceptions provided for in paragraph 2 of that provision applies.

When invoices are sent to the public electronic invoicing solution in compliance with the duty imposed in paragraph 2 of this provision, the issuer of the invoice shall comply with the duty of information provided for in Article 13 of Regulation (EU) 2016/679, expressly informing the recipient of the invoice that it will be sent to the public electronic invoicing solution.

The State Tax Administration Agency may restrict in whole or in part, in a

proportionate manner, the exercise of the right of access, rectification and restriction of processing referred to in Articles 15, 16 and 18 of Regulation (EU) 2016/679 or the communication of a data breach referred to in Article 34(1) of Regulation (EU) 2016/679 where it hinders administrative actions aimed at ensuring compliance with tax obligations or where it jeopardises an ongoing tax investigation.

Where the State Tax Administration Agency restricts the rights provided for in the preceding paragraph, it shall take the following measures:

a) It will inform the data subject, in response to the request, of the restriction applied and the main reasons for applying it, as well as of the possibility of filing a claim with the Spanish Data Protection Agency. Such information may be deferred or omitted where the provision of such information would prejudice the purposes of the restriction.

b) It shall record the reasons for the restriction and, where it has omitted the communication provided for in point (a) above, the reasons why providing such information could prejudice the purposes of the restriction.

Where the information stored is provided to the judicial authorities or the Public Prosecutor's Office in accordance with Article 7 of Organic Law 7/2021 of 26 May 2021 on the protection of personal data processed for the purposes of the prevention, detection, investigation and prosecution of criminal offences and the execution of criminal penalties, the data subject shall not be informed of the transmission of his or her data to those authorities or of having provided such authorities access to them in any other way.

7. By virtue of its regional regime, the application of the provisions of this additional provision to entrepreneurs or professionals subject to the tax regulations of the regional territories in accordance with the provisions of the Economic Agreement with the Autonomous Community of the Basque Country and the Economic Agreement between the State and the Autonomous Community of Navarre shall in any case be carried out in accordance with the provisions thereof, establishing the appropriate agreements between the Regional Treasuries and the State Tax Administration Agency in accordance with the principle of collaboration regulated therein.'

Thirteenth final provision. *Amendment of Royal Legislative Decree 8/2015 of 30 October 2015 approving the revised text of the General Social Security Act.*

Amendment of Article 198(2) of Royal Legislative Decree 8/2015 of 30 October 2015 approving the revised text of the General Social Security Act, which shall read as follows:

'Article 198.

[…]

2. Lifetime pensions in the event of absolute permanent incapacity or severe disability shall not prevent the exercise of those activities, whether for profit or not, which are compatible with the incapacitated person's condition and which do not represent a change in the person's ability to work for the purpose of review.

In the event that the pensioner performs a job or activity that leads to inclusion in a social security scheme, the managing body will suspend the payment of the pension. The managing body will resume the payment of the pension when the work or activity ceases. This is without prejudice to any review of the degree of permanent incapacity.

Without prejudice to the provisions of the preceding paragraph, the severe disability allowance intended to enable the recipient to remunerate the person caring for them shall not be suspended for work incompatible with the pension.'

Fourteenth final provision. *Amendment of Law 38/2022 of 27 December 2022 establishing temporary levies on energy and on credit institutions and financial credit establishments, and creating the temporary solidarity tax on large fortunes, and amending certain tax rules.*

Article 1 of Law 38/2022 of 27 December 2022 establishing temporary levies on energy and on credit institutions and financial credit establishments, and creating the temporary solidarity tax on large fortunes, and amending certain tax rules, is repealed.

Fifteenth final provision. *Safeguarding the rank of regulatory provisions.*

The provisions included in regulatory norms that are subject to modification by this law may be modified by norms of the regulatory rank corresponding to the norm in which they appear.

