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[Block 2: #pr]

JUAN CARLOS I

KING OF SPAIN

All those who were present saw and understood.

Know: That the Cortes Generales have approved and I come to sanction the following Law:

STATEMENT OF MOTIVES

one

Basics of the modification of the regulations of Value Added Tax

The creation of the internal market at the community level implies the suppression of fiscal borders and requires new and specific regulation, for the purposes of Value Added Tax, of intra-community operations, as well as a minimum harmonization of the tax rates of the tax and adequate administrative cooperation between the Member States.

In this sense, the Council of the European Communities has approved Directive 91/680 / EEC, of December 16, regulating the legal regime of intra-community traffic, Directive 92/77 / EEC, of October 19, on the harmonization of tax rates and has issued Regulation 92/218 / EEC of January 27, 1992, on cooperation to be provided by tax administrations, thereby creating a regulatory framework that must be incorporated into our legislation by imperative Treaty of Accession to the European Communities.

On the other hand, the experience accumulated during the seven years of validity of VAT has revealed the need to introduce certain modifications in its legislation, to solve some technical problems or simplify its application.

All this determines a profound modification of the regulations on Value Added Tax that justifies the approval of a new Law regulating said Tax, to incorporate the aforementioned community provisions and the aforementioned modifications to improve the regulations.

two

The creation of the internal market

Article 13 of the Single Act has introduced Article 8A into the EEC Treaty, according to which "the Community shall adopt the measures to progressively establish the Internal Market, during a period ending on December 31, 1992".

The creation of the Internal Market, which will start operating on January 1, 1993, involves, among other consequences, the abolition of fiscal borders and the abolition of border controls, which would require regulating intra-community operations such as those carried out in the interior of each State, applying the principle of taxation at origin, that is, with repercussion of the origin tax to the acquirer and deduction by the latter of the fees paid, according to the normal tax mechanism.

However, the structural problems of some Member States and the still significant differences in the tax rates in each of them, even after harmonization, have determined that the full functioning of the Internal Market, for the purposes of Added Value, is only reached after passing a previous phase defined by the transitional regime.

In the transitional regime, which will have, in principle, a duration of four years, the suppression of fiscal borders is recognized, but the principle of taxation at destination is

generally maintained. At the end of the aforementioned period, the Community Council must adopt the relevant decisions on the application of the definitive regime or the continuation of the transitional regime.

A) Legal regulation of the transitional regime

The transitional regime, regulated in the aforementioned Directive 91/680 / EEC, is built on four fundamental points:

1. The creation of the taxable intra-community acquisition of goods.

The abolition of fiscal borders supposes the disappearance of imports between the Member States, but the application of the principle of taxation at destination requires the creation of this taxable event, as a technical solution that makes it possible to demand tax in the Member State of arrival of the goods.

This new taxable event is configured as the obtaining of the power of disposal, carried out by a taxable person or legal entity that does not act as such, on a personal property subject to a transfer made by a taxable person, provided that said property is issued or transport from one Member State to another.

2. Exemptions from intra-community deliveries of goods.

In transactions between Member States, the delimitation of exemptions for the delivery of goods that are sent from one State to another is of great importance, so that, in the economic operation that begins in one of them and ends in another, there are no situations of non-taxation or, on the contrary, double taxation.

Intra-community deliveries of goods will be exempt from tax when they are remitted from one Member State to another, destined for the acquirer, who must be a taxable person or legal entity that does not act as such. In other words, the delivery at origin will benefit from the exemption when it results in an intra-community acquisition taxed at destination, according to the condition of the acquirer.

Transport is a fundamental service in the configuration of intra-community operations: The exemption of delivery at origin and the tax on acquisition at destination are conditioned on the fact that the object object of said operations is transported from one Member State to another.

Transport in intra-community traffic is configured as an autonomous operation of deliveries and acquisitions and, contrary to previous legislation, it is not exempt from the tax, but overall its tax regime is better, because the contributions paid can be deducted and they avoid the difficulties derived from the justification of the exemption.

3rd the particular regimes.

Within the transitional regime, a series of particular regimes are established that will serve to promote the replacement of the transitional regime by the definitive one. They are as follows:

a) That of travelers, which allows persons residing in the Community to acquire directly, in any Member State, personal property that does not constitute a commercial expedition, paying only where they make their purchases;

b) That of persons under special regime (farmers, taxpayers who only carry out exempt operations and legal entities that do not act as taxpayers), whose purchases are taxed at source when their total volume per calendar year does not exceed certain limits (for Spain, 10,000 ECU);

c) That of distance sales, which will allow the aforementioned persons in a special regime and natural persons who do not have the status of businessmen or professionals, to acquire indirectly, without physical displacement, but through catalogs, advertisements, etc., any class of goods, with taxation at source, if the sales volume of the entrepreneur does not exceed, per calendar year, certain limits (in Spain, 35,000 ECU), and

d) That of new means of transport, the acquisition of which is always taxed at destination, even if it is done by people under special regime or who do not have the status of businessmen or professionals and even if the seller in origin does not have the status of businessperson or professional. The special significance of these goods on the market justifies that, during the transitional regime, the principle of taxation at destination is applied without exception.

4th formal obligations.

The abolition of border controls requires more intense administrative cooperation, as well as the establishment of complementary formal obligations that allow the monitoring of goods subject to intra-Community traffic.

Thus, the new regulation provides that all Community operators must identify themselves for VAT purposes in the Member States where they carry out operations subject to the tax; that taxpayers must submit periodic declarations, in which they will separately record intra-community operations and annual declarations with the summary of deliveries made to the other Member States, to enable Administrations to draw up summary lists of shipments that, During each period, they have been carried out from each Member State to the others and, likewise, the obligation of a specific accounting of certain intra-community operations (works executions, transfers of goods) is foreseen to facilitate their monitoring.

B) The harmonization of tax rates

Directive 92/77 / EEC, of October 19, has dictated the rules related to this harmonization, which, fundamentally, is specified as follows:

1.º A list of categories of goods and services that can enjoy the reduced rate is established, based on their social or cultural nature.

It is a list of 'highs', which cannot be exceeded by the Member States.

2. Member States must apply a general rate, equal to or greater than 15 percent, and may apply one or two reduced rates, equal to or greater than 5 percent, for the goods and services in the aforementioned list.

3. The rights acquired in favor of the Member States that have been applying the zero rate or less than the reduced rate are recognized and certain powers are admitted for those others who are forced to raise more than two points their normal rate to meet the requirements harmonization, as in Spain.

Although these standards do not define a completely strict framework for harmonization, they represent an important advance in relation to the current situation.

C) Trade with third countries

The creation of the Internal Market also involves other important changes in Community legislation, which particularly affect foreign trade operations and which have determined the corresponding amendments to the Sixth Directive, also included in Directive 91/680 / EEC.

As a consequence of the abolition of fiscal borders, the taxable importation of goods only occurs with respect to goods from third countries, while the receipt of goods from other Member States of the Community make up intra-community acquisitions.

The taxation of the entry of goods is also modified to be introduced in exempt areas or under suspension regimes.

In the preceding legislation, said operations were defined as imports of goods, although they were exempted while the requirements that authorized the authorization of said situations or regimes were met. In the new Community tax legislation, these operations are not subject to the tax and, consequently, no exemption is foreseen. Under the new regulation, importation occurs at the place and time when the goods leave the aforementioned areas or leave the indicated regimes.

Furthermore, the abolition of tax frontiers requires that exemptions for exports be configured as deliveries of goods shipped or transported outside the Community and not when they are shipped to another Member State. In the latter case, intra-community deliveries of goods will take place, which will be exempt from the tax when the circumstances detailed above occur.

3

Modifications derived from the creation of the Internal Market

The adaptation of our Value Added Tax legislation to the new community provisions implies a broad modification of it.

In this matter, it should be noted that the aforementioned Directive 91/680 / EEC modifies the Sixth Directive on Value Added Tax, including in one of its Titles, VII bis, all the regulations corresponding to the transitional regime.

On the contrary, the new VAT Law has preferred to use a different methodology, regulating in each one of its Titles the matter corresponding to each taxable event. Thus, the First Title, relative to the delimitation of the taxable event, dedicates a chapter to the delivery of goods and services, another to intra-community acquisitions of goods and another to imports; Title II, regulator of exemptions, consecrates each of its chapters to the configuration of exemptions related to each taxable event and so on.

In this way, a more understandable legal text is achieved that, within the complexity of the community transitional regime, avoids the abstraction of the directive's solution and provides greater simplification and legal certainty to the taxpayer.

The incorporation of the modifications introduced by Directive 91/680 / EEC affect, first of all, the configuration of imports, now exclusively referring to goods from third countries, which determines the total modification of Title II of the previous Law to adapt to the new concept of this taxable event. It only includes the entry of goods of non-EU origin and the entry of goods to be introduced in exempt areas or under suspension regimes is excluded.

The harmonization conclusions on tax rates also require the modification of Title III of the preceding Law.

In application of these conclusions, the increased rate is deleted, the current general rates of 15% are maintained and the reduced rate of 6%, although with respect to the latter, the necessary adjustments are made to respect the conclusions table of the Ecofin Council in this matter.

Likewise, in use of the authorizations contained in the intra-community regulations, a reduced rate of 3% is established for certain consumption of first necessity.

Title IV regarding deductions and returns is modified to include the rules regarding intra-community operations; Title V, corresponding to special regimes, also has important changes to adapt to the transitional regime and the same occurs with the Titles regulating formal obligations and tax management that must adapt to the new regime of obligations and administrative cooperation.

In relation to formal obligations, this Law covers the requirement of obligations derived from the elimination of border controls, the precision of which must be done by regulatory means.

Finally, the creation of the new taxable event "intra-community acquisition of goods" requires a specific regulation thereof, adapted to the new Directive, establishing the rules that determine the completion of the taxable event, exemptions, place of performance, accrual, taxable person and tax base applicable to the aforementioned acquisitions.

4

Modifications to improve tax legislation

The application of Value Added Tax during the last seven years has revealed the need to also introduce other changes to improve its regulation or simplify its management, which mainly affects the following issues:

1. Incorporation of regulatory standards

It is appropriate to incorporate into the Law some regulatory precepts of the previous regulations, to leave at the regulatory level only the provisions relating to formal obligations and the procedures corresponding to the exercise of the rights recognized to the taxpayer and to the development of tax management.

In particular, the regulations that contribute to delimiting the taxable event and exemptions, which were contained in the Tax Regulations, must be incorporated into the Law.

2. Territoriality of the tax

The application of the transitional regime in intra-community operations, with a specific legal regime for the exchange of goods between two points of the community territory of the common VAT system, requires precisely delimiting this territory, indicating the areas or parts of the Community that are excluded of it, even if they are integrated in the Customs Union: These areas will have, for VAT purposes, the consideration of third countries.

In our national territory, the Canary Islands, Ceuta and Melilla are excluded from the scope of the harmonized VAT system, although the Canary Islands are part of the Customs Union.

3. Global broadcasts

The regulation of this benefit in the previous legislation was not sufficiently harmonized with the Sixth Directive, which provides in these cases for the subrogation of the acquirer in the position of the transferor with respect to the acquired goods.

Therefore, this regulation must be perfected, recognizing the subrogation of the acquirer in terms of the regularization of investment assets and in what refers to the

qualification of first or second delivery of buildings included in global or partial transfers, thus avoiding distortions in the operation of the Tax.

4. Activities of public entities

The non-subjection of operations carried out by public entities suffered from certain complexity and the literal interpretation of the provisions that regulated it could cause consequences contrary to the principles that govern the application of the tax.

It was, therefore, necessary to clarify this provision and specify the scope of the tax benefit to facilitate uniform criteria and avoid solutions that distort the application of the tax.

In this sense, the new Law establishes clearer criteria, referring not to the activities carried out by public entities and not to the specific operations in which they are manifested and defining as non-subject activity the one whose main operations (those that represent more than 80 percent of the income), are made without consideration or through tax consideration.

5. Real rights on real property

In relation to the delivery of goods, the previous Law is modified to provide that the constitution, transmission or modification of real rights of use or enjoyment over real estate constitute provision of services, in order to give these operations the same tax treatment that corresponds to the leasing of real estate, which has an economic meaning similar to the constitution of the aforementioned real rights.

6. Waiver of exemptions

To avoid the consequences of breaking the chain of deductions produced by exemptions, the new Law, within the powers granted by the Sixth Directive in this matter, grants taxable persons the power to opt for the taxation of certain operations relating to properties that have recognized tax exemption, specifically, deliveries of non-building land, delivery of land to the Compensation Boards and the awards made by said Boards and the second and subsequent deliveries of buildings.

However, considering that the effect that is sought is to allow the deductions to be exercised, the waiver of the exemption only proceeds when the recipient of the exempt operations is a taxable person with the right to the total deduction of the contributions paid.

7. Exemptions in operations assimilated to exports

Of particular importance in this chapter are exemptions from operations relating to ships and aircraft affected by international navigation.

This Law, without departing from the postulates of the community regulations, has simplified the delimitation of these exemptions to facilitate their application: the definitive effect on international navigations is reached based on the routes carried out in the year or year and a half following the delivery, transformation, intra-community acquisition or importation of the ships or aircraft, eliminating the requirement established by the previous legislation to continue in said affectation for the following fifteen years, with the consequent and complicated regulations that may arise.

Failure to comply with the requirements that determine the affectation will produce the taxable importation of goods.

8. Rectification of the fees charged

In order to facilitate the regularization of the tax in cases of error of fact or law, of variation of the circumstances determining its amount or when the operations are without effect, the term to rectify the fees paid is increased to five years, complementing this regulation. with that relating to the rectification of deductions, which allows the taxpayer to modify said deductions during the period of the year following the receipt of the new invoice.

However, for operational and control reasons, quotas passed on to recipients who do not act as businessmen or professionals are excepted from the possibility of rectification and, to avoid fraud situations, quota rectifications derived from inspection actions are also excepted when the conduct of the taxable person is worthy of a penalty for tax offense.

9. Deductions

In terms of deductions, it has been necessary to introduce the adjustments corresponding to the new taxable event (intra-community acquisitions), configuring it as an operation that gives rise to the right to deduct.

Changes have also been made in relation to the limitations on the right to deduct, to reflect the criteria of the Court of Justice of the European Communities in this matter, which has recently recognized the right to deduct in favor of taxpayers who partially use the assets and services today excluded in the development of their business activities.

The complexity of the regularization of the deductions of the quotas supported prior to the start of the activity has also led to other changes in its regulation, for the purpose of simplification.

Thus, in the new regulations, it is only necessary to carry out a single regularization for inventories and investment goods that are not real estate, completing it with another regularization for these last goods when, since their effective use, ten years have not elapsed; and, to avoid economies of option, it is required that the period elapsed between the request for early returns and the start of the activity does not exceed one year, unless, for justified reasons, the Administration authorizes its extension.

10. Regime of agriculture, livestock and fishing

In the special system of agriculture, livestock and fishing, its application is reduced to taxable persons, individuals, whose volume of operations does not exceed 50 million pesetas. Likewise, in any case, commercial companies are excluded, which, by their nature, are capable of fulfilling the formal obligations established in general by the tax regulations.

In addition, to maintain the proper correlation with the rules on regularization of deductions for investment goods, the period of exclusion from the special regime is raised to five years in the event that the taxpayer had chosen to submit to the general tax regime.

11. Joint and several liability and infractions

Considering the operating characteristics of the tax and the determination of the obligations of the taxpayer who, in many cases, must apply reduced tax rates or exemptions based exclusively on the declarations of the recipient of the operations, the Law covers an important gap in the legislation precedent, establishing the joint and several liability of those recipients who, through their statements or inaccurate statements, unduly benefit from exemptions, cases of non-subjection or the application of lower tax rates than those in accordance with law.

This table of responsibilities is completed with the typification of a special offense for those recipients who do not have the right to the total deduction of the fees paid and incur in the declarations or statements referred to in the preceding paragraph.

5

Transitory dispositions

The new regulation of Value Added Tax makes it necessary to enact the transitional rules that resolve the taxation of those operations that are affected by legislative changes.

Thus, the following transitional provisions are established:

1. In relation to the franchises applicable to travelers from the Canary Islands, Ceuta and Melilla, the limits established by the previous legislation for said sources are maintained, which coincided with those corresponding to the other Member States of the Community.

This regime will be applied until the entry into force in the Canary Islands of the Common Customs Tariff in its entirety.

2. The new exemption regime for operations related to ships and aircraft will also have effects with respect to operations carried out under the previous regime, to avoid distortions in the application of the tax.

3. The new term of five years for the rectification of the fees paid, provided for in this Law, will apply generally, in the same cases and conditions, to the fees accrued and not prescribed prior to their entry into force.

4th the system of deductions prior to the start of activities provided by the law aims to eliminate certain speculative actions derived from the previous system and establishes simpler rules for the regularization of such deductions, which are sufficient reasons to transfer their effectiveness to the processes of early deduction in progress.

5. In relation to the special regimes, the effects of the resignations and options made before January 1, 1993 are recognized, to respect the expectations of the taxpayers who made their decisions under the previous Law.

6. Finally, in relation to intra-community operations, the general criterion of applying the regime in force at the time the corresponding economic operation began was defined, defining as imports the entries into our territory after December 31, 1992 of goods that left another Member State before that date and the abandonment, also after the indicated date, of the previously authorized suspension regimes.

- Section 2 prepared in accordance with the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

[Block 3: #tpreliminar]

PRELIMINARY TITLE

nature and scope of aplication

[Block 4: # a1]

Article 1. Nature of the tax.

The Value Added Tax is an indirect tax that falls on consumption and taxes, in the manner and conditions provided in this Law, the following operations:

a) Deliveries of goods and services rendered by businessmen or professionals.

b) Intra-community acquisitions of goods.

c) Imports of goods.

[Block 5: # a2]

Article 2. Applicable rules.

One. The tax will be required in accordance with the provisions of this Law and the regulatory rules of the Concert and Economic Agreement regimes in force, respectively, in the Historical Territories of the Basque Country and in the Autonomous Community of Navarra.

Two. In the application of the tax, the provisions of the international Treaties and Agreements that are part of the Spanish domestic law will be taken into account.

[Block 6: # a3]

Article 3. Territoriality.

One. The spatial scope of application of the tax is the Spanish territory, determined according to the provisions of the following section, including in it the adjacent islands, the territorial sea up to the limit of 12 nautical miles, defined in article 3 of the Law. 10/1977, of January 4, and the airspace corresponding to said area.

Two. For the purposes of this Law, the following definitions shall apply:

1. "Member State", "Territory of a Member State" or "interior of the country", the scope of application of the Treaty on the Functioning of the European Union defined therein, for each Member State, with the following exclusions:

a) In the Federal Republic of Germany, the Island of Helgoland and the territory of Büsingen; in the Kingdom of Spain, Ceuta and Melilla and in the Italian Republic, Livigno, as territories not included in the Customs Union.

b) In the Kingdom of Spain, the Canary Islands; in the French Republic, the French territories referred to in Article 349 and Article 355 (1) of the Treaty on the Functioning of the European Union; in the Hellenic Republic, Mount Athos; in the United Kingdom, the Channel Islands; in the Italian Republic, Campione d'Italia and the national waters of Lake Lugano, and in the Republic of Finland, the Aland Islands, as territories excluded from the harmonization of taxes on turnover.

2. "Community" and "Community territory", the set of territories that constitute the "interior of the country" for each Member State, according to the previous number.

3. "Third territory" and "third country", any territory other than those defined as "interior of the country" in number 1 above.

Three. For the purposes of this Tax, the operations carried out with the Principality of Monaco, with the Isle of Man and with the areas of sovereignty of the United Kingdom in Akrotiri and Dhekelia will have the same consideration as those carried out, respectively, with France, the United Kingdom and Cyprus.

- Letters a) and b) of section 2.1 are modified by art. 214.1 of Royal Decree-Law 3/2020, of February 4. Ref. BOE-A-2020-1651
- Sections 2 and 3 are modified by art. 1.1 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

Last update, published on 02/05/2020, effective as of 06/02/2020.

Modification published on 11/28/2014, effective as of 01/01/2015.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 7: #ti]

TITLE I

Delimitation of the taxable event

[Block 8: #ci]

Chapter I

Deliveries of goods and services

[Block 9: # a4]

Article 4. Taxable event.

One. Deliveries of goods and services rendered within the scope of the tax by businessmen or professionals for consideration, on a regular or occasional basis, in the course of their business or professional activity, even if they are carried out in favor of the partners, associates, members or participants of the entities that carry them out.

Two. They will be understood as carried out in the development of a business or professional activity:

a) Deliveries of goods and services rendered by commercial companies, when they have the status of entrepreneur or professional.

b) Transmissions or assignments of use to third parties of all or part of any of the assets or rights that make up the business or professional assets of taxpayers, including those made on the occasion of cessation of the economic activities that determine taxation

c) The services developed by the Property Registrars in their capacity as liquidators holders of a Mortgage District Liquidation Office.

