"Updated as of: 01/01/2024"

Provincial Decree 203/2013, of 23 December, which approves the Corporate Income Tax Regulation (BOB, Official Gazette of Bizkaia, 31 December)

Provincial Law 11/2013, of 5 December, on Corporate Income Tax, has undertaken a profound process of renewal of the regulations in force in the Historical Territory of Bizkaia on the taxation of income obtained by legal entities and other entities subject to the aforesaid tax, both from a systematic point of view and in terms of the substantive regulation of the tax.

The sole derogation provision, section 4, of the aforesaid Provincial Regulation provides that, until such time as it is implemented by regulation, the regulatory provisions issued in implementation of Provincial Regulation 3/1996, of 26 June, on Corporation Tax, consisting mainly of Provincial Decree 81/1997, of 10 June, approving the Corporation Tax Regulations, shall remain in force, insofar as they do not conflict with the precepts established in the new Provincial Regulation.

The Provincial refers in many sections to a subsequent regulatory development both with regard to the procedural aspects of the different applications or procedures for prior administrative linking and with regard to the precision of certain concepts contained in the regulation.

Furthermore, the transition between the repealed legislation and the new regulation raises a series of cases in which taxpayers must exercise certain options or process certain applications, which means that the regulatory development of the new Provincial Regulation of the tax must be undertaken as soon as possible.

In the same respect, it should be noted that there are certain very novel aspects in the regulation of Corporation Tax which, to be fully applied, require greater specificity in their formulation or the development of the regulations to which the Provincial Tax Regulation refers.

The purpose of this Provincial Decree is therefore to undertake the regulatory development of Provincial Law 11/2013, of 5 December, on Corporate Income Tax, through the approval of its Regulations, which completes the regulation of this tax and provides the necessary legal certainty for taxpayers when it comes to foreseeing the tax consequences of their actions from the first moment of the first tax period in which the new regulations are applicable.

Based on the foregoing, at the proposal of the Provincial Councillor for the Treasury and Finance, following deliberation and approval by the Governing Council of this Provincial Council, at its meeting of 23 December 2013,

IT IS HEREBY PROVIDED:

Sole Article. Approval of the Corporate Income Tax Regulations.

The Corporate Income Tax Regulations, which are annexed to this Provincial Decree, are hereby approved.

SUPPLEMENTARY PROVISION

Sole. Amendment of Provincial Decree 101/2005, of 21 June, developing the procedures relating to written tax consultations, preliminary tax proposals and anti-avoidance clause.

A new third supplementary provision is added to Provincial Decree 101/2005, of 21 June, which implements the procedures relating to written tax consultations, preliminary tax proposals and the anti-avoidance clause, which shall be worded as follows:

"Third supplementary provision. Previous qualified taxation proposals.

1. In the cases referred to in the third supplementary provision of the Corporation Tax Regulation, the tax authorities shall process a qualified preliminary tax proposals in accordance with the rules established in this supplementary provision.

2. The taxpayer who carries out the transactions referred to in section 1 of the third supplementary provision of the Corporation Tax Regulation shall be entitled to submit the qualified preliminary tax proposal.

In case of taxpayers who pay corporate income tax under the special tax consolidation system, the parent company shall be entitled to submit the qualified preliminary tax proposal.

For the purposes of the provisions of this section, the provisions of Article 8(3) of this Decree shall apply.

3. Qualified preliminary tax proposals shall be submitted within a period ending at the end of the three months following the end of the tax period with respect to which they are to take effect.

Nonetheless, in the case referred to in Article 53(5) of the Provincial Tax Regulation, the deadline for submitting the prior proposal for qualified taxation shall be extended until the end of the period established for approving the annual accounts for the financial year against whose positive accounting result the Special Reserve for the promotion of entrepreneurship and the reinforcement of productive activity has been set aside.

4. The document submitting the prior proposal for qualified taxation shall include the points and shall be accompanied by the documentation required in each case by virtue of the provision in the third supplementary provision of the Corporation Tax Regulations, in addition to the points referred to in section 2 of Article 9 of this Decree insofar as they are relevant.

5. Qualified preliminary proposals for taxation which do not meet the requirements established in sections 2, 3 and 4 of this supplementary provision shall be filed without further processing.

6. The rules set out in Article 10(1) of this Provincial Decree shall apply to the processing of qualified prior tax proposals.

The Tax Doctrine Service shall draw up a report to the Director General of the treasury analysing the elements of fact and law that are relevant to the resolution of the preliminary proposal for qualified taxation, without this report constituting a proposal for resolution.

7. The Director-General of the Treasury shall provide a reasoned decision on the approval or rejection of the qualified preliminary tax proposal submitted by the taxpayer.

Once the period of three months has elapsed from the submission of the preliminary proposal for qualified taxation without an express decision having been issued, the proposal shall be deemed rejected.

8. The taxpayer may not apply in his self-assessment the precepts for which authorisation is required by means of the approval of a prior proposal for qualified taxation until he has received notification of the approval of the said proposal.

9. Notwithstanding the provisions of Article 128 of the Provincial Corporation Tax Regulation and Articles 48 and 49 of the Corporation Tax Regulation, when, on the date of expiry of the deadline for filing the self-assessment tax return, a prior proposal for qualified taxation submitted by the taxpayer for the purposes of the provisions of Article 53(5) of the Provincial Corporation Tax Regulation has not been resolved, the taxpayer shall have a period of one month from the date of notification of the Resolution of the Director General of the Treasury approving his proposal to file a supplementary self-assessment of Corporation Tax for the purposes of exercising the option to apply the adjustment in the implementation of the result provided for in Article 53 of the Provincial Corporation Tax Regulation, in which case it shall be understood that they are exercising it within the voluntary tax return period for the purposes of the provisions of the aforesaid Article 128 of the Provincial Corporation Tax Regulation."

DEROGATING PROVISION

Sole. Derogation provision.

1. On the entry into force of this Provincial Decree 81/1997, of 10 June, approving the Corporation Tax Regulations, is hereby repealed, except for its first, eighth, tenth and fourteenth transitional provisions, which shall continue to produce their effects with respect to the situations to which they are applicable.

2. Similarly, all provisions of equal or lower rank that oppose or contradict the provisions of this Provincial Decree are hereby repealed, except those that are expressly considered to be in force pursuant to the provisions of section 3 of the sole derogation provision of Provincial Regulation 11/2013, of 5 December, on Corporate Income Tax.

FINAL PROVISIONS

One. Entry into force.

This Decree shall enter into force on the day following its publication in the "Official Gazette of Bizkaia" and shall come into effect for tax periods commencing from 1 January 2014.

Two. Development.

The Provincial Councillor for the Treasury and Finance is empowered to issue any provisions that may be necessary for the development and execution of the provisions of this Regulation.

ANNEX
TO THE CORPORATION TAX REGULATIONS

TITLE I
THE TAXPAYER

Article 1. Micro, small and medium-sized enterprises.

In the cases referred to in Article 13(4) of the Provincial Tax Regulation, the average annual workforce to be taken into account with regard to the property development activity will be that which exists in the period of time in which the development and construction of the property is undertaken, and the fact that it is not maintained subsequently does not imply that the income derived from the disposal of the current assets developed by the entity is not considered to derive from performing business activities.

If the entity referred to in the preceding paragraph subsequently rents or leases the properties developed, or if it sets up or transfers the rights or powers of use or enjoyment of the properties, in that case it shall be necessary to maintain the average workforce required in Article 13(4) of the Provincial Tax Regulation for the income derived from the transfer or use of the properties to be considered as income from business activities.

Article 2. Asset-holding corporations.

1. For the exclusive purposes of the provisions of Article 14(1)(b) of the Provincial Tax Regulation, when the entities referred to therein are not subject to the regulations of the Historical Territory of Bizkaia, they shall be deemed to be considered as asset-holding corporations when they meet the requirements established in Article 14 of the Provincial Tax Regulation to be considered as such.

2. To determine whether the undistributed profits referred to in Article 14(2)(b) of the Provincial Tax Regulation derive from carrying out economic activities, the regulations in force in the tax period in which the said profits were generated shall be taken into consideration.

3. In the cases referred to in Article 14(2)(c) of the Provincial Tax Regulation, the average annual number of persons to be taken into account with regard to the property development activity shall be that existing in the period of time in which the development and construction of the property is undertaken, without the fact that it is not maintained subsequently implying that the income derived from the disposal of the current assets developed by the entity shall not be considered to derive from the carrying out of business activities.

   If the entity referred to in the preceding paragraph subsequently rents or leases the properties developed, or if it sets up or transfers the rights or powers of use or enjoyment of them, in that case the average number of persons required in Article 14(2)(c) of the Provincial Tax Regulation must be maintained for the income derived from the transfer or use of the properties to be considered as income from business activities.

4. Notwithstanding the provisions of the second indent of point 1(c) and section 2(c) of Article 14 of the Provincial Tax Regulation, real estate assets which are considered to be current assets of entities which meet the following requirements shall not be considered to be items not assigned to economic activities:

   a) That the entity's exclusive activity is property development and that it can prove that it has the material and human resources necessary to carry out this economic activity on a continuous basis over time.

   b) That 85% or more of its assets are made up of real estate assets that are considered current assets because they are used for its real estate development activity.

   c) That 85% or more of the entity's income comes from the transfer of the real estate developed by the entity.

   For the purposes of calculating the income indicated in this point, income from transactions carried out with related persons or entities under the terms set out in Article 42 of the Provincial Tax Regulation will not be included.

Article 3. Formal obligations of asset-holding corporations.

1. Asset-holding corporations shall include the following information in the annual accounts report:

   a) Profits applied to reserves corresponding to tax periods in which they were taxed without being considered as an asset-holding corporation.

   b) Profits applied to reserves corresponding to tax periods in which they were taxed under the special system for asset-holding corporations regulated in Articles 66 and following of the Provincial Regulation 3/1996, of 26 June, on Corporation Tax or having the status of an asset-holding company under the provisions of Article 14 of the Provincial Tax Regulation.

   c) In case of distribution of dividends and shares in profits charged to reserves, designation of the reserve applied from among the two referred to in points a) and b) above, depending on the type of profits from which they derive.

2. The references in the annual report must be made for as long as the reserves referred to in point b) of the above section exist, even if the entity is not considered an asset-holding corporation in those subsequent financial years.

3. Similarly, the annual report shall contain detailed information on the calculations made to determine the result of the distribution of expenses among the various sources of income.

4. The reporting obligations provided in this Article shall also apply to successive entities holding the reserves referred to in section 1(b) of this Article.

TITLE II
THE TAXABLE BASE

CHAPTER I
ADJUSTMENTS TO EXPENDITURE.

Article 4. Depreciation plans.

1. Taxpayers may apply to the tax authorities for approval of a depreciation plan under the provisions of the general procedure provided for in Article 45 of this Regulation, with the special features provided for in this Article.

2. The request must contain the following data:

   a) Description of the asset items to be covered by the special depreciation plan, indicating the activity to which they are assigned and their location.

   b) Proposed depreciation method, indicating the time distribution of depreciation resulting therefrom.

   c) Justification of the proposed depreciation method.

   d) Purchase price or production cost of asset items.

   e) Date on which the asset items are to be brought into use.

   In case of asset items under construction, the expected date of entry into service shall be indicated.

3. The request shall be submitted within the period of construction of the assets and liabilities or within three months of their entry into service.

4. Approved depreciation plans may be amended at the request of the taxpayer, in accordance with the rules provided in the preceding sections. Such request shall be submitted within the first three months of the tax period in which the amendment is to take effect.

5. Approved depreciation plans may be applied to other assets of identical characteristics whose depreciation is to begin before elapsing three years from the date of the agreement approving the depreciation plan, provided that the physical, technological, legal and economic circumstances determining the approved depreciation method are substantially maintained.

   This implementation shall be notified to the Tax Authorities prior to the end of the tax period in which it is to take effect.

6. The procedure established in this Article shall be applicable in the cases referred to in Article 16(9)(2)(b), Article 17(6) and Article 20(3) of the Provincial Tax Regulation, and the taxpayer shall be required to provide, in each case, justification of the fulfilment of the requirements established in each of these provisions.

Article 5. Financial lease contracts.

1. Exercise of the option established in Article 18(3) of the Provincial Tax Regulation will be subject to notification to the tax authorities.

2. The option must be notified before the end of the tax period in which it is intended to take effect.

3. The notification shall contain at least the following information:

    a) Identification of the asset that is the object of the leasing contract.

    b) Indication of the effective start date and end date of the construction period of the asset.

    c) Determination of the amounts and timing of lease instalments to be paid.

    d) Indication that the assets meet unique technical and design requirements and do not correspond to mass production.

Article 6. Free depreciation.

1. The implementation of free depreciation referred to in Article 21(1)(e) and (f) of the Provincial Tax Regulation shall be requested under the general procedure established in Article 45 of this Regulation, with the special features regulated in this Article.

2. The taxpayer shall submit an request to the tax authorities containing the following data:

    a) Description of the assets, the activity to which they are assigned and their location.

    b) Justification of their involvement in the reduction and correction of the polluting impact of the company's activity, in the case of the elements referred to in point (e) above.

    c) Resolution of the official bodies of the Basque Country approving a project for the clean-up of contaminated soils and justification of the direct relationship with the project of the elements referred to in point (f) above.

       For these purposes, the aforesaid report shall be issued by the Provincial Council Department of Bizkaia competent for the matter in question, at the request of the Tax Authorities.

    d) Purchase price or production cost of asset items.

    e) Date of assignment of the asset items to the activities referred to points e) and f) above.

3. The request shall be submitted within the period of construction of the asset items or within three months of their assignment to the activities referred to.

Article 7. Joint depreciation for micro-enterprises.

When the taxpayer has opted for the implementation of joint depreciation of tangible assets, intangible assets and real estate investments, in the tax period in which the amount of the joint depreciation to be deducted does not exceed 10% of the purchase price or production cost of the set of assets subject to this depreciation method, whatever the date on which they were incorporated into their assets, the total net tax value pending depreciation may be deducted in that tax period.

Article 8. Financial goodwill.

For the purposes of the provisions of Article 24 of the Provincial Tax Regulation, taxpayers must jointly submit the following information together with the self-assessment tax returns for the years in which they reduce their taxable base by implementing the provisions of the aforesaid precept:

a) In relation to the directly participant:

    1. Identification and percentage shareholding.

2. Description of its activities.

3. Value and date of purchase of the holdings, as well as the NAV corresponding to these, determined on the basis of the standardised annual accounts.

4. Justification of the criteria for standardising the value and timing, and for allocating to the NAV of the investee entity the difference between the purchase price of its holdings and the net book equity attributable to them on the date of purchase.

b) When the entity whose holdings are acquired in turn has a holding in another entity, within the meaning of Article 24(2) of the Provincial Tax Regulation:

1. Identification of the directly investee entity, percentage shareholding in it and description of its activities.

2. Identification of the indirectly participated entities, the percentage of indirect entities participated in them and a description of their activities.

3. Value and date of purchase of the shareholdings, as well as the NAV corresponding to them, determined on the basis of the consolidated annual accounts prepared applying the criteria included in the Commercial Code and its implementing rules, duly standardised.

4. Justification of the criteria for standardising the valuation and timing, as well as for allocating to the investee entity the difference between the purchase price of the holdings and the consolidated NAV attributable to them on the date of their purchase.

c) Amount of the investment made in the purchasing of shareholding in entities not resident in Spanish territory included in the deduction base of the twenty-seventh transitional provision of Provincial Regulation 3/1996, of 26 June, on Corporation Tax.

Article 8.bis. Proposal for the implementation of an upper limit to the deductibility of financial expenses.

1. In the cases referred to in Article 25 bis (8) of the Provincial Tax Regulation, the procedure for the prior determination of a higher limit on the deductibility of their net financial expenses than that established in section 1 of the aforesaid Article, based on the coefficient represented by the group's net financial expenses vis-à-vis third parties with respect to the operating profit of the group of corporations, shall be carried out in accordance with the rules established in Articles 24 to 28 of this Regulation, with the special features established in this Article.

2. Taxpayers may submit to the tax authorities a proposal for the implementation of a higher limit to the deductibility of their net financial expenses than that established in Article 25.bis (1) of the Provincial Tax Regulation, in accordance with the provisions of section 8 thereof, with which the following documentation must be provided:

   a) Description of the group of corporations to which the entity belongs.

   b) Annual accounts of the entity and consolidated annual accounts of the group of corporations to which the entity belongs.

   c) Calculation and detail of the net financial expenses of the group of corporations vis-à-vis third parties.

   d) Calculation and detail of the operating profit of the corporate group.

   e) A higher limit on the deductibility of their net financial expenses than that established in section 1 of Article 25.bis of the proposed Provincial Tax Regulation and justification of

the same, highlighting the economic circumstances that should be understood to be basic to its application.

Article 9. Expenditure plans corresponding to environmental actions.

1. Taxpayers may apply to the Tax Authorities for approval of a plan of expenditure corresponding to environmental actions referred to in Article 26(2) of the Provincial Tax Regulation, in accordance with the general procedure established in Article 45 of this Regulation, with the special features detailed in this Article.

2. The request must contain the following data:

   a) Description of the taxpayer's obligations or commitments undertaken by the taxpayer to prevent or repair damage to the environment.

   b) Technical description and justification of the need for the action to be carried out.

   c) Estimated amount of the expenses corresponding to the environmental action and justification thereof.

   d) Criteria for the allocation in time of the estimated amount of the expenditure corresponding to the environmental action and justification thereof.

   e) Start date of the environmental action.

3. The request shall be submitted within three months of the date on which the obligation or commitment for the environmental action arises.

4. Expenditure plans corresponding to approved environmental actions may be modified at the request of the taxpayer, in accordance with the rules provided in this Article. Such request shall be submitted within the first three months of the tax period in which the amendment is to take effect.

Article 10. Non-deductible expenditure.

For the purposes of the provisions of Article 31(1)(h) of the Provincial Tax Regulation, in cases where the expenses referred to in the aforesaid provision have been paid in cash only in part, the non-deductible amount shall be that which corresponds to the part paid in cash.

CHAPTER II
ADJUSTMENTS TO INCOME

Article 11. Special reinvestment plans.