Sixteenth final provision. *Processing to be carried out by the State Tax Administration Agency to determine the origin and, where appropriate, make the refunds derived from the case law established by the Supreme Court in relation to the second transitional provision of Law 35/2006, of 28 November 2006, on Personal Income Tax and partial modification of the laws on Corporate Tax, Non-Resident Income Tax and Wealth Tax, in relation to the tax periods 2019 to 2022.*

1. The State Tax Administration Agency may recognise refunds resulting from the application of the second transitional provision of Law 35/2006, of 28 November 2006, on Personal Income Tax and the partial amendment of the laws on Corporate Tax, Non-Resident Income Tax and Wealth Tax, according to the case law established by the Supreme Court, in relation to the tax periods 2019 to 2022, by initiating the self-assessment correction procedure, or the refund initiated by self-assessment, which will be processed in accordance with the rules on tax actions and procedures provided for in Law 58/2003, of 17 December 2003, General Tax Law, in the terms indicated in this provision.

2. For this purpose, the State Tax Administration Agency will analyse the validity of the procedures for which it has received express agreement through the authorisation form that it makes available to taxpayers for this purpose at its Electronic Headquarters, within the regulatory deadline for the declaration of Personal Income Tax, in the form established in the Order approving the corresponding model of declaration of said Tax.

3. The aforementioned empowerment and consent by the taxpayer, and the processing of the procedures, shall be presented, provided and carried out according to the age of the tax period to which they correspond at the rate of one tax period for each calendar year starting from 2025.

For the purposes of the provisions of the preceding paragraph, refunds for the 2019 tax period and for previous non-prescribed periods shall become due from 1 January 2025.

4. The State Tax Administration Agency shall reject any other self-assessment or, where appropriate, request for rectification of self-assessment submitted by taxpayers in order to obtain the refunds referred to in this provision, when they do not comply with the provisions thereof.

5. This provision renders ineffective the authorisations issued prior to its date of entry into force, as well as the actions of the State Tax Administration Agency carried on that basis, provided that the corresponding refunds have not yet been paid. Likewise, the ongoing procedures of rectification of self-assessment, or of refunds initiated by self-assessment, whose refund had not been agreed on the date of entry into force, will be null and void.

The provisions of the previous paragraph shall be without prejudice to the interruptive effects of the statutory time limits that may have occurred.

Seventeenth final provision. *VAT on short-term housing leases.*

The Government will promote the amendment of the harmonised VAT Directive at the level of the European Union to allow Member States to tax short-term housing leases, in those areas where this type of accommodation hinders access to housing for citizens or promotes tourist saturation of the territory. The Directive will be transposed as a matter of urgency, involving the digital platforms that facilitate these rentals to deal with the passing on and receipt of VAT.

Eighteenth final provision. *Title of competence.*

This Law is approved under the provisions of Article 149(1)(14) of the Spanish Constitution, which confers on the State exclusive competence in matters of the General Treasury.

Nineteenth final provision. *Transposition of European Union law.*

This law transposes into Spanish law Council Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union.

Twentieth final provision. *Powers granted to the General State Budget Law.*

The General State Budget Law [Ley de Presupuestos Generales del Estado] may:

a) Modify the determination of the effective tax rate, the tax rate or the amount of the top-up tax, in any of its components.
b) Modify the quantitative limits, coefficients and fixed percentages contained in this Law.
c) Modify the cases of non-enforceability of the top-up tax regulated in this Law.

Twenty-first final provision. *Regulatory enactment.*

1. The Government is empowered to make such provisions as may be necessary for the development and implementation of the provisions of this Law.
2. In accordance with Article 12(3) of General Tax Law 58/2003 of 17 December 2003, the holder of the Directorate-General for Taxation of the Ministry of Finance is entitled to issue interpretative or clarifying provisions of this Law, which may include, where appropriate, the interpretative criteria derived from the Commentaries, Administrative Guides and other principles or criteria developed and publicly disclosed by the OECD or the European Union.

Twenty-second final provision. *Commencement.*

This Law shall enter into force on the day following that of its publication in the 'Official State Gazette' and shall have effect for tax periods beginning on or after 31 December 2023.
However, the provisions relating to the Undertaxed Profit Rule shall have effect for tax periods beginning on or after 31 December 2024, except for the case governed by Article 28(3) of this Law which shall have effect for tax periods beginning on or after 31 December 2023.

Therefore,
I command all Spaniards, individuals and authorities, to obey and enforce this law.

Madrid, 20 December 2024.

FELIPE R.

The President of the Government,
PEDRO SÁNCHEZ PÉREZ-CASTEJÓN