Three. Subject to tax occurs regardless of the purposes or results pursued in the business or professional activity or in each particular operation.

Four. The operations subject to this tax will not be subject to the concept "onerous patrimonial transfers" of the Tax on Patrimonial Transmissions and Documented Legal Acts.

Deliveries and leases of real property, as well as the constitution or transmission of real rights of enjoyment or enjoyment that fall on them, are exempt from the provisions of the preceding paragraph, when exempt from the tax, except in cases where the subject liabilities waive the exemption in the circumstances and with the conditions set forth in article 20.Two.

- Section 4 is modified by art. 5.1 of Law 7/2012, of October 29. Ref. BOE-A-2012-13416 .
- Section 2 c) is added by art. 1.1 of Law 2/2010, of March 1. Ref. BOE-A-2010-3366 .
  This modification takes effect from January 1, 2010, as established in final provision 4.
- Paragraph 2 is amended by art. 5.1 of Law 4/2008, of December 23. Ref. BOE-A-2008-20802 .

Last update, published on 10/30/2012, effective as of 10/31/2012.
Modification published on 03/02/2010, effective as of 03/03/2010.
Modification published on 12/25/2008, effective as of 12/26/2008.
Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 10: # a5]

Article 5. Concept of businessman or professional.

One. For the purposes of the provisions of this Law, entrepreneurs or professionals shall be deemed:

a) The persons or entities that carry out the business or professional activities defined in the following section of this article.

However, they will not be considered entrepreneurs or professionals who exclusively make deliveries of goods or services for free, without prejudice to the provisions of the following letter.

b) Commercial companies, unless proven otherwise.

c) Those who make one or more deliveries of goods or services that involve the exploitation of a bodily or intangible asset in order to obtain continuous income over time.

In particular, the lessors of goods will have such consideration.

d) Those who carry out the urbanization of land or the promotion, construction or rehabilitation of buildings intended, in all cases, to be sold, awarded or assigned by any title, even occasionally.

e) Those who occasionally make deliveries of new means of transport exempt from the Tax pursuant to the provisions of article 25, sections one and two of this Law.

The businessmen or professionals referred to in this letter will only have said condition for the purposes of deliveries of the means of transport that are included in it.

Two. Business or professional activities are those that involve the self-management of material and human production factors or one of them, with the aim of intervening in the production or distribution of goods or services.

In particular, extractive activities, manufacturing, trade and service provision, including those of crafts, agriculture, forestry, livestock, fishing, construction, mining and the exercise of liberal and artistic professions, have this consideration.

For the purposes of this tax, business or professional activities will be considered started from the moment the acquisition of goods or services is carried out with the intention, confirmed by objective elements, of allocating them to the development of such activities, even in cases where Letters b), c) and d) of the previous section refer. Those who make such acquisitions will from that moment have the status of entrepreneurs or professionals for the purposes of Value Added Tax.

Three. The exercise of business or professional activities will be presumed:

a) In the cases referred to in article 3 of the Commercial Code.

b) When to carry out the operations defined in article 4 of this Law, it is required to contribute by the Tax on Economic Activities.

Four. For the sole purposes of the provisions of articles 69, 70 and 72 of this Law, employers or professionals shall be deemed to be acting as such with respect to all the services provided to them:

1. Those who carry out business or professional activities simultaneously with others that are not subject to the Tax in accordance with the provisions of section One of article 4 of this Law.

2. Legal entities that do not act as businessmen or professionals as long as they have been assigned an identification number for the purposes of Value Added Tax provided by the Spanish Administration.

- Section 4 is added by art. 1.2 of Law 2/2010, of March 1. Ref. BOE-A-2010-3366 .
  This modification takes effect from January 1, 2010, as established in final provision 4.
- Section 1 is modified by art. 5.2 of Law 4/2008, of December 23. Ref. BOE-A-2008-20802 .
- Paragraph 2 is amended by art. 5.1 of Law 14/2000, of December 29. Ref. BOE-A-2000-24357 .

Last update, published on 03/02/2010, effective as of 03/03/2010.

Modification published on 12/25/2008, effective as of 12/26/2008.

Modification published on 12/30/2000, effective as of 01/01/2001.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 11: # a6]

Article 6. Concept of buildings.

One. For the purposes of this tax, buildings shall be considered to be buildings permanently attached to the ground or to other buildings, carried out both on the surface and in the subsoil, that are capable of autonomous and independent use.

Two. In particular, the buildings listed below will be considered as buildings, provided they are attached to a property in a fixed way, so that they cannot be separated from it without damaging the material or deteriorating the object:

a) Buildings, considering as such any permanent, separate and independent construction, designed to be used as housing or to serve the development of an economic activity.

b) Non-habitable industrial facilities, such as dikes, tanks or landings.

c) The platforms for exploration and exploitation of hydrocarbons.

d) The ports, airports and markets.

e) Recreational and sports facilities that are not accessory to other buildings.

f) Roads, navigation channels, railway lines, highways, motorways and other land or river communication routes, as well as the bridges or viaducts and tunnels related to them.

g) Fixed cable transport facilities.

Three. The following shall not be considered as buildings:

a) The urbanization works of land and in particular those of water supply and evacuation, electricity supply, gas distribution networks, telephone facilities, accesses, streets and sidewalks.

b) Accessory buildings on agricultural holdings that are related to the nature and destination of the farm, even if the owner of the farm, his family members or the people who work with him have their home.

c) The objects of use and ornamentation, such as machines, instruments and utensils and other real estate by destination referred to in article 334, numbers 4 and 5 of the Civil Code.

d) Mines, quarries or slag heaps, oil or gas wells or other places of extraction of natural products.

[Block 12: # a7]

Article 7. Operations not subject to tax.

The following will not be subject to the tax:

1. The transmission of a set of bodily elements and, where appropriate, incorporates that, forming part of the business or professional assets of the taxpayer, constitute or are likely to constitute an autonomous economic unit in the transferor, capable of carrying out an activity business or professional by its own means, regardless of the tax regime that is applicable to said transfer in the field of other taxes and that applicable in accordance with the provisions of article 4, section four, of this Law.

The following transmissions will be excluded from the non-subjection referred to in the previous paragraph:

a) The mere transfer of assets or rights.

b) Those carried out by those who have the status of entrepreneur or professional exclusively in accordance with the provisions of article 5, section one, letter c) of this Law, when such transmissions are for the mere assignment of assets.

c) Those carried out by those who have the status of businessman or professional exclusively for the occasional performance of the operations referred to in article 5, section one, letter d) of this Law.

For the purposes of the provisions of this number, it will be irrelevant that the acquirer carries out the same activity to which the acquired elements were affected or a different one, provided that the intention of maintaining said affectation to the development of a business activity is accredited by the acquirer. or professional.

In relation to the provisions of this number, the transfer of these will be considered as mere assignment of rights or rights when it is not accompanied by an organizational structure of material and human factors of production, or one of them, which allows considering the same constitutive of an autonomous economic unit.

In the event that the goods and rights transferred, or part of them, are subsequently disaffected from the business or professional activities that determine the non-subjection foreseen in this number, said disaffection will be subject to the Tax in the manner established for each case in this Law.

The acquirers of the goods and rights included in the transmissions that benefit from the non-subjection established in this number will be subrogated, with respect to said goods and rights, in the position of the transferor regarding the application of the rules contained in article 20 , section one, number 22.º and in articles 92 to 114 of this Law.

2. Free deliveries of samples of merchandise with no estimated commercial value, for the purpose of promoting business or professional activities.

For the purposes of this Law, merchandise samples shall be understood to be representative articles of a category of merchandise that, due to their presentation or quantity, can only be used for promotional purposes.

3. The provision of free demonstration services carried out for the promotion of business or professional activities.

4. The deliveries without consideration of printed matter or objects of an advertising nature.

The advertising forms must visibly bear the name of the businessman or professional who produces or markets goods or who offers certain services.

For the purposes of this Law, objects of an advertising nature shall be considered those that lack intrinsic commercial value, in which the advertising mention is indelibly recorded.

As an exception to the provisions of this number, deliveries of advertising objects will be subject to the Tax when the total cost of supplies to the same recipient during the calendar year exceeds 200 euros, unless they are delivered to other taxpayers for redistribution. free.

5. The services provided by natural persons in a dependency regime derived from administrative or labor relations, including the latter of a special nature.

6. The services provided to associated work cooperatives by their members and those provided to other cooperatives by their work partners.

7. The operations provided for in article 9, number 1 and in article 12, numbers 1 and 2 of this Law, provided that the taxpayer had not been granted the right to make the total deduction or partial of the Value Added Tax actually borne on the occasion of the

acquisition or import of the goods or their component elements that are the object of said operations.

Neither shall the operations referred to in article 12, number 3 of this Law be subject to the tax when the taxpayer is limited to providing the same service received from third parties and the right to totally or partially deduct the Value Added Tax actually supported on receipt of said service.

8th A) Deliveries of goods and services made directly by the Public Administrations, as well as the entities referred to in sections C) and D) of this number, without consideration or through consideration of a tax nature.

B) For these purposes, Public Administrations will be considered:

a) The General State Administration, the Administrations of the Autonomous Communities and the Entities that make up the Local Administration.

b) The Management Entities and the Common Social Security Services.

c) Autonomous Bodies, Public Universities and State Agencies.

d) Any public law entity with its own legal personality, dependent on the previous ones that, with functional independence or with a special autonomy recognized by the Law, have attributed external regulatory or control functions over a certain sector or activity.

State business public entities and assimilated bodies dependent on the Autonomous Communities and local Entities will not be considered Public Administrations.

C) The services provided by virtue of the orders executed by the entities, agencies and entities of the public sector that hold, in accordance with the provisions of article 32 of the Public Sector Contracts Law, will not be subject to the Tax, the condition of Own means personified of the contracting authority that has ordered the order, in the terms established in the aforementioned article 32.

D) Likewise, the services provided by any public sector entity, agency or entity will not be subject to the Tax, in the terms referred to in article 3.1 of the Public Sector Contracts Law, in favor of the Public Administrations of the that depend or another wholly dependent on them, when said Public Administrations hold full ownership of them.

E) The non-consideration as operations subject to the tax established in the two sections C) and D) above will be equally applicable to the services provided between the entities to which they refer, wholly dependent on the same Public Administration.

F) In any case, the deliveries of goods and services that the Administrations, entities, organisms and entities of the public sector carry out in the exercise of the following activities will be subject to the Tax:

a´) Telecommunications.

b´) Distribution of water, gas, heat, cold, electrical energy and other forms of energy.

c´) Transport of people and goods.

d´) Port and airport services and the operation of railway infrastructures including, for these purposes, the concessions and authorizations excepted from the non-subjection of the Tax by the following number 9.º.

e´) Obtaining, manufacturing or transforming products for subsequent transmission.

f´) Intervention on agricultural products aimed at regulating the market for these products.

g´) Operation of trade fairs and exhibitions.

h´) Storage and deposit.

i´) Those of commercial advertising offices.

j´) Operation of canteens and canteens of companies, commissaries, cooperatives and similar establishments.

k´) Those of travel agencies.

l´) The commercial or commercial ones of the public entities of radio and television, including those related to the transfer of the use of their facilities.

m´) The slaughterhouse.

9.º The administrative concessions and authorizations, with the exception of the following:

a) Those whose purpose is the transfer of the right to use the port's public domain.

b) Those whose purpose is the transfer of real estate and airport facilities.

c) Those whose object is the transfer of the right to use railway infrastructure.

d) Authorizations for the provision of services to the public and for the development of commercial or industrial activities in the port area.

10. The provision of services free of charge referred to in article 12, number 3 of this Law that are mandatory for the taxpayer by virtue of legal norms or collective agreements, including telegraphic and telephone services provided under franchise.

11. The operations carried out by the Irrigation Communities for the management and use of water.

12.º Deliveries of money as consideration or payment.

- Section 8 is modified by final provision 10.1 of Law 9/2017, of November 8. Ref. BOE-A-2017-12902
- The 1st, 4th and 8th sections are modified by art. 1.2 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Section 1 is modified by art. 5.3 of Law 4/2008, of December 23. Ref. BOE-A-2008-20802 .
- Sections 8º d) and 9º are modified by art. 4.1 of Law 50/1998, of December 30. Ref. BOE-A-1998-30155 .
- Section 8 is modified by art. 6.1 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

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Modification published on 12/31/1997, effective as of 01/01/1998.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 13: # a8]

Article 8. Concept of delivery of goods.

One. The transfer of the disposition power over personal property shall be considered as delivery of goods, even if it is carried out by means of transfer of titles representative of said goods.

For these purposes, gas, heat, cold, electric energy and other forms of energy will have the status of physical assets.

Two. Deliveries of goods will also be considered:

1st. The executions of work that have as their object the construction or rehabilitation of a building, within the meaning of article 6 of this law, when the entrepreneur who executes the work contributes a part of the materials used, provided that the cost thereof exceeds the 40 percent of the tax base.

2. The non-monetary contributions made by the taxpayers of the Tax of elements of their business or professional assets to companies or communities of property or to any other type of entities and awards of this nature in the event of total or partial liquidation or dissolution of those, without prejudice to the taxation that proceeds in accordance with the regulatory norms of the concepts "documented legal acts" and "corporate operations" of the Tax on Patrimonial Transmissions and Documented Legal Acts.

In particular, the allocation of land or buildings promoted by a community of goods carried out in favor of the community members, in proportion to their participation quota, will be considered delivery of goods.

3rd the transfers of goods by virtue of a norm or an administrative or jurisdictional resolution, including forced expropriation.

4.º The assignments of goods under sales contracts with a reservation of title or suspensive condition.

5. The assignments of property under lease-sale and similar contracts.

For the purposes of this tax, leases with a purchase option will be assimilated to the lease-sale contracts from the moment the lessee agrees to exercise said option and, in general, those of lease of goods with a transfer clause binding property for both parties.

6. The transfers of property between principal and commission agent acting in his own name made by virtue of sales commission or purchase commission contracts.

7. The supply of a standard computer product made on any material medium.

For these purposes, standard computer products will be considered as those that do not require any substantial modification to be used by any user.

8.º The transfer of securities whose possession ensures, in fact or in law, the attribution of property, use or enjoyment of a property or part of it in the cases provided for in article 20.One.18.º k) of this Law.

- Section 2.8 is added by art. 1.3 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- Section 2.2 is amended by art. 12.1 of Law 16/2012, of December 27. Ref. BOE-A-2012-15650 .
- Section 2.1 is amended, with effect from September 1, 2012, by art. 23.1 of Royal Decree-Law 20/2012, of July 13. Ref. BOE-A-2012-9364 .
- Section 2.1 is modified by art. 2.1 of Royal Decree-Law 6/2010, of April 9. Ref. BOE-A-2010-5879 .
- Section 7 is amended by art. 4.1 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- Section 2.1 is modified by art. 28.1 of Royal Decree-Law 12/1995, of December 28. Ref. BOE-A-1995-27964
- Section 2.5 written in accordance with the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

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Modification published on 07/14/2012, effective as of 07/15/2012.

Modification published on 04/13/2010, effective as of 04/14/2010.

Modification published on 12/31/2002, effective as of 01/01/2003.

Modification published on 12/30/1995, effective as of 01/01/1996.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 14: # a9]

Article 9. Operations assimilated to the delivery of goods.

Operations assimilated to the delivery of goods for consideration shall be considered:

1. The self-consumption of goods.

For the purposes of this tax, the following operations carried out without consideration will be considered self-consumption of goods:

a) The transfer, by the taxable person, of physical assets from his business or professional assets to his personal assets or to the private consumption of said taxable person.

b) The transmission of the disposition power over tangible assets that make up the business or professional assets of the taxpayer.

c) The change of affectation of physical goods from one sector to another differentiated from their business or professional activity.

The assumption of self-consumption referred to in this paragraph c) will not be applicable in the following cases:

When, due to a modification in the current regulations, a certain economic activity necessarily becomes part of a differentiated sector different from that in which it had previously been integrated.

When the tax regime applicable to a certain economic activity changes from the general regime to the simplified special regime, to agriculture, livestock and fishing, to the equivalency surcharge or to operations with investment gold, or vice versa, even by the exercise of a right of option.

The provisions of the two indents of the preceding paragraph must be understood, where appropriate, without prejudice to the following:

Of the regularizations of deductions provided for in articles 101, 105, 106, 107, 109, 110, 112 and 113 of this Law.

From the application of the provisions of section two of article 99 of this Law, in relation to the rectification of deductions initially made according to the foreseeable destination of the goods and services purchased, when the actual destination of the same is different from that envisaged, in the case of quotas borne or satisfied by the acquisition or import of goods or services other than investment goods that had not been used in any way in the development of business or professional activity prior to the moment in which the economic activity to the which were foreseeably destined at the time the quotas were supported, to become part of a differentiated sector different from that in which it had previously been integrated.

Of the provisions of articles 134 bis and 155 of this Law, in relation to the cases of beginning or cessation in the application of the special regimes of agriculture, livestock and fishing or the surcharge of equivalence respectively.

For the purposes of the provisions of this Law, the following shall be considered different sectors of business or professional activity:

a ') Those in which the economic activities carried out and the applicable deduction regimes are different.

Different economic activities will be considered those that have been assigned different groups in the National Classification of Economic Activities.

Notwithstanding the provisions of the preceding paragraph, the accessory activity will not be considered different from another when, in the previous year, its volume of operations did not exceed 15 percent of that of the latter and, in addition, contributes to its realization. If the accessory activity had not been carried out during the previous year, in the current year the requirement regarding the aforementioned percentage will be applicable according to the reasonable provisions of the taxable person, without prejudice to the regularization that proceeds if the actual percentage exceeds the indicated limit.

Ancillary activities will follow the same regime as the activities on which they depend.

The deduction regimes referred to in this letter a ') will be considered different if the deduction percentages, determined in accordance with the provisions of article 104 of this Law, that would be applicable in the activity or activities other than the main one, differed in more than 50 percentage points of that corresponding to said main activity.

The main activity, with the ancillary activities to it and the different economic activities whose deduction percentages do not differ by more than 50 percentage points with that of the former will constitute a single different sector.

Activities other than the main one whose deduction percentages differ by more than 50 percentage points with that of this one will constitute another sector differentiated from the main one.

For the purposes of the provisions of this letter a '), the activity in which the greatest volume of operations would have been carried out during the immediately preceding

year will be considered the main activity.

b ') The activities covered by the simplified special regimes, agriculture, livestock and fishing, operations with investment gold or the equivalence surcharge.

c ') The financial leasing operations referred to in the third additional provision of Law 10/2014, of June 26, on the organization, supervision and solvency of credit institutions.

d ') The operations of assignment of credits or loans, with the exception of those carried out within the framework of a factoring contract.

d) The affectation or, where appropriate, the change of affectation of goods produced, built, extracted, transformed, acquired or imported in the exercise of the business or professional activity of the taxable person for their use as investment assets.

The provisions of this letter will not apply in cases in which the taxpayer had been granted the right to fully deduct the amounts of the Value Added Tax that he would have borne in the case of acquiring goods of the same nature from third parties.

The right to fully deduct the tax quotas that the taxable persons would have borne when acquiring goods of the same nature would not be understood as attributed when, after their start-up and during the deduction regularization period, the affected goods were destined to some of the following purposes:

a ') Those that, by virtue of the provisions of articles 95 and 96 of this Law, limit or exclude the right to deduct.

b ') The use in operations that do not give rise to the right to deduction.

c ') The exclusive use in operations that give rise to the right to deduction, the general pro rata rule being applicable.

d ') The realization of a tax exempt delivery that does not give rise to the right to deduct.

2nd **(Deleted)**

3. The transfer by a taxable person of a bodily asset of his company destined for another Member State, to affect his needs in the latter. Transfers made within the framework of an agreement for the sale of goods under consignment in the terms provided for in article 9 bis of this Law shall not have that consideration.

Transfers of goods used to carry out the following operations will be excluded from the provisions of this number.

a) The deliveries of said goods made by the taxable person that would be considered made within the Member State of arrival of the expedition or transport by application of the criteria contained in article 68, paragraph two, number 2, three and four, of this Law.

b) The deliveries of said goods made by the taxable person referred to in article 68, section two, number 4, of this Law.

c) Deliveries of said goods made by the taxpayer in the interior of the country under the conditions provided for in article 21 or article 25 of this Law.

d) An execution of work for the taxable person, when the goods are used by the entrepreneur who carries it out in the Member State of arrival of the expedition or transport of said goods, provided that the manufactured or assembled work is the

subject of a delivery exempt according to the criteria contained in articles 21 and 25 of this Law.

e) The provision of a service for the taxable person, whose purpose is expert reports or works carried out on said goods in the Member State of arrival of the expedition or the transport of the same, provided that, after the aforementioned services, they are reissued for the taxable person in the territory of application of the Tax.