1. When it is proven that, due to its technical or economic characteristics, the investment must necessarily be made in a period of time longer than that provided for in Article 36(1) of the Provincial Tax Regulation, taxpayers may apply to the tax authorities for approval of special reinvestment plans.

   The request shall be made and processed in accordance with the general procedure established in Article 45 of this Regulation, with the special features detailed in the following sections of this Article.

2. The request must contain the following data:

   a) Description of the equity items transferred or to be transferred.

   b) Cash or expected amount of the transfer.

c) Description of the equity items in which the reinvestment will be made.

d) Description of the timing of the reinvestment.

e) Description of the specific circumstances justifying the special reinvestment plan.

3. The special reinvestment plan shall be submitted, depending on the case, within the following deadlines:

   a) Within 6 months from the date of the transfer determining the extraordinary profit.

   b) Within 6 months prior to the date on which the transfer is intended to take place.

   c) Within 6 months before the date on which the anticipated investment is intended to be made or commenced.

   In the case under (b) the transfer must be made within 6 months of the date of approval of the special reinvestment plan, and in the case under point (c) the reinvestment must be made or commenced within 6 months of the date of request.

4. Similarly, taxpayers may apply for approval of special reinvestment plans in cases where, due to duly justified supervening circumstances, the reinvestment process cannot be completed within the period provided in Article 36(1) of the Provincial Tax Regulation.

   In such cases, they must submit an request containing the details referred to in section 2 above, specifying the part of the reinvestment made and the time plan needed to complete it.

   In cases referred to in this section, the special reinvestment plan must be applied for before the deadline referred to in Article 36(1) of the Provincial Tax Regulation has expired.

5. In case of total or partial non-compliance with the reinvestment plan, the taxpayer shall regularise their tax situation under the provisions of Article 36(5) of the Provincial Tax Code.

   The regularisation shall be carried out taking into account the existing proportion between the proposed investment and the investment actually made.

Article 12. Formal obligations in cases of reinvestment of windfall profits.

1. Taxpayers shall include the following data in the annual accounts report:

   a) Amount of the income covered by the system provided for in Article 36 of the Provincial Tax Regulation.

   b) Tax period in which the income not included in the tax base was generated.

   c) Description of the equity items and tax periods in which the reinvestment was made.

2. The aforesaid mentions shall be made until full depreciation of the assets in which the reinvestment has been made.

Article 13. Exempt financial transactions of political parties.

1. To benefit from the exemption provided for in Article 38(2) of the Provincial Tax Regulation, political parties must submit an request to the tax authorities before the end of the tax period in which it is to take effect.

   The applicant political party shall provide, together with the request form, a simple copy of the articles of association and statutes, a certificate of registration in the Register of Political

Parties of the Ministry of the Interior and a report explaining and justifying that the financial transactions for which the exemption is requested coincide with its own activity.

For these purposes, it will be understood that the financial transactions coincide with the political party's own activity when:

a) They contribute directly or indirectly to the achievement of its aims.

b) When the enjoyment of this exemption does not produce distortions in competition regarding companies carrying out the same activity.

c) That it is provided on equal terms to generic groups of persons. It shall be understood that this requirement is not fulfilled when the promoters, affiliates, members of the governing and management bodies, as well as the spouses, unmarried partners constituted under the provisions of Law 2/2003, of 7 May, on unmarried partners, or relatives up to and including the fourth degree of any of them, are the main recipients of the activity or benefit from special conditions for using their services.

2. Tax Authorities shall provide a reasoned decision on the exemption requested. This exemption shall be subject to the concurrence, at all times, of the conditions and requirements provided in Article 12(2) and Article 38 of the Provincial Tax Regulation and in this Article.

   The exemption shall be deemed to have been granted if the Tax Authorities have not notified the decision within 6 months.

3. Once the exemption referred to in the previous sections has been granted, it will not be necessary to repeat the request for its implementation in subsequent tax periods, unless the circumstances that justified its granting or the applicable law are amended.

   The political party must notify the Tax Authorities of any relevant amendment to the conditions or requirements for the application of the exemption. The Tax Authorities may declare, after a hearing with the political party for a period of 10 days, whether or not the continued application of the exemption is appropriate. The same shall apply when the Tax Authorities becomes aware by any means of the amendment to the conditions or requirements for the application of the exemption.

4. Failure to comply with the requirements for the application of this exemption will determine the loss of the right to its application as from the tax period in which the non-compliance occurs.

Article 14. Accreditation for the purposes of exclusion from the obligation to withhold or pay tax on account with respect to exempt income received by political parties.

Accreditation of political parties for the purposes of the exclusion of the obligation to withhold or pay on account referred to in Article 38(2) of the Provincial Tax Regulation shall be carried out by means of a certificate issued by the Tax Authorities, upon request accompanied by a copy of the certificate of registration in the Register of Political Parties of the Ministry of the Interior.

This certificate shall state its period of validity, which shall extend from the date of issue until the end of the applicant's current tax period.

CHAPTER III
ADJUSTMENTS IN THE FIELD OF VALUATION RULES AND ANTI-ABUSE MEASURES

SECTION ONE
DETERMINING THE NORMAL MARKET VALUE OF SPECIFIC RELATED TRANSACTIONS

Article 15. Service provision of professional partners.

For the purposes of the provisions of Article 42(4) of the Provincial Tax Regulation, the taxpayer may consider that the agreed value coincides with the normal market value in the case of the supply of service of a professional partner, an individual, to a related entity and the following requirements are met:

a) That the entity is one of those provided for in Article 13(1)(2) of the Provincial Tax Regulation, more than 75% of its income for the financial year comes from the development of professional activities, it has the appropriate material and human resources and the result for the financial year prior to the deduction of the remuneration corresponding to all the professional partners for the provision of their services is positive.

b) The amount of the remuneration paid to all the professional partners for the services they render to the institution must not be less than 85% of the previous result referred to in point (a).

c) The amount of the remuneration corresponding to each of the professional partners must meet the following requirements:

    1. it shall be determined on the basis of the contribution made by them to the smooth running of the corporation, and the qualitative and/or quantitative standards applicable must be provided in writing.

    2. It is not less than the average salary of the company's employees who perform similar functions, under conditions of equivalent dedication, to those of the entity’s professional shareholders. In the absence of the latter, the amount of the aforesaid remuneration may not be less than twice the amount referred to in Article 20(1)(b) of the Provincial Regulation on Personal Income Tax, for full-time shareholders, or in the corresponding proportion, in other cases.

Failure to comply with the requirement established in this number 2 regarding any of the professional partners shall not prevent the application of the provisions of this section to the remaining professional shareholders.

The criteria contained in this Article shall apply exclusively in the event that the taxpayer chooses to apply the provisions of this Article.

SECTION TWO
DOCUMENTATION OBLIGATIONS FOR TRANSACTIONS BETWEEN PERSONS OR RELATED ENTITIES

Article 16. Documentation obligations for transactions between related persons or entities: exemptions and reporting obligations.

1. To be able to apply for the exemption referred to in Article 43(7) of the Provincial Tax Regulation, it shall be an essential requirement that all the conditions established in Article 43(6) of the Provincial Tax Regulation and in the following articles of this Regulation are met, with the exception of that corresponding to exceeding the de minimis established for each transaction.

   The procedure for exemption from the documentation obligations provided for in this section shall be processed under the provisions of Article 45 of this Regulation, with the Director General of Finance being empowered to decide, after processing the corresponding

restricted verification procedure to verify that all the requirements set out above have been met.

2. The provisions of Article 43(6)(5)(g)(d) of the Provincial Tax Regulation as well as the previous section of this Article shall not apply with regard to the service provision whose remuneration is considered to be income from work or economic activities, made by a professional partner, an individual, to the entities with which they are linked, to which the provisions of Article 15 of this Regulation shall apply, where applicable, or in the event that they do not exercise the option or does not meet the requirements established in the aforesaid provision, the general system of documentation obligations shall apply.

3. The taxpayer shall supply the information relating to its related-party transactions under the terms established by Provincial Order of the Deputy of the Treasury and Finance.

Article 17. Service provision whose remuneration is considered as income from work or economic activities.

1. For the application of the exemption from compliance with the documentation obligations referred to in Article 43(6)(a) of the Provincial Tax Regulation, the following requirements must also be met:

   a) The functions or activities performed by the related natural person for the entity for which they receive remuneration shall be documented, distinguishing managerial or managerial, administrative, purchasing or sales management or other.

      In the event that the related individuals do not work full-time, this circumstance must be justified for the purposes of apportioning the de minimis referred to in Article 43(6)(a) of the Provincial Tax Regulation.

      In the case of related individuals having the status of partners, when several of them provide services to the company, the company agreements shall be documented, reflecting the activities or functions that each one performs in the corporation and the criteria followed to determine the remuneration of each one of them.

   b) The remuneration of related individuals who perform managerial or management functions may not be less than that of the employee who, without having this status, receives the highest remuneration, under conditions of equivalent dedication in the provision of services.

   c) The remuneration must be paid effectively, by bank transfer, on a regular monthly basis throughout the year, and at least the de minimis referred to in Article 43(6)(a) of the Provincial Tax Regulation must be divided equally in each of the twelve months of the year.

2. In the case of natural persons who provide services to several entities with which they are linked, the de minimis established in Article 43(6)(a) of the Provincial Tax Regulation shall be apportioned according to the time spent and the duties performed in each of them.

   For the requirements established in Article 43(6)(a) of the Provincial Tax Regulation and in this Article to be met, it is necessary that, in addition to the provisions of the previous paragraph, the amount received by the related individual from the group of entities to which he provides services must amount to at least the de minimis established in Article 43(6)(a) of the Provincial Tax Regulation.

Article 18. Financing transactions.

1. The exemption from compliance with the documentation obligations referred to in Article 43(6)(b) of the Provincial Tax Regulation shall apply to financing transactions between related persons or entities, including not only specific loan transactions and the amount of credit granted, but also non-commercial advances and remuneration pending payment.

2. For the application of the exemption referred to in Article 43(6)(b) of the Provincial Tax Regulation, the following requirements must also be met:

   a) The conditions of each transaction shall be documented, such as the interest rate, term of the operation, maturities of repayments and interest, with express mention of the system used for their calculation, origin of the capital made available to the borrower, bank accounts for debiting or crediting successive repayments and the payment of interest, this documentation obligation also being necessary with regard to current accounts held with partners and administrators.

   b) The remuneration for the transactions must actually be paid in each tax period by bank transfer at least once a year.

Article 19. Leases, subleases and constitution or transfer of rights in rem of use and enjoyment over real estate.

1. For the application of the exemption from compliance with the documentation obligations referred to in Article 43(6)(c) of the Provincial Tax Regulation, the following requirements must also be met:

   a) The operation must be formalised by means of a written contract succinctly describing the characteristics of the property, the identification of the parties involved, the term, the annual rent to be paid by the lessee or assignee, with express mention of the time at which each of the instalments of the lease, sublease or the constitution or assignment of the right in rem becomes payable.

   b) The remuneration for the transactions must actually be paid in each tax period by bank transfer at least once a year.

2. In the case of properties which do not have a minimum attributable value, the rate of 4% established in Article 43(6)(c) of the Provincial Tax Regulation will be applied to the amount resulting from applying 80% to the purchase price or, where applicable, to the value verified by the Administration in the last transfer made, if it is higher than that, provided that the said transfer was made within the four calendar years prior to that in which the rules established in this Article are to be applied.

   If none of the above rules apply, the rate of 4% shall be applied to the amount resulting from applying 80% to the valuation of the property carried out by an independent appraiser, referring to the date of conclusion of the contract.

3. The value determined in accordance with the provisions of Article 43(6)(c) of the Provincial Tax Regulation or in the previous section of this Article shall serve as a reference during the first year of the duration of the contract, counted from date to date, and shall be updated for each of the following four years according to the interannual evolution of the Consumer Price Index, taking as a reference each of these years the last value published by the National Institute of Statistics prior to the date of revision.

   Every five years the value of the property shall be re-determined in accordance with the methodology established in this Article.

Article 20. Adjustment of the minimum thresholds.

The adjustment of the amounts established in Article 43(6) of the Provincial Tax Regulation shall be carried out by Provincial Order of the Provincial Councillor for the Treasury and Finance, which shall be published in the "Official Gazette of Bizkaia", when the studies and verifications carried out by the Tax Authority or the general evolution of prices make it advisable to do so.

Article 21. Specific documentation of the taxpayer in certain cases.

1. The documentary obligations provided for in Article 43(4) of the Provincial Tax Regulation shall be applicable in full, except when one of the parties to the transaction is one of the entities referred to in Article 13(1)(2) of the Provincial Tax Regulation or an individual and the transactions are not carried out with persons or entities resident in countries or territories considered to be tax havens, in which case the specific documentation obligations of the taxpayers shall include:

   a) Those provided for in Article 43(4)(a)(b)(c)(e) of the Provincial Tax Regulation in the case of transactions provided for in number 2 of Article 43(5)(g) of the Provincial Tax Regulation.

   b) Those provided for in Article 43(4)(a)(e) of the Provincial Tax Regulation, as well as the magnitudes, percentages, ratios, interest rates applicable to the discounts of flows, expectations and other values used in the determination of the value in the case of the operation provided for in number 3 of Article 43(5)(g) of the Provincial Tax Regulation.

   c) Those provided for in Article 43(4)(a)(c)(e) of the Provincial Tax Regulation in the cases provided for in number 4 of Article 43(5)(g) of the Provincial Tax Regulation.

   d) That provided for in Article 43(4)(a) of the Provincial Tax Regulation, as well as justification of compliance with the requirements established in Article 15 of this Regulation in the case of the provision of professional services to which the provisions of the aforesaid Article are applicable.

   e) Those provided for in Article 43(4)(a)(e) of the Provincial Tax Regulation, as well as identification of the valuation method used and the range of derivation securities therefrom, in all other cases.

2. For the purposes of the provisions of Article 46(2)(a) of the Provincial Tax Regulation, in the cases in which the provisions of the previous paragraph of this Article are applicable, the information referred to in points (b), (d) and e) of the previous section of this Article shall constitute different sets of data.

Article 21 bis. Country-by-country information.

1. The entities to which the obligation established in Article 43(10) of the Provincial Tax Regulation is applicable shall file the return with the country-by-country information in the form approved by the Provincial Councillor for the Treasury and Finance, who shall establish the form of filing, the general conditions and the procedure for filing by electronic means.

2. When the multinational group has designated a subsidiary entity constituting the group to submit the information referred to in the previous section and it is not possible for the latter to obtain all the information necessary to submit the country-by-country report under the legally established terms, said designation shall be deemed not to have been made, without prejudice to the obligation of the said subsidiary entity to submit the corresponding information available to it and to notify the Tax Authority of said circumstance.

3. The information corresponding to the group to be supplied by entities resident in Spanish territory or permanent establishments in Spanish territory in accordance with the provisions of the second paragraph of Article 43(10) of the Provincial Tax Regulation shall be requested by such entities or permanent establishments from the non-resident entity referred to in the aforesaid Article.

4. The deadline for submitting the information on a country-by-country basis shall expire twelve months after the end of the tax period.

SECTION THREE
VERIFICATION OF THE NORMAL MARKET VALUE IN RELATED TRANSACTIONS

Article 22. Verification of the normal market value.

1. When the valuation adjustment is not the sole object of the adjustment to be made in the verification and investigation procedure in which it is carried out, the settlement proposal resulting from it will be documented in a separate document from those to be formalised for the other elements of the tax liability. This report shall justify the determination of the normal market value under one of the methods provided for in Article 42(4) of the Provincial Tax Regulation and shall duly state the reasons for the adjustment of the valuation made by the taxpayer.

2. When, because it has been necessary to verify the value of goods and rights by any of the means provided for in Article 55 of the General Taxation Regulation of the Historical Territory of Bizkaia, it is possible to initiate the contradictory expert appraisal procedure and the appropriate time limits have elapsed without the taxpayer having initiated the appraisal or lodged an appeal or complaint, and because there is no agreement between the different parties or related entities, the request for a contradictory expert appraisal is made at the same time as an appeal or claim, the former shall be dealt with first, for the purposes of determining the value referred to in Article 42(2) of the Provincial Tax Regulation. The submission of the application for a contradictory expert appraisal shall have suspensive effects under the provisions of Article 128(1) of the General Provincial Tax Regulation of the Historical Territory of Bizkaia and shall determine the rejection of any appeals and claims that may have been lodged at the same time as the said contradictory expert appraisal.

   Once the contradictory expert appraisal procedure referred to in the previous paragraph has been completed, the parties or related entities may lodge an appeal for reconsideration or an economic-administrative claim against the provisional settlement derived from the value resulting from the appraisal.

3. Once the settlement made to the taxpayer has become final, the Tax Authority shall regularise the tax situation of the other related persons or entities in accordance with the value ascertained and final, recognising, where applicable, the corresponding interest on late payments. This regularisation shall be carried out by means of a settlement corresponding to the last tax period for which the self-assessment period had ended at the time when such finality occurs. In the case of taxes for which there is no tax period, this adjustment shall be made by means of a settlement corresponding to the time at which the settlement made to the taxpayer becomes final.

   This settlement shall take into account the effects corresponding to the value verified and final in respect of each and every one of the tax periods affected by the valuation adjustment carried out by the Tax Authority and shall include, where applicable, the corresponding interest on late payments.

   The taxpayers must also apply the value verified in the tax returns for the tax periods following that to which the administrative adjustment refers when the related-party transaction takes effect in on the same.

4. The procedure regulated in this Article shall not apply to persons or entities affected by the valuation adjustment who are not resident in Spanish territory or permanent establishments located therein, under the provisions of Article 45(6)(d) of the Provincial Tax Regulation.

   The persons or entities concerned which are not resident in Spanish territory, except in the case of permanent establishments located in the same, and which they can invoke a treaty or agreement which has become part of the domestic legislation, must resort to the amicable procedure or arbitration procedure to eliminate the possible double taxation generated by the valuation adjustment, in accordance with the provisions of Article 45(6)(f) of the Provincial Tax Regulation.