The aforementioned works include repairs and works that must be classified as services rendered in accordance with article 11 of this Law.

f) The temporary use of said goods, in the territory of the Member State of arrival of the expedition or of the transport of the same, in the performance of services provided by the taxable person established in Spain.

g) The temporary use of said goods, for a period not exceeding twenty-four months, in the territory of another Member State within which the importation of the same goods from a third country for temporary use would benefit from the temporary importation, with total exemption from import duties.

h) Gas deliveries through a natural gas network located in the territory of the Community or any network connected to said network, electricity deliveries or heat or cold deliveries through heating networks or of refrigeration, which would be considered carried out in another Member State of the Community in accordance with the criteria established in section seven of article 68 of this Law.

The exclusions referred to in letters a) to h) above will not have effect from the moment any of the requirements that condition them are no longer fulfilled.

- The first paragraph of section 3 is modified by art. 214.2 of Royal Decree-Law 3/2020, of February 4. Ref. BOE-A-2020-1651
  This modification comes into effect on March 1, 2020, as established in final provision 16.3 of the aforementioned Royal Decree-law.
- Letter c´) of section 1º.c) is modified by art. 1.4 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Letter h) is modified by art. 79.1 of Law 39/2010, of December 22. Ref. BOE-A-2010-19703 .
- Letter h) is added and the last paragraph of section 3 is modified, with effect from January 1, 2005, by ar. 1 of Law 22/2005, of November 18. Ref. BOE-A-2005-19003 .
- Section 1.c) d´) is modified by art. 7.1 of Law 62/2003, of December 30. Ref. BOE-A-2003-23936 .
- Section 1.c) is modified by art. 4.2 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
  Drafted in accordance with the correction of errors published in BOE No. 81, of April 4, 2003. Ref. BOE-A-2003-6799 .
- Section 1.c) is modified by art. 5.1 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .
- Section 1, c), b´) is modified by art. 6.1 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- Section 2 is deleted and section 3 d) and e) are modified by art. 28.2 and 3 of Royal Decree-Law 12/1995, of December 28. Ref. BOE-A-1995-27964
- The third paragraph of section 1º. C) .a ') is modified by art. sole.1 of Law 23/1994, of July 6. Ref. BOE-A-1994-15798

- The last paragraph of point 3 is modified by art. 1.1 of Royal Decree-Law 7/1993, of May 21. Ref. BOE-A-1993-13663
- Drawn up sections 1º.c) .b ') and 3º.a) according to the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

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Modification published on 12/31/2002, effective as of 01/01/2003.

Modification published on 12/31/2001, effective as of 01/01/2002.

Modification published on 12/30/1999, effective as of 01/01/2000.

Modification published on 12/30/1995, effective as of 01/01/1996.

Modification published on 07/07/1994, effective as of 07/08/1994.

Modification published on 05/27/1993, effective as of 05/28/1993.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 15: # a9-2]

Article 9 bis. Consignment goods sales agreement.

One. For the purposes of the provisions of this Law, an agreement for the sale of goods under consignment shall be understood as one in which the following requirements are met:

a) That the goods are dispatched or transported to another Member State, by the seller, or by a third party on their behalf and on their behalf, so that those goods are acquired at a later time than their arrival by another entrepreneur or licensed professional, in accordance with a prior agreement between both parties.

b) That the seller who dispatches or transports the goods does not have the headquarters of his economic activity or a permanent establishment in the Member State of arrival of the expedition or transport of the goods.

c) That the entrepreneur or professional who is going to acquire the goods is identified for the purposes of Value Added Tax in the Member State of arrival of the expedition or transport, and that tax identification number, as well as his name and surname, reason or full company name, are known by the seller at the time of the start of the expedition or transport.

d) That the seller has included the shipment of said goods both in the registry book determined by regulation and in the summary declaration referred to in article 164, section one, number 5, of this Law, in the manner that is determined by regulation.

Two. When, within the twelve months following the arrival of the goods in the destination Member State in the framework of an agreement for the sale of goods

under consignment, the entrepreneur or professional mentioned in letter c) of the previous section, or in letter a ') of the second paragraph of the following section, acquire the power of disposal of the goods, it will be understood that in the territory of application of the Tax it is carried out, according to the cases:

a) A delivery of the goods provided for in article 68, section two, number 1, letter A), first paragraph, of this Law, by the seller, to which the exemption provided in article 25 of this Law, or

b) an intra-community acquisition of goods provided for in article 15, section one, letter b) of this Law, by the entrepreneur or professional who acquires them.

Three. It will be understood that there has been a transfer of goods referred to in article 9.3 of this Law when, within the framework of an agreement for the sale of goods under consignment, within the twelve month period provided in the previous section , any of the conditions established in section one above are breached, in particular:

a) When the goods have not been acquired by the businessman or professional to whom they were originally intended.

b) When the goods were dispatched or transported to a destination other than the Member State to which they were originally intended under the agreement for the sale of goods on consignment.

c) In the event of destruction, loss or theft of property.

However, the requirements of section one above shall be deemed to be fulfilled when, within the aforementioned period:

a´) The goods are acquired by an entrepreneur or professional who substitutes the one referred to in letter c) of section one above, in compliance with the requirements set forth in said letter.

b´) The power of disposal of the goods has not been transmitted and they are returned to the Member State from which they were shipped or transported.

c´) The circumstances provided for in letters a´) and b´) have been included by the seller in the registry book determined by regulation.

Four. It will be understood that there has been a transfer of goods referred to in article 9.3 of this Law, within the framework of an agreement for the sale of goods under consignment and fulfilling the conditions set forth in section one above, the following day of the expiration of the 12-month period from the arrival of the goods to the destination Member State without the entrepreneur or professional mentioned in letter c) of paragraph one or letter a ') of the second paragraph of paragraph three of article 9 bis has acquired the disposition power of the goods.

Five. Entrepreneurs or professionals who sign an agreement for the sale of goods under consignment and those who replace the one to whom the goods were originally intended should keep a record book of these operations under the conditions established by regulation.

- It is added by art. 214.3 of Royal Decree-Law 3/2020, of February 4. Ref. BOE-A-2020-1651
  This article comes into force on March 1, 2020, as established in final provision 16.3 of the aforementioned Royal Decree-law.

- **Added text, published on 02/05/2020, effective as of 03/01/2020.**

[Block 16: # a10]

Article 10. Concept of transformation.

Except as specifically provided in other provisions of this Law, any alteration of the goods that determines the modification of the specific purposes for which they were usable will be considered transformation.

[Block 17: # a11]

Article 11. Concept of provision of services.

One. For the purposes of Value Added Tax, the provision of services shall be understood as any operation subject to the aforementioned tax that, in accordance with this Law, is not considered delivery, intra-community acquisition or import of goods.

Two. In particular, the following shall be considered as provision of services:

1.º The independent exercise of a profession, art or trade.

2. Leases of goods, industry or business, companies or commercial establishments, with or without a purchase option.

3rd assignments of use or enjoyment of assets.

4.º The assignments and concessions of copyright, licenses, patents, trademarks and other intellectual and industrial property rights.

5.º The obligations to do and not to do and the abstentions stipulated in agency or sale contracts exclusively or derived from agreements of distribution of goods in delimited territorial areas.

6. The executions of work that are not considered as deliveries of goods in accordance with the provisions of article 8 of this Law.

7.º Transfers of business premises.

8.º The transports.

9.º Hospitality, restaurant or camping services and sales of drinks or food for immediate consumption in the same place.

10. Insurance, reinsurance and capitalization operations.

11.º Hospitalization benefits.

12.º Loans and credits in money.

13.º The right to use sports or recreational facilities.

14.º The exploitation of fairs and exhibitions.

15.º Mediation operations and agency or commission operations when the agent or commission agent acts on behalf of others. When you act in your own name and mediate in the provision of services, it will be understood that you have received and provided the corresponding services by yourself.

16.º The supply of computer products when they do not have the condition of delivery of goods, the delivery of the corresponding support being considered ancillary to the

provision of services.

In particular, provision of services will be considered the provision of computer products that have been made upon request of its recipient in accordance with its specifications, as well as those that are subject to substantial adaptations necessary for use by its recipient.

- Section 16 is modified by art. 4.3 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- Section 12, 2 is modified by art. 6.2 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .

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Modification published on 12/30/1999, effective as of 01/01/2000.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 18: # a12]

Article 12. Operations assimilated to the provision of services.

Self-consumption of services will be considered operations assimilated to the provision of services for consideration.

For the purposes of this tax, the following operations carried out without consideration will be self-consumption of services:

1. The transfers of goods and rights, not included in article 9, number 1, of this Law, from the business or professional assets to the personal assets of the taxpayer.

2. The total or partial application to the private use of the taxpayer or, in general, for purposes unrelated to his business or professional activity of the assets that make up his business or professional assets.

3rd the other services provided free of charge by the taxpayer not mentioned in the previous numbers of this article, provided they are performed for purposes other than those of business or professional activity.

- The number 3 is modified by art. 3.1 of Law 36/2006, of November 29. Ref. BOE-A-2006-20843 .

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Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 19: #cii]

Chapter II

Intra-community acquisitions of goods

[Block 20: # a13]

Article 13. Taxable event.

The following operations carried out within the scope of application of the Tax will be subject:

1. The intra-community acquisitions of goods made for consideration by businessmen, professionals or legal entities that do not act as such when the transferor is a businessman or professional.

The following are not included in these intra-community acquisitions of goods:

a) Acquisitions of goods whose delivery is made by an entrepreneur or professional who benefits from the tax exemption regime in the Member State from which the expedition or transportation of the goods begins.

b) Acquisitions of goods the delivery of which has been taxed subject to the rules established for the special regime for used goods, objects of art, antiques and collectibles in the Member State where the issue or transport of the goods begins .

c) The acquisitions of goods that correspond to the deliveries of goods that are to be the object of installation or assembly included in article 68, section two, number 2 of this Law.

d) Acquisitions of goods that correspond to distance sales included in article 68, section three, of this Law.

e) The acquisitions of goods that correspond to the deliveries of goods subject to Special Taxes referred to in article 68, section five, of this Law.

f) Intra-community acquisitions of goods whose delivery in the State of origin of the expedition or transport has been exempt from the Tax by application of the criteria established in article 22, sections one to eleven, of this Law.

g) Acquisitions of goods that correspond to gas deliveries through a natural gas network located in the territory of the Community or any network connected to said network, electricity deliveries or deliveries of heat or cold through the heating or cooling networks that are understood to be carried out in the territory of application of the tax in accordance with section seven of article 68.

2. The intra-community acquisitions of new means of transport, made for consideration by the persons to whom the non-subjection provided for in article 14, sections one and two, of this Law, as well as those made by any other person who does not have the status of entrepreneur or professional, whatever the status of the transferor.

For these purposes, means of transport will be considered:

a) Motor-powered land vehicles whose displacement is greater than 48 cm or their power exceeds 7.2 kW.

b) Vessels whose maximum length is greater than 7.5 meters, with the exception of those affected by the exemption of article 22, section one, of this Law.

c) Aircraft whose total take-off weight exceeds 1,550 kilograms, with the exception of those affected by the exemption of article 22, section four, of this Law.

The aforementioned means of transport will be considered new when, with respect to them, any of the circumstances indicated below occurs:

a) That its delivery is made before the three months following the date of its first commissioning or, in the case of motor-powered land vehicles, before the six months following said date.

b) That the land vehicles have not traveled more than 6,000 kilometers, the boats have not sailed more than 100 hours and the aircraft have not flown more than 40 hours.

- Letter g) of section 1 is modified by art. 67 of Law 2/2012, of June 29. Ref. BOE-A-2012-8745 .
- Letter g) is added to section 1, with effect from January 1, 2005, by art. 1º.2 of Law 22/2005, of November 18. Ref. BOE-A-2005-19003 .
- It is modified by art. 17.1 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968

Last update, published on 06/30/2012, effective as of 07/01/2012.

Amendment published on 19/11/2005, effective from 20/11/2005.

Modification published on 12/31/1994, effective as of 01/01/1995.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 21: # a14]

Article 14. Acquisitions not subject.

One. Intra-community acquisitions of goods will not be subject to the tax, with the limitations established in the following section, made by the persons or entities indicated below:

1. The taxpayers subject to the special system of agriculture, livestock and fishing, with respect to the goods intended for the development of the activity subject to said system.

2. Taxpayers who exclusively carry out operations that do not give rise to the right to deduct all or part of the tax.

3rd legal entities that do not act as entrepreneurs or professionals.

Two. The non-subjection established in the previous section will only apply with respect to intra-community acquisitions of goods, made by the indicated persons, when the total amount of acquisitions of goods from the other Member States, excluding the Tax accrued in said States, does not has reached 10,000 euros in the preceding calendar year.

The non-subjection will be applied in the current calendar year until reaching the aforementioned amount.

In the application of the limit referred to in this section, it must be considered that the amount of the consideration relative to the acquired goods may not be divided for

these purposes.

For the calculation of the limit indicated in this section, the amount of the consideration for the delivery of goods referred to in article 68, section three of this Law shall be computed when, by application of the rules included in said provision, they are understood to have been made outside the territory of application of the tax.

Three. The provisions of this article shall not apply with respect to the acquisition of new means of transportation and of the goods that are the object of the Special Taxes, the amount of which shall not be computed within the limit indicated in the previous section.

Four. Notwithstanding the provisions of section one, the operations described in it will be subject to the tax when the persons who carry them out choose to be subject to it, in the manner determined by regulation.

The option will cover a minimum period of two years.

- The first paragraph of section 2 is modified by art. 6.1 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .

Last update, published on 12/31/2001, effective as of 01/01/2002.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 22: # a15]

Article 15. Concept of intra-community acquisition of goods.

One. Intra-community acquisition of goods shall be understood as:

a) Obtaining the power of disposition on tangible personal property issued or transported to the territory of application of the Tax, destined for the acquirer, from another Member State, by the transferor, the acquirer himself or a third party in the name and on behalf of any of the previous ones.

b) Obtaining the power of disposal over personal movable property within the framework of an agreement for the sale of consigned goods in the terms provided for in article 9 bis, section two, of this Law.

Two. When the goods acquired by a legal person that does not act as an entrepreneur or professional are transported from a third territory and imported by said person in another Member State, said goods will be considered as shipped or transported from the aforementioned importing Member State.

- Section 1 is modified by art. 214.4 of Royal Decree-Law 3/2020, of February 4. Ref. BOE-A-2020-1651
  This article comes into force on March 1, 2020, as established in final provision 16.3 of the aforementioned Royal Decree-law.

Last update, published on 02/05/2020, effective as of 03/01/2020.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 23: # a16]

Article 16. Operations assimilated to intra-community acquisitions of goods.

Operations assimilated to intra-community acquisitions of goods for consideration shall be considered:

1st **(Deleted)**

2nd the affectation to the activities of an entrepreneur or professional developed in the territory of application of the tax of a good issued or transported by that entrepreneur, or on his own behalf, from another Member State in which the referred good has been produced, extracted, transformed, acquired or imported by said entrepreneur or professional in the course of his business or professional activity carried out in the territory of the latter Member State.

Excepted from the provisions of this number are operations excluded from the concept of transfer of assets according to the criteria contained in article 9, number 3, of this Law.

3rd the affectation made by the forces of a State party to the North Atlantic Treaty in the territory of application of the tax, for their use or that of the civil element that accompanies them, of the goods that have not been acquired by said forces or civil element in the normal conditions of taxation of the tax in the Community, when its import could not benefit from the exemption from the tax established in article 62 of this Law.

4th any acquisition resulting from an operation that, if it had been made in the interior of the country by an entrepreneur or professional, would be classified as delivery of goods under the provisions of article 8 of this law.

- Section 1 is deleted by art. 28.4 of Royal Decree-Law 12/1995, of December 28. Ref. BOE-A-1995-27964
- Drafted section 16. 3rd in accordance with the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

Last update, published on 12/30/1995, effective as of 01/01/1996.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 24: #ciii]

Chapter III

Imports of goods

[Block 25: # a17]

Article 17. Taxable event.

Imports of goods, regardless of the purpose for which they are intended and the status of the importer, will be subject to the tax.

[Block 26: # a18]

Article 18. Concept of import of goods.

One. It will have the consideration of import of goods:

First. The entry into the country of a property that does not meet the conditions provided for in Articles 9 and 10 of the Treaty establishing the European Economic Community or, if it is a property within the scope of the Treaty establishing the Community European Coal and Steel, which is not in free circulation.

Second. The entry into the interior of the country of a good coming from a third territory, other than the goods referred to in the previous number.

Two. Notwithstanding the provisions of section one, when a good mentioned in it is placed, from its entry into the territory of application of the tax, in the areas referred to in article 23 or is linked to the regimes included in article 24, both of this Law, with the exception of the deposit regime other than customs, the importation of said good will take place when the good leaves the aforementioned areas or leaves the regimes indicated in the territory of application of the tax.

The provisions of this section will only be applicable when the goods are placed in the areas or are linked to the regimes indicated in compliance with the legislation that is applicable in each case. Failure to comply with said legislation will determine the taxable importation of goods.

However, the departure from the areas referred to in article 23 or the abandonment of the regimes included in article 24 will not constitute import when it determines a delivery of goods to which the exemptions established in articles 21, 22 apply. or 25 of this Law.

- Paragraph 2 is amended by art. 1.5 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

Last update, published on 11/28/2014, effective as of 01/01/2015.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 27: # a19]

Article 19. Operations assimilated to imports of goods.

The following shall be considered assimilated to imports of goods:

1. Failure to comply with the requirements determining the effect on international maritime navigation of ships that have benefited from exemption from the tax in the cases referred to in articles 22, paragraph one, number 1, 26, section one, and 27, number 2, of this Law.

2. The exclusive non-affectation of the rescue, maritime assistance or coastal fishing of the ships whose delivery, intra-community acquisition or import would have benefited from the exemption from the tax.

3. Failure to comply with the requirements that determine the essential dedication to international air navigation of companies that carry out commercial activities, in relation to the aircraft whose delivery, intra-community acquisition or import would have benefited from the exemption from the tax in cases referred to in articles 22, section four, 26, section one, and 27, number 3.

4. The acquisitions made in the territory of application of the tax of the goods whose delivery, intra-community acquisition or previous importation would have benefited from the exemption from the tax, pursuant to the provisions of articles 22, sections eight and nine, 26, in its relationship with the previous article, 60 and 61 of this Law.

Notwithstanding the provisions of the preceding paragraph shall not be applicable when the acquirer issues or immediately and definitively transports said goods outside the territory of the Community.

5. The exits from the areas referred to in article 23 or the abandonment of the regimes included in article 24 of this Law, of the goods whose delivery or intra-community acquisition to be introduced in the mentioned areas or linked to said regimes would have benefited from the exemption from the Tax by virtue of the provisions of the aforementioned articles and article 26, paragraph one, or would have been the subject of deliveries or provision of services also exempt by said articles.

As an exception to the provisions of the previous paragraph, the exits from the areas referred to in article 23 shall not constitute an operation assimilated to imports, nor the abandonment of the regimes included in article 24 of this Law of the following goods: tin (NC code 8001), copper (NC codes 7402, 7403, 7405 and 7408), zinc (NC code 7901), nickel (NC code 7502), aluminum (NC code 7601), lead (NC code 7801), indium (NC codes ex 811292 and ex 811299), silver (CN code 7106) and platinum, palladium and rhodium (NC codes 71101100, 71102100 and 71103100). In these cases, the departure from the areas or the abandonment of the aforementioned regimes will lead to the liquidation of the tax in the terms established in the sixth section of the annex to this Law.

However, the departure from the areas referred to in article 23 or the abandonment of the regimes included in article 24 shall not constitute an operation assimilated to imports when it determines a delivery of goods to which the exemptions established in the articles 21, 22 or 25 of this Law.

- Section 5 is modified by art. 1.6 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- The second paragraph of point 5 is modified by art. sole.1 of Law 9/1998, of April 21. Ref. BOE-A-1998-9477 .
- The second paragraph is added to point 5 by art. sole.1 of Royal Decree-Law 14/1997, of August 29. Ref. BOE-A-1997-19125

- (●) **Last update, published on 11/28/2014, effective as of 01/01/2015.**
- ( ) Modification published on 04/22/1998, effective as of 05/12/1998.
- ( ) Modification published on 08/30/1997, effective as of 09/01/1997.
- ( ) Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 28: #tii]

TITLE II

Exemptions

[Block 29: # ci-2]

CHAPTER I

Deliveries of goods and services

[Block 30: # a20]

Article 20. Exemptions in internal operations.

One. The following operations will be exempt from this tax:

1. The provision of services and deliveries of goods ancillary to them that constitute the universal postal service as long as they are carried out by the operator or operators that undertake to provide all or part of it.

This exemption will not apply to services whose terms of delivery are individually negotiated.

2. The provision of hospitalization or health care services and others directly related to them made by entities governed by public law or by private entities or establishments under authorized or disclosed prices.

The provision of food, accommodation, operating room, supply of drugs and medical supplies and other similar services provided by clinics, laboratories, sanitariums and other hospitalization and healthcare facilities shall be considered directly related to hospitalization and healthcare.

The exemption does not extend to the following operations:

a) The delivery of medicines to be consumed outside the establishments mentioned in the first paragraph of this number.

b) Food and accommodation services provided to persons other than the recipients of hospitalization and health care services and their companions.

c) Veterinary services.

d) The leases of goods made by the entities referred to in this number.

3rd assistance to natural persons by medical or health professionals, whoever is the recipient of such services.

For the purposes of this tax, those considered as such in the legal system and psychologists, speech therapists and opticians, graduated from official centers or recognized by the Administration will have the status of medical or health professionals.

The exemption includes the benefits of medical, surgical and sanitary assistance, related to the diagnosis, prevention and treatment of diseases, including those of clinical analysis and radiological examinations.

4th deliveries of blood, blood plasma and other fluids, tissues and other elements of the human body made for medical or research purposes or for processing for the same purposes.

5. The provision of services carried out in the field of their respective professions by stomatologists, dentists, dental mechanics and dental technicians, as well as the

delivery, repair and placement of dental prostheses and maxillary orthopedics performed by them, whatever the person in whose charge such operations are carried out.

6. The services provided directly to its members by unions, groups or autonomous entities, including Economic Interest Groups, made up exclusively of people who carry out an activity exempt or not subject to the Tax that does not give rise to the right to deduction, when they concur the following conditions:

a) That such services are used directly and exclusively in said activity and are necessary for the exercise of the same.

b) That the members limit themselves to reimbursing the part that corresponds to them in the expenses made in common.

c) That the exempt activity carried out is different from those indicated in numbers 16.º, 17.º, 18.º, 19.º, 20.º, 22.º, 23.º, 26.º and 28.º from section One of this article.

The exemption will also apply when, once the requirement set forth in letter b) above has been fulfilled, the prorated deduction does not exceed 10 percent and the service is not used directly and exclusively in the operations that give rise to the right to deduct.

The exemption does not extend to the services provided by commercial companies.

7.º Deliveries of goods and services that, for the fulfillment of its specific purposes, Social Security makes, directly or through its managing or collaborating entities.

This exemption will only be applicable in those cases in which those who carry out such operations do not receive any consideration from the purchasers of the goods or from the recipients of the services, other than the contributions made to Social Security.

The exemption does not extend to deliveries of medicines or medical supplies made on behalf of Social Security.

8.º The benefits of social assistance services indicated below carried out by public law entities or private entities or establishments of a social nature:

a) Protection of children and youth. Activities for the protection of children and youth shall be considered as those of rehabilitation and training of children and young people, assistance to infants, custody and care of children, conducting courses, excursions, camps or trips for children and young people and others. analogous loans for people under twenty-five years of age.

b) Assistance to the elderly.

c) Special education and assistance to people with disabilities.

d) Assistance to ethnic minorities.

e) Assistance to refugees and asylees.

f) Assistance to passers-by.

g) Assistance to people with unshared family responsibilities.

h) Community and family social action.

i) Assistance to ex-inmates.

j) Social reintegration and crime prevention.

k) Assistance to alcoholics and drug addicts.

l) Development cooperation.

The exemption includes the provision of the food, accommodation or transport services accessory to the previous ones provided by said establishments or entities, with their own or other people's means.

9.º The education of children and youth, the custody and custody of children, including the attention to children in the educational centers in interlective time during the school canteen or in classrooms in nursery service after school hours, teaching school, university and postgraduate courses, language teaching and professional training and retraining, carried out by entities governed by public law or private entities authorized to carry out these activities.

The exemption will extend to the provision of services and deliveries of goods directly related to the services listed in the previous paragraph, made, with their own or third-party means, by the same teaching or educational companies that provide the aforementioned services.

The exemption will not include the following operations:

a) Services related to the practice of sport, provided by companies other than educational centers.

In no case shall the services provided by the Associations of Parents of Students linked to educational centers be understood as included in this letter.

b) Accommodation and meals provided by Major or Minor Schools and student residences.

c) Those carried out by vehicle drivers' schools related to the driving licenses of land vehicles of classes A and B and to the titles, licenses or permits necessary for the driving of vessels or sports or recreational aircraft.

d) Deliveries of goods made for consideration.

10.º The private classes given by individuals on subjects included in the curricula of any of the levels and grades of the educational system.

They will not be considered classes provided on a private basis, those for whose realization it is necessary to register in the rates of business or artistic activities of the Tax on Economic Activities.

11.º The assignments of personnel carried out in the fulfillment of its purposes, by religious entities registered in the corresponding Registry of the Ministry of Justice, for the development of the following activities:

a) Hospitalization, healthcare and others directly related to them.

b) Those of social assistance included in number 8. of this section.

c) Education, teaching, training and professional retraining.

12.º The provision of services and the delivery of accessory goods to them made directly to its members by legally recognized organizations or entities that are not for profit, whose objectives are of a political, union, religious, patriotic, philanthropic or civic nature, made for the achievement of their specific purposes, provided that they do not receive from the beneficiaries of such operations any consideration other than the prices established in their statutes.

The Professional Associations, the Official Chambers, the Employers' Organizations and the Federations that group the organizations or entities referred to in this number shall be understood to be included in the preceding paragraph.

The application of this exemption will be conditioned to the fact that it is not capable of producing distortions of competition.

13º. The services provided to natural persons who practice sport or physical education, regardless of the person or entity in charge of the provision of the service, provided that such services are directly related to said practices and are provided by the following persons or entities:

a) Public law entities.

b) Sports federations.

c) Spanish Olympic Committee.

d) Spanish Paralympic Committee.

e) Private sports entities or establishments of a social nature.

The exemption does not extend to sporting events.

14.º The provision of services listed below carried out by public law entities or by private cultural entities or establishments of a social nature:

a) Those of libraries, archives and documentation centers.

b) Visits to museums, art galleries, art galleries, monuments, historical places, botanical gardens, zoos and natural parks and other protected natural spaces of similar characteristics.

c) Theatrical, musical, choreographic, audiovisual and cinematographic representations.

d) The organization of exhibitions and similar demonstrations.

15.º The transport of sick or injured in ambulances or vehicles specially adapted for it.

16.º Insurance, reinsurance and capitalization operations.

Likewise, the mediation services, including the acquisition of clients, for the conclusion of the contract between the parties involved in the performance of the above operations, regardless of the condition of the businessman or professional that provides them.

Insurance operations shall be understood to include the provisions

17.º Deliveries of postage stamps and stamped bills of legal tender in Spain for an amount not exceeding their face value.

The exemption does not extend to the expedition services of the referred goods provided in the name and on behalf of third parties.

18.º The following financial operations:

a) Cash deposits in its various forms, including deposits in current accounts and savings accounts, and other operations related thereto, including collection or payment services provided by the depositary in favor of the depositor.

The exemption does not extend to credit collection management services, bills of exchange, receipts and other documents. Neither does the exemption extend to the services provided to the transferor in the framework of the factoring contracts, with the exception of those for the advance of funds that, where appropriate, may be provided in these contracts.

Credit or checking account crediting operations will not be considered as collection management.

b) The transmission of cash deposits, including by means of certificates of deposit or titles that fulfill a similar function.

c) The granting of credits and loans in money, whatever the form in which it is implemented, including through financial effects or other titles.

d) The other operations, including management, related to loans or credits made by those who granted them in whole or in part.

The exemption does not extend to services provided to other lenders in syndicated loans.

In any case, the financial swap operations will be exempt.

e) The transmission of loans or credits.

f) The provision of sureties, guarantees, sureties and other real or personal guarantees, as well as the issuance, notice, confirmation and other operations related to documentary credits.

The exemption extends to the management of loan guarantees or credits made by those who granted the guaranteed loans or credits or the guarantees themselves, but not to that made by third parties.

g) The transfer of guarantees.

h) Operations related to transfers, money orders, checks, drafts, promissory notes, bills of exchange, credit or payment cards and other payment orders.

The exemption extends to the following operations:

a ') Interbank clearing of checks and stubs.

b ') Acceptance and acceptance management.

c ') The protest or substitute statement and the management of the protest.

The service of collection of bills of exchange or other documents that have been received in collection management is not included in the exemption. Neither are included in the exemption the services provided to the transferor in the framework of the factoring contracts, with the exception of the advance of funds that, where appropriate, may be provided in these contracts.

i) The transmission of the effects and payment orders referred to in the previous letter, including the transmission of discounted effects.

The transfer of effects in collection commission is not included in the exemption. Neither are included in the exemption the services provided to the transferor in the framework of the factoring contracts, with the exception of the advance of funds that, where appropriate, may be provided in these contracts.

j) Purchase, sale or exchange operations and similar services that have as their object currencies, banknotes and coins that are legal means of payment, with the exception of coins and banknotes of collection and pieces of gold, silver and platinum .

For the purposes of the provisions of the preceding paragraph, coins and banknotes that are not normally used for their function of legal means of payment or have a numismatic interest, with the exception of collection coins delivered by their issuer by a amount not exceeding its face value that will be exempt from tax.

This exemption shall not apply to gold coins that are considered investment gold in accordance with the provisions of number 2 of article 140 of this Law.

k) Services and operations, except deposit and management, related to shares, participations in companies, obligations and other securities not mentioned in the previous letters of this number, with the exception of the following:

a ') The representatives of merchandise.

b ') Those whose possession assures in fact or in law the property, use or exclusive enjoyment of all or part of a real property, that are not of the nature of shares or participations in companies.

c ') Those securities not admitted to trading on an official secondary market, carried out on the secondary market, by whose transmission it would have been intended to avoid paying the tax corresponding to the transfer of the property owned by the entities to which these securities represent, in the terms referred to in article 108 of Law 24/1988, of July 28, on the Securities Market.

l) The transfer of the securities referred to in the previous letter and the services related to it, even due to its issue or amortization, with the same exceptions.

m) Mediation in the exempt operations described in the previous letters of this number and in operations of the same nature not carried out in the exercise of business or professional activities.

The exemption extends to mediation services in the transmission or placement on the market, of deposits, cash loans or securities, carried out on behalf of their issuing entities, their holders or other intermediaries, including the cases in which the insurance of said operations mediates.

n) The management and deposit of Collective Investment Institutions, Risk Capital Entities managed by authorized management companies and registered in the special administrative Registries, Pension Funds, Regulation of the Mortgage Market, Securitization of Assets and Retirement Collectives, established in accordance with their specific legislation.

ñ) **(Deleted)**

19. The lotteries, bets and games organized by the State Lottery and Gambling State Society and the National Organization for the Blind and by the corresponding bodies of the Autonomous Communities, as well as the activities that constitute the taxable events of the taxes on gambling and random combinations.

The exemption does not extend to management services and other operations of an accessory or complementary nature to those included in the previous paragraph that do not constitute the taxable event of taxes on the game, with the exception of bingo management services.

20.º Deliveries of rustic land and others that do not have the status of buildable, including constructions of any nature embedded in them, which are essential for the development of an agricultural holding, and those exclusively intended for public parks and gardens or surfaces vials for public use.

For these purposes, the land classified as solar is considered buildable by the Law on the Land Regime and Urban Planning and other urban regulations, as well as other land suitable for building because it has been authorized by the corresponding administrative license.

The exemption does not extend to deliveries of the following land, even if they do not have the status of buildable:

a) Those of urbanized land or in the course of urbanization, except those exclusively intended for public parks and gardens or road surfaces for public use.

b) Those of lands in which are located buildings under construction or finished when they are transmitted together with them and the deliveries of said buildings are subject and not exempt from tax. However, deliveries of non-buildable land in which are located buildings of agrarian nature indispensable for their exploitation and those of land of the same nature in which there are paralyzed, dilapidated or dilapidated buildings will be exempt.

21.º **(Deleted)**

22.ºA) The second and subsequent deliveries of buildings, including the land in which they are located, when they take place after the completion of their construction or rehabilitation.

For the purposes of the provisions of this Law, the first delivery shall be deemed to be that made by the developer whose purpose is a building whose construction or rehabilitation is completed. However, the first delivery will not be considered the one made by the developer after the uninterrupted use of the property for a period equal to or greater than two years by its owner or by holders of real rights of enjoyment or enjoyment or under contracts of leasing with no purchase option, unless the purchaser is the one who used the building during said term. The periods of use of buildings by the purchasers of the same in the cases of resolution of the operations by virtue of which the corresponding transmissions were made will not be computed for these purposes.

The land in which the buildings are located will include those in which the accessory urbanization works have been carried out. However, in the case of single-family homes, the accessory urbanized land may not exceed 5,000 square meters.

Transmissions not subject to the Tax by virtue of what is established in number 1 of article 7 of this Law shall not be considered, as the case may be, the first installment for the purposes of the provisions of this number.

The exemption provided in this number will not apply:

a) To deliveries of buildings made in the exercise of the purchase option inherent in a lease, by companies habitually engaged in financial leasing operations. For these purposes, the commitment to exercise the purchase option against the lessor will be assimilated to the exercise of the purchase option.

The financial leasing contracts referred to in the preceding paragraph will have a minimum duration of ten years.

b) To deliveries of buildings for rehabilitation by the acquirer, provided that the requirements established by regulation are met.

c) To deliveries of buildings that are demolished prior to a new urban development.

B) For the purposes of this law, are works of rehabilitation of buildings that meet the following requirements:

1. That its main objective is the reconstruction of the same, understanding that this requirement has been fulfilled when more than 50 percent of the total cost of the rehabilitation project corresponds to works of consolidation or treatment of structural elements, facades or roofs or similar works. or related to rehabilitation.

2. That the total cost of the works to which the project refers exceeds 25 percent of the purchase price of the building if it had been carried out during the two years immediately prior to the start of the rehabilitation works or, in another In this case, the

market value of the building or part of it at the time of said start. For these purposes, the proportional part corresponding to the land will be deducted from the purchase price or the market value of the building.

The following works will be considered analogous to those of rehabilitation:

a) Those of structural adaptation that provide the building with conditions of constructive safety, so that its stability and mechanical resistance are guaranteed.

b) Those of reinforcement or adaptation of the foundation as well as those that affect or consist in the treatment of pillars or slabs.

c) The extension of the built surface, above and below ground.

d) The reconstruction of facades and interior patios.

e) Those for the installation of lifting elements, including those intended to overcome architectural barriers for use by the disabled.

The works listed below will be considered related to rehabilitation works when their total cost is less than that derived from the works of consolidation or treatment of structural elements, facades or roofs and, where appropriate, from works similar to these, always that are inextricably linked to them and do not consist of the mere finish or decoration of the building or the simple maintenance or painting of the facade:

a) The masonry, plumbing and carpentry works.

b) Those destined to the improvement and adaptation of closings, electrical installations, water and air conditioning and fire protection.

c) Energy rehabilitation works.

Energy rehabilitation works will be considered as those aimed at improving the energy performance of buildings by reducing their energy demand, increasing the performance of thermal systems and installations, or incorporating equipment that uses renewable energy sources.

23.º Leases that are considered services in accordance with the provisions of article 11 of this Law and the constitution and transmission of real rights of enjoyment and enjoyment, which have as their object the following assets:

a) Land, including agrarian real estate buildings used for the exploitation of a rustic property.

Real estate constructions dedicated to livestock activities independent of land exploitation are excepted.

b) The buildings or parts thereof destined exclusively for housing or for their subsequent leasing by entities managing public housing support programs or by companies covered by the special regime of Entities dedicated to housing leases established in the Corporation Tax. The exemption will be extended to garages and accessory annexes to homes and furniture, leased jointly with them.

The exemption will not include:

a´) Leases of land for vehicle parking.

b´) Leases of land for the deposit or storage of goods, merchandise or products, or to install elements of a business activity on them.

c´) Leases of land for exhibitions or advertising.

d´) Leases with the option to purchase land or houses whose delivery is subject and not exempt from tax.

e´) Leases of furnished apartments or houses when the lessor is obliged to provide any of the complementary services typical of the hotel industry, such as restaurant, cleaning, laundry, or other similar services.

f´) Leases of buildings or part thereof to be subleased, with the exception of those made in accordance with the provisions of letter b) above.

g´) Leases of buildings or part of the same assimilated to homes in accordance with the provisions of the Law of Urban Leases.

h´) The constitution or transmission of real rights of enjoyment or enjoyment over the assets referred to in letters a´), b´), c´), e´) and f´) above.

j´) The constitution or transfer of real surface rights.

24.º Deliveries of goods that have been used by the transferor in carrying out operations exempt from tax pursuant to the provisions of this article, provided that the taxable person has not been granted the right to make the total or partial deduction of the tax borne when making the acquisition, allocation or importation of said goods or their component elements.

For the purposes of the provisions of the preceding paragraph, it shall be considered that the taxpayer has not been attributed the right to make the partial deduction of the contributions paid when he has used the goods or services acquired exclusively in the execution of exempt operations that do not originate the right to deduction, even if the pro rata rule had applied.

The provisions of this number will not apply:

a) To deliveries of investment goods made during its regularization period.

b) When the exemptions established in numbers 20 and 22 above are applicable.

25. The deliveries of goods whose acquisition, involvement or importation or that of its component elements would have determined the total exclusion of the right to deduct in favor of the transferor pursuant to the provisions of articles 95 and 96 of this Law.

26.º Professional services, including those whose consideration consists of copyrights, provided by visual artists, writers, literary, graphic and photographic contributors to newspapers and magazines, musical composers, authors of plays and plays, adaptation, script and dialogues of audiovisual works, translators and adapters.

27th **(Deleted)**

28. The provision of services and deliveries of goods made by political parties on the occasion of demonstrations designed to report financial support for the fulfillment of their specific purpose and organized for their exclusive benefit.

Two. The exemptions related to numbers 20 and 22 of the previous section may be waived by the taxable person, in the manner and with the requirements determined by regulation, when the acquirer is a taxable person acting in the exercise of its business or professional activities and the right to make the total or partial deduction of the Tax borne when making the acquisition or, when not complying with the foregoing, depending on its foreseeable destination, the acquired goods are going to be used, total or partially, in the performance of operations that give rise to the right to deduction.

Three. For the purposes of the provisions of this article, entities or establishments of a social nature shall be considered those in which the following requirements are present:

1. Lack of profit and dedicate, where appropriate, the benefits eventually obtained to the development of exempt activities of the same nature.

2. The positions of president, employer or legal representative must be free of charge and have no interest in the economic results of the exploitation by themselves or through an intermediary.

3. The partners, community members or participants of the entities or establishments and their spouses or blood relatives, up to and including the second degree, may not be the main recipients of the exempt operations or enjoy special conditions in the provision of services.

This requirement will not apply when it comes to the provision of services referred to in section One, numbers 8 and 13, of this article.

Entities that meet the above requirements may request from the Tax Administration their classification as private entities or establishments of a social nature in the conditions, terms and requirements determined by regulation. The effectiveness of said qualification, which will be binding on the Administration, will be subordinated, in any case, to the subsistence of the conditions and requirements that, according to the provisions of this Law, are the basis for the exemption.

The exemptions corresponding to the services provided by entities or establishments of a social nature that meet the above requirements will be applied regardless of obtaining the qualification referred to in the preceding paragraph, provided that the conditions that are applicable in each case are met.

- Section 1.6 is amended, with effect from January 1, 2019, by art. 75 of Law 6/2018, of July 3. Ref. BOE-A-2018-9268
- Section 1.18º.j) is modified by art. 59 of Law 3/2017, of June 27. Ref. BOE-A-2017-7387
- It is modified by art. 1.7 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Section 1.8 is modified by art. 74 of Law 22/2013, of December 23. Ref. BOE-A-2013-13616 .
- Sections 1 and 3 are modified by art. 68 and 69 of Law 17/2012, of December 27. Ref. BOE-A-2012-15651 .
- Section 1.18º.k) is modified by art. 5.2 of Law 7/2012, of October 29. Ref. BOE-A-2012-13416 .
  Drafted in accordance with the correction of errors published in BOE no. 31, of February 5, 2013. Ref. BOE-A-2013-1182 .
- Section 1.19º is modified by final provision 7.1 of Law 13/2011, of May 27. Ref. BOE-A-2011-9280 .
- Section 1.1 is modified by art. 79.2 of Law 39/2010, of December 22. Ref. BOE-A-2010-19703 .
- Section 1.22º is modified by art. 2.2 of Royal Decree-Law 6/2010, of April 9. Ref. BOE-A-2010-5879 .
  Take into account for its application transitional provision 3.
- Section 1.22º is modified by art. 5 of Royal Decree-Law 2/2008, of April 21. Ref. BOE-A-2008-6994 .