5. Notwithstanding the provisions of the previous sections of this Article, the related persons or entities may request the implementation of the bilateral adjustment, even before the valuation has become final, when all the related persons or entities over which the Bizkaia Provincial Treasury has inspection powers agree, and in such a case, the Tax Inspectorate may simultaneously regularise the tax situation of them all.

SECTION FOUR
PRIOR VALUATION AGREEMENTS FOR TRANSACTIONS BETWEEN PERSONS OR RELATED ENTITIES

SUBSECTION ONE
PROCEDURE FOR THE AGREEMENT ON RELATED TRANSACTIONS AT THE REQUEST OF TAXPAYERS

Article 23. Prior actions.

1. Related persons or entities that intend to request the tax authorities to determine the normal market value of the transactions carried out between them may submit a prior request to the tax authorities, the content of which shall be as follows:

   a) Identification of the persons or entities that are going to carry out the transactions.

   b) A brief description of the transactions involved.

   c) Basic elements of the valuation proposal to be made.

2. The Tax Authority will analyse the prior request, may request the relevant clarifications from the interested parties and inform the interested parties of the viability or otherwise of the prior valuation agreement.

Article 24. Start of the procedure.

1. Related persons or entities may submit an request to the Tax Authority to determine the normal market value of the transactions carried out between them prior to their execution, under the general procedure established in Article 45 of this Regulation, with the special features detailed in this Article and bearing in mind that the request shall contain a valuation proposal based on the market value with a description of the proposed method and an analysis justifying that the way in which it is applied respects the principle of free competition.

   The request must be signed by the persons or entities requesting the valuation, who must certify to the tax authorities that the other related persons or entities that are going to carry out the transactions whose valuation is requested are aware of and accept the request for valuation.

2. The request shall be accompanied by the documentation referred to in Article 43(3)(4) of the Provincial Tax Regulation, insofar as applicable to the valuation proposal, and shall be adapted to the circumstances of the case.

   In the event that the resolution of the valuation proposal must be the subject of an exchange of information with other States or international or supranational entities by virtue of a mutual assistance instrument, this circumstance shall be expressly stated, without prejudice to the ex officio assessment by the Tax Authority competent to resolve the procedure, and the following data shall also be included:

   a) Identification of the commercial or tax group to which the applicant entity belongs, where applicable, including the tax identification numbers or, failing this, equivalent codes, of all the non-resident entities affected.

b) Description of the business activity or the transactions or series of transactions carried out or to be carried out to which the valuation proposal refers. In any event, such description shall be carried out in full compliance with the regulations on business, industrial or professional secrecy and public interest.

c) States that could be affected by the transactions or operations with respect to which the valuation proposal is presented.

d) Persons resident in other States who may be affected by the resolution of the valuation proposal.

e) Other information that may be required by the applicable mutual assistance regulations.

3. Reasonable inadmissibility of the request may be agreed upon when any of the following circumstances occur:

   a) That the valuation proposal to be formulated clearly lacks the basis for determining the normal market value.

   b) That valuation proposals substantially equal to the proposal to be formulated have been rejected.

   c) That it is considered that there is no risk of double taxation that can be avoided by the valuation proposal.

   d) Any other circumstance that allows determining that the proposal intended to be formulated will be rejected.

4. The documentation submitted shall have effects only regarding the procedure governed by this Section and shall be used exclusively in respect of that procedure.

   In cases of withdrawal, expiry or rejection of the proposal, the documentation submitted shall be returned.

Article 25. Processing and effects of the agreement.

1. The Tax Authority shall examine the proposal together with the documentation presented.

2. Once the period referred to in Article 45(3) of this Regulation has elapsed without notification of the express resolution, the proposal may be understood to be rejected.

3. In the event that the decision ending the procedure approves the valuation proposal submitted by the taxpayer or, with the acceptance of the latter, approves a valuation proposal that differs from the one initially submitted, the prior valuation agreement shall be formalised in a document that shall include at least:

   a) Place and date of its formalisation.

   b) Name and name of undertaking or full name and tax identification number of the taxpayers to whom the proposal refers.

   c) The taxpayers' agreement with the content of the agreement.

   d) Description of the transactions to which the proposal refers.

   e) Essential items of the valuation method and the range that, if any, derived therefrom, as well as the economic circumstances must be understood as basic to its application, highlighting the critical assumptions.

f) Tax or settlement periods to which the agreement will be applicable and the date of entry into force of the agreement.

4. The Tax Authority and taxpayers shall apply the outcome of the approved proposal.

5. The Tax Authority may verify that the facts and transactions described in the approved proposal correspond to those that have actually taken place and that the approved proposal has been correctly applied.

   When the verification shows that the facts and transactions described in the approved proposal do not correspond to reality, or that the approved proposal has not been correctly applied, the Tax Authority shall proceed to regularise the tax situation of the taxpayers.

6. The resolution that ends the procedure or the presumed rejection shall not be subject to appeal, without prejudice to the appeals and claims that may be lodged against the assessment decisions that may be issued in due course.

Article 26. Information on the application of the agreement for the valuation of transactions carried out with related persons or entities.

Together with the self-assessment of this tax, of Personal Income Tax or of Non-Resident Income Tax, taxpayers shall submit a document relating to the application of the prior valuation agreement approved, the content of which shall include, among other information, the following:

a) Transactions carried out in the tax period or settlement period to which the self-assessment refers and to which the prior agreement has been applied.

b) Prices or values at which the previous transactions have been carried out as a result of the application of the prior agreement.

c) Description, if any, of the significant changes in the economic circumstances which are to be understood as basic to the application of the valuation method referred to in the prior agreement.

d) Transactions carried out in the tax period or settlement period similar to those to which the prior agreement refers, the prices at which they were carried out and a description of the existing differences with respect to the transactions included in the scope of the prior agreement.

However, in the agreements signed with other Administrations, the documentation to be submitted by the taxpayer annually shall be that deriving from the agreement itself.

Article 27. Amendment of the prior valuation agreement.

1. In the event of a significant variation in the economic circumstances existing at the time of approval of the prior valuation agreement, this may be amended to adapt it to the new economic circumstances. The amendment procedure may be initiated ex officio or at the request of the taxpayers, under the general procedure established in Article 45 of this Regulation, with the special features detailed in this Article.

2. The amendment request must be signed by the requesting persons or entities, which must certify to the Administration that the other related persons or entities that are going to carry out the transactions whose valuation is requested, are aware of and accept the amendment request, and must contain the following information:

   a) Justification of the significant variation in economic circumstances.

   b) Amendment that, on the basis of this variation, is appropriate.

Withdrawal by any of the persons or entities affected shall determine the termination of the amendment procedure.

The Tax Authority, once the submitted documentation has been examined, and after hearing the taxpayers, who shall have a period of fifteen days for this purpose, shall issue a reasoned decision, which may:

a') Approve the amendment formulated by the taxpayers.

b') Approve, with the acceptance of the taxpayer, a valuation proposal that differs from that initially submitted.

c') Reject the amendment formulated by the taxpayers, confirming or annulling the previous valuation agreement initially approved.

3. When the amendment procedure has been initiated by the Tax Authority, the content of the proposal will be notified to the taxpayers, who will have a period of one month from the day following the date of notification of the proposal to:

   a) Accept the amendment.

   b) Formulate an alternative amendment, duly justified.

   c) Reject the amendment, stating the reasons on which it is based.

   The Tax Authority, once it has examined the documentation submitted, will issue a reasoned resolution, which may:

   a') Approve the amendment, if the taxpayers have accepted it.

   b') Approve the alternative amendment formulated by the taxpayers.

   c') Annul the resolution by which the initial valuation proposal was approved.

   d') Declare the continuation of the application of the initial valuation proposal.

4. In the event of an agreement with another Tax Authority, the amendment of the prior valuation agreement shall require the prior amendment of the agreement reached with said Administration. For this purpose, the procedure provided for in Article 29 and following of this Regulation shall be followed.

5. Once the period referred to in Article 45(3) of this Regulation has elapsed without an express decision having been notified, the proposed amendment may be deemed to have been rejected.

6. The decision terminating the amendment procedure or the implied rejection shall not be subject to appeal, without prejudice to any appeals and claims that may be lodged against any settlement decisions that may be issued.

7. Approval of the amendment shall have the effects provided for in Article 25 of this Regulation, in relation to transactions carried out after the amendment request or, where appropriate, the notification of the amendment proposal.

8. The decision rendering the prior initial valuation agreement null and void shall determine the extinction of the effects provided for in Article 25 of this Regulation in relation to transactions

carried out subsequent to the amendment request or, where appropriate, to the notification of the proposed amendment.

9. The rejection of the amendment formulated by the taxpayers shall determine:

   a) Confirmation of the effects provided for in Article 25 of this Regulation, when the significant change in economic circumstances is not proven.

   b) The extinction of the effects provided for in Article 25 of this Regulation, with respect to transactions carried out after the rejection, in all other cases.

Article 28. Extension of prior appraisal agreement.

1. The taxpayers may request the Tax Authority to extend the period of validity of the valuation agreement that had been approved, in accordance with the general procedure established in Article 45 of this Regulation, with the special features detailed in this Article. Said request must be submitted within six months prior to the expiration of said period of validity and shall be accompanied by the documentation they deem appropriate to justify that the circumstances disclosed in the original request have not changed.

2. The request for extension of the prior valuation agreement must be signed by the persons or entities that signed the prior agreement whose extension is requested, and they must accredit to the Tax Authority that the other related persons or entities that are going to carry out the transactions are aware of and accept the request for extension.

3. Once the term referred to in Article 45(3) of this Regulation has elapsed without notification of the extension of the term of validity of the prior valuation agreement, the request may be considered rejected.

4. The resolution agreeing to the extension of the agreement or the presumed rejection shall not be subject to appeal, without prejudice to the appeals and claims that may be filed against the liquidation acts that may be issued.

SUBSECTION TWO
PROCEDURE FOR AGREEMENT ON LINKED TRANSACTION WITH OTHER TAX AUTHORITIES

Article 29. Applicable rules.

The procedure for entering into agreements with other Tax Administrations shall be governed by the rules set forth in this subsection, and the provisions of this Chapter shall also be applicable, which shall also apply when another Tax Authority requests the Tax Authority to initiate a procedure aimed at entering into an agreement for the valuation of transactions carried out between related persons or entities.

Article 30. Start of the procedure.

1. In the event that the taxpayers request that the proposal be submitted to the consideration of other Tax Authorities of the country or territory in which the related persons or entities reside, the Tax authority will assess the appropriateness of initiating such procedure. The rejection of the initiation of the procedure must be reasoned and cannot be challenged.

2. When the Tax Authority, in the course of a prior valuation procedure, considers it appropriate to submit the matter to the consideration of other Tax Authorities that could be affected, it will inform the related persons or entities. Acceptance by the taxpayer shall be prerequisite to the communication to the other Tax Authority.

3. The taxpayer shall submit the request for initiation accompanied by the documentation provided for in Article 24 of this Regulation.

Article 31. Processing.

1. In the course of the relations with other Tax Authorities, the related persons or entities shall be obliged to provide any data, reports, background information and supporting documents related to the valuation proposal.

   The taxpayers may participate in the proceedings aimed at finalizing the agreement, when agreed by the representatives of both Tax Authorities.

2. The proposed agreement of the Tax Authorities will be made known to the interested parties, whose acceptance will be prerequisite for signing the agreement between the Administrations involved.

   Opposition to the proposed agreement will determine the rejection of the valuation proposal.

3. In the event of acceptance of the proposed agreement, the competent body shall sign the agreement with the other Tax Authorities, and a copy thereof shall be sent to the interested parties.

THIRD SUBSECTION
SPECIALTIES IN PRIOR AGREEMENTS ON THIN CAPITALIZATION COEFFICIENT

Article 32. Application of the procedure for determining another thin capitalization coefficient.

1. In the cases referred to in Article 47(4) of the Provincial Tax Regulation, the procedure for the prior determination of a different thin capitalization ratio shall be carried out following the rules established in Articles 24 to 28 of this Regulation, with the specialities established in this Article.

2. The taxpayers will be able to submit before the Tax Authority a proposal for the application of a coefficient different from that established in Article 47(1) of the Provincial Tax Regulation, under the provisions of section 4 thereof, with which the following documentation shall be provided:

   a) Annual accounts of the entity.

   b) Indebtedness that, regarding NAV for tax purposes, the taxpayer estimates that it would have been able to obtain under normal market conditions from unrelated persons or entities and justification thereof.

   c) Description of the group of corporations to which the entity belongs.

   d) Identification of the related entities with which the entity has contracted or will contract the indebtedness.

   e) Proposed indebtedness coefficient and the justification thereof, highlighting the economic circumstances that should be understood as basic to its application.

CHAPTER IV
TEMPORARY ALLOCATION OF INCOME AND EXPENSES APPROVAL OF CRITERIA OTHER THAN ACCRUAL

Article 33. Approval of allocation criteria other than accrual.

1. Entities that use, for accounting purposes, a criterion for the temporary allocation of income and expenses other than the accrual criterion may request that the referred criterion be tax effective. This request shall be made and processed before the Tax Authority, under the general procedure established in Article 45 of this Regulation, with the special features detailed in the following sections of this Article.

2. The request must contain the following data:

   a) Description of the income and expenses affected by the temporary imputation criterion, stating, in addition to their nature, their importance in the taxpayer's transactions as a whole.

   b) Description of the temporary imputation criterion whose tax effectiveness is requested. In the case that the criterion of temporary imputation is of obligatory fulfilment, the accounting rule that establishes such obligation will have to be specified.

   c) Justification of the adequacy of the proposed criterion of temporary imputation to the true and fair view that the annual accounts must provide and explanation of its influence on the taxpayer's equity, financial situation and results.

3. The request shall be submitted at least 6 months prior to the end of the first tax period in which it is intended to take effect.

4. In the cases contemplated in the second paragraph of Article 54(2) of the Provincial Tax Regulation, the request referred to in section 1 of this Article must contain the following data:

   a) Description of the income and expenses to which the temporary imputation criterion affects.

   b) Explanatory report of the particularities that concur in the entity and that justify the application of the requested criterion.

   c) Justification of the adequacy of the requested temporary allocation criterion to the peculiarities mentioned in the previous point.

   d) Justification that the criterion used will not imply any alteration in the tax classification of the income or expenses of the entity.

TITLE III
TAX DEBT AND GUARANTEES

Article 34. Deduction for investments in new non-current assets.

In the case of assets acquired in compliance with a legal obligation to transfer, the transferee entity may not apply the deduction referred to in Article 61(1)(2) of the Provincial Tax Regulation, and the amounts capitalized by the transferee shall not be computed either as an investment for the year or as pre-existing assets, for the purpose of complying with the requirement provided for in the aforesaid Article 61(3)(d).

Article 35. Reasoned report for the application of deductions for research, development and technological innovation activities.

1. The competent bodies for the issuing of the reasoned reports referred to in Article 64(2) of the Provincial Tax Regulation shall be the Department of the Basque Government or of the Provincial Council of Bizkaia competent for the subject matter or a body or entity attached to the same.

2. Requests for the issuance of the reasoned report, which will be called "qualification report for tax purposes", must be submitted annually, before 31 December of each year and must be addressed to the competent body and contain, in addition to the identification of the petitioner and its activity, a descriptive report of the project.

This report shall specify the activities to be carried out by the petitioner and by subcontracted persons or entities, as well as the amounts corresponding to the expenses and investments arising therefrom, periodized annually.

3. In the case of projects to be carried out in cooperation with other entities, a single application per project shall be submitted annually, signed by all of them, designating one of the participants to assume the necessary interlocution, relationship and notification functions. The project report will include the determination of the activities and the budget to be carried out by each of the participating entities.

   The report shall be issued individually to each of the entities participating in the project.

4. In any case, the competent body may request from the applicant entities as much documentation and information as it deems necessary for the proper understanding, processing and assessment of the requested submitted.

5. The reasoned reports issued by the competent body must identify, with due separation, the activities to be carried out according to the different concepts contemplated in Articles 62 and 63 of the Provincial Tax Regulation, with allocation of the expenses and investments assigned to each one of them.

Article 36. Effects of the report and powers of the Tax Authority.

1. The reasoned reports issued by the competent body referred to in the preceding Article will bind the Tax Authority with respect to the nature and classification of the activity such as research, development or innovation.

2. It will correspond to the Tax Authority the verification of the effective realization of the investments and expenses and the adequacy of the activities carried out to those contemplated in the issued report, being able to request for it, at any time, the justification that it considers necessary.

3. The deductions referred to in articles 62 and 63 of the Provincial Tax Regulation will be applied by the taxpayer who, at the request of the Tax Authority, will submit, if necessary, the reasoned report envisaged in the previous Article.

   Likewise, the Tax Authority may request from the body referred to in Article 35(1) of this Regulation an supplementary report on the nature and classification of the taxpayer's activities as research, development or innovation.

4. The Tax Authority may, as the case may be, request from the Department of the Provincial Council of Bizkaia competent in the matter, a report on the nature and classification of the activities that accredit the right to the deduction.

Article 36 bis. Participation in research and development or technological innovation projects.

1. For the purposes of the provisions of Article 64 bis of the Provincial Regulation on Tax, it will be understood that a taxpayer participates in the financing of a research, development or technological innovation project carried out by another taxpayer when it contributes amounts to defray all or part of the costs of the project, without providing for the refund thereof by the taxpayer carrying out the aforesaid project.

   Subrogation in the position of the taxpayer participating in the financing of a research, development or technological innovation project will not be admissible, except in cases of universal succession.

2. The financing contract referred to in Article 64.bis(2) of the Provincial Tax Regulation must be formalized prior to the start of the execution of the project, although it may also be formalized within the first six months of the execution of the project, provided that the report

referred to in Article 64.bis (6) of the Provincial Tax Regulation has been requested prior to the start of the execution of the project or within the first three months of the execution of the project.

In the case referred to in the second clause of the previous paragraph, a copy of the request for the report referred to in Article 64.bis(6) of the Provincial Tax Regulation must be attached to the financing contract and the application of the provisions of section 1 of the aforesaid Article will be suspensively conditioned to the receipt of the aforesaid report.