Take into account for its application the unique transitional provision.

- Section 1.28 is added by additional provision 3 of Organic Law 8/2007, of July 4. Ref. BOE-A-2007-13022 .
- Section 1.16º is modified by additional provision 8 of Law 26/2006, of July 17. Ref. BOE-A-2006-12916 .
- Paragraph 2 is amended by art. sole 1 of Law 3/2006, of March 29. Ref. BOE-A-2006-5691 .
- Section 1.23º b) is modified by art. 64 of Law 30/2005, of December 29. Ref. BOE-A-2005-21525 .
- Section 1.1 is modified by art. 2.1 of Law 23/2005, of November 18. Ref. BOE-A-2005-19004 .
  This modification takes effect from January 1, 2006, as established in final provision 3.
- Section 1.18º is modified and 1.27º is deleted by art. 7.1.2 and 7.3.1 of Law 62/2003, of December 30. Ref. BOE-A-2003-23936 .
- Paragraph 2 is amended by art. 4.4 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- Section 1.18º j) is modified by art. 6.3 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- Section 1.18º n) is modified by additional provision 2.1 of Law 1/1999, of January 5. Ref. BOE-A-1999-214 .
- Section 1.13 is amended by art. 4.2 of Law 50/1998, of December 30. Ref. BOE-A-1998-30155 .
- Letter l) is added to section 1.8 by additional provision 2 of Law 23/1998, of July 7. Ref. BOE-A-1998-16303 .
- Sections 1.9, 18º.n) and ñ), 13º, 24º and 2 are modified and the 1.27º is added by art. 6.2 to 6, 26.1 and additional provision 29 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053
- Section 1.13, the second paragraph of section 2 is amended and section 1.27 is deleted by art. 13.1, 2 and 17.2 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968
- The third paragraph of section 1.22º is modified and the second paragraph is added to 2, with effect from January 1, 1994, by art. 75.1 and 2 of Law 21/1993, of December 29. Ref. BOE-A-1993-31087
- Redacted section 1. 6º.a), 18º.n) and 24º according to the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

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Modification published on 12/28/2012, effective as of 01/01/2013.

Modification published on 10/30/2012, effective as of 10/31/2012.

Amendment published on 28/05/2011, effective from 29/05/2011.

- Modification published on 12/23/2010, effective as of 01/01/2011.
- Modification published on 04/13/2010, effective as of 04/14/2010.
- Modification published on 04/22/2008, effective as of 04/22/2008.
- Modification published on 07/05/2007, effective as of 06/07/2007.
- Modification published on 07/18/2006, effective as of 07/19/2006.
- Modification published on 03/30/2006, effective as of 01/01/2006.
- Modification published on 12/30/2005, effective as of 01/01/2006.
- Amendment published on 19/11/2005, effective from 20/11/2005.
- Modification published on 12/31/2003, effective as of 01/01/2004.
- Modification published on 12/31/2002, effective as of 01/01/2003.
- Modification published on 12/30/1999, effective as of 01/01/2000.
- Modification published on 06/01/1999, effective as of 04/06/1999.
- Modification published on 12/31/1998, effective as of 01/01/1999.
- Modification published on 04/22/1998, effective as of 04/23/1998.
- Modification published on 12/31/1997, effective as of 01/01/1998.
- Modification published on 12/31/1994, effective as of 01/01/1995.
- Modification published on 12/30/1993, effective as of 01/19/1994.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 31: # a21]

Article 21. Exemptions on exports of goods.

The following operations will be exempt from the tax, under the conditions and with the requirements established by regulation:

1. Deliveries of goods issued or transported outside the Community by the transferor or by a third party acting on behalf of and on behalf of the latter.

2. Deliveries of goods issued or transported outside the Community by the acquirer not established in the territory of application of the tax or by a third party acting on behalf of and on behalf of it.

Excluded from the provisions of the preceding paragraph are goods destined for the equipment or provisioning of sports or recreational vessels, tourist aircraft or any means of transport for private use.

They will also be exempt from the tax:

A) Deliveries of goods to travelers in compliance with the following requirements:

a) The exemption will be effective by means of the refund of the tax borne on the acquisitions.

b) That the travelers have their habitual residence outside the territory of the Community.

c) That the goods purchased actually leave the territory of the Community.

d) That the set of acquired goods does not constitute a commercial expedition.

For the purposes of this Law, goods carried by travelers shall not be considered to constitute a commercial expedition in the case of goods purchased occasionally, which are intended for the personal or family use of travelers or to be offered as gifts and which, due to their nature and quantity, it cannot be presumed that they are the object of a commercial activity.

B) Deliveries of goods made in duty-free stores that, under customs control, exist in ports and airports when the purchasers are people who immediately leave for third-party territories, as well as those made on board ships or aircraft that carry out navigation to ports or airports located in third territories.

3. The provision of services consisting of work carried out on personal property acquired or imported to be the object of said work in the territory of application of the tax and, subsequently, issued or transported outside the Community by the person who has carried out the aforementioned works, by the recipient of the same not established in the territory of application of the tax or, by another person acting on behalf of and on behalf of any of the above.

The exemption does not extend to the repair or maintenance work of sports or recreational boats, tourist planes or any other means of transport for private use introduced in transit or temporary importation.

4. Deliveries of goods to recognized Organizations that export them outside the territory of the Community in the framework of their humanitarian, charitable or educational activities, prior recognition of the right to exemption.

However, when the person who delivers the goods referred to in the previous paragraph of this number is a public entity or a private establishment of a social nature, the State Tax Administration Agency may request the refund of the tax incurred that could not be deducted totally previous justification of its amount within three months from such deliveries are made.

5. The provision of services, including transport and accessory operations, other than those that are exempt under article 20 of this Law, when they are directly related to the export of goods outside the territory of the Community.

The services in respect of which the following conditions exist will be considered directly related to the aforementioned exports:

a) That they be provided to those who carry out said exports, to the recipients of the goods, to their customs representatives, or to freight forwarders and consignees acting on behalf of one or the other.

b) They are carried out from the moment the goods are shipped directly to a point located outside the territory of the Community or to a point located in the port, airport or border area for immediate dispatch outside said territory.

The condition referred to in letter b) above shall not be required in relation to the services of leasing of means of transport, packaging and conditioning of cargo, recognition of the goods on behalf of the acquirers and other analogues whose prior performance is essential. to carry out the shipment.

6. The provision of services performed by intermediaries acting on behalf of and on behalf of third parties when they intervene in the exempt operations described in this article.

- Section 2º.A) .a) is modified by art. 76 of Law 6/2018, of July 3. Ref. BOE-A-2018-9268
- Section 5 is amended, with effect from January 1, 2015, by art. 68 of Law 48/2015, of October 29. Ref. BOE-A-2015-11644 .
- Section 5 a) is modified by art. 1.8 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Section 4 is modified by additional provision 49 of Law 39/2010, of December 22. Ref. BOE-A-2010-19703 .
- Section 2º.A) .a) is modified by art. 28.5 of Royal Decree-Law 12/1995, of December 28. Ref. BOE-A-1995-27964
  Drafted in accordance with the correction of errors published in BOE no. January 18, 1996. Ref. BOE-A-1996-1219

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Modification published on 12/23/2010, effective as of 01/01/2011.

Modification published on 12/30/1995, effective as of 01/01/1996.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 32: # a22]

Article 22. Exemptions in operations assimilated to exports.

The following operations will be exempt from the tax, under the conditions and with the requirements established by regulation:

One. The deliveries, constructions, transformations, repairs, maintenance, charter, total or partial, and lease of the vessels indicated below:

1º Ships suitable for navigating the high seas that affect international maritime navigation in the exercise of commercial activities for the paid transport of goods or passengers, including tourist circuits, or industrial or fishing activities.

The exemption will not apply in any case to ships destined for sports, recreational activities or, in general, for private use.

2. Ships exclusively affected by rescue, maritime assistance or coastal fishing.

The disaffection of a ship for the purposes indicated in the previous paragraph will produce effects for a minimum period of one year, except in the event of subsequent delivery of the same.

3rd warships.

The exemption described in this section is conditioned to the fact that the purchaser of the goods or recipient of the indicated services is the Company itself that carries out the aforementioned activities and uses the vessels in the development of said activities or, where appropriate, the entity itself. public that uses the ships for its defense purposes.

For the purposes of this Law, the following shall be considered:

First. International maritime navigation, which is carried out through maritime waters in the following cases:

a) The one that begins in a port located in the spatial scope of application of the Tax and ends or stops at another port located outside that spatial scope.

b) That which begins in a port located outside the spatial scope of application of the Tax and ends or stops at another port located within or outside said spatial scope.

c) That which begins and ends in any port, without stopping, when the stay in waters located outside the territorial sea of the spatial scope of application of the Tax exceeds forty-eight hours.

The provisions of this letter c) shall not apply to ships that carry out commercial activities for the paid transport of people or goods.

In this concept of international maritime navigation, the technical scales made for refueling, repairing or similar services will not be understood.

Second. That a ship is subject to international maritime navigation, when its voyages in voyages of said navigation represent more than 50 percent of the total voyage carried out during the periods of time indicated below:

a) The calendar year prior to the date in which the corresponding repair or maintenance operations are carried out, except as provided in the following letter.

b) In the cases of delivery, construction, transformation, intra-community acquisition, import, charter, total or partial, or lease of the ship or in cases of disaffection of the purposes referred to in number 2 above, the calendar year in that such operations are carried out, unless they take place after the first semester of said year, in which case the period to be considered will comprise that calendar year and the following.

This criterion will also be applied in relation to the operations mentioned in the previous letter when they are carried out after those mentioned in this letter.

For the purposes of the provisions of this letter, the construction of a ship shall be deemed to have been completed at the time of its final registration in the corresponding Maritime Registry.

If, after the periods referred to in this letter b), the ship does not meet the requirements that determine the affectation to international maritime navigation, its tax situation in relation to the operations of this section will be regularized, in accordance with the provisions of article 19, number 1

Two. The deliveries, leases, repairs and maintenance of objects, including fishing equipment, that are incorporated or are on board the vessels affected by the exemptions established in the previous section, provided that they are made during the periods in which said tax benefits are applicable.

The exemption will be conditioned to the concurrence of the following requirements:

1. That the direct recipient of said operations is the owner of the operation of the ship or, where appropriate, its owner.

2. That the objects mentioned are used or, where appropriate, are intended to be used exclusively in the operation of said ships.

3. That the operations affected by the exemptions are carried out after the definitive registration of the aforementioned ships in the corresponding Maritime Registry.

Three. Deliveries of supplies for the ships indicated below, when purchased by the owners of the operation of said ships:

1. The ships referred to in the exemptions of section one above, numbers 1 and 2, provided they are carried out during the periods in which said tax benefits are applicable.

However, in the case of vessels affected by coastal fishing, the exemption does not extend to deliveries of provisions on board.

2. The warships that carry out international maritime navigation, in the terms described in section one.

Four. The deliveries, transformations, repairs, maintenance, total charter or lease of the following aircraft:

1. Those used exclusively by companies essentially dedicated to international air navigation in the exercise of commercial activities for the paid transport of goods or passengers.

2. Those used by public entities in the performance of their public functions.

The exemption is conditioned on the fact that the acquirer or recipient of the indicated services is the company that carries out the aforementioned activities and uses the aircraft in the development of said activities or, where appropriate, the public entity that uses the aircraft in the functions public.

For the purposes of this Law, the following shall be considered:

First. International air navigation, which is carried out in the following cases:

a) That which begins at an airport located in the spatial area of application of the tax and ends or stops at another airport located outside that space.

b) The one that begins at an airport located outside the spatial scope of the tax and ends or stops at another airport located within or outside that spatial scope.

In this concept of international air navigation, the technical scales made for refueling, repairing or similar services will not be understood.

Second. That a company is essentially engaged in international air navigation when more than 50 percent of the total distance traveled on flights carried out by all aircraft used by said company corresponds to said navigation during the periods of time indicated below:

a) The calendar year prior to the repair or maintenance operations, except as provided in the following letter.

b) In the cases of delivery, construction, transformation, intra-community acquisition, import, total charter or lease of the aircraft, the calendar year in which said operations are carried out, unless they take place after the first semester of said year, in which In this case, the period to be considered will comprise that calendar year and the following.

This criterion will also be applied in relation to the operations mentioned in the previous letter when they are carried out after those mentioned in this letter.

If after the periods referred to in this letter b) the company does not meet the requirements that determine its dedication to international air navigation, its tax

situation in relation to the operations of this section will be regularized in accordance with the provisions of article number 19, number 3

Five. The deliveries, leases, repairs and maintenance of the objects incorporated or found on board the aircraft referred to in the exemptions established in the previous section.

The exemption will be conditioned to the concurrence of the following requirements:

1. That the recipient of said operations is the owner of the operation of the aircraft to which they refer.

2. That the aforementioned objects are used or, where appropriate, are intended to be used in the operation of said aircraft and on board them.

3. That the operations to which the exemptions refer are carried out after the registration of the aforementioned aircraft in the Registration Registry that is determined by regulation.

Six. Deliveries of supplies for the aircraft referred to in the exemptions established in section four, when they are acquired by the companies or public entities that are owners of the operation of said aircraft.

Seven. The provision of services, other than those listed in the previous sections of this article, made to meet the direct needs of ships and aircraft to which the exemptions established in sections one and four above correspond, or to meet the needs of the cargo of said ships and aircraft.

Eight. Deliveries of goods and services rendered in the framework of diplomatic and consular relations, in the cases and with the requirements determined by regulation.

Nine. Deliveries of goods and services to international organizations recognized by Spain or to the personnel of said organizations with diplomatic status, within the limits and under the conditions established in the international agreements by which such organizations are created or in the agreements of headquarters that are applicable in each case.

In particular, the deliveries of goods and the provision of services destined for the European Community, the European Atomic Energy Community, the European Central Bank or the European Investment Bank, or the organizations created by the Communities will be included in this section. to which the Protocol of April 8, 1965 on the privileges and immunities of the European Communities applies, within the limits and in accordance with the conditions of said Protocol and the agreements for its application or headquarters agreements, provided that This does not cause distortions in competition.

Ten. Deliveries of goods and services rendered by the forces of the other States parties to the North Atlantic Treaty, in the terms established in the Agreement between the States parties to said Treaty regarding the status of their forces.

Eleven. Deliveries of goods and services rendered to another Member State and to the forces of any State party to the North Atlantic Treaty, other than the Member State of destination itself, under the terms established in the Agreement between the States parties to said Treaty relating to the status of its forces.

Twelve. Gold deliveries to the Bank of Spain.

Thirteen. The transport of passengers and their luggage by sea or air from or to a port or airport outside the scope of the tax.

Transport by air covered by a single transport ticket that includes air connection flights shall be understood as included in this section.

Fourteen. The benefits of intra-community transport of goods, defined in article 72, section two of this Law, destined for or from the Azores or Madeira islands.

Fifteen. The provision of services performed by intermediaries acting on behalf of and on behalf of third parties when they intervene in operations that are exempt from the Tax pursuant to the provisions of this article.

- Section 13 is modified by art. 77 of Law 6/2018, of July 3. Ref. BOE-A-2018-9268
- Section 9 is modified by art. 79.3 of Law 39/2010, of December 22. Ref. BOE-A-2010-19703 .
- Section 1 is modified by final provision 7.1 of Law 51/2007, of December 26. Ref. BOE-A-2007-22295 .
- Section 16 is repealed by art. sole.2 of Law 9/1998, of April 21. Ref. BOE-A-1998-9477 .
  Note that the paragraph was already repealed by Royal Decree-Law 14/1997, of August 29
- Section 1.2 and 4.2 are modified by art. 6.7 and 8 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053
- Section 16 is repealed by art. sole.2 of Royal Decree-law 14/1997, of August 29. Ref. BOE-A-1997-19125
- Section 5.3 is modified by art. 10.12 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117
- Section 15 is modified and 17 is deleted by art. 28.6 and 7 of Royal Decree-Law 12/1995, of December 28. Ref. BOE-A-1995-27964
- Section 15 is modified and 17 is added by art. Only 2 and 3 of Law 23/1994, of July 6. Ref. BOE-A-1994-15798

- **Last update, published on 07/04/2018, effective as of 07/05/2018.**
- Modification published on 12/23/2010, effective as of 01/01/2011.
- Modification published on 12/27/2007, effective as of 01/01/2008.
- Modification published on 04/22/1998, effective as of 05/12/1998.
- Modification published on 12/31/1997, effective as of 01/01/1998.
- Modification published on 08/30/1997, effective as of 09/01/1997.
- Modification published on 12/31/1996, effective as of 01/01/1997.
- Modification published on 12/30/1995, effective as of 01/01/1996.
- Modification published on 07/07/1994, effective as of 07/08/1994.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 33: # a23]

Article 23. Exemptions related to free zones, free deposits and other deposits.

One. The following operations will be exempt, under the conditions and with the requirements established by regulation:

1. Deliveries of goods destined to be entered in the free zone or free warehouse, as well as those of goods brought to customs and placed, where appropriate, in situations of temporary storage.

2. Deliveries of goods that are taken to the territorial sea to incorporate them into drilling or exploitation platforms for their construction, repair, maintenance, transformation or equipment or to link said platforms to the continent.

The exemption extends to the deliveries of goods destined for the provisioning of the platforms referred to in the preceding paragraph.

3. The provision of services directly related to the deliveries of goods described in numbers 1 and 2 above, as well as to imports of goods intended to be introduced in the places referred to in this section.

4. The deliveries of the goods that are in the places indicated in numbers 1 and 2 above, as long as they are kept in the indicated situations, as well as the provision of services carried out in said places.

Two. The free zones, free warehouses and temporary warehousing situations mentioned in this article are defined as such in customs legislation. The entry and permanence of the goods in the free zones and warehouses, as well as their placement in a temporary deposit situation, shall comply with the rules and requirements established by said legislation.

Three. The exemptions established in this article are conditioned, in any case, that the goods to which they refer are not used or destined for final consumption in the indicated areas.

For these purposes, the goods introduced in them will not be considered used in the aforementioned areas to be incorporated into the ongoing transformation processes carried out in them, under the customs regimes of transformation into customs or active improvement in the suspension system or the tax system of inward processing.

Four. The benefits of services exempted by virtue of section one shall not include those that are exempt by article 20 of this Law.

- Section 1.1 and 2 are modified by art. 10.1.1 and 2 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117
- Section 1.1 written in accordance with the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

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[Block 34: # a24]

Article 24. Exemptions related to customs and tax regimes.

One. The following operations will be exempt from the tax, under the conditions and with the requirements established by regulation:

1. Deliveries of the goods indicated below:

a) Those destined to be used in the processes carried out under the customs and tax regimes of inward processing and the regime of transformation in Customs, as well as those that are linked to said regimes, with the exception of the modality of anticipated exportation of the active improvement.

b) Those that are linked to the temporary import regime with total exemption from import or external transit rights.

c) Those included in article 18, section one, number 2, which are under the temporary import tax regime or the internal community transit procedure.

d) Those destined to be linked to the customs warehousing regime and those that are linked to said regime.

e) Those destined to be linked to a deposit regime other than customs and those linked to said regime.

2. The provision of services directly related to the deliveries described in the previous number.

3. The provision of services directly related to the following operations and goods:

a) Imports of goods that are linked to the external transit regime.

b) Imports of the goods included in article 18, section one, number 2, which are placed under the protection of the temporary import tax regime or internal community transit.

c) Imports of goods that are linked to the customs and tax regimes of inward processing and to that of transformation into Customs.

d) Imports of goods that are linked to the customs warehouse regime.

e) Imports of goods that are linked to the temporary import regime with total exemption.

f) Imports of goods that are linked to a deposit regime other than customs exempt pursuant to article 65 of this Law.

g) The assets linked to the regimes described in letters a), b), c), d) and f) above.

Two. The regimes referred to in the previous section are those defined in the customs legislation and their association and permanence in them shall be in accordance with the rules and requirements established in said legislation.

The tax regime of inward processing will be authorized with respect to the goods that are excluded from the customs regime of the same denomination, subject, otherwise, to the same rules that regulate the aforementioned customs regime.

The temporary import tax regime shall be authorized with respect to the goods from the territories included in article 3, section two, number 1, letter b) of this Law, whose temporary import benefits from total exemption from import duties or would benefit from said exemption if the goods came from third countries.

For the purposes of this Law, the deposit regime other than customs will be defined in the annex thereto.

Three. The exemptions described in section one will apply while the assets to which they refer remain linked to the indicated regimes.

Four. The services rendered exempt by application of section one shall not include those that are exempt under article 20 of this Law.

- Letter f) of section 1.3a is modified by art. 1.9 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- The last paragraph of section 2 is modified by additional provision 19 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968 .
  Drafted in accordance with the correction of errors published in BOE no. 40, of February 16, 1995. Ref. BOE-A-1995-4035 .

Last update, published on 11/28/2014, effective as of 01/01/2015.

Modification published on 12/31/1994, effective as of 01/01/1995.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 35: # a25]

Article 25. Exemptions from deliveries of goods destined for another Member State.

The following operations will be exempt from the tax:

One. Deliveries of goods defined in article 8 of this Law, issued or transported, by the seller, by the acquirer or by a third party in the name and on behalf of any of the above, to the territory of another Member State, provided that the acquirer is an entrepreneur or professional or a legal person who does not act as such, who has an identification number for the purposes of Value Added Tax assigned by a Member State other than the Kingdom of Spain, which has communicated said identification number tax to the seller.

The application of this exemption will be conditioned to the seller having included said operations in the summary declaration of intra-community operations provided for in article 164, section one, number 5, of this Law, under the conditions established by regulation.

The exemption described in this section shall not apply to deliveries of goods made to those persons whose intra-community acquisitions of goods are not subject to the Tax in the Member State of destination by virtue of the criteria contained in Article 14, paragraphs one and two, of this Law.

Nor will this exemption apply to deliveries of goods under the special regime of used goods, objects of art, antiques and collectibles, regulated in Chapter IV of Title IX of this Law.

Two. Deliveries of new means of transport, carried out under the conditions indicated in section one, when the purchasers at destination are the persons included in the penultimate paragraph of the preceding section or any other person who does not have the status of entrepreneur or professional.

Three. The deliveries of goods included in article 9, number 3 of this Law to which the exemption of section one would be applicable if the recipient were another businessman or professional.

Four. Deliveries of goods made within the framework of an agreement for the sale of goods under consignment under the conditions set forth in article 9 bis, section two, of this Law.

- Section 1 is modified and 4 is added by art. 214.5 of Royal Decree-Law 3/2020, of February 4. Ref. BOE-A-2020-1651
  This modification comes into effect on March 1, 2020, as established in final provision 16.3 of the aforementioned Royal Decree-law.
- Section 4 is repealed by art. sole.1 of Royal Decree-Law 10/1999, of June 11. Ref. BOE-A-1999-13070
- Section 1 is modified by art. 28.8 of Royal Decree-Law 12/1995, of December 28. Ref. BOE-A-1995-27964
- Section 1 and 2 are modified by art. 17.3 of Law 42/1994, of September 30. Ref. BOE-A-1994-28968
- Section 4 is modified by art. sole.4 of Law 23/1994, of July 6. Ref. BOE-A-1994-15798

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Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 36: # cii-2]

CHAPTER II

Intra-community acquisitions of goods

[Block 37: # a26]

Article 26. Exemptions in intra-community acquisitions of goods.

They will be exempt from the tax:

One. Intra-community acquisitions of goods whose delivery in the territory of application of the tax would have been, in any case, not subject or exempt by virtue of the provisions of articles 7, 20, 22, 23 and 24 of this Law.

Two. Intra-community acquisitions of goods whose import would have been, in any case, exempt from tax under the provisions of Chapter III of this Title.

Three. Intra-community acquisitions of goods that meet the following requirements:

1st. They are carried out by an entrepreneur or professional who:

a) It is not established or identified for the purposes of Value Added Tax in the territory of application of the Tax, and

b) That it is identified for the purposes of Value Added Tax in another Member State of the Community.

2nd. That they be made for the execution of a subsequent delivery of the acquired goods, carried out within the territory of application of the tax by the acquirer himself.

3rd. That the acquired goods be shipped or transported directly from a Member State other than that in which the acquirer is identified for the purposes of Value Added Tax and destined for the person for whom subsequent delivery is made.

4th. That the recipient of the subsequent delivery is an entrepreneur or professional or a legal person who does not act as such, who is not affected by the non-subjection established in article 14 of this Law and who have been assigned an identification number for the purposes of the Tax on the Added Value provided by the Spanish Administration

Four. The intra-community acquisitions of goods in respect of which the acquirer is attributed, by virtue of the provisions of articles 119 or 119 bis of this Law, the right to full refund of the Tax that would have accrued by them.

- Section 4 is modified by art. 1.3 of law 2/2010, of March 1. Ref. BOE-A-2010-3366 .
  This modification takes effect from January 1, 2010, as established in final provision 4.
- Section 5 is deleted by art. 7.3.1 of Law 62/2003, of December 30. Ref. BOE-A-2003-23936 .
- Section 5 is added by art. 6.26.2 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053
- Section 3 is renumbered as 4 and 3 is added by art. only. 2 of Royal Decree-Law 7/1993, of May 21. Ref. BOE-A-1993-13663

[Block 38: # ciii-2]

CHAPTER III

Imports of goods

[Block 39: # a27]

Article 27. Imports of goods whose delivery in the interior was exempt from the tax.

Imports of the following goods will be exempt from the tax:

1. Blood, blood plasma and other fluids, tissues and other elements of the human body for medical or research purposes or for processing for the same purposes.

2. The ships and objects to be incorporated into them referred to in the exemptions established in article 22, sections one and two of this Law.

3. The aircraft and the objects to be incorporated into them referred to in the exemptions established in article 22, sections four and five of this Law.

4th supplies of supplies that, from the time the entry into the spatial scope of application of the tax occurs until the arrival at the port or ports located in said territorial area and during the stay in them for the period necessary to the fulfillment of its purposes, have been consumed or are on board the ships to which the exemptions of supplies of supplies established in article 22, section three of this Law, with the limitations provided in said provision.

5. The supplies products that, from the entry into the spatial scope of application of the tax until the arrival at the airport or airports located in said territorial scope and during the stay there for the period necessary for the fulfillment of its purposes, have been consumed or are on board the aircraft affected by the exemptions corresponding to the supplies of supplies established in article 22, section six of this Law and under the conditions set forth therein.

6.º The supplies products that are imported by the companies that are owners of the ships and aircraft that are affected by the exemptions established in article 22, sections three and six, of this Law, with the limitations established in said precepts and to be used exclusively for the aforementioned ships and aircraft.

7. The currencies, banknotes and coins that are legal means of payment, with the exception of coins and banknotes of collection and pieces of gold, silver and platinum.

8.º The securities.

9th **(Deleted)**

10. Gold imported directly by the Bank of Spain.

11. The goods destined for the platforms referred to in article 23, section one, number 2, of this Law, when they are destined for the same purposes mentioned in said precept.

12. The goods whose dispatch or transport has as a point of arrival a place located in another Member State, provided that the subsequent delivery of said goods by the importer or his fiscal representative was exempt under the provisions of article 25 of this law.

The exemption provided in this number will be conditioned to the fulfillment of the requirements established by regulation.

- The 12th and 7th sections are modified by art. 78.1 and 79..4 of law 39/2010, of December 22. Ref. BOE-A-2010-19703 .
- Section 9 is deleted by art. 17.4 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968

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Modification published on 12/31/1994, effective as of 01/01/1995.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 40: # a28]

Article 28. Imports of personal property by transfer of habitual residence.

One. Imports of personal property belonging to natural persons who transfer their habitual residence from a third territory to the Kingdom of Spain will be exempt from the Tax.

Two. The exemption will be conditioned to the concurrence of the following requirements:

1. Those interested must have had their habitual residence outside the Community for at least the twelve consecutive months prior to the transfer.

2. Imported goods must be used in the new residence for the same uses or purposes as in the previous one.

3. That the goods had been acquired or imported under the normal conditions of taxation in the country of origin or provenance and had not benefited from any exemption or return of the fees accrued on the occasion of their departure from said country.

This requirement will be considered fulfilled when the goods have been acquired or imported under the exemptions established in the diplomatic or consular regimes in favor of the members of recognized international organizations and with headquarters in the State of origin, with the limits and conditions established. by the international conventions by which said bodies are created or by the headquarters agreements.

4. That the goods subject to importation had been in the possession of the interested party or, in the case of non-consumable goods, they had been used by him in his former residence for a minimum period of six months before leaving said residence.

However, in the case of vehicles equipped with a mechanical motor for driving on the road, their trailers, camping caravans, transportable homes, pleasure boats and tourist aircraft, which have been acquired or imported under the exemptions referred to the second paragraph of number 3 above, the period of use described in the preceding paragraph must be more than twelve months.

Compliance with the terms established in this number will not be required, in exceptional cases where it is admitted by customs legislation for the purposes of import duties.

5. That the importation of the goods is carried out within a maximum period of twelve months from the date of the transfer of residence to the territory of application of the tax.

However, personal property may be imported before transfer, subject to a commitment from the interested party to establish their new residence within six months of importation, and a guarantee may be required in compliance with said commitment.

In the case referred to in the previous paragraph, the terms established in the previous number will be calculated with reference to the date of importation.

6. That the imported goods with exemption are not transferred, assigned or leased during the period of twelve months after importation, except for just cause.

Failure to comply with this requirement will determine the levy of the tax referred to the date on which said non-compliance occurs.

Three. The following assets are excluded from the exemption:

1. Alcoholic products included in CN codes 22.03 to 22.08 of the Customs Tariff.

2nd raw tobacco or manufactured tobacco.

However, the goods included in this number 2 and in the previous 1 may be imported with exemption up to the limit of the amounts authorized with franchise in the passenger regime regulated in article 35 of this Law.

3rd means of transportation of an industrial nature.

4th the materials for professional use other than portable instruments for the exercise of the profession or trade of the importer.

5.º Mixed-use vehicles used for commercial or professional purposes.

[Block 41: # a29]

Article 29. Concept of personal property.

For the purposes of this Law, personal assets will be considered those normally destined for the personal use of the interested party or of the people who live with him or for the needs of his home, provided that, due to their nature and quantity, their affectation to a business or professional activity.

Notwithstanding the provisions of the preceding paragraph, the portable instruments necessary for the exercise of the profession or trade of the importer also constitute personal property.

[Block 42: # a30]

Article 30. Imports of personal property destined to furnish a secondary dwelling.

One. Imports of personal goods made by individuals will be exempt from the tax, in order to furnish a secondary residence of the importer.

Two. The exemption established in the previous section will be conditioned to the concurrence of the following requirements:

1. Those established in section two, numbers 2, 3, 4 and 6, of article 28 of this Law, as applicable.

2. That the importer is the owner of the secondary dwelling or, where appropriate, its lessee, for a minimum period of twelve months.

3. That the imported goods correspond to the normal furniture or trousseau of the secondary dwelling.

[Block 43: # a31]

Article 31. Imports of personal property by reason of marriage.

One. Imports of goods that are part of the trousseau and objects of furniture, even new, belonging to people who, on the occasion of their marriage, transfer their habitual residence from third countries to the territory of application of the tax will be exempt.

Two. The exemption will be conditioned to the concurrence of the following requirements:

1. Those established in article 28, section two, numbers 1, 3 and 6 of this Law.

2. That the interested party provide proof of his marriage and, where appropriate, of the initiation of official procedures for its celebration.

3. That the import is carried out within the period between the two months prior to and four months after the celebration of the marriage.

The Administration may require a sufficient guarantee in the cases in which the import is carried out before the date of the marriage.

Three. The exemption also extends to imports of gifts normally offered by reason of marriage, made by persons who have their habitual residence outside the Community and received by those others referred to in paragraph one above, provided that the unit value of the objects offered as gifts did not exceed 200 euros.

Four. The provisions of this article shall not apply to vehicles with a mechanical motor for driving on the road, their trailers, camping caravans, transportable homes, pleasure boats and tourist aircraft, without prejudice to the provisions of article 28 of this Law. .

Five. The products included in article 28, section three, numbers 1 and 2 of this Law are also excluded from the exemption with the exceptions stated in said provision.

Six. The lack of justification of the marriage, within a period of four months from the date indicated for the celebration of the same, will determine the levy of the tax referring to the date on which the importation took place.

- Section 3 is amended by art. 6.2 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .

Last update, published on 12/31/2001, effective as of 01/01/2002.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 44: # a32]

Article 32. Imports of personal property due to inheritance.

One. Imports of personal property acquired mortis causa will be exempt from Value Added Tax, when they are carried out by natural persons who have their habitual residence in the territory of application of the tax.

Two. The exemption will only apply with respect to imported goods within a period of two years from the moment in which the interested party had entered into possession of the acquired goods, except for exceptional causes appreciated by the Administration.

Three. The provisions of the preceding sections shall also apply to imports of personal property acquired mortis causa by non-profit entities established in the territory of application of the tax.

Four. The following assets are excluded from the exemption:

1. Alcoholic products included in CN codes 22.03 to 22.08 of the Customs Tariff.

2nd raw tobacco or manufactured tobacco.

3rd means of transportation of an industrial nature.

4th the materials for professional use other than portable instruments necessary for the exercise of the profession of the deceased.

5.º Stocks of raw materials and finished or semi-finished products.

6. Live cattle and agricultural product stocks that exceed the amounts corresponding to a normal family supply.

[Block 45: # a33]

Article 33. Imports of personal property made by students.

One. Imports of trousseau, study material and other used personal property that constitute the normal equipment of a student room, belonging to people who are going to temporarily reside in the territory where the tax is applied, will be exempt from the tax. studies and that are intended for your personal use while they last.

For the application of this exemption:

a) Student: Any person regularly enrolled in an educational center established in the territory where the tax is applied, to follow the courses taught at that center with full dedication.

b) Layette: Clothes for personal or household use, even in a new state.

c) Study material: Objects and instruments normally used by students to carry out their studies.

Two. The exemption will be granted only once per school year.

[Block 46: # a34]

Article 34. Imports of low value goods.

Imports of goods whose global value does not exceed 22 euros will be exempt from the Tax.

The following are excepted from the provisions of the preceding paragraph:

1. Alcoholic products included in CN codes 22.03 to 22.08 of the Customs Tariff.

2. The perfumes and cologne waters.

3rd raw tobacco or manufactured tobacco.

- It is modified by art. 1.4 of Law 2/2010, of March 1. Ref. BOE-A-2010-3366 . *This modification takes effect from January 1, 2010, as established in art. 1.4.*
- It is modified by art. 5.4 of Law 4/2008, of December 23. Ref. BOE-A-2008-20802 .
- It is modified by art. 5.2 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .

- (●) **Last update, published on 03/02/2010, effective as of 03/03/2010.**
- ( ) Modification published on 12/25/2008, effective as of 12/01/2008.
- ( ) Modification published on 12/31/2001, effective as of 01/01/2002.
- ( ) Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 47: # a35]

Article 35. Imports of goods under the passenger system.

One. Imports of the goods contained in the personal luggage of travelers from third countries will be exempt from Value Added Tax, with the limitations and requirements indicated below:

1. That the aforementioned imports are not of a commercial nature, under the terms set forth in article 21, number 2, letter A), letter d).

2. That the global value of said assets does not exceed, per person, 300 euros. However, in the case of travelers arriving in the territory of application of the tax by sea or air, this amount will amount to 430 euros.

In any case, in the case of travelers under fifteen years of age, the global value admitted with exemption will be 150 euros.

When the global value exceeds the indicated quantities, the exemption will be granted up to the limit of said quantities, exclusively for those goods that, imported separately, could have benefited from the exemption.

For the determination of the exemption limits indicated above, the value of the goods that are subject to temporary importation or reimportation derived from a previous temporary exportation, nor that of the medicines necessary for normal use by the traveler, shall not be computed.

Two. For the purposes of this exemption, personal luggage of travelers shall be considered the set of luggage presented to Customs at the time of arrival, as well as that presented later, provided it is justified that, at the time of upon departure, they were registered with the company responsible for their transport as accompanied baggage.

Fuels that exceed the following quantities do not constitute personal baggage:

a) The contents of the normal fuel tanks of motorized means of transport.

b) The contents in portable fuel tanks up to a maximum of 10 liters.

Three. Notwithstanding the provisions of section one, the following imports of goods will be exempt from the Tax:

a) Tobacco work:

Cigarettes: 200 units;

Cigars (cigars with a maximum weight of 3 grams unit): 100 units;

Pure cigars: 50 units;

Smoking tobacco: 250 grams.

For all travelers, the franchise can be applied to any combination of tobacco work, provided that the total percentages used of each authorized franchise does not exceed 100 percent.

b) Alcohols and alcoholic beverages:

Distilled beverages and spirits with an alcoholic strength greater than 22 per 100 vol .; ethyl alcohol, non-denatured, 80 per 100 vol. or more: 1 liter in total;

Distilled beverages and spirits, aperitifs based on wine or alcohol, tafia, sake or similar beverages with an alcohol content of less than or equal to 22 per 100 vol; sparkling and generous wines: 2 liters in total;

Other wines: 4 liters in total;

Beer: 16 liters in total.

For all travelers, the franchise can be applied to any combination of the types of alcohol and alcoholic beverages mentioned, provided that the total percentages used for each authorized franchise does not exceed 100 percent.

The value of these assets will not be computed for the determination of the global value limits indicated in section one above.

Travelers under the age of seventeen will not benefit from the exemptions indicated in this section.

Four. When the traveler comes from a third country in transit regime, and proves that the goods have been acquired under the normal conditions of taxation of another Member State, the importation of said goods made under the passenger regime will be exempt, without being subject to the global value and quantity limits established in sections one and three above. For these purposes, passengers who fly over the territory of application of the tax without landing in it will not be considered in transit.

Five. The limits established for the exemption from the Tax established in this article shall be reduced to one tenth of the amounts indicated when the goods to which they refer are imported by the personnel of the means of transport used in international traffic and on the occasion of the displacements carried out in the exercise of their professional activities.

- See additional provision 1 of Organic Law 6/2011, of June 30, Ref. BOE-A-2011-11264 . Regarding the reduction of tax exemptions provided in section 3.a) for resident travelers and border workers in the border area with Gibraltar.
- It is modified by art. 5.5 of Law 4/2008, of December 23. Ref. BOE-A-2008-20802 .
- Section 1.2, first paragraph is modified by art. 6.3 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .
  Drafted in accordance with the correction of errors published in BOE no. 124 of May 24, 2002. Ref. BOE-A-2002-9972 .
- Section 1.2 is amended by art. only. 5 of Law 23/1994, of July 6. Ref. BOE-A-1994-15798
- Drafted section 3.c) according to the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

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Modification published on 07/07/1994, effective as of 07/08/1994.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 48: # a36]

Article 36. Imports of small shipments.

One. Imports of small shipments, coming from third countries, that do not constitute a commercial expedition and are forwarded by an individual to another individual that is in the territory of application of the tax, will be exempt from Value Added Tax.

Two. For these purposes, small shipments without a commercial character will be considered those in which the following requirements are met:

1. That they are imported occasionally.

2. That they exclusively comprise goods for the personal use of the recipient or his family and that, due to their nature or quantity, their involvement in a business or professional activity cannot be presumed.

3. That they be sent by the sender free of charge.

4. That the global value of imported goods does not exceed 45 euros.

Three. The exemption will also apply to the related goods and up to the amounts that are also indicated below:

a) Tobacco work:

- cigarettes: 50 units, or

- cigarillos (cigars with a maximum weight of three grams unit): 25 units, or

- cigars: 10 units, or

- smoking tobacco: 50 grams.

b) Alcohols and alcoholic beverages:

- distilled beverages and spirits with an alcoholic strength greater than 22 per 100 vol .; ethyl alcohol, non-denatured, 80 per 100 vol. or more:

A standard bottle (up to one liter), or

- distilled beverages and spirits, alcoholic or wine-based snacks, tafia, sake or similar beverages with an alcoholic strength of 22 vol. Or less; sparkling and generous wines: A standard bottle (up to one liter), or

- other wines: Two liters in total.

c) Perfumes: 50 grams, and toilet waters: 1/4 liter or eight ounces.

d) Coffee: 500 grams, or extracts and essences of coffee: 200 grams.

e) Tea: 100 grams, or extracts and essences of tea: 40 grams.

If the goods included in this section exceed the indicated amounts, they will be excluded in their entirety from the benefit of the exemption.

- Section 2.4 is modified by art. 6.4 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .

Last update, published on 12/31/2001, effective as of 01/01/2002.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 49: # a37]

Article 37. Imports of goods on the occasion of the transfer of the activity headquarters.

One. Imports of investment goods affected by the business or professional activity of a production or service company that definitively ceases its business activity in a third country to develop a similar one in the territory of application of the tax will be exempt from the tax. .

The exemption shall not apply to goods belonging to companies established in a third country whose transfer to the territory of application of the tax occurs on the occasion of the merger with a company previously established in this territory or the absorption by one of these companies, without a new activity is started.