3. The communication to the Tax Authority referred to in paragraph 6 of Article 64.bis of the Provincial Tax Regulation shall be made on the form approved for this purpose by the Provincial Deputy for the Treasury and Finance, and the financing contract and the report referred to in Article 64.bis (6) of the aforesaid Provincial Regulation shall be attached to the same, except in the case envisaged in the last paragraph of the previous section, in which the report request will have to be attached to the communication, although once the report has been received by the taxpayer, a complementary communication will have to be presented attaching it to the same one, in the term of the three months from its reception.

4. The limit established in the second paragraph of Article 64 bis(4) of the Provincial Tax Regulation will be applied globally for all the tax periods during which the research, development or technological innovation project is carried out.

5. In cases where, in a given tax period, there are amounts pending application as a result of the limitation referred to in the previous paragraph, these amounts may be applied in subsequent tax periods, respecting in all cases the aforesaid limitation.

6. When supervening technical or economic circumstances arise, taxpayers may request authorisation from the Tax Authorities so that the contracts for financing research and development or technological innovation projects that are in progress may be modified to readjust the schedule of payments and expenditure and investments in accordance with these circumstances. Likewise, when there are exceptional circumstances related to the solvency of the financier, authorisation may be requested from the Tax Authorities for the subrogation in the position of the taxpayer participating in the contracts already formalised for financing research, development or technological innovation project.

   Applications for authorisation shall be processed in accordance with the procedure set forth in Article 45 of this Regulation, and must be submitted within three months of the occurrence of the circumstances referred to in the preceding paragraphs. The procedure shall be terminated by a decision of the head of the Directorate-General of the Treasury.

Article 36 ter. Business processes in the field of technological innovation.

For the purposes of the provisions of section 2 of Article 63 of the Provincial Regulation on Taxation, the following activities shall be considered business processes:

a) Production of goods and services: These are activities that transform resources or raw materials into final products, whether goods or services. To classify an activity as the production of goods and services, this activity must be related to the company's main business.

   The following activities are included in this point:

   - Engineering activities.

   - Product assembly.

   - Production management.

   - Service provision management.

- Establishment of quality controls.

- Technical tests, analyses and certifications to support production.

- Manufacture of components.

b) Administration and Management: These are those necessary operational activities that are not directly connected to the final product or service, but which support the company's core business through the management, control and optimisation of financial and administrative resources and processes.

The following activities are included in this point:

- Business and strategic management and organisation.

- Corporate governance (legal, planning and public relations).

- Accounting, bookkeeping, auditing, payment and other financial or insurance activities.

- People management (training and education, recruitment, workplace organisation, temporary staffing, payroll management, health and medical care).

- Management of purchase of goods and support services.

- Management of external relations: in particular suppliers or partnerships.

c) Distribution and logistics: Activities ranging from the purchasing and storage of supplies and products to the transport of finished products to customers.

The following activities are included in this point:

- Inventory and demand planning.

- Purchasing management of raw materials and products.

- Warehouse management.

- Order processing.

- Packaging of products.

- Transport and delivery of goods.

d) Marketing and sales: These are those activities that comprise the analysis of consumer needs and behaviour, and the promotion, communication and sale of the product or service that meets market demand.

The following activities are included in this point:

- Market research.

- Advertising and communication activities.

- Activities for the development of new markets.

- Pricing strategies and methods.

- Sales channel strategy and management.

- Sales and after-sales activities including customer services.

e) Information and communication systems: These are the activities that comprise the management, development and maintenance of the hardware and software necessary to support the operational management of the rest of the company's business processes.

The following activities are included in this point:

- Identification of needs and functional specifications.

- Procurement (CPUs, RAM, graphics card, licences, or similar).

- Design, development, maintenance and updating.

f) Product and business process development: These are the activities associated with the design and redesign of a good or service or one of the company's business processes (production of goods and services, administration and management, distribution and logistics, marketing and sales, and information and communication systems).

The following activities are included in this point:

- Conceptualisation and ideation of the product/service.

- Technical and economic feasibility studies (preparation of business plans).

- Management of R&D activities.

- Design and Development.

- Prototyping, testing and validation.

- Implementation of the business process.

- Product launch (including industrialisation of goods).

Article 37. Deduction for investments and expenses relating to projects aimed at sustainable development, the conservation and improvement of the environment and more efficient use of energy sources.

1. For the purposes of the provisions of Article 65(2)(b) of the Provincial Tax Regulation, projects within the scope of sustainable development and environmental protection and improvement are considered to be those that have as their object the following matters:

   a) Minimization, reuse and recovery of waste, being considered as such those that procure a reduction of waste, own or third party, in accordance with the definitions contained in Law 22/2011, of July 28, on Waste and Contaminated Soils, and its implementing rules. For these purposes, recovery shall be understood as both recycling, including composting and biomethanization, and energy recovery.

   b) Sustainable mobility and transportation, being considered as such those that achieve a reduction in polluting emissions, in accordance with their legal definition, or that entail a reduction in the consumption of fossil fuels.

   c) Environmental regeneration of natural spaces as a result of the execution of countervailing measures or other types of voluntary actions, being considered as such those that, through the restoration of the structure and functioning of the ecosystems, allow the improvement of the environmental quality of the natural environment.

Disbursements on regeneration activities carried out as a result of the execution of non-mandatory countervailing measures that have been included in an administrative resolution, or as a result of other types of voluntary actions that have an impact on the natural environment and that form or will form part of the investor's fixed assets, will be included in the deduction base.

d) Minimization of water consumption and its purification, being considered as such those that represent an improvement, either with respect to their legal purification obligations, or with respect to the water consumption prior to the investment.

   Savings in water consumption and purification are understood as the result obtained as a consequence of the investment made to implement technological advances in the facilities.

e) Use of renewable energies, being considered as such those from renewable sources, whose energy generation is used either for direct consumption in the investor's own facilities or for incorporation into the distribution networks.

   In those cases of contribution to the distribution networks of the renewable energy generated, the investments must be located in the taxpayer's facilities where it carries out its economic activity, which must necessarily be different from the generation and commercialization activity of renewable energy.

f) Energy efficiency, being considered as such those that imply a reduction of the energy intensity of the investor.

For these purposes, energy intensity is understood as the ratio of the amount of energy consumed per unit of product (specific energy consumption) or, in the case of companies in the service sector, regarding the net amount of turnover (energy savings).

2. The reductions or improvements specified in section 1 above will be calculated with respect to the tax period prior to the first in which the execution of the project begins.

   In the case of new implementation of companies, the reductions or improvements will be calculated with respect to standard operating models that will be determined by means of the Provincial Order of the provincial deputy of the Provincial Council of Bizkaia competent in the matter.

3. The application of the deduction must be communicated, individually for each project, by means of a letter addressed to the Department of the Provincial Council of Bizkaia competent in the matter, prior to the end of the first tax period in which the taxpayer applies this deduction.

   The communication must contain, at least, the information listed below:

   a) Enhanced description of the project identifying the object thereof and the case in which it fits within those mentioned in section 1 of this Article.

   b) Quantification of the investment schedule to be carried out and timetable for its execution.

   c) Technology to be used, its origin and existing references.

   d) Authorization, conformity report and/or certification of the appropriate sectorial Administration or approved entities.

   In the event that these are not available at the time of submitting the application, they must necessarily be provided once they have been granted.

4. In the event that, under the provisions of Article 65(3) of the Provincial Tax Regulation, the Tax Authorities require the presentation of the certificate issued by the Department of the Provincial Council of Bizkaia competent for the matter, the taxpayer shall have a period of 6 months to provide the same, in which the suitability of the investments for the purposes of the deduction shall be stated.

   Failure to provide the certificate within the specified period for reasons attributable to the taxpayer will result in the loss of the right to apply the deduction.

   Likewise, the taxpayer will be able to proceed voluntarily to the contribution of the aforesaid certificate together with the self-assessment of the Corporation Tax for the effects of justifying the application of the present deduction.

Article 38. Deductions for job creation.

1. In order for the increased deduction to be applicable by virtue of the provisions of the third paragraph of Article 66(1) of the Provincial Tax Regulation, the following requirements must be met:

   a) That the number of persons with indefinite-term employment contracts from groups of special difficulty of insertion in the labour market existing at the end of the tax period in which the hiring is carried out is not reduced during the tax periods concluded in the three immediately following years and that said number of persons with indefinite-term employment contracts from groups of special difficulty of insertion in the labour market is greater than that existing at the beginning of the tax period in which the deduction is generated, at least, in the same units as the number of contracts that give right to the increased deduction.

   b) That the increase in the number of persons with indefinite-term employment contracts from groups with special difficulties of insertion in the labour market referred to in the second paragraph of Article 66(2) of the Provincial Tax Law is greater than that existing in the tax period prior to that in which the said contracts were made, at least in the same units as the number of contracts giving right to the increased deduction, the rule established in section 3 being applicable for these purposes.

      In the event of non-compliance with the requirements established in this section, the taxpayer shall include, in the self-assessment corresponding to the tax period in which the non-compliance occurred, the amount derived from the increased deduction together with the corresponding interest on late payments.

2. The increased deduction referred to in the third paragraph of Article 66(1) of the Provincial Tax Regulation will be applicable when the person hired is included in any of the groups considered of special difficulty of insertion in the labour market, which will be understood to be fulfilled when said person, at the time of the hiring, forms part, in addition to any of the groups with respect to which it is so established in the mentioned Article, of any of the following groups:

   a) Persons who have a recognized degree of disability equal to or greater than 33%.

   b) Long-term unemployed persons. For these purposes, long-term unemployed persons are those registered as job seekers with Lanbide-Basque Employment Service or other Public Employment Services who have been unemployed for at least 360 days in the period of the last 540 days prior to the date of hiring. The condition of unemployed persons shall be accredited by means of an employment record.

   c) The father or mother of a single-parent family, provided that the person hired has been unemployed and has been registered as a job seeker with Lanbide-Basque Employment Service or other Public Employment Services for at least three months prior to the date of hiring. For these purposes, it is understood that a person is in this

situation if they have one or more unpaid descendants. The condition of unemployed persons shall be accredited by means of an employment record.

d) Women who have been victims of gender violence, understanding that they are in this situation when they or their children have been victims of physical or psychological violence, exercised by their spouse or by the person who is or has been linked to them in a stable manner by an analogous relationship of affectivity, accredited according to the provisions of the Organic Law 1/2004, of 28 December, on Integral Protection Measures against Gender Violence or by means of a supporting documentation of the intervention by the Women and Family Intervention Service of the Provincial Council of Bizkaia.

e) Persons who have completed their social and labour insertion process in one of the insertion companies regulated in Decree 182/2008, of 11 November, provided that the hiring is held within the twelve months following the completion of the aforesaid process.

f) Beneficiaries of the aids established in Law 18/2008, of 23 December, for the Guarantee of Income and for Social Inclusion, in Decree 4/2011, of 18 January, which regulates the Social Emergency Aids, in development of Law 12/1998, of 22 May, against Social Exclusion, in Law 19/2021, of 20 December, which establishes the minimum vital income, as well as other public aids that have a similar objective to those mentioned above and that are provided by the territorial general government.

g) Former drug addicts (ex-alcoholics and ex-drug addicts), who, having passed in the opinion of the corresponding therapeutic team the detoxification and dishabituation phases and having been in continuous treatment for more than 6 months, are considered to be interested in a program of social reintegration through work.

h) Prison inmates who do not have any employment contract and whose penitentiary system allows them to have access to a job, and former inmates, provided that the contract is entered into during the 12 months following their release.

i) Employed or unemployed workers residing abroad who intend to return to the Basque Country to work and who are registered with Lanbide-Basque Employment Service as emigrants with the intention of returning.

3. For the purposes of the provisions of the second paragraph of Article 66(2) of the Provincial Tax Regulation, the number of persons existing during each and every day of the tax period prior to that in which the hiring was carried out shall be taken into consideration.

4. The requirement established in the last paragraph of Article 66(2) of the Provincial Tax Regulation will not be understood to be breached when the salary reduction is a consequence of the exercise by the worker of the right to the reduction of working hours with proportional reduction of wages recognized by Article 37(4)(8) of the consolidated text of the Workers' Statute Law, approved by Royal Legislative Decree 2/2015, of 23 October.

Article 38.bis. Deduction for investment in micro, small or medium-sized enterprises linked to the silver economy.

1. For the purposes of the provisions of Article 66 bis of the Provincial Tax Regulation, it will be understood that the corporate purpose of an entity is directly linked to the silver economy sector when it is directly aimed at the design, production and/or supply of goods and services adapted to the specific needs of the elderly, and in particular, within these areas, to the areas of health and care, communication, economic and financial advice, training and use of talent, leisure and entertainment, security, transport and housing.

   For the direct linkage referred to in the preceding paragraph to exist, the volume of the entity's income from the design, production and/or supply of goods and services tailored to the specific needs of the elderly must represent at least 50% of the entity's total income volume.

The requirement referred to in the previous paragraph must be fulfilled in the tax period in which the shares or participations that entitle to the application of the deduction referred to in Article 66.bis of the Provincial Tax Regulation are acquired and, at least, in the following 5 tax periods.

2. Under the provisions of Article 66 bis (6) of the Provincial Tax Regulation, the certification to be issued by the entity whose shares or participations have been subscribed or acquired indicating the fulfilment of the requirements demanded must specify the subject matter, from among those established in the previous section, to which the corporate purpose of the entity is directed.

Article 38.ter. Deduction for expenses of professional training in the area of the silver economy and of the economy of the care.

1. For the purposes of the application of the deduction referred to in Article 66.ter of the Provincial Tax Regulation, the silver economy shall be understood as the set of opportunities derived from the economic and social impact of the activities carried out and demanded by the sector of the elderly.

   Particularly, specialized training and training activities related to one of the following fields will be considered as professional training actions in the field of silver economy, provided that they are linked thereto:

   a) Technological and digital solutions that help transform and connect health and social systems, biomedical engineering and medical technologies.

   b) Development of telemedicine and telecare.

   c) Reduction of the digital divide and acquisition of the new skills needed to perform the tasks associated with the job position occupied by the worker arising as a result of the digital transformation.

   d) Financial education.

2. Similarly, and for the purposes of applying this deduction, the care economy shall be understood as the set of activities and relationships involved in attending to the physical, psychological and emotional needs of adults and children, the elderly and young, the frail and the healthy.

   Training activities in the field of the care economy that are related to any of the following fields will be entitled to the application of this deduction:

   a) Physical and cognitive rehabilitation of dependent and/or disabled persons.

   b) Psychological support to the collectives object of care and to the caregivers of the sector.

   c) Preventive health education.

   d) Education in self-care for the management of chronic diseases.

   e) Palliative care.

   f) Technological and digital solutions in any of the fields referred to in the preceding points.

3. The training actions that will give the right to apply the deduction referred to in Article 66.ter of the Provincial Tax Regulation must comply with the following requirements:

a) The duration of each training block must be at least 7 hours for each person receiving the training.

b) The maximum number of hours of training with respect to whose expenses the deduction can be applied will be 40 hours for each worker who receives the training in each fiscal year. However, when in a fiscal year the 40 hours of training are not reached with respect to a worker, the remainder may be added in the following fiscal year with respect to the same person.

c) The training shall be included in the mandatory training plan of the entity and shall be carried out within the working day of the worker.

d) The use of the training by the worker must be accredited.

Article 38 quater. Incentives for promoting culture.

One. Expenditure and investment in audiovisual project productions.

1. For the application of the deduction for investments and expenditure on productions of audiovisual works regulated in Article 66 quater. One of the Provincial Tax Regulation, the following must be complied with:

    a) That the production company includes in the final credit titles:

        a') A specific reference to having availed of the tax incentive provided in the Provincial Corporation Tax Regulation on Income of the Historical Territory of Bizkaia made in the same language as that corresponding to the credits.

        b') The logo of the Bizkaia Provincial Council.

    b) That the holders of the rights authorise the use of the title of the work and of the graphic and audiovisual press material that expressly includes specific locations of the filming or any other production process carried out in the Historical Territory of Bizkaia, exclusively for the carrying out of activities and the preparation of materials for the promotion of the territory that may be carried out by the entities integrated in the public sector with competences in matters of culture, tourism and/or economy.

2. Among the bodies competent to issue the cultural certificate referred to in Article 66 quater (e). One. 4 of the Provincial Tax Regulation, the department responsible for culture in the Provincial Council is included.

    In order to obtain the cultural certificate issued by Bizkaia Provincial Council, the taxpayer must justify that the work for which the cultural incentives are applicable contributes to the promotion of culture and the conservation of European heritage. Among other aspects, the language or place where the work is set, its historical or cultural relevance and its contribution to cultural, social, religious, ethnic, philosophical or anthropological diversity may be taken into account.

3. The status of difficult work referred to in Article 66(e) quater. One. 5 of the Provincial Tax Regulation, will require the submission of a request to the tax authorities via the website of Bizkaia Provincial Council before the end of the first tax period in which the taxpayer certifies the right to the deduction.

    The procedure for obtaining the status of difficult work in the previous case shall be processed in accordance with the general procedure established in Article 45 of this Regulation, with the special features that may be applicable, where appropriate.

    However, it shall not be necessary to submit the application referred to in this paragraph where the Tax Authority has published, by means of administrative criteria or written tax consultations, specific guidelines determining the status as difficult of the work in

respect of which the deduction referred to in Article 66 quater is to be applied. One of the Provincial Tax Regulation.

4. In the cases referred to in Article 66 quinquies of the Provincial Tax Regulation, for the purposes of complying with the provisions of Article 66 quater. One.7 of the Provincial Tax Regulation, Bizkaia Provincial Council shall identify the producer of the work as the beneficiary of the incentive when disseminating the data corresponding to the deduction applied.

Two. Deduction for live performances of musical and performing arts.

1. The certificate necessary for the application of the deduction for live performances of musical and performing arts referred to in Article 66 quater (2). Two of the Provincial Tax Regulation, will have the purpose of certifying its cultural nature, as well as the reality of the holding of the event in respect of which said deduction is applicable.

2. The department responsible for culture in Bizkaia Provincial Council shall be the body competent for issuing the certificate referred to in number 1 above.

   The request for the certificate shall be made through the electronic office of the Provincial Council of Bizkaia, and the following details must be included:

   a) Title of the Production, name of the Festival or of the Scenic Space.

   b) Total number of performances.

   c) First and last date of performance.

   d) For each performance, festival or stage programme listed, the following documentation shall be attached in which the entity applying for the certificate is explicitly listed as the organiser of the event:

      a') Legal title by which the representation is agreed, such as agreements, contracts or document evidencing the payment of the corresponding royalties.

      b') Promotional documents, such as: advertising, inserts in the press, handout programs, posters, newsletters, etc.

   e) Justification that the performance with respect to which the cultural incentives apply contributes to the promotion of culture and the conservation of European heritage. For these purposes, the language or place of setting of the performance, its historical or cultural relevance and its contribution to cultural, social, religious, ethnic, philosophical or anthropological diversity, among other aspects, may be taken into account.

3. The certificate referred to in number 1 of this section may be requested in advance, for the sole purpose of certifying the cultural nature of the event, with regard to participation in the financing of live performances of musical and performing arts.

   For this purpose, the application for the certificate shall contain only the justification that the event in respect of which the cultural incentives apply contributes to the promotion of culture and the conservation of European heritage as referred to in system e) of number 2 above.

   When the certificate accrediting the cultural nature of the event has already been obtained in accordance with the terms established in the two previous paragraphs, the application for the certificate referred to in number 2 of this section must contain only the information required to accredit the reality of the holding of the event.

4. They shall also be valid for the application of the deduction for live performances of musical and performing arts referred to in section 2 of Article 66 quater. Two of the Provincial Tax Regulation, certificates issued by the corresponding State or Autonomous Community body with competence in the matter, or by an equivalent body located in a Member State of the European Union or of the European Economic Area, which have an identical or similar purpose to that of the certificate referred to in number 1 of this section.

   Notwithstanding the provisions of the previous paragraph, when the certificate obtained by the taxpayer only certifies the reality of the holding of the event or only its cultural nature, an additional certificate must be requested as necessary in each case in order to certify both situations.

Article 38 quinquies. Participation in the financing of audiovisual projects and live performances of musical and performing arts.

1. For the purposes of the provisions of Article 66 quinquies of the Provincial Tax Regulation, a taxpayer shall be understood to participate in the financing of the production of feature-length and short cinematographic films and other audiovisual works, as well as audiovisual series of fiction, animation or documentary films which allow for the production of a physical medium prior to their serialised industrial production, or of the production and exhibition of live performances of musical and performing arts, when they contribute amounts to cover all or part of the cost of the production and exhibition, with no provision being made for the refund of the same by the taxpayer.

   Subrogation in the position of the taxpayer participating in the financing of the production and/or exhibition is not admissible, except in cases of universal succession.

2. The financing contract referred to in section 3 of Article 66 quinquies of the Provincial Tax Regulation must be formalised before the start of the production phase or, in the case of live performances of musical and performing arts, before the first event takes place, although it may also be formalised within the first six months from the start of the production or from the time the first event takes place.

   For the purposes of the provisions of this paragraph, the beginning of the production phase is understood to be the moment when the process of capturing images and/or sound begins.

3. The notification to the Tax Authorities referred to in section 8 of Article 66 quinquies of the Provincial Tax Regulation shall be made by filling in, on the website of Bizkaia Provincial Council, the form made available to the taxpayer for this purpose, and the financing contract shall be attached to the same.

   Likewise, the certificate accrediting the cultural nature of the work or live performance, as referred to in number 2 of section One of Article 38 quater of this Regulation and number 3 of section Two of Article 38 quater of this Regulation, respectively, or, when they have not yet been granted, documentation certifying their application, together with the declaration corresponding to the last tax period in which the deduction referred to in Article 66 quinquies of the Provincial Tax Regulation, regarding work or performance in question, is applicable, must also be provided.

4. The limit established in the second paragraph of Article 66 quinquies (5) of the Provincial Tax Regulation shall be applied globally for all tax periods during which the production of feature-length films and short films and other audiovisual works is extended, as well as fiction, animation or documentary audiovisual series that allow the production of a physical medium prior to their serialised industrial production or during which the production and exhibition of live performances of musical and performing arts is extended.

5. In cases where, in a given tax period, there are amounts pending application as a result of the limitation referred to in the previous paragraph, these amounts may be applied in subsequent tax periods, respecting in all cases the aforesaid limitation.

6. When technical or economic circumstances arise, taxpayers may request authorisation from the tax authorities so that financing contracts for the production of feature films and short films and other audiovisual works, as well as fiction, animation or documentary audiovisual series that allow the production of a physical medium prior to their serialised industrial production or the production and exhibition of live performances of performing arts and music, which are in progress, may be modified to readjust the payment and expenditure and investment schedule under these circumstances.

   Likewise, when there are exceptional circumstances related to the solvency of the financier, authorisation may be requested from the tax Authorities to subrogate the position of the taxpayer participating in contracts already formalised for the financing of the production of feature-length films and short films and other audiovisual works, as well as fiction, animation or documentary audiovisual series that allow the production of a physical medium prior to their serialised industrial production or the production and exhibition of live performances of musical and performing arts.

   Applications for authorisation shall be processed in accordance with the procedure set forth in Article 45 of this Regulation, and must be submitted within three months of the occurrence of the circumstances referred to in the preceding paragraphs. The procedure shall be terminated by a decision of the head of the Directorate-General of the Treasury.

TITLE IV
SPECIAL TAX SYSTEMS

Article 39. Scope of application and content of the communication in the system for Maritime Transport Companies.

1. Under the provisions of Article 72 of the Provincial Tax Regulation, the notification of the option for this system must include all the vessels, owned or leased, operated by the entity that opts for the application of this system, as well as those acquired or leased subsequently.

2. In the case of entities taxed under the special tax consolidation system, the notification will be made by the parent company of the tax group and must cover, in the terms provided in the preceding paragraph, all the vessels of all the entities that form part of the tax group.

   3. The option may be extended to all vessels chartered by the reporting entity. Notwithstanding the foregoing, the net tonnage of vessels taken on charter may not exceed 75% of the total tonnage of the fleet of the entity or, as the case may be, of the tax group applying the system, excluding from this system the vessels that cause the above mentioned limit to be exceeded.

4. The communication must be accompanied by the following documents:

   a) Identification and description of the activities of the entity or entities in respect of which the application of the system is communicated.

   b) Accreditation with respect to each vessel of the title by virtue of which it is or will be used, of the territorial scope in which its strategic and commercial management will be carried out, of its flag and of its assignment to the activities contemplated in Article 70 of the Provincial Tax Regulation.

Article 40. Periods of communication, extension, renunciation and penalties for renunciation or non-compliance.

1. The communication shall be made by the taxpayer to the Tax Authority within the two months following the end of the tax period in which it is to take effect and shall be valid for a period of 10 years.

2. Once the validity of the first communication has expired, the taxpayer may communicate extensions for the application of the system for additional periods of 10 years. Such communication of extension shall be made within two months after the end of the tax period in which it is to take effect.

3. If after the communication and consequent application of the system, the taxpayer acquires, leases or charters other vessels that comply with the requirements of the system, a new communication must be submitted, taking into account the provisions of this Article and the previous one, referring to these vessels. The temporary validity of this new communication will be determined by the period of time remaining to the initial communication of application of the system.

4. The non-application of the system by the taxpayer during the minimum period of 10 years implies a waiver of taxation under this system. This waiver must be communicated by the taxpayer to the Tax Authority within two months after the end of the tax period in which the waiver is to take effect and will make it impossible to exercise a new communication in the 5 years following the last one in which the system was applied.

5. Failure to comply with the requirements established in the system regulated in articles 70 to 72 of the Provincial Tax Regulation will entail the loss of the right to apply it and will originate, in the year of non-compliance, the obligation to pay, together with the amount corresponding to that tax period, the amounts that should have been paid by applying the general tax system corresponding to all the years in which it had been applied, without prejudice to the late payment interest, surcharges and penalties that, if applicable, would be applicable. Similarly, the taxpayer may not make a new option communication for the application of this system during the five years following the start date of the tax period in which the non-compliance took place.

   The provisions of this section will not be applicable in the cases in which the non-compliance was due to exceptional circumstances not attributable to the taxpayer or to force majeure.

Article 41. Obligations of Spanish and European economic interest groupings and temporary joint ventures.

1. The Spanish and European economic interest groupings, to which the special system provided for in Chapter III of Title VI of the Provincial Tax Regulation is applicable, must carry out a joint submission with their self-assessment for this tax, a list of their partners resident in Spanish territory or of the persons or entities that hold the economic rights inherent to the quality of partner on the last day of the tax period, with the following data:

   a) Identification, business address and percentage of involvement of partners or of the persons or entities that hold the economic rights inherent to the quality of partner.

      In this sense, the partners whose contributions must be qualified as equity instruments with special characteristics in accordance with the accounting criteria must be identified separately.

   b) Total sum of the amounts to be allocated, relating to the following items:

      1. Accounting result.

2. Net financial expenses which, in accordance with Article 25 bis of the Provincial Regulation on tax, have not been deductible in the Economic Interest Grouping in the tax period.

3. Taxable base.

4. Basis of the deduction for avoiding double taxation, type of entity from which the income derives and percentage of participation therein.

5. Basis of the deductions established in Chapter III of Title V of the Provincial Tax Regulation and any others that may be applicable to the economic interest grouping, except the basis of the deductions provided for in Articles 62 to 64 of the Provincial Regulation of the tax with respect to the partners whose contributions to the economic interest grouping must be classified as equity instruments with special characteristics in accordance with the accounting criteria.

6. Withholdings and payments on account corresponding to the economic interest grouping.

c) Contributions paid to the capital of the grouping by the partners whose contributions must be classified as equity instruments with special characteristics in accordance with the accounting criteria.

d) Dividends and shares in profits distributed with charge to reserves, distinguishing those that correspond to fiscal years in which the company had not been applicable to the special system.

2. The economic interest groupings must notify their partners or the persons or entities that hold the economic rights inherent to the quality of partner the total amounts to be imputed and the individual imputation made with the concepts foreseen in point (b) of the previous section, as far as they were imputable in accordance with the rules of this tax or of the Personal Income Tax.

   Likewise, they must inform the partners whose contributions must be classified as equity instruments with special characteristics in accordance with the accounting criteria of the amount of their contributions to the paid-up capital.

3. For the purposes of the non-taxation of dividends and shares in profits established in the first paragraph of Article 73(3) of the Provincial Tax Regulation, the groups shall include the following information in the annual accounts report:

   a) Profits applied to reserves corresponding to tax periods in which they were taxed under the general system.

   b) Profits applied to reserves corresponding to tax periods in which they were taxed under the special system, distinguishing between those corresponding to shareholders resident in Spanish territory and those corresponding to shareholders not resident in Spanish territory.

   c) In the case of distribution of dividends and shares in profits charged to reserves, designation of the reserve applied from among the three reserves referred to in points (a) and (b) above, depending on the type of profits from which they derive.

4. The mentions in the annual report referred to in the previous section must be made as long as the reserves referred to in point (b) of said section exist, even when the entity is not taxed under the special system.

5. The reporting obligations established in sections 3 and 4 of this Article will also be required with respect to the successive entities that hold the reserves referred to in point b) of section 3.

6. The provisions of the preceding paragraphs of this Article, insofar as applicable, will be binding on temporary joint ventures subject to the special system provided for in Chapter III of Title VI of the Provincial Tax Regulation, in relation to their member companies resident in Spanish territory on the last day of the tax period.

Article 41 bis. Limitation on the imputation of amounts to members of economic interest groupings.

1. The limit established in Article 73(1)(b) of the Provincial Tax Regulation for members of economic interest groupings whose contributions must be classified as equity instruments with special characteristics in accordance with the accounting criteria, will be applied globally for all the tax periods in which they maintain their participation in the grouping.

2. In cases in which, in a given tax period, there are amounts pending application as a result of the limitation referred to in the previous section, these amounts may be applied in subsequent tax periods, respecting in all cases the aforesaid limitation.

Article 42. Application and reporting obligations of the entities under the tax consolidation system.

1. The exercise of the option for the tax consolidation system will be notified to the Tax Authority.

   The communication will contain the following data:

   a) Identification of the companies that make up the tax group.

      In the case of permanent establishments of non-resident entities in Spanish territory that have the condition of parent company, it will be required, together with the identification of the companies that integrate the tax group, the identification of the non-resident entity in Spanish territory to which it belongs.

   b) Copy of the agreements by which the group companies have opted for the tax consolidation system.

   c) List of the percentage of direct or indirect participation held by the parent company with respect to each and every one of the companies comprising the tax group and the date of purchase of the respective shareholdings.

   The parent company will state that all the requirements established in Article 85 of the Provincial Tax Regulation are fulfilled.

2. The Tax Authority shall inform the parent company of the tax group No granted.

Article 43. Application of the system for mergers, spin-offs, contributions of assets, exchange of securities, global transfers of assets and liabilities and change of registered office of a European Company or a European Cooperative Society from one Member State to another Member State of the European Union.

1. The application of the system established in Chapter VII of Title VI of the Provincial Tax Regulation will require an option to opt for it in accordance with the provisions of Article 114(3) of the aforesaid Provincial Regulation.

2. The option must be notified, under the terms established in this Article, to the Tax Authority.

3. The communication of the option must be made within three months following the date of registration of the public deed documenting the transaction.

If registration is not necessary, the period will be computed from the date on which the public deed documenting the transaction is executed and in which, as per Article 114(3) of the Provincial Tax Regulation, the exercise of the option must necessarily be recorded.

In the case of a change of registered office, the notification must be made within three months of the date of inscription in the Register of the Member State of the new registered office of the public deed or equivalent document documenting the operation.

4. In the case of merger or spin-off transactions, the notification referred to in the preceding section must be carried out by the acquiring entity or entities.

   In the case of merger or spin-off transactions in which neither the transferring nor the acquiring entity has its tax residence in Spain and in which the system established in Article 102 of the Provincial Tax Regulation is not applicable, because the transferring entity does not have a permanent establishment located in Spain, the option for the special system will correspond to the resident partner concerned. The exercise of the option will be carried out by this one, when it is so stated in the self-assessment form of this tax or of the Provincial Tax Regulation on Personal Income Tax.

5. In the case of transactions of non-monetary contribution and in the global transfers of assets and liabilities, the communication will have to be presented by the acquiring entity or entities.

   If these do not have their tax residence in Spain, nor act in this country by means of a permanent establishment, the obligation to report will fall on the transferring person or entity.

6. In the case of exchange of securities, the notification will be presented by the acquiring entity.

   When neither the entity acquiring the securities nor the investee entity whose securities are exchanged are resident in Spain, the option for the special system will correspond to the affected resident partner. The exercise of the option will be made by the latter, when it is so stated in the corresponding box of the self-assessment form of this tax or of the Personal Income Tax.

7. In the operations of change of registered office the communication will be presented by the company itself.

8. In the notification the identification data of the entities participating in the operation will be expressed and the operation will be described. The following documentation, if applicable, shall be attached to the notification:

   a) In the cases of merger or spin-off, a copy of the public deed of merger or spin-off registered in the Company Register, and of those documents which, according to commercial rules, must compulsorily accompany the deed for its registration in the Register.

      If registration is not necessary, a copy of the public deed documenting the transaction and in which, as per Article 114(3) of the Provincial Tax Regulation, the exercise of the option must necessarily be stated.

   b) In the cases of non-monetary contributions and in the global transfers of assets and liabilities, as well as in the exchange of securities, a copy of the public deed of incorporation or increase of capital stock, and of the documents which, according to mercantile regulations, must compulsorily accompany the same.

      If a deed of incorporation or capital stock increase is not required, a copy of the deed documenting the transaction.

c) In the event that the previous transactions had been carried out by means of a public offer for the purchase of shares, a copy of the corresponding informative prospectus must also be provided.

d) In the case of a change of registered office, a copy of the public deed or equivalent document documenting the transaction and of any other documents that must obligatorily accompany the transaction for its registration in the Register of the Member State of destination.

9. In the cases referred to in the second paragraph of Article 107(3) of the Provincial Tax Regulation, the acquiring entity must carry out a joint submission with its self-assessment of this tax for the years in which it applies the non-integration in the taxable base contemplated in the aforesaid precept, the following information:

   a) Identification of the transferring entity and the percentage of participation held in it.

   b) Value and date of purchase of the shares of the transferring entity, as well as the value of the equity corresponding to such shares, determined on the basis of the standardised annual accounts.

   c) Justification of the criteria of valuation and time standardization, of the imputation to the assets and rights of the transferring entity of the difference existing between the purchase price of its shares and the value of the equity corresponding to the same on the date of dissolution of said entity.

Article 44. Option for the application of the special system for entities with qualified real estate leasing activity.

The exercise of the option for the special system of the entities with qualified activity of real estate leasing shall be notified to the Tax Authority.

The notification will contain the detail of the elements of the assets assigned to the activity of real estate leasing, including all the relevant data to verify the fulfilment of the requirements established for the application of the special system.

In the case of the entities referred to in Article 115(1) of the Provincial Tax Regulation, the employees of the entity required for the application of the special system shall also be listed, including details of the functions they perform and the relationship that links them to the entity.

In the case of the entities referred to in Article 115(2) of the Provincial Tax Regulation, the properties must be referenced reflecting the square meters of constructed surface area as well as the list of parking spaces and annexes located in the same building rented together with the dwellings.

TITLE V
TAX MANAGEMENT

CHAPTER I.
GENERAL PROCEDURE FOR PROCESSING AND APPROVAL OF APPLICATIONS.

Article 45. General procedure for processing and approval of applications.

1. The application must contain the data directly related to the subject matter of the application.

2. The application shall be submitted within the term established in each case or, failing this, within the three months following the performance of the transactions in which the approved criteria are to take effect.

The taxpayer will be able to desist of the formulated request.

3. The Administration may request from the taxpayer as much data, reports, background information and supporting documents as may be necessary and will decide within the following 6 months from the date of submission of the application or from the receipt of further information requested.

   The taxpayer may, at any time during the previous procedure to the hearing, present the allegations and provide the documents and supporting documents that they deem pertinent.

4. Once the procedure has been instructed, and immediately prior to the drafting of the proposed resolution, the file will be made available to the taxpayer, who will have a period of fifteen days to present the allegations and submit the documents and supporting documents that they deem pertinent.