If the company that transfers its activity is engaged in the place of origin to develop a livestock activity, the exemption shall also apply to live cattle used in said holding.

The following assets will be excluded from this exemption:

a) Means of transport that do not have the character of instruments of production or services.

b) Provisions of all kinds intended for human consumption or animal feed.

c) Fuels.

d) Stocks of raw materials, finished or semi-finished products.

e) Cattle under possesion of the cattle traders.

Two. The exemption established in the previous section will be conditioned to the fulfillment of the following requirements:

a) That the imported goods have been used by the company for a minimum period of twelve months before the activity ceases at the place of origin.

b) That they are destined for the same uses in the territory where the tax is applied.

c) That the importation of the goods is carried out within the term of twelve months following the cessation of the activity in the place of origin.

d) That the imported goods are not destined to the development of an activity that basically consists of the execution of operations exempt from the tax by virtue of the provisions of article 20 of this Law.

e) That the goods are appropriate to the nature and importance of the company considered.

f) That the company, which transfers its activity to the territory where the tax is applied, submits a registration statement as a taxable person before importing the goods.

[Block 50: # a38]

Article 38. Assets obtained by agricultural producers or ranchers on land located in third countries.

One. Imports of agricultural, livestock, horticultural or silvicultural products from land located in a third country contiguous to the territory of application of the tax, obtained by producers whose headquarters are located in said territory in the immediate proximity of that country.

Two. The exemption provided for in this article will be conditioned to the fulfillment of the following requirements:

1st livestock products must come from animals raised, acquired or imported under the general conditions of taxation of the Community.

2. Purebred horses may not be more than six months old and must have been born in the third country of an animal fertilized in the territory of application of the tax and temporarily exported to give birth.

3. The goods must be imported by the producer or by a person acting on his behalf and on his behalf.

[Block 51: # a39]

Article 39. Seeds, fertilizers and products for the treatment of soil and vegetables.

One. Imports of seeds, fertilizers and products for the treatment of soil and vegetables, destined for the exploitation of lands located in the immediate proximity of a third country and exploited by agricultural producers, will be exempt from the tax, on condition of reciprocity. whose headquarters is in said third country, in the immediate proximity of the tax application territory.

Two. The exemption will be conditioned to the following requirements:

1. That the aforementioned products are imported in quantities not exceeding those necessary for the exploitation of the lands to which they are destined.

2. That the import is carried out by the producer or by a person acting on behalf of and on his behalf.

[Block 52: # a40]

Article 40. Imports of laboratory animals and biological and chemical substances destined for research.

Imports, free of charge, of animals specially prepared for use in laboratories and of biological and chemical substances from third countries will be exempt from the tax, provided that both are imported by public establishments, or services dependent on them, that have the essential object is scientific teaching or research, or, with prior authorization, by private establishments also essentially dedicated to the same activities.

The exemption established in this article will be granted with the same limits and conditions established in the customs legislation.

[Block 53: # a41]

Article 41. Imports of therapeutic substances of human origin and reagents for the determination of blood groups and human tissues.

One. Without prejudice to the provisions of article 27, number 1, of this Law, imports of therapeutic substances of human origin and reagents intended for the determination of blood groups and human tissues will be exempt from the tax.

The exemption will also apply to the special packaging essential for the transport of said products, as well as to the solvents and accessories necessary for their conservation and use.

Two. For these purposes, the following shall be considered:

"Therapeutic substances of human origin": Human blood and its derivatives, such as whole human blood, dried human plasma, human albumin, and stable solutions of human plasma proteins, immoglobulin, and human fibrinogen.

«Reagents for the determination of blood groups»: All reagents of human, vegetable or other origin, for the determination of blood groups and the detection of blood incompatibilities.

"Reagents for the determination of groups of human tissues": All reagents of human, animal, plant or other origin for the determination of groups of human tissues.

Three. This exemption will only apply when the following requirements are met:

1. That they are destined for organisms or laboratories authorized by the Administration, for their exclusive use in medical or scientific purposes, excluding any commercial operation.

2. That the imported goods be presented in containers provided with a special identification label.

3. That the nature and destination of the imported products be accredited at the time of importation by means of a certificate issued by the body authorized to do so in the country of origin.

[Block 54: # a42]

Article 42. Imports of reference substances for the quality control of medicines.

Imports of samples of referenced substances, authorized by the World Health Organization for quality control of the materials used for the manufacture of medicines, will be exempt from the tax when they are imported by entities authorized to receive such shipments with exemption.

[Block 55: # a43]

Article 43. Imports of pharmaceutical products used for international sports competitions.

Imports of pharmaceutical products intended for the use of people or animals participating in international sports competitions, in amounts appropriate to their needs during the time of their stay in the territory of application of the tax, will be exempt from the tax.

[Block 56: # a44]

Article 44. Imports of goods destined for charitable or philanthropic organizations.

One. Imports of the following goods, which are made by public entities or by authorized private organizations, of a charitable or philanthropic nature, will be exempt from the tax:

1. The basic necessities, acquired free of charge, to be distributed free of charge to needy persons.

For these purposes, basic necessity goods are understood to be those that are essential for satisfying people's immediate needs, such as food, medicine, bedding and clothing.

2. The goods of any kind, that are not the object of a commercial activity, sent free of charge by persons or entities established outside the Community and intended for fundraising organized in the course of occasional manifestations of charity in favor of people in need.

3. The equipment and office materials, which are not the object of a commercial activity, sent, free of charge, by persons or entities established outside the Community for the needs of the operation and the realization of charitable objectives and philanthropic that pursue these organisms.

Two. The exemption does not cover the following assets:

a) Alcoholic products included in CN codes 22.03 to 22.08 of the Customs Tariff.

b) Raw or manufactured tobacco.

c) Coffee and tea.

d) Motor vehicles other than ambulances.

Three. The goods referred to in section one above may not be used, loaned, leased or transferred for consideration or for free for purposes other than those provided for in numbers 1 and 2 of said section without said operations having been previously communicated to the Administration.

In the event of non-compliance with the provisions of the preceding paragraph or when the organizations referred to in this article cease to comply with the requirements that justified the application of the exemption, the payment of the tax will be required with reference to the date on which said events occurred circumstances.

However, the aforementioned assets may be loaned, leased or assigned, without loss of exemption, when said operations are carried out in favor of other organizations that meet the requirements set forth in this article.

[Block 57: # a45]

Article 45. Imported goods for the benefit of disabled people.

One. Imports of goods specially designed for the education, employment or social promotion of physically or mentally handicapped persons, carried out by duly authorized institutions or bodies whose main activity is education or assistance to these persons, shall be exempt from the tax. when they are sent free of charge and without commercial purposes to the aforementioned institutions or organizations.

The exemption will be extended to imports of the spare parts, elements or accessories of said goods and of the tools or instruments used in their maintenance, control, calibration or repair, when they are imported together with the goods or it is identified that they correspond to them.

Two. The imported goods with exemption may be loaned, rented or assigned, without profit, by the beneficiary entities or establishments to the persons mentioned in the previous section, without loss of the benefit of the exemption.

Three. Without prejudice to the provisions of the preceding section, to the exemptions regulated in this article and in relation to the purposes described therein, the provisions of article 44, section three, of this Law shall apply.

[Block 58: # a46]

Article 46. Imports of goods for the benefit of victims of catastrophes.

One. Imports of goods of any kind, made by public entities or by private or authorized bodies, charitable or philanthropic, will be exempt from the tax, provided they are used for the following purposes:

1. The free distribution to victims of catastrophes that affect the territory of application of the tax.

2. The cession of free use to the victims of said catastrophes, maintaining the aforementioned organizations the property ownership.

Two. Likewise, imports of goods made by relief units to meet their needs during the time of their intervention to the aid of the aforementioned persons will be exempt.

Three. Materials of any kind intended for the reconstruction of disaster areas will be excluded from the exemption established in this article.

Four. The exemption contemplated in this article will be conditioned to the previous authorization of the Commission of the European Communities. However, until the aforementioned authorization is granted, the import may be carried out with provisional suspension of the payment of the tax, if the importer provides sufficient guarantee.

Five. In the exemptions regulated in this article and in relation to the purposes that condition them, the provisions of article 44, section three, of this Law shall apply.

[Block 59: # a47]

Article 47. Imports of goods carried out within the framework of certain international relations.

Imports, devoid of a commercial nature, of the following goods will be exempt from the tax:

1. The decorations granted by the authorities of a third country to people who have their habitual residence in the territory of application of the tax.

2.º Cups, medals and similar objects that are essentially symbolic in nature and are granted in a third country to persons who have their habitual residence in the territory where the tax is applied, in homage to the activity that said persons have carried out in the arts , sciences, sports or public services, or in recognition of their merits on the occasion of a specific event, provided they are imported by the interested parties themselves.

3rd the goods included in the previous number that are offered free of charge by authorities or persons established in a third country to be delivered, for the same reasons, within the territory of application of the tax.

4. The rewards, trophies, memories of a symbolic nature and of little value destined to be distributed free of charge to people who have their habitual residence outside the

territory of application of the tax on the occasion of congresses, business meetings or similar international events that take place in the territory where the tax is applied.

5. The goods that as a gift and occasionally:

a) They are imported by persons who, having their habitual residence in the area of tax, have made an official visit to a third country and have received such gifts from the authorities of that country on the occasion of said visit.

b) They are imported by people who make an official visit to the territory of application of the tax to deliver them as a gift to the authorities of this territory on the occasion of said visit.

c) They are sent, as a gift, to the authorities, public corporations or groups that carry out activities of public interest in the territory of application of the tax, by the authorities, corporations or groups of the same nature from a third country in proof of friendship or good will.

In all cases referred to in this number, alcoholic products and raw or manufactured tobacco will be excluded from the exemption.

The provisions of this number shall apply without prejudice to the provisions relating to the passenger system.

6. The goods donated to the Kings of Spain.

7.º The goods that normally can be considered as destined to be used or consumed during their official stay in the territory of application of the tax by the Heads of foreign States, by those who represent them or by those who have similar prerogatives, on condition of reciprocity .

[Block 60: # a48]

Article 48. Imports of goods for commercial promotion purposes.

One. Imports of the following goods will be exempt from the tax:

1. The samples of merchandise with no estimated commercial value.

The exemption from this number will apply without prejudice to the provisions of number 4, letter a), below.

2nd advertising forms, such as catalogs, price lists, instructions for use or commercial brochures that refer to:

a) Merchandise destined for sale or lease by businessmen or professionals not established in the territory of the Community.

b) Provision of services in the field of transport, commercial insurance or banking, offered by persons established in a third country.

The exemption of this number will be conditioned to the fulfillment of the following requirements:

a) The forms must bear the name of the entrepreneur or professional who produces, sells or rents the merchandise or who offers the services to which they refer.

b) Each shipment will comprise a single copy of each document or, if it includes several copies, the total gross weight may not exceed one kilogram.

c) The forms should not be the object of grouped shipments from the same sender to the same recipient.

3. The objects of an advertising nature that, lacking intrinsic commercial value, are sent free of charge by the suppliers to their clients, provided that they have no other economic purpose than advertising.

4th the goods listed below, intended for a similar exhibition or event:

a) Small representative samples of merchandise.

The exemption will be conditioned to the concurrence of the requirements that are listed below:

a ') That they be imported free of charge as such or that they be obtained at the event from imported goods in bulk.

b ') That they be freely distributed to the public during the demonstration or exhibition for their use or consumption.

c ') That they are identifiable as samples of advertising character of little unit value.

d ') That are not capable of being marketed and are presented, where appropriate, in containers that contain a quantity of merchandise less than the smallest quantity of the same merchandise actually offered in commerce.

e ') In the case of samples of food products and beverages not conditioned in the manner indicated in the previous letter, which are consumed on the spot at the event itself.

f ') That its global value and quantity are in line with the nature of the exhibition or event, the number of visitors and the importance of the exhibitor's participation.

b) Those that must be used exclusively in the performance of demonstrations or to allow the operation of machines or apparatus presented in said exhibitions or demonstrations.

The exemption will be conditioned to the following requirements:

a ') That imported goods are consumed or destroyed in the course of the demonstration or exhibition.

b ') That its global value and quantity be proportionate to the nature of the exhibition or event, the number of visitors and the importance of the exhibitor's participation.

c) Low-value materials, such as paints, varnishes, wallpapers or similar, used for the construction, installation or decoration of the exhibitors' pavilions and used when using them for such purposes.

d) The forms, catalogs, prospectuses, price lists, posters, calendars, unframed photographs or similar, distributed free of charge for the exclusive purpose of advertising the goods that are the object of the exhibition or demonstration.

The exemption will be conditioned to the concurrence of the following requirements:

a ') That imported goods are exclusively destined to be distributed free of charge to the public at the place of the exhibition or demonstration.

b ') That, due to their global value and quantity, they be proportionate to the nature of the event, the number of its visitors and the importance of the exhibitor's participation.

Two. The exemptions established in number 4 of the previous section shall not apply to alcoholic beverages, raw or manufactured tobacco, fuels or fuels.

Three. For the purposes of the provisions of this Law, similar exposures or manifestations shall be understood as exhibitions, fairs, salons or similar events of commerce, industry, agriculture or crafts, organized mainly for philanthropic, scientific, technical, or crafts, artistic, educational, cultural, sports or religious or for the better development of union, tourist activities or relations between peoples. Also included in this concept are meetings of representatives of international organizations or groups and ceremonies of an official or commemorative nature.

Those that are organized privately in warehouses or commercial premises used for the sale of merchandise will not have this consideration.

[Block 61: # a49]

Article 49. Imports of goods to be examined, analyzed or tested.

One. Imports of goods destined to be examined, analyzed or tested to determine their composition, quality or other technical characteristics for information or industrial or commercial research purposes will be exempt from the tax.

Goods used in examinations, analyzes or tests that in themselves constitute commercial promotion operations are excluded from the exemption.

Two. The exemption will only reach the quantity of the mentioned goods that is strictly necessary for the accomplishment of the indicated objectives and will be conditioned to the fact that they are totally consumed or destroyed in the course of the investigation operations.

However, the exemption will also extend to the remaining products that may result from said operations if, with the authorization of the Administration, they are destroyed or converted into goods of no commercial value, abandoned in favor of the State free of expenses re-exported to a third country. In the absence of the aforementioned authorization, the aforementioned products will be subject to the payment of the tax in the state in which they are, with reference to the moment in which the examination, analysis or test operations were completed.

For these purposes, the remaining products are understood to be those resulting from examinations, analyzes or tests, or goods imported for this purpose that were not actually used.

[Block 62: # a50]

Article 50. Imports of goods destined to the competent organisms in matter of protection of the intellectual or industrial property.

Imports of brands, models or designs will be exempt from the tax, as well as the files related to the application of intellectual or industrial property rights destined to the competent organisms to process them.

[Block 63: # a51]

Article 51. Imports of tourist documents.

Imports of the following tourist documents will be exempt from the tax:

1. Those destined to be freely distributed for the purpose of advertising on trips to places outside the Community, mainly to attend meetings or events that are cultural, tourist, sports, religious or professional, as long as they do not contain more than one

25% of private commercial advertising and that its purpose of general advertising is evident.

2. The lists or yearbooks of foreign hotels, as well as the guides of transport services, operated outside the Community and which have been published by official tourism organizations or under their sponsorship, provided they are intended for free distribution, and do not contain more than 25% of private commercial advertising.

3. The technical material sent to accredited representatives or correspondents designated by official national tourism organizations, which is not intended for distribution, such as yearbooks, telephone or telex subscriber lists, hotel lists, fair catalogs, samples of handicraft products of no appreciable commercial value, documentation on museums, universities, thermal stations and other similar institutions.

[Block 64: # a52]

Article 52. Imports of various documents.

Imports of the following goods will be exempt from the tax:

1. The documents sent free of charge to public entities.

2. The publications of third country governments and official international organizations for free distribution.

3rd the ballot papers for elections called by bodies established outside the territory of application of the tax.

4th objects intended to serve as evidence or for similar purposes before the courts, tribunals or other official instances of the Kingdom of Spain.

5. The acknowledgments of signatures and the related printed circulars that are issued in the usual exchanges of information between public services or banking establishments.

6th official forms addressed to the Bank of Spain.

7.º The reports, activity reports, information notes, prospectuses, subscription bulletins and other documents addressed to the holders or subscribers of titles issued by foreign companies.

8. The perforated sheets, sound records, microfilms and other recorded supports used for the transmission of information sent free of charge to their recipients.

9. The files, files, forms and other documents intended to be used in international meetings, conferences or congresses, as well as the minutes and summaries of said manifestations.

10th. The plans, technical drawings, copies, descriptions and other similar documents imported to obtain or execute orders or to participate in a contest organized in the territory where the tax is applied.

11º. Documents intended to be used in exams organized within the scope of the tax by institutions established outside the Community.

12º. The forms intended to be used as official documents in the international traffic of vehicles or goods, in application of international conventions.

13º. The forms, labels, transport titles and similar documents issued by transport or hotel companies established outside the Community and addressed to travel agencies established in the territory where the tax is applied.

14º. The forms and titles of transport, bills of lading, bills of lading and other commercial or office documents already used.

15º. The official forms of the national or international authorities and the forms adjusted to international models directed by associations established outside the Community to the corresponding associations established in the territory where the tax is applied for distribution.

16th. Photographs, slides, and photo clichés, including accompanied by captions, addressed to press agencies or newspaper or magazine editors.

17º. Official publications that constitute the means of expression of the public authority of the country of export, international organizations, public entities and bodies governed by public law, established in the country of export, as well as printed matter distributed by foreign political organizations officially recognized as such by Spain on the occasion of elections, provided that such publications and printed matter have been subject to Value Added Tax or a similar tax in the country of export and have not been subject to export relief.

- The 10th to 17th sections were drafted in accordance with the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

[Block 65: # a53]

Article 53. Imports of audiovisual material produced by the United Nations Organization.

Imports of audiovisual materials of an educational, scientific or cultural nature, produced by the United Nations Organization or one of its specialized Organizations, which are listed below, will be exempt:

NC code	Commodity designation
3704 00	- Photographic plates, films, paper, cardboard and textiles, impressed but not revealed:
ex 3704 00 10	- Plates and films. - Cinematographic, positive, educational, scientific or cultural films.
ex 3705	- Photographic plates, films, impressed and developed, except cinematographic: - Of an educational, scientific and cultural nature.
3706	Cinematographic films, impressed and revealed, with or without sound recording, or with sound recording only:
3706 10	- With a width greater than or equal to 35 mm: - The others:
ex 3706 10 99	- The other positives. - Current films (whether or not they have sound) that include events that are current at the time of importation and imported for reproduction in a maximum of two copies per theme. - Archival films (with or without sound) intended to accompany current films. - Recreational films especially suitable for children and young people. - Others of an educational, scientific or cultural nature.
3706	- The others:

90	- The others: - The other positives:
ex 3706 90 51 ex 3706 90 91 ex 3706 90 99	- Current films (whether or not they have sound) that include events that are current at the time of importation and imported for reproduction in a maximum of two copies per theme. - Archival films (with or without sound) intended to accompany current films. - Recreational films especially suitable for children and young people. - Others of an educational, scientific or cultural nature.
4911	Other printed matter, including prints, engravings and photographs: - The others:
4911 99	- The others:
ex 4911 99 90	- The others. - Microcards or other supports used by the information and documentation services by computer, of an educational, scientific or cultural nature. - Murals intended exclusively for demonstration and teaching.
ex 8524	Discs, tapes and other supports for sound recording or for similar recordings, engravings, including dies and galvanic molds for the production of discs excluding the products of Chapter 37: - Of an educational, scientific or cultural nature.
ex 9023 00	Instruments, apparatus and models, designed for demonstrations (for example in teaching or exhibitions), that are not susceptible of other uses: - Models, models and murals of an educational, scientific or cultural nature, intended exclusively for demonstration and teaching. - Models or reduced visual models of abstract concepts such as molecular structures or mathematical formulas.
Various.	Holograms for laser projection. Multimedia games. Programmed teaching material, including material in the form of a team, accompanied by the corresponding printed material.

- Drafted in accordance with the correction of errors published in BOE No. 33 of February 8, 1993. Ref. BOE-A-1993-3297

[Block 66: # a54]

Article 54. Imports of collectibles or art objects.

Imports of collectibles or art objects of an educational, scientific or cultural nature, not intended for sale and imported by museums, galleries and other establishments authorized to receive these items with exemption will be exempt from the tax.

The exemption will be conditional on the objects being imported free of charge or, if they were for consideration, that they be delivered by a person or entity that does not act as an entrepreneur or professional.

[Block 67: # a55]

Article 55. Imports of materials for the conditioning and protection of merchandise.