   The hearing may be dispensed with when no other facts or allegations and evidence other than those adduced by the taxpayer appear in the procedure or are taken into account in the resolution.

5. The decision terminating the procedure must be reasoned.

   When the request consists of submitting for approval by the Tax Authority a plan or criterion formulated by the taxpayer, the resolution may:

   a) Approve the plan or criterion initially formulated by the taxpayer.

   b) Approve an alternative plan or criterion formulated by the taxpayer in the course of the procedure.

   c) Reject the plan or criterion formulated by the taxpayer.

6. Once the period referred to in section 3 above has elapsed, the request made by the taxpayer shall be deemed to have been accepted.

7. The provisions of this Article shall be generally applicable, taking into account, however, the particularities established in this Regulation for each matter.

CHAPTER II
INDEX OF ENTITIES

Article 46. Index of entities.

The Index of entities referred to in Article 119 of the Provincial Tax Regulation shall be formed from the data collected in the census returns to be filed in accordance with the provisions of the Regulations governing the formal tax obligations of the Historical Territory of Bizkaia, approved by means of Provincial Decree of the Provincial Council of Bizkaia 205/2008, of 22 December.

The registration, modification or deregistration in the Index of entities shall be carried out in accordance with the procedures established in the said Regulations.

Article 47. Renewal of the registration in the Index of entities and cancellation of the marginal note.

In those cases in which, in accordance with the provisions of Article 120 of the Provincial Tax Regulation, the provisional removal from the Index of Entities has been agreed and the appropriate marginal note has been issued in the corresponding public registry, the Director General of Finance shall agree to the registration in the said Index as well as the cancellation of the marginal note, at the request of the entity concerned, once the same is up to date with its tax obligations.

Article 47 bis. System guaranteeing the traceability and inviolability of the records documenting the supply of goods and services.

1. The technical and functional characteristics and specifications that the system referred to in section 1 of article 122 bis of the Provincial Tax Regulation must comply with will be determined by Provincial Order of the Provincial Councillor for Treasury and Finances.

2. In order to comply with the obligations established in section 1 of article 122 bis of the Provincial Tax Regulation, taxpayers must use software that is registered in the guarantee software registry referred to in article 10 of the Regulation, which is regulated by the formal tax obligations of the Historical Territory of Bizkaia, approved by Provincial Decree 205/2008, dated 22 December. Software must have been developed by an individual or entity that is also registered in said registry and has signed an affidavit.

   If the taxpayer has developed the software referred to in this section him or herself, they must register on the aforementioned registry and sign an affidavit.

   Registration, modification, or deregistration and exclusion from the record shall be carried out in accordance with that established by said Regulations.

3. In accordance with the provisions of letter a) of section 2 of article 122 bis of the Provincial Tax Regulation, the Bizkaia Provincial Council will make a computer application available to taxpayers that will serve to comply with the obligations established in section 1 of the aforementioned article.

   The use of this application may be limited to the operations and conditions published on the website of the Department of Treasury and Finances, depending on the tax regime or the particular circumstances that are applicable to the taxpayers.

4. Taxpayers will be exempt from compliance with the obligations established in section 1 of article 122 bis of the Provincial Tax Regulation in terms of those operations referred to in section 3 of article 122 bis of the Provincial Tax Regulation.

   Likewise, entities whose operations are totally or partially exempt by virtue of the provisions of article 12 of the Provincial Tax Regulation, as well as entities covered by the special tax regime applicable to non-profit entities regulated in Title II of Provincial Regulation 4/2019, dated 20 March, on the Tax Regime for Non-Profit Entities and Tax Incentives for Patronage, will be exempt from compliance with the obligations established in section 1 of article 122 bis of the Provincial Tax Regulation in terms of those operations that are exempt from Value Added Tax in application of the provisions of numbers 8, 11, 12, 13, 14, and 28 of section One of article 20 of Provincial Regulation 7/1994, dated November 9, on Value Added Tax.

   Likewise, taxpayers will be exempt from compliance with the obligations established in section 1 of article 122 bis of the Provincial Tax Regulation in terms of the supply of goods and services of a nature that is merely auxiliary or complementary to their main economic activity, carried out using machines or automatic devices that operate unassisted, provided that the volume of these operations from the previous year does not exceed 15 percent of said year’s volume of operations for the taxpayer's main economic activity, which will be the economic activity that has a greater volume of operations for said year. If the exercise of this activity is just beginning, compliance with this requirement will be assumed.

5. Likewise, in accordance with the provisions of sections 3 and 4 of article 122 bis of the Provincial Tax Regulation, the Directorate-General of the Treasury may authorise exemption from compliance with any or all of the obligations referred to in section 1 of the aforementioned article in terms of operations other than those provided for in letters a) through c) of section 3, and in letter a) of section 4, of the aforementioned article 122 bis, with respect to which exceptional circumstances of a technical nature that make said compliance impossible are observed. The aforementioned exemption, which will be temporary, will be conditional on a commitment to make the necessary adaptations to be

able to comply with the aforementioned obligations in terms of said operations, and will cease to be in effect when it is confirmed that the exceptional circumstances that motivated its adoption have ceased to exist.

6. Taxpayers must send the information produced as a result of compliance with the obligations referred to in section 1 of article 122 bis of the Provincial Tax Regulation, together with all other required information to the Tax Revenue Administration, in the form and according to the deadlines established in the Regulation that governs the formal tax obligations of the Historical Territory of Bizkaia, approved by Provincial Decree 5/2008, dated 22 December.

7. For the sole purposes of carrying out the verification referred to in section 6 of article 122 bis of the Provincial Tax Regulation, when this is carried out regarding the documents referred to in article 4 of the Regulation that regulates invoicing obligations, as approved by Provincial Decree 4/2013, dated 22 January, where the identification of the recipient of the operations is not recorded, this consideration will be held by those who, having accessed the electronic portal of the Bizkaia Provincial Council and properly identified themselves, first carry out the verification.

Article 47 three. Register of business operations.

1. Taxpayers of this Tax will be obliged to keep a record book of economic operations referred to in article 39 eleven of the Regulation that regulates the formal tax obligations of the Historical Territory of Bizkaia, approved by Provincial Decree 205/2008, dated 22 December.

2. The record book of economic operations will be kept through the electronic portal of the Bizkaia Provincial Council, as per the terms set out in the Regulation that regulates the formal tax obligations of the Bizkaia Provincial Council, recording all economic operations that will be classified into the following chapters:

   - Chapter on invoices issued.
   - Chapter on invoices received.
   - Chapter on investment goods.
   - Chapter on certain intra-community operations.
   - Chapter on other information with tax repercussions.
   - Chapter on accounting operations.

   In particular, the digitally signed digital files referred to in letter a) of section 1 of article 122 bis of the Provincial Tax Regulation must be recorded in the Chapter on invoices issued.

Article 47 four. Tax return drafts.

1. Prior to compliance with the taxpayer obligation established in article 126 of the Provincial Tax Regulation, the Department of Treasury and Finances will make a tax return draft available to the taxpayer through the electronic portal of the Bizkaia Provincial Council based on the information held by the Tax Revenue Administration and, in particular, the information contained in the economic operations record book referred to in article 122 three of the Provincial Tax Regulation, as long as the the taxpayer has submitted the information that must be included in the Chapter on accounting operations for the economic operations record book within the period referred to in section 1 of article 39 nineteen of the Regulation that regulates formal tax obligations.

2. Once the Department of Treasury and Finances has proceeded to make said draft available, the taxpayer may modify and/or provide information and documentation they deem necessary to liquidate the Tax payment, with compliance with the obligation established in article 126 of the Provincial Tax Regulation being required through the Bizkaia Provincial Council's electronic portal.

   In no case does the Department of Treasury and Finances making a draft tax return available exempt the taxpayer from complying with said obligation.

3. In any case, the provisional settlement issued may be subject to review in accordance with the corresponding procedure, under the provisions of Provincial Regulation 2/2005, dated 10 March, on the General Taxation of the Historical Territory of Bizkaia.

CHAPTER III
OPTIONS TO BE EXERCISED WITH THE SUBMISSION OF THE SELF-ASSESSMENT

Article 48. Rectification of the exercise of options.

1. Notwithstanding the provisions of the second paragraph of Article 128(2) of the Provincial Tax Regulation, taxpayers may correct arithmetical or factual errors made after the end of the voluntary period for the self-assessment of the tax and provided that there has not been a prior request from the Tax Authority.

   For the purposes of the provisions of this Article, the adjustment of arithmetical or factual errors may not imply the variation of more than 50% of the amounts included in the self-assessments filed within the voluntary tax self-assessment period, nor may it imply the accreditation of amounts that imply a reduction of the tax base or the application of deductions from the tax liability for concepts or transactions that were not included in the self-assessments filed within the voluntary tax return period.

2. Notwithstanding the provisions of the preceding paragraph, taxpayers may rectify their self-assessments at any time to cancel the exercise of options that would have implied a reduction of the tax base or the tax liability when they are aware of the non-compliance with the requirements established for this purpose and provided that there has not been a prior requirement from the Tax Authority.

Article 49. Failure to file the self-assessment and other cases.

1. Taxpayers who have not filed a self-assessment within the voluntary tax self-assessment period will not be able, at any time, to exercise the options referred to in the second paragraph of Article 128(2) of the Provincial Tax Regulation.

   Nor will they be able to exercise the rest of the options referred to in Article 128 of the Provincial Tax Regulation once a requirement of the Tax Authority has been issued.

2. The provisions of the preceding section shall also apply to taxpayers who have not declared a positive taxable income in their self-assessment of the tax, but with respect to whom, as a result of a tax management or inspection procedure, the Tax Authority has determined that their taxable income is positive.

CHAPTER IV
PAYMENTS ON ACCOUNT

Article 50. Income subject to withholding or payment on account.

1. A withholding shall be made, as payment on account of the Corporation Tax corresponding to the recipient, with respect to the following:

a) Income derived from the participation in equity of any type of entity, from the cession to third parties of own capital and the remaining income included in Articles 36 and 37 of the Provincial Regulation on Personal Income Tax.

b) Prizes derived from the participation in games, contests, raffles or random combinations, whether or not they are linked to the offer, promotion or sale of certain goods, products or services.

c) Considerations obtained as a consequence of the attribution of directorships or advisory positions in other companies.

d) Income from the assignment of the right to the exploitation of the image or from the consent or authorization for its use, when, in accordance with the provisions of the Provincial Regulation on Personal Income Tax, they constitute income from movable capital.

e) The income from the lease or sublease of urban real estate, even when they constitute income derived from economic exploitations.

f) Income obtained as a consequence of the transfer or redemption of shares or participations representing the capital or equity of collective investment institutions.

2. When the same contract includes the provision of services or the transfer of real estate, together with the transfer of goods and rights included in Article 37 of the Provincial Regulation on Personal Income Tax, withholding must be made on the total amount.

   When the same contract includes the lease, sublease or cession of rural properties, jointly with other movable goods, the withholding will not be practised except in the case of the lease or cession of businesses or mines.

3. A payment on account of the Corporation Tax corresponding to the recipient must be made with respect to the income of the previous sections, when they are paid or paid in kind.

4. Withholdings and payments on account shall be paid to the Provincial Council of Bizkaia in accordance with the criteria established for this purpose in the Personal Income Tax Regulations.

Article 51. Exceptions to the obligation to withhold and to pay on account.

There shall be no obligation to withhold or pay on account with respect to:

1. The yields of the securities issued by the Bank of Spain that constitute a regulatory instrument of intervention in the money market and the yields of the Treasury Bills.

   However, credit institutions and other financial institutions that formalize with their clients contracts of accounts based on transactions on Treasury Bills will be obliged to withhold with respect to the yields obtained by the holders of the aforesaid accounts.

2. The interest that constitutes an entitlement in favour of the Treasury as consideration for loans from the State to official credit.

3. The interests and commissions of loans that constitute income of the credit institutions and financial establishments of credit registered in the special registries of the Bank of Spain, resident in Spanish territory.

   The above exception shall not apply to interest and yields on debentures, bonds or other securities issued by public or private, national or foreign entities, which make up the securities portfolio of the aforesaid entities.

4. Interest on loans, credits or advances, both assets and liabilities, carried out by Sociedad Estatal de Participaciones Industriales (State Industrial Ownership Corporation) with companies in which it has a majority shareholding, although this exception may not be extended to interest on bonds, debentures, debenture stock or other similar securities.

5. Interest received by securities companies as a consequence of credits granted in connection with purchase or sale transactions of securities referred to in Article 63(2)(b) of Law 24/1988, of 28 July, on the Securities Market, as well as interest received by investment services companies in respect of active loan or deposit transactions referred to in Article 49(2) of Royal Decree 217/2008, of 15 February, on the legal system of investment services companies and other entities providing investment services and partially amending the Regulations of Law 35/2003, of 4 November, on Collective Investment Institutions, approved by Royal Decree 1309/2005, of 4 November.

   There will also be no obligation to withhold with respect to interest received by securities companies or agencies, in consideration for the guarantees constituted to operate as members of the financial futures and options markets, in the terms referred to in Chapters IV and V of Royal Decree 1282/2010, of 15 October, which regulates the official secondary markets of futures, options and other derivative financial instruments.

6. Premiums for the conversion of debentures into shares.

7. Income derived from the distribution of the premium on the issue of shares or holdings.

8. Profits received by a parent company resident in Spain from its subsidiaries resident in other Member States of the European Union, regarding withholding provided for in Article 52(2) of this Regulation, when

   the requirements established in Article 14(1)(g) of the Provincial Regulation on Non-resident on Taxes on Income.

9. The income from the lease or sublease of urban real estate in the following cases:

   a) When it is a case of a housing lease by companies for their employees.

   b) When the income paid by the lessee to the same lessor does not exceed 900 Euros per year.

   c) When the activity of the lessor is classified in any of the headings of group 861 of the First Section of the Rates of the Tax on Economic Activities, approved by the Provincial Regulatory Decree 1/1991, of 30 April, or, in some other heading that authorizes the activity of leasing or subleasing of urban real estate, and applying to the cadastral value of the real estate destined to the lease or sublease the rules to determine the quota established in the headings of the mentioned group 861, had not resulted in zero quota.

      To these effects, the lessor will have to accredit before the lessee the fulfilment of the mentioned requirement, in the terms that establishes by Provincial Order the Provincial deputy of Treasury and Finances.

   d) When the income derives from the financial lease contracts referred to in Article 18(1) of the Provincial Tax Regulation, insofar as they relate to urban real estate.

10. The yields that are payable between a Spanish or European economic interest grouping and its members, as well as those that are payable between a temporary joint venture and its member companies.

11. The yields of mortgage participations, loans or other credit rights that constitute income of the securitization funds.

12. Income from foreign accounts paid or paid by permanent establishments abroad of credit institutions and financial institutions resident in Spain.

13. Income paid to entities that are exempt from this tax by virtue of the provisions of an international treaty signed by Spain.

14. Dividends or shares in profits, interest and other income paid between companies forming part of a group taxed under the special tax consolidation system regulated in Chapter VI of Title VI of the Provincial Tax Regulation.

15. Dividends or shares in profits distributed by Spanish or European economic interest groupings and by temporary joint ventures, except those that must be taxed in accordance with the general tax rules, that correspond to partners who must bear the imputation of the tax base and come from tax periods during which the entity has been taxed under the provisions of the special system established in Chapter III of Title VI of the Provincial Tax Regulation.

16. Income obtained by the exempt entities referred to in Article 12 of the Provincial Tax Regulation` or the equivalent provisions of the Corporation Tax regulations in force in the other two Historical Territories of the Autonomous Community of the Basque Country, in the Provincial Community of Navarra and in the common system territory.

    The condition of exempt entity may be accredited by any means of proof admitted in law. The Tax Authority may establish the means and form to accredit the condition of exempt entity.

    It will be able to determine the procedure to be able to make effective the exoneration of the obligation of withholding or payment on account regarding the yields derived from the titles of the Public Debt of the State received by the exempt entities to which this section refers.

17. The dividends or shares in profits referred to in Article 33(1) of the Provincial Tax Regulation, as well as those distributed by general mutual insurance companies, social welfare entities, reciprocal guarantee companies or associations.

    For the purposes of the provisions of this number, the receiving entity will have to communicate to the entity obliged to withhold that the requirements established in the aforesaid Article are met. The notification shall contain, in addition to the identification data of the payee, the documents that justify the fulfilment of the referred requirements.

18. The income obtained by the taxpayers of this tax from financial assets, provided that they fulfil the following requirements:

    a) That they are represented by book entries.

    b) That are traded in an official secondary securities market in Spain.

    However, credit institutions and other financial institutions that formalize with their client account contracts based on transactions on financial assets, shall be obliged to withhold with respect to the income obtained by the holders of the aforesaid accounts.

    The financial institutions through which the payment of interest is made on the securities included in this number or which intervene in the transfer, amortization or redemption of the same, will be obliged to calculate the yield attributable to the holder of the security and to inform both the holder and the Tax Authority, to which they will also provide the data corresponding to the persons who intervene in the transactions listed above.

    The Tax Authority will also establish, likewise, the obligations of intermediation and information corresponding to the separations, transmissions, reconstitutions, reimbursements or amortizations of Debt securities for which the separate negotiation of the principal and the coupons has been authorized. In such cases, the entities managing the

Public Debt Book-Entry Market will be obliged to calculate the yield attributable to each holder and inform both the holder and the Tax Administration, to which they will also provide the information corresponding to the persons who intervene in the transactions on these securities.

The Deputy for Treasury and Finance is empowered to establish the procedure to enforce the withholding exclusion regulated in this number.

19. The prizes referred to in point(b) of section 1 of the previous Article, when their withholding base does not exceed 300.51 Euros.

20. Income obtained by the taxpayers of this tax from Debt issued by the General government of the countries of the Organization for Economic Cooperation and Development (OECD) and financial assets traded in organized markets of such countries.

    However, the credit institutions and other financial entities that formalize with their clients contracts of accounts based on transactions on the financial assets referred to in the preceding paragraph, will be obliged to withhold with respect to the yields obtained by the holders of the aforesaid accounts.