Imports of materials used for the conditioning or protection, including thermal protection, of goods during their transportation shall be exempt from the tax, provided that the following requirements are met with respect to said materials:

a) That they are not normally susceptible to reuse.

b) That their consideration is included in the tax base on the importation of the goods to which they refer.

[Block 68: # a56]

Article 56. Imports of goods intended for conditioning or feeding en route animals.

Imports of goods destined for the conditioning or feeding en route of imported animals will be exempt from the tax, provided that said goods are used or distributed to animals during transport.

[Block 69: # a57]

Article 57. Imports of fuels and lubricants.

One. Imports of fuels and lubricants contained in the warehouses of industrial and tourist motor vehicles and in those of special use containers that are introduced into the territory of application of the tax, will be exempt from the tax, with the following requirements:

1.º The fuel contained in the normal tanks of industrial motor vehicles and special-purpose containers may only be imported with an exemption up to the limit of 200 liters.

For other vehicles, the fuel contained in the normal tanks may be imported with exemption, without any limitation.

2. The fuel contained in the portable tanks of tourism vehicles may only be imported with an exemption up to the limit of 10 liters.

3rd lubricants that are on board the vehicles in the quantities that correspond to the normal needs of operation of these vehicles during the current journey.

Two. For the purposes of this article, it is understood by:

1. Industrial motor vehicle: Any motor vehicle capable of driving on the road that, due to its characteristics and equipment, is suitable and is intended for the transport, with or without remuneration, of people, with a capacity of more than nine people, including the driver, or of merchandise, as well as for other industrial uses other than transport.

2nd motor vehicle for tourism: All motor vehicle, suitable for driving on the road that is not included in the concept of industrial motor vehicle.

3. Special use containers: Any container equipped with devices specially adapted for refrigeration, oxygenation, thermal insulation or other similar systems.

4. Normal tanks: Tanks, including gas tanks, incorporated in a fixed manner by the manufacturer in all series vehicles or in containers of the same type and whose arrangement allows the direct use of fuel in the vehicle's traction. or, where

appropriate, the operation of the refrigeration systems or any other with which the vehicle or special-purpose containers are equipped.

Three. The fuels admitted with exemption may not be used in vehicles other than those in which they have been imported, nor extracted from them, nor stored, except in the cases in which the aforementioned vehicles were subject to a necessary repair, nor could they be subject to an onerous or free assignment by the beneficiary of the exemption.

Otherwise, the amounts that the irregular destinations mentioned would have received will be subject to the tax.

[Block 70: # a58]

Article 58. Imports of coffins, materials and objects for cemeteries.

One. Imports of coffins and urns containing corpses or remains of their cremation, as well as flowers, wreaths and other objects of decoration conducted by people residing in a third country who attend funerals or use them to decorate the funeral will be exempt from the tax. tombs located in the territory where the tax is applied, provided they are presented in quantities that are not characteristic of a commercial activity.

Two. Imports of goods of any nature intended for the construction, conservation or decoration of cemeteries, graves and memorials of war victims from a third country, buried in the territory of application of the tax, will also be exempt, provided that such imports are carried out by duly authorized organizations.

[Block 71: # a59]

Article 59. Imports of fishery products.

Imports made by maritime customs of fishery products will be exempt from the tax when the following requirements are met:

1. That they are carried out by the owners of the fishing vessels or on their behalf and on their behalf and come directly from their catches.

2. That the products are imported in the same state in which they were captured or had undergone operations intended exclusively to preserve them for marketing, such as cleaning, chopping, sorting and packaging, refrigeration, freezing or adding salt.

3. That said products had not been the subject of a delivery prior to importation.

[Block 72: # a60]

Article 60. Imports of goods in the diplomatic or consular regime.

Imports of goods in the diplomatic or consular regime will be exempt from the tax when they are exempt from import duties.

[Block 73: # a61]

Article 61. Imports of goods destined for International Organizations.

Imports of goods made by international organizations recognized by Spain and those made by its members with diplomatic status will be exempt from the Tax, within the limits and under the conditions established in the international agreements by which such organizations are created or in the agreements of headquarters that are applicable in each case.

In particular, imports of goods made by the European Community, the European Atomic Energy Community, the European Central Bank or the European Investment Bank, or by the bodies created by the Communities to which the Protocol of April 8, 1965 on the privileges and immunities of the European Communities, within the limits and in accordance with the conditions of said Protocol and the agreements for its application or headquarters agreements, provided that such exemption does not cause distortions in competition.

- It is modified by art. 79.5 of Law 39/2010, of December 22. Ref. BOE-A-2010-19703 .

Last update, published on 12/23/2010, effective as of 01/01/2011.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 74: # a62]

Article 62. Imports of goods destined for NATO.

Imports of goods made by the forces of the other States parties to the North Atlantic Treaty shall be exempt from the tax, in the terms established in the Agreement between the States parties to said Treaty regarding the status of their forces.

[Block 75: # a63]

Article 63. Reimports of goods.

Reimports of goods in the same state in which they were previously exported will be exempt from the tax, when they are made by the person who exported them and also benefit from the exemption from import duties.

[Block 76: # a64]

Article 64. Provision of services related to imports.

The provision of services, other than those declared exempt in article 20 of this Law, whose consideration is included in the tax base of imports of goods to which they refer, will be exempt from the tax, in accordance with the provisions of article 84 (*) of this Law.

(*) It is understood that it refers to art. 83.

[Block 77: # a65]

Article 65. Imports of goods that are linked to the deposit system other than customs.

Imports of goods that are linked to the non-customs warehousing regime listed below, as long as they remain in said situation, as well as related services will be exempt from the Tax, under the conditions and with the requirements determined by regulation. directly with the mentioned imports:

a) The goods referred to in letter a) of the fifth section of the annex to this Law.

b) Goods from the territories included in letter b) of number 1 of section two of article 3 of this Law.

c) Those listed below: Potatoes (NC Code 0701), olives (NC Code 071120), coconuts, Brazil nuts and cashew nuts (NC Code 0801), other nuts (NC Code 0802), coffee without roasting (NC Code 09011100 and 09011200), tea (NC Code 0902), cereals (NC Code 1001 to 1005 and NC 1007 and 1008), paddy rice (NC Code 1006), oilseeds and oleaginous fruits (including soybeans) (CN code 1201 to 1207), crude vegetable fats and oils and their fractions, refined, but not chemically modified (CN code 1507 to 1515), raw sugar (CN code 170111 and 170112), cocoa beans or broken, raw or roasted (CN Code 1801), hydrocarbons (including propane and butane, and crude oils of mineral origin (NC Code 2709, 2710, 271112 and 271113), bulk chemicals (NC Code chapters 28 and 29),rubber in primary forms or in plates, sheets or bands (NC Code 4001 and 4002), wool (NC Code 5101), tin (NC Code 8001), copper (NC Code 7402, 7403, 7405 and 7408), zinc (NC Code 7901), nickel (NC Code 7502), aluminum (NC Code 7601), lead (NC Code 7801), indium (NC Code ex 811292 and ex 811299), silver (NC Code 7106) and platinum, palladium and rhodium (NC Code 71101100, 71102100 and 71103100).

d) Goods that are destined for duty-free stores that, under customs control, exist in ports and airports.

- Letter d) is added, effective January 1, 2016, by art. 69 of Law 48/2015, of October 29. Ref. BOE-A-2015-11644 .
- It is modified by art. 1.10 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
  This modification is applicable from January 1, 2016, as established in final provision 5.a).

Last update, published on 10/30/2015, effective as of 01/01/2016.

Modification published on 11/28/2014, effective as of 01/01/2016.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 78: # a66]

Article 66. Exemptions on imports of goods to avoid double taxation.

The following operations will be exempt from the Tax:

1.Imports of goods whose delivery is understood to be made in the territory of application of the Tax, pursuant to the provisions of article 68, section Two, number 2, of this Law.

2. Temporary imports of goods with partial exemption from import duties, when they are transferred by their owner through the provision of services referred to in article 69, section Two, letter j) of this Law, that are subject and not exempt from the Tax.

3rd gas imports through a natural gas network located in the territory of the Community or any network connected to that network, electricity deliveries or deliveries of heat or cold through heating networks or refrigeration, regardless of the place where the delivery of said goods should be considered made.

The exemption established in this number will be equally applicable to imports of natural gas made through ships that transport it for its introduction into a distribution network of the same or in a previous network of gas pipelines.

- Section 3 is modified by art. 79.6 of law 39/2010, of December 22. Ref. BOE-A-2010-19703 .
- It is modified by art. 1.5 of Law 2/2010, of March 1. Ref. BOE-A-2010-3366 .
  This modification takes effect from January 1, 2010, as established in final provision 4.
- A section 3 is added, with effect from January 1, 2005, by art. 1º.3 of Law 22/2005, of November 18. Ref. BOE-A-2005-19003 .
- Section 2 is modified by art. 4.5 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .

Last update, published on 12/23/2010, effective as of 01/01/2011.
Modification published on 03/02/2010, effective as of 03/03/2010.
Amendment published on 19/11/2005, effective from 20/11/2005.
Modification published on 12/31/2002, effective as of 01/01/2003.
Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 79: # a67]

Article 67. General rules applicable to the exemptions provided for in this chapter.

The importer must provide sufficient evidence to prove compliance with the requirements established in the preceding articles.

- Section 2 is repealed, renumbering 1 as the sole paragraph, by the sole derogation provision.3 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .

Last update, published on 12/31/2001, effective as of 01/01/2002.
Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 80: #tiii]

TITLE III

Place of performance of the taxable event

[Block 81: # ci-3]

CHAPTER I

Deliveries of goods and services

[Block 82: # a68]

Article 68. Place of delivery of goods.

The place of delivery of the goods will be determined according to the following rules:

One.- Deliveries of goods that are not subject to dispatch or transportation shall be deemed to have been made in the territory of application of the Tax when the goods are made available to the purchaser in said territory.

Two. – The following shall also be understood to have been carried out in the territory where the tax is applied:

1st A) Deliveries of tangible personal property that must be issued or transported to be made available to the purchaser, when the shipment or transport begins in said territory, without prejudice to the provisions of section four of this Article.

However, the provisions of the preceding paragraph, when the place of initiation of the dispatch or transport of the goods to be imported is located in a third country, the deliveries thereof by the importer and, in In your case, successive acquirers shall be understood to have been carried out in the territory of application of the Tax.

B) For the purposes of the first paragraph of letter A) above, in the case of goods subject to successive deliveries, shipped or transported to another Member State directly from the first supplier to the final purchaser of the chain, the shipment or transport will be understood as linked only to the delivery of goods made in favor of the intermediary.

However, the expedition or the transport will be understood to be linked only to the delivery made by the intermediary when he had communicated to his supplier a tax identification number for the purposes of Value Added Tax provided by the Kingdom of Spain.

For the purposes of the two preceding paragraphs, an intermediary shall be understood as an entrepreneur or professional other than the first supplier, who ships or transports the goods directly, or by a third party on his behalf and on his behalf.

2. Deliveries of the goods that are to be the object of installation or assembly before they are made available, when the installation is completed in said territory and provided that the installation or assembly involves the immobilization of the delivered goods.

3. Deliveries of real property that reside in said territory.

4th deliveries of goods to passengers made on board a ship, plane or train, in the course of part of a transport carried out within the Community, whose place of departure is in the spatial field of the Tax and the place of arrival in another point of the Community.

In the case of round-trip transport, the return journey shall be considered as a separate transport.

For the purposes of this number, it will be considered as:

a) The part of a transport carried out within the Community, the part of a transport that, without stopovers in third territories, runs between the starting and finishing places located in the Community.

b) Starting place, the first place foreseen for boarding passengers inside the Community, even after the last stop outside the Community.

c) Place of arrival, the last place foreseen for the disembarkation in the Community of passengers also embarked in it, even before another stop in third territories.

Three. – Deliveries of goods whose dispatch or transport starts in another Member State with destination to said territory shall be understood to have been made in the territory of application of the Tax when the following requirements are met:

1. That the dispatch or transportation of the goods is carried out by the seller or on his own account.

2. That the recipients of said deliveries are the people whose intra-community acquisitions of goods are not subject to tax under the provisions of article 14 of this Law, or any other person who does not have the status of taxable person .

3. That the goods object of said deliveries are goods other than those indicated below:

a) New means of transport, defined in article 13, number 2 of this Law.

b) Assets object of installation or assembly referred to in section two, number 2 of this article.

c) Goods whose deliveries have been taxed under the special regime for used goods, objects of art, antiques and collectibles in the Member State where the goods are dispatched or transported

4. That the total amount, excluding the Tax, of the deliveries made by the businessman or professional from another Member State to the territory of application of the Tax, with the requirements of the previous numbers, has exceeded during the preceding calendar year the amount of 35,000 euros.

The provisions of this section will apply, in any case, to deliveries made during the current year after exceeding the quantitative limit indicated in the preceding paragraph.

Deliveries made under the conditions indicated in this section will also be considered to have been made in the territory of application of the tax, even if the indicated quantitative limit has not been exceeded, when the businessmen have opted for said taxation place in the Member State of commencement of the expedition or transportation.

In the application of the limit referred to in this number, it must be considered that the amount of the consideration for the delivery of the goods may not be divided for these purposes.

Four. – Deliveries of goods whose dispatch or transport begins in said territory with destination to another Member State when the requirements referred to in numbers 1, 2, are not understood to be made in the territory of application of the tax. and 3rd of the previous section and the total amount thereof, excluding the tax, has exceeded during the preceding calendar year the limits set in said State for these purposes.

The provisions of this section will apply, in any case, to deliveries made during the current year from the moment the amount thereof exceeds the quantitative limits established by the respective destination Member States.

Entrepreneurs whose sales to other Member States have not exceeded the limits indicated may choose to apply the provisions of this section, in the manner established by regulation. The option will comprise at least two calendar years.

Notwithstanding the provisions of the preceding paragraphs, the aforementioned deliveries of goods shall not be understood to have been made, in any case, in the territory of application of the tax when the goods are subject to Special Taxes.

Five. – Deliveries of goods that are subject to Special Taxes, made under the conditions described in section three, numbers 1 and 2, shall be understood, in any case, made in the territory of application of the Tax when the place of arrival of the expedition or transport is in the said territory.

The amount of the deliveries of the goods referred to in the preceding paragraph shall not be computed for the purposes of determining the limits set forth in sections three and four above.

Six. – When the goods object of the deliveries referred to in sections three and four of this article are dispatched or transported from a third country and imported by the seller in a Member State other than the one of final destination, it will be understood that they have been shipped or transported from the Member State of import.

Seven.- Gas deliveries through a natural gas network located in the territory of the Community or any network connected to said network, electricity deliveries or heat or cold deliveries through heating networks. or refrigeration, shall be understood as carried out in the territory of application of the Tax in the following cases:

1º Those made to an entrepreneur or professional reseller, when he has the headquarters of his economic activity or has a permanent establishment or, failing that, his domicile in the aforementioned territory, provided that said deliveries are addressed to said headquarters, permanent establishment or domicile.

For these purposes, an entrepreneur or professional reseller shall be understood as one whose main activity with respect to the purchase of gas, electricity, heat or cold, consists of its resale and its own consumption is insignificant.

2. Any other, when the acquirer makes the effective use or consumption of said goods in the territory of application of the Tax. For these purposes, it will be considered that such use or consumption occurs in the aforementioned territory when there is the meter in which its measurement is made.

When the acquirer does not effectively consume all or part of said goods, those not consumed will be considered used or consumed in the territory of application of the Tax when the acquirer has the headquarters of his economic activity in this territory or has a permanent establishment or, in his defect, his domicile, provided that the deliveries had been addressed to said headquarters, permanent establishment or domicile.

- Section 2.1 is modified by art. 214.6 of Royal Decree-Law 3/2020, of February 4. Ref. BOE-A-2020-1651
  This modification comes into effect on March 1, 2020, as established in final provision 16.3 of the aforementioned Royal Decree-law.
- Section 2.2 is amended by art. 1.11 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Section 7 is amended by art. 79.7 of law 39/2010, of December 22. Ref. BOE-A-2010-19703 .
- Section 7 is added, with effect from January 1, 1995, by article 1 of Law 22/2005, of November 18. Ref. BOE-A-2005-19003 .
- Section 3.4, first paragraph is modified by art. 6.5 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .
- Section 3 is amended by art. 17.5 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968

- **Last update, published on 02/05/2020, effective as of 03/01/2020.**
- Modification published on 11/28/2014, effective as of 01/01/2015.
- Modification published on 12/23/2010, effective as of 01/01/2011.
- Amendment published on 19/11/2005, effective from 20/11/2005.
- Modification published on 12/31/2001, effective as of 01/01/2002.
- Modification published on 12/31/1994, effective as of 01/01/1995.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 83: # a69]

Article 69. Place of performance of services. General rules.

One. The provision of services shall be understood to be carried out in the territory of application of the Tax, without prejudice to the provisions of the following section of this article and articles 70 and 72 of this Law, in the following cases:

1. When the recipient is a businessman or professional who acts as such and resides in the aforementioned territory the headquarters of his economic activity, or has a permanent establishment or, failing that, the place of his domicile or habitual residence , provided that they are services whose recipients are said headquarters, permanent establishment, domicile or habitual residence, regardless of where the service provider is established and the place from which it provides them.

2. When the recipient is not an entrepreneur or professional acting as such, provided that the services are provided by an entrepreneur or professional and the headquarters of their economic activity or permanent establishment from which they are provided or, failing that, the place of your domicile or habitual residence, is in the territory of application of the Tax.

Two. With the exception of the provisions of number 2 of section One of this article, the services listed below will not be understood to have been performed in the territory of application of the Tax when the recipient of the Tax is not an entrepreneur or professional acting as such and is established or has its domicile or habitual residence outside the Community, except in the event that said recipient is established or has his habitual residence or residence in the Canary Islands, Ceuta or Melilla:

a) Assignments and concessions of copyrights, patents, licenses, trademarks and other intellectual or industrial property rights, as well as any other similar rights.

b) The assignment or concession of goodwill, exclusive purchase or sale or the right to exercise a professional activity.

c) Advertising.

d) Those of advice, auditing, engineering, study office, law, consultants, accounting or tax experts and others similar, with the exception of those included in number 1 of section One of article 70 of this Law.

e) Data processing and information provision, including commercial procedures and experiences.

f) Those of translation, correction or composition of texts, as well as those provided by interpreters.

g) Insurance, reinsurance and capitalization, as well as financial services, mentioned respectively in article 20, section One, numbers 16. and 18., of this Law, including those that are not exempt, with the exception of rent of safe deposit boxes.

h) Those of assignment of personnel.

i) The dubbing of films.

j) Leases of tangible personal property, with the exception of those for any means of transport and containers.

k) The provision of access to natural gas networks located in the territory of the Community or to any network connected to said networks, to the electricity, heating or cooling network, and the transportation or distribution through said networks, as well as the provision of other services directly related to any of the services included in this letter.

l) The obligations not to provide, in whole or in part, any of the services set forth in this section.

Three. For the purposes of this Law, the following definitions shall apply:

1. Seat of economic activity: place where businessmen or professionals centralize the management and regular exercise of their business or professional activity.

2. Permanent establishment: any fixed place of business where businessmen or professionals carry out business or professional activities.

In particular, they will have this consideration:

a) The headquarters, branches, offices, factories, workshops, facilities, stores and, in general, the agencies or representations authorized to contract in the name and on behalf of the taxpayer.

b) Mines, quarries or slag heaps, oil or gas wells or other places of extraction of natural products.

c) Construction, installation or assembly works whose duration exceeds twelve months.

d) Agricultural, forestry or livestock farms.

e) Installations operated on a permanent basis by an entrepreneur or professional for the storage and subsequent delivery of their goods.

f) The centers for the purchase of goods or the acquisition of services.

g) Real estate exploited by leasing or by any title.

3. Telecommunication services: those services whose purpose is the transmission, emission and reception of signals, texts, images and sounds or information of any nature, by wire, radio, optical means or other electromagnetic means, including assignment or concession of a right to the use of means for such transmission, emission or reception and, also, the provision of access to computer networks.

4th services provided electronically: those services consisting of the transmission initially sent and received at destination by means of processing equipment, including numerical compression and data storage, and entirely transmitted, transported and received by cable, radio , optical system or other electronic means and, among others, the following:

a) The provision and hosting of computer sites.

b) Remote maintenance of programs and equipment.

c) The supply of programs and their updating.

d) The supply of images, text, information and the provision of databases.

e) The supply of music, movies, games, including those of chance or money, and of broadcasts and political, cultural, artistic, sports, scientific or leisure events.

f) The provision of distance learning.

For these purposes, the fact that the provider of a service and its recipient communicate by email does not imply, by itself, that the service is considered a service provided electronically.

5. Broadcasting and television services: those services consisting of the provision of audio and audiovisual