    The financial entities through which the payment of interest is made on the securities included in this number or which intervene in the transfer, amortization or redemption thereof, shall be obliged to calculate the yield attributable to the holder of the security and inform both the holder and the Tax Authority, to which they shall also provide the data corresponding to the persons who intervene in the aforesaid transactions.

    The Deputy for Treasury and Finance is empowered to establish the procedure to enforce the withholding exclusion regulated in this number.

21. The income derived from the transfer or redemption of shares or participations representing the capital or equity of collective investment institutions obtained by:

    a) Investment funds of a financial nature and equity investment companies regulated in Law 35/2003, of 4 November, on Collective Investment Institutions, in whose management regulations or bylaws they have established a minimum investment of more than 50% of their equity in shares or units of several collective investment institutions of those provided for in paragraphs (c) and (d), indistinctly, of Article 48(1) of the Regulations implementing Law 35/2003, of 4 November, on collective investment institutions, approved by Royal Decree 1082/2012, of 13 July.

    b) Investment funds of a financial nature and capital investment companies regulated in Law 35/2003, of 4 November, on collective investment institutions, whose management regulations or articles of association provide for the investment of at least 85% of their equity in a single investment fund of a financial nature of those regulated in the first paragraph of Article 3(3) of the Regulations implementing Law 35/2003, of 4 November, on collective investment institutions, approved by Royal Decree 1082/2012, of 13 July. Where this investment policy relates to a sub-fund of the fund or of the investment company, the exemption from the obligation to withhold and pay on account provided for in this item shall apply only in respect of investments forming part of the assets of the institution attributed to that particular sub-fund.

    The application of the withholding exclusion envisioned in this number 21 will require that the investing institution is included in the corresponding category that, for the types of investments indicated in points (a) and (b), has been established by the National Securities Market Commission, which must be stated in its informative prospectus.

22. The amounts paid by the insurance companies to the pension funds as a consequence of the insurance of pension plans.

Nor shall there be any obligation to withhold with respect to the amounts paid by open pension funds as a result of the withdrawal or mobilisation of units of investor pension funds or investor pension plans, in accordance with the provisions of the consolidated text of the Pension Plans and Funds Regulation Act, approved by Royal Legislative Decree 1/2002, of 29 November, and its implementing rules.

23. Income from the exchange of assets in which life insurance provisions in which the policyholder assumes the investment risk are invested.

    For the application of the provisions of the previous paragraph, the insurance entities must communicate to the entities obliged to withhold, on the occasion of the transfer or redemption of assets, the circumstance that it is an insurance contract in which the policyholder assumes the risk of the investment and in which the requirements foreseen in Article 57(2)(g) of the Provincial Regulation on Personal Income Tax. The entity obliged to make the withholding must keep the duly signed notification.

24. Income derived from the exercise of the functions of liquidation of insurance companies and the bankruptcy processes to which they are subject obtained by the Insurance Compensation Consortium, by virtue of the provisions of the third paragraph of section 1 of Article 24 of the Consolidated Text of the Legal Statute of the Insurance Compensation Consortium, approved by means of Royal Legislative Decree 7/2004, of 29 October.

25. The income that becomes apparent in the policyholder companies as a consequence of the variation in the pension commitments that are instrumented in a collective insurance contract that has been the object of a financing plan, as long as it has not been fully complied with, under the provisions of the second paragraph of Article 36(5) of the Regulation on the instrumentation of pension commitments of companies with workers and beneficiaries, approved by Royal Decree 1,588/1999, of 15 October.

26. Income derived from the redemption or transfer of participations or shares issued by the following collective investment institutions:

    1.º Stock-listed funds and listed, index-linked variable capital investment companies regulated by Article 79 of the Regulations implementing Law 35/2003, of 4 November, on collective investment institutions, approved by Royal Decree 1082/2012, of 13 July.

    2.º Collective investment institutions created abroad, analogous to those mentioned in number 1 above and different to those set forth in article 81 of the Provincial Tax Regulation, whether they are listed in a regulated market or in a multilateral trading system, whatever the composition of the index they reproduce, replicate or take as a reference, provided that, in addition, the redemption or transfer is not carried out in a market located in a country or territory that is considered a non-cooperative jurisdiction.

27. Remuneration and compensation for economic rights received by central counterparties for securities lending transactions carried out in application of the provisions of Article 82(2) of Royal Decree 878/2015, of 2 October, on clearing, settlement and registration of transferable securities represented by book entries, on the legal arrangements for central securities depositories and central counterparties and on transparency requirements for issuers of securities admitted to trading on an official secondary market.

    Likewise, central counterparties shall not be obliged to withhold withholding tax on the remuneration and compensation for economic rights that they pay as a result of the securities lending transactions referred to in the previous paragraph.

    The provisions of the preceding paragraph shall be understood to be without prejudice to the subjection of the aforesaid income to the corresponding withholding tax, in accordance with the regulations governing the corresponding personal tax of the beneficiary of such income, which, where applicable, shall be levied by the participating entity that intermediaries in the payment thereof to the beneficiary, for which purpose it shall not be understood to be simply mediating the payment.

28. Income which is disclosed by application of the provisions of Article 45(2) of the Provincial Tax Regulation.

Article 52. Parties obliged to withhold or make a payment on account.

1. The following shall be obliged to withhold or make a payment on account when they pay or pay income as provided for in Article 50 of this Regulation:

   a) Legal entities and other entities, including communities of property and owners and entities under the income attribution regime.

   b) Taxpayers liable for Personal Income Tax who carry out economic activities, when they pay income in the exercise of their activities.

   c) Individuals, legal and other entities not resident in Spanish territory, which operate therein through a permanent establishment.

2. A person or entity shall not be considered to satisfy or pay an income when it merely mediates payment, meaning the payment of an amount on behalf of and to the order of a third party, except in the case of entities that are depositories of foreign securities owned by residents in Spanish territory or that are responsible for the collection of the income from such securities. The aforesaid depository entities must practice the corresponding withholding provided that such income has not subjected to prior withholding in Spain.

3. In the case of prizes, the person or entity that pays them will be obliged to withhold or pay into the account.

4. In transactions involving financial assets, they will be obliged to withhold tax:

   a) In the case of income obtained on redemption or repayment of financial assets, the issuing person or entity. However, in the event that a financial institution is entrusted with the materialisation of these transactions, the person obliged to withhold shall be the financial institution in charge of the transaction.

      In the case of drawing instruments converted after their issue into financial assets, the public notary or financial corporation involved in the presentation for collection shall be obliged to retain them at maturity.

   b) In the case of income obtained in the transfer of financial assets, including the drawing instruments referred to in the previous point, when channelled through one or more financial corporations, the bank, savings bank or financial institution acting on behalf of the transferor.

      For the purposes of the provisions of this letter, it shall be understood that the bank, savings bank or financial entity that receives the sale order of the financial assets from the transferor is acting on behalf of the transferor.

   c) In cases not covered in the previous paragraphs, it shall be the notary public who is required to take part in the transaction.

5. In transfers of Government Debt securities, the withholding shall be made by the Public Debt Book-Entry Market management entity involved in the transfer.

6. In transfers or redemptions of shares or holdings representing the capital or assets of collective investment institutions, the following persons or entities must make withholdings or payments on account:

   1. In the case of redemptions of investment fund holdings, the management companies, except for holdings registered in the name of marketing entities on behalf of

participants, in respect of which these marketing entities shall be obliged to make the withholding or payment on account.

2. In the case of the repurchase of shares by a capital investment company whose shares are not listed on the stock exchange or other organised securities market or trading system, acquired by the taxpayer directly or through a trader from the company, the company itself, unless a management company intervenes; in this case, it shall be the management company.

3. In the case of collective investment undertakings domiciled abroad, the marketing entities or intermediaries authorised to market the shares or units of such undertakings and, subsidiarily, the entity or entrusted entities for the placement or distribution of the securities among potential subscribers, when they make the redemption.

4. In the case of management companies operating under the free provision of services, the representative appointed in accordance with the provisions of the eighth supplementary provision of Provincial Regulation 2/2004, of 23 April, on tax measures in 2004.

5. In cases in which withholding is not applicable in accordance with the previous numbers, the shareholder or participant who makes the transfer or obtains the redemption shall be obliged to make a payment on account. This payment on account shall be made in accordance with the rules contained in the first paragraph of Article 54(4), Article 55(3) and Article 56(d) of this Regulation.

7. In transactions carried out in Spain by insurance companies operating under the free provision of services, insurance companies domiciled in another Member State of the European Economic Area shall be obliged to make a withholding or payment on account.

8. The parties obliged to withhold shall assume the obligation to make the payment to the Provincial Council of Bizkaia, and non-compliance with this obligation shall not exempt them from this obligation.

   The corresponding withholding and payment, when the entity paying the income is the Provincial Council, shall be made directly.

Article 53. Classification of financial assets and tax requirements for the transfer, redemption and amortisation of financial assets.

1. Financial assets with an implicit yield shall be considered to be those in which the yield is generated by the difference between the amount paid on issue, first placement or endorsement and the amount committed to be repaid on maturity of those transactions whose yield is fixed, in whole or in part, implicitly, through any investments used to raise funds from third parties.

   Implicit income include issue, amortisation or redemption premiums.

   The concept of implicit yield excludes placement bonuses or premiums paid on the issue price, provided that they are in line with market practice and that they constitute income in their entirety for the financial intermediary, broker or placement agent acting in the issue and circulation of the financial assets regulated in this provision.

   Any drawing instrument, including those originating in commercial transactions, shall be considered as a financial asset with implicit yield from the moment it is endorsed or transferred, unless the endorsement or transfer is made in payment of a credit from suppliers or providers.

2. Financial assets with an explicit yield shall be considered to be those which generate interest and any other form of remuneration agreed as consideration for the transfer to third

parties of own capital and which is not included in the concept of implicit yields in the terms established in the previous paragraph.

3. Financial assets with a mixed yield shall follow the system for financial assets with an explicit yield, when the annual cash yield they produce of this nature is equal to or higher than the reference rate in force at the time of issue, even if an additional yield has been implicitly established in the terms of issue, redemption or redemption. This reference rate shall be, during each calendar quarter, 80% of the effective rate corresponding to the rounded weighted average price obtained in the last bidding of the preceding quarter for three-year government bonds, in the case of financial assets with a term of four years or less; for five-year government bonds, in the case of financial assets with a term of more than four years but not more than seven years; and for ten-year, fifteen-year or thirty-year government bonds, in the case of assets with a longer term. In the event that the reference rate cannot be determined for any maturity, the reference rate to be applied shall be that of the maturity closest to the maturity of the planned issue.

   For the purposes of this section, in the case of issues of financial assets with a floating or variable rate of return, the effective interest rate of the transaction shall be taken to be the internal rate of return of the transaction, taking into account only returns of an explicit nature and calculated, where applicable, with reference to the initial valuation of the parameter for which the final amount of accrued returns is periodically fixed.

   Notwithstanding the above, in the case of mixed-yield public debt, the coupons and amortisation amount of which are calculated by reference to a price index, the percentage in the first subparagraph shall be 40%.

4. To dispose of or obtain redemption of securities or financial assets with implicit yield, and financial assets with explicit yield which must be subject to withholding tax at the time of their transfer, amortization or redemption, proof must be provided of their prior purchase with the intervention of the authorised agents or financial corporations obliged to withhold tax, as well as the price at which the transaction was carried out.

   When a drawing instrument becomes a financial asset after it has been put into circulation, the first endorsement or assignment must already be made through a notary public or financial corporation, unless the same endorser or acquirer is a financial institution. The notary or financial corporation shall state on the document that it is a financial asset, with identification of the first acquirer or holder.

5. For the purposes of the provisions of the preceding section, the issuing person or entity, the financial corporation acting on its behalf, the notary public or the financial institution acting or intervening on behalf of the acquirer or depositor, as the case may be, must issue a certificate certifying the following:

   a) Date of the transaction and identification of asset.

   b) Name of the acquirer.

   c) Tax identification number of the said acquirer or depositor.

   d) Purchase price.

   Two copies of the said certificate, which shall be drawn up in triplicate, shall be given to the purchaser, and the other copy shall remain in the possession of the person or entity that certifies.

6. Financial corporations or notaries public shall refrain from mediating or intervening in the transfer of these assets when the transferor does not justify their purchase in accordance with the provisions of this Article.

7. The persons or entities issuing the financial assets referred to in section 4 may not redeem such assets where the holder does not prove their prior purchase by means of the appropriate certification in accordance with the provisions of section 5 above.

   The issuer or the financial corporations in charge of the transaction which, in accordance with the preceding paragraph, are not required to reimburse the holder of the security or asset shall make a deposit of the said amount at the disposal of the judicial authority.

   The repurchase, redemption, cancellation or early amortisation shall require the intervention or mediation of a financial corporation or notary public, with the corporation or person issuing the asset remaining the mere purchaser in the event that it puts the security back into circulation.

8. If the titleholder loses a certificate attesting to their purchase, they may request the issue of the corresponding duplicate from the person or entity that issued the certificate.

   This person or entity shall state that the document is a duplicate, as well as the date of issue of the latter.

9. In cases of a lucrative transfer, it shall be understood that the acquirer is subrogated to the purchase value of the transferor, as long as there is sufficient justification of the aforesaid cost.

Article 54. Basis for calculating the obligation to withhold and pay on account.

1. As a general rule, the basis for calculating the obligation to withhold tax shall be the full consideration due or paid.

2. In the case of amortization, redemption or transfer of financial assets, it will constitute the basis for calculating the obligation to withhold the positive difference between the amortization, reimbursement or transfer value and the purchase or subscription value of said assets. The purchase value shall be taken to be the value stated in the certificate evidencing the purchase. For these purposes, ancillary expenses to the transaction shall not be deducted.

   Without prejudice to the withholding tax payable to the transferor, in the event that the issuing entity acquires a financial asset issued by it, withholding tax shall be levied on the yield obtained in any form of subsequent transfer of the security, excluding redemption.

3. Where the obligation to withhold is triggered by the provisions of Article 50(1)(b) of this Regulation, the amount of the premium shall constitute the basis for the calculation of the withholding tax.

4. Where the obligation to withhold is triggered by the provisions of Article 50(1)(f) of this Regulation, the basis for withholding shall be the difference between the transfer or redemption value and the purchase value of the shares or participations. For these purposes, the securities transferred or redeemed by the taxpayer shall be deemed to be those which they first acquired.

   In the case of redemption of investment fund shares governed by Law 35/2003, of 4 November, on collective investment undertakings, for which, by application of the provisions of Article 40(3) of the aforesaid Law, there is more than one register of participants, or of transfer or redemption of shares or participations in collective investment undertakings domiciled abroad, marketed, placed or distributed in Spanish territory, the seniority rule referred to in the preceding paragraph shall be applied by the management or marketing entity with which the redemption or transfer takes place in respect of the securities appearing in its register of participants or shareholders.

5. When the obligation to make a payment on account arises by virtue of the provisions of Article 50(3) of this Regulation, the market value of the asset shall constitute the basis for calculating the same.

   For these purposes, the market value shall be taken to be the result of increasing the purchase value or cost to the payer by 20%.

6. When the full consideration payable or paid cannot be proven, the tax authorities may calculate as such an amount which, after subtracting the appropriate withholding, gives the amount actually received.

Article 55. Origin of the obligation to withhold and pay on account.

1. In general, the obligations to withhold and to pay on account shall arise at the time of the payment of the income, in cash or in kind, subject to withholding or payment on account, respectively, or at the time of its payment or delivery if this is earlier.

   In particular, interest shall be deemed to be payable on the due dates indicated in the deed or contract for its settlement or collection, or when it is otherwise recognised on account, even if the recipient does not claim its collection or the income accrues to the principal of the transaction, and dividends on the date established in the distribution agreement or from the day following that of its adoption in the absence of the determination of the aforesaid date.

2. In the case of income derived from the amortisation, redemption or transfer of financial assets, the obligation to withhold or pay on account shall arise at the time the transaction is formalised.

3. In the case of income obtained as a result of the transfer or redemption of shares or units representing the capital or assets of collective investment undertakings, the obligation to withhold or pay tax on account shall arise at the time the transaction is formalised, whatever the agreed terms of collection.

Article 56. Percentage of withholding and payment on account.

The percentage of withholding or payment on account shall be as follows:

a) In general, 19%.

b) In the case of income from the transfer of the right to the exploitation of the image or from the consent or authorisation for its use, 24%.

c) In the case of leasing and subletting of urban property, 19%.

d) In the case of capital gains deriving from the transfer or redemption of shares and holdings in collective investment institutions, 19%.

e) In the case of lottery and betting prizes which, due to their amount, are subject to and not exempt from the special tax on certain lotteries and bets regulated in the eighteenth supplementary provision of the Provincial Regulation on Personal Income Tax, of 20%. In this case, the withholding shall be made on the amount of the prize that is subject to and not exempt, in accordance with the aforesaid provision.

Article 57. Amount of withholding or payment on account.

The amount of withholding or payment on account shall be determined by applying the percentage referred to in the previous Article to the base for calculation.

Article 58. Obligations of the withholder and the person required to pay on account.

1. Within the first twenty-five calendar days of the months of April, July, October and January, the withholder and the person required to pay on account shall submit to the competent body of the Tax Administration a declaration of the amounts withheld and the corresponding payments on account for the immediately preceding calendar quarter and pay the amount thereof to the Provincial Council of Bizkaia.

   However, the declaration and payment referred to in the previous paragraph shall be made within the first twenty-five calendar days of each month, regarding the amounts withheld and the payments on account corresponding to the immediately preceding month, in the case of withholders or taxpayers in which the circumstances referred to in numbers 1 and 1 bis Article 71(3) of Royal Decree 1624/1992, of 29 December, apply. By way of exception, the declaration and payment corresponding to the month of July shall be made during the month of August and the first twenty-five calendar days of the month of September immediately following.

   The withholder or obliged to pay on account will present a negative declaration when, despite having paid income subject to withholding or payment on account, the practice of withholding or payment on account has not proceeded, due to its amount. No negative return shall be filed when no income subject to withholding or payment on account has been paid during the tax return period.

2. The withholder or the person liable for payment on account must submit, within the period between 1 and 31 of January, an annual summary of the withholdings and payments on account made in the immediately preceding year.

   Likewise, this filing deadline shall be applicable in cases where the statement is filed electronically or on a directly computer-readable medium.

   This summary, in addition to their identification data, may be required to include a named list of the payees with the following data:

   a) Name of the entity.

   b) Tax identification number.

   c) Income obtained, indicating the identification, description and nature of the items, as well as the financial year in which said income accrued.

   d) Withholding or payment on account carried out.

   The same obligations established in the previous paragraphs shall apply to entities domiciled, resident or represented in Spanish territory, which pay income subject to withholding or which are depositaries or manage the collection of securities income.

3. The withholder or person obliged to pay on account must issue the taxpayer with a certificate certifying the withholdings made, or the payments on account made, as well as the other data relating to the taxpayer that must be included in the annual summary referred to in the previous section.

   The aforesaid certificate must be made available to the taxpayer prior to the start of the tax return period for this tax.

   The same obligations established in the previous paragraphs shall apply to entities domiciled, resident or represented in Spanish territory, which pay income subject to withholding or which are depositaries or manage the collection of securities income.

4. Payers must inform taxpayers of the withholding or payment on account made at the time they pay the income, indicating the applicable percentage.

5. The declarations referred to in this Article shall be carried out using the models, form and place established for each type of income established by the Provincial Councillor for the Treasury and Finance, who may also determine the data to be included in the declarations, from those provided for in section 2 above, and the withholder or payer shall be obliged to complete all the data contained in the declarations concerned.

6. The declaration of the payment or payment on account referred to in number 4 of Article 52(6) of this Regulation shall be made in the manner, place and within the period determined by the Provincial Councillor for the Treasury and Finance.

SUPPLEMENTARY PROVISIONS

One. Regulatory references.

All references contained in the tax legislation of the Historical Territory of Bizkaia to the Provincial Decree 81/1997, of 10 June, approving the Corporation Tax Regulations, shall be understood to refer to the corresponding provisions of this Regulation.

Two. Reductions in Social Security contributions for research personnel.

1. The rebate on Social Security contributions for research personnel, regulated in Royal Decree 475/2014, of 13 June, on rebates on Social Security contributions for research personnel, shall be compatible with the application of the system of deductions for research and development and technological innovation activities, established in Articles 62 and 63 of Provincial Regulation 11/2013, of 5 December, on Corporation Tax, for micro, small and medium-sized enterprises.

2. For the rest of companies or entities, the rebate regulated in Royal Decree 475/2014, of 13 June, shall be compatible with the aforesaid system of deductions as long as it is not applied to the same researcher. In such cases, companies may opt to apply the rebate on Social Security contributions in respect of the personnel referred to in Article 2 of said Royal Decree, or a deduction for the costs of such personnel in the projects in which they participate and in which they carry out the activities referred to in Articles 62 and 63 of Provincial Regulation 11/2013, of 5 December, on Corporation Tax.

   In accordance with the provisions of the previous paragraph, it shall be compatible for the same company and in the same project, the application of allowances on researchers together with the application of deductions for other researchers for which the company, in that case, wishes to deduct.

3. Entities or companies that apply rebates and also apply deductions must also provide, at the request of the Tax Administration, an annual report of activities and projects carried out and researchers affected by the rebate.

Three. Procedures for prior administrative involvement.

1. In the cases provided for in Articles 53(5) and 61(2) of the Provincial Tax Regulation, the prior administrative linking procedure referred to in the aforesaid provisions shall be processed under the provisions of the third supplementary provision of the Provincial Regulation 101/2005, of 21 June, which develops the procedures relating to written tax consultations, prior proposals for taxation and the anti-avoidance clause.

2. The request for the initiation of the prior administrative binding procedure shall include the following points in the cases provided for in Article 53(5) of the Provincial Tax Regulation:

   a) Proposed application of the result corresponding to the tax period in which the profit has been generated which is allocated to the Special Reserve for the promotion of entrepreneurship and the reinforcement of productive activity.

   b) Quantification of the tax base for the tax period in which the profit was generated.

c) Details of the NAV for tax purposes of the entity.

d) Details and movements of the special reserve for the promotion of entrepreneurship and the strengthening of productive activity in the previous four financial years.

e) Details of the holdings in entities in which it is intended to materialise the allocation to the Special Reserve for the promotion of entrepreneurship and the strengthening of productive activity.

f) Explanatory report on the relevant business projects involving the development of new activities, products or markets, the expansion or consolidation of existing ones or the creation of stable jobs to be developed by the entity in which the participation is acquired.

g) Justification that these investments imply a substantial increase in NAV for tax purposes of the investee.

h) Justification that the investee entity encounters difficulties, arising from the size, novelty or risk of the investments to be undertaken, in accessing the capital markets.

i) Details of the contractual elements that articulate the relationship between the taxpayer and the investee entity and the assumption of risks in the projects to be undertaken.

j) Justification that the investee entity complies with the requirements set out in Article 13(3)(a)(c) of the Provincial Tax Regulation.

k) Justification that the purchase is not made from a related person or entity under the terms established in Article 42(3) of the Provincial Tax Regulation.

l) Calendar and deadlines for the purchase of the shares in which the balance of the Special Reserve for the promotion of entrepreneurship and the strengthening of productive activity is to be applied.

m) Economic impact of the investment within a period of five financial years following the purchase, specifying the expected tax effects of starting the entrepreneurship project or the strengthening of productive activity.

3. The request for the initiation of the prior administrative binding procedure shall include the following points in the cases provided for in Article 61(2) of the Provincial Tax Regulation:

   a) Justification of investments made in elements of the entity's non-current assets that have the accounting treatment of improvements.

   b) Justification of compliance with the requirements established in Article 61(1)(3) of the Provincial Tax Regulation.

   c) Technical report certifying that the investments are of such quantitative or qualitative significance that they involve a structural and functional alteration of the asset to which the improvement is made that it is suitable for use for purposes other than those for which it was previously used.

   d) Administrative authorisations required for the modification of the purpose for which the asset was intended.

   e) Deadline and calendar for the realisation of the investments as well as the determination of the moment from which it is operational for the new purpose.

Four. System for real estate collective investment institutions.

1. For the purposes of calculating the minimum 50% coefficient of investment in housing and student and old people's homes that real estate investment companies and funds must comply with in order to qualify for the tax rate provided for in Article 56(4) of the Provincial Tax Regulation, the investments provided for in Article 86 (1)(a)(b) of the Regulations implementing Law 35/2003, of 4 November, on collective investment institutions, approved by Royal Decree 1082/2012, of 13 July, shall be taken into account, and provided that, in addition, in the cases provided for in the aforesaid Article 86(1)(b), the following rules are met:

    a) That the real estate under construction has a registered entity by means of the corresponding entry in the Land Registry.

    b) They must be dwellings, student residences and residences for the elderly.

2. Student residences are understood to be those properties designed or adapted specifically to accommodate students, which are officially recognised as such.

    Similarly, residences for the elderly shall be understood to be those properties designed or adapted specifically for the accommodation of the elderly, which have been officially authorised as such.

3. Calculation of the investment coefficient referred to in this supplementary provision shall be carried out in the same way as provided for in Article 90 of the Regulations implementing Law 35/2003, of 4 November, on collective investment undertakings, approved by Royal Decree 1082/2012, of 13 July, for the determination of the percentage of investment in real estate.

4. The tax rate provided for in section 4 of Article 56 of the Provincial Tax Regulation shall be provisionally applicable to newly created real estate investment funds and companies and shall be conditional upon reaching the percentage of investment required in Article 78(2) of the Provincial Tax Regulation within a period of two years from their registration in the corresponding register of the National Securities Market Commission (Comisión Nacional del Mercado de Valores). If this condition is not met, the Corporation tax for the years elapsed shall be payable at the general rate in force in those years, with accrual of interest on late payment.

5. In the case of companies and real estate investment funds by compartments, the provisions contained in this supplementary provision must be complied with for each of the compartments.

Five. Application of the system for entities holding certain securities.

1. The application of the system established in the fourteenth supplementary provision of the Provincial Tax Regulation will require the prior application of the taxpayer under the terms established in this supplementary provision.

2. This application shall be made and processed before the tax administration in accordance with the general procedure established in Article 45 of this Regulation, with the special features provided in the following sections.

3. The following documents shall be attached to the application for application of the aforesaid system:

    a) Copy of the deed of incorporation of the entity.

    b) Copy of the Articles of Association and, where appropriate, a draft amendment thereof.

c) Report justifying the business project of international expansion that promotes the internationalisation of the companies or the development of new activities or markets that they intend to develop.

d) List of the shares held, specifying the percentage of participation and whether they are listed or unlisted, as well as their book value, including the acquisitions of shares that the entity intends to undertake in application of the project referred to in point (c) above.

4. The application shall be submitted prior to the beginning of the first tax period in which the system established in the fourteenth supplementary provision of the Provincial Tax Regulation is intended to take effect.

5. Authorisation for the application of this taxation system shall be granted by the Director General of the Treasury.

6. Any entity wishing to waive the application of the system established in the fourteenth supplementary provision of the Provincial Tax Regulation must notify the tax authorities within the first three months of the tax period in which it wishes the waiver to take effect.

Six. Revocation of the system for holding entities for specific securities.

As provided for in the DA (Additional Provision) of the Provincial Decree 178/2016, of 20 December ("B.O.B." 30 December), the procedure established in this supplementary provision shall also be applicable to the revocation of the system referred to in the twelfth DT (Transitory Provision) of the Provincial Regulation on Corporation Tax, as referred to in the twenty-fifth DA of the NFGT (General Provincial Tax Regulation).

1. The tax administration may revoke the authorisation to apply the system established in the fourteenth supplementary provision of the Provincial Tax Regulation under the provisions of the twenty-fifth supplementary provision of the General Tax Regulation of the Historical Territory of Bizkaia when it is proven that the business project of international expansion that promotes the internationalisation of companies or the development of new activities or markets that the taxpayer intended to develop has not been substantially fulfilled.

2. When, in the course of a tax administration or inspection procedure in relation to a taxpayer who has been granted authorisation to apply the system established in the fourteenth supplementary provision of the Provincial Tax Regulation, there are reasonable indications that there has been a breach of the conditions to which the authorisation granted under the terms referred to in the previous section was subject, a report shall be issued stating the evidence of the breach and the date of effect of the possible revocation of the special system.

   The Director General of Finance, in view of the administrative file, shall, where appropriate, adopt a resolution for the initiation of proceedings for a withdrawal of authorisation, with the competent Deputy Director being in charge of the investigation, who may carry out the acts of investigation himself or by delegating the investigation to an official who reports to him.

3. The resolution referred to in the previous section shall be notified to the taxpayer together with the report issued, and a period of fifteen working days shall be granted for the taxpayer to submit any documents and make any allegations that may be appropriate to his rights.

   Likewise, as many acts of investigation as are considered relevant may be carried out, and if the taxpayer has not been able to make representations on them, prior to the drafting of the proposed resolution of the procedure, the file may be made available to the taxpayer and a new period of ten working days will be granted for representations.

4. Once the investigation has been completed and in view of all the items in the file, the competent Deputy Director will submit a proposal for the resolution of the procedure to the Director General of Finance, through the Sub directorate for Coordination and Technical Assistance, which must specify at least the following points:

a) Whether or not the authorisation granted for the application of the system established in the fourteenth supplementary provision of the Provincial Tax Regulation should be revoked.

b) The facts that have come to light in the case and which justify the proposed resolution.

c) In the event that the revocation resolution should be proposed, the date from which the revocation should take effect, which may be prior to the date on which the procedure was initiated, and must coincide with the date from which there is evidence of non-compliance with the conditions established to benefit from the special system, bearing in mind the provisions to this effect in the second paragraph of the twenty-fifth supplementary provision of the General Provincial Tax Regulation of the Historical Territory of Bizkaia.

5. The Director General of Taxation, in view of the administrative file, shall resolve the withdrawal of authorisation or to close the procedure, and the taxpayer shall be notified of the content of the Resolution.

Seven. Percentage of withholding and payment on account in 2015.

1. The percentage of withholding and payment on account of 19% provided for in Article 56(a) of this Regulation shall be 20% when the obligation to withhold or pay on account arose prior to 12 July 2015. Where the obligation to withhold or pay tax on account arose on or after that date, the percentage of withholding or payment on account shall be 19.5%.

2. The 19% withholding and payment on account provided for in Article 56(c)(d) of this Regulation shall be 20% where the obligation to withhold or pay tax at source arose before 1 September 2015. Where the obligation to withhold or pay tax on account arose on or after that date, the percentage of withholding or payment on account shall be 19.5%.

Eight. Accounting corrections for appropriation of earnings.

The limits established in the second paragraph of Article 52(1) and in the paragraph of Article 53(1) of the Provincial Tax Regulation shall be calculated on the taxable base prior to the application of the adjustments for the application of the result, established in Chapter V of Title IV of the aforesaid Provincial Regulation.

Nine. Incentives for promoting culture.

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TRANSITIONAL ARRANGEMENTS

One. Joint depreciation by micro-enterprises.

Micro-companies that make use of the provisions of Article 21(3) of the Provincial Tax Regulation must apply joint depreciation to all the assets and liabilities subject to joint depreciation that appear on their balance sheet.

However, joint depreciation shall not affect the assets and liabilities in respect of which, prior to the option for joint depreciation, the taxpayer had applied the cases of free depreciation referred to in the sixteenth transitional provision of the Provincial Tax Regulation, accelerated depreciation referred to in Article 21(2) of the Provincial Tax Regulation or Article 50 of the Provincial Corporation Tax Regulation 3/1996, of 26 June, on corporation tax, or the deduction of lease instalments referred to in Article 18 of the Provincial Tax Regulation or Article 116 of Provincial Corporation Tax Regulation 3/1996 of 26 June, which shall continue to be governed by those regulations until they are fully amortised.

Two. Exemption from documentation obligations in the case of leases, subleases and the constitution or transfer of rights in rem of use and enjoyment over real estate.

The application of the provisions of Article 19 of this Regulation for contracts that have been formalised prior to and were in force on 1 January 2010, the rules established in the aforesaid precept shall be applied, although the date to which the valuation of the property must refer shall be 1 January 2010 for the first five-year period.

Three. System for entities holding certain securities.

1. Notwithstanding the provisions of section 6 of the fifth supplementary provision of this Regulation, the taxpayers referred to in section 1 of the thirteenth transitional provision of the Provincial Tax Regulation shall submit a letter renouncing the application of the system for entities holding certain securities within the first four months of the first tax period commencing on or after 1 January 2014.

2. Taxpayers who were taxed until the last tax period started before 1 January 2014 under the rules of the special corporate income tax system for entities holding foreign securities, and who do not avail themselves of the possibility of waiving the application of the system established in the fourteenth supplementary provision of the Provincial Tax Regulation under the terms provided in section 1 of the thirteenth transitional provision of the same, shall apply the provisions of the aforesaid supplementary provision during the tax periods ending in the five years immediately following 1 January 2014.

   If they wish to waive the application of the system established in the fourteenth supplementary provision of the Provincial Tax Regulation, they must do so in accordance with the provisions of section 6 of the fifth supplementary provision of this Regulation.

3. The taxpayers referred to in paragraph 1 above shall cease to apply the system established in the fourteenth supplementary provision of the Provincial Tax Regulation in the first tax period commencing on or after 1 January 2019.

   However, if they wish to continue applying the system established in the aforesaid supplementary provision in subsequent tax periods, they must submit an application to do so under the terms established in section 1 of the fourteenth supplementary provision of the Provincial Tax Regulation and in the fifth supplementary provision of this Regulation, within the 6 months prior to the end of the last tax period to which the transitional system established in the thirteenth transitional provision of the Provincial Tax Regulation applies.

   Once the authorisation referred to in the provisions mentioned in the previous paragraph has been received and the first tax period commencing on or after 1 January 2019 has begun, the taxpayers referred to in this section shall be subject to the system established in the fourteenth supplementary provision of the Provincial Tax Regulation in its entirety, including the provisions of section 8 of the same.

Four. Compensation for the promotion of business capitalisation and reduction of tax rates.

A reduction in NAV for tax purposes regarding the provisions of Article 51(3) of the provincial tax regulation shall not be considered as a reduction in NAV solely as a result of a change in the amount of deferred tax assets as a consequence of a reduction in the tax rate applicable to the entity when this reduction is the result of an amendment to the provincial tax regulation.

Five. Option system for cultural incentives.

One. Expenditure and investment in audiovisual project productions.

1. Taxpayers who have not chosen to apply the deduction referred to in section 1 of the fifteenth supplementary provision of Provincial Regulation 11/2013, of 5 December, on Corporation Tax, in the wording in force on 31 December 2022, within the period

indicated for that purpose, may exercise that option by submitting a request to the tax Authorities on the website of Bizkaia Provincial Council within an extraordinary period of 1 month from the publication of this Provincial Decree in the Official Gazette of Bizkaia.

When the circumstances referred to in the previous paragraph arise, the deduction contained in the fifteenth supplementary provision of Provincial Regulation 11/2013, of 5 December, on Corporation Tax, in its wording in force on 31 December 2022, shall apply during the tax periods in which the payments are made and for the amount thereof.

2. Taxpayers who do not exercise the option provided for in number 1 above may apply the deduction referred to in Article 66 quater. One of Provincial Regulation 11/2013, of 5 December, on Corporation Tax, in respect of payments made from the first day of the first tax period commencing on or after 1 January 2023 regarding production and during the subsequent tax years to which it relates.

3. For the purposes of determining the basis for the deduction referred to in Article 66 quater.One.1 of the Provincial Regulation on Corporation Tax, expenses that may have been incurred previously in productions in which the production phase has not begun before that date shall be deemed to have been incurred on the first day of the first tax period commencing on or after 1 January 2023, where the start of the production phase is understood to be the moment at which the process of capturing images and/or sound begins.

Two. Participation in the financing of audiovisual works.

The six-month period for the formalisation of the financing contract referred to in Article 38 quinquies (2) of this Regulation shall start to be counted from the first day of the first tax period starting on or after 1 January 2023 in cases where the production of the audiovisual work has not been completed or the last event, in the case of live performances of musical and performing arts, has not taken place before that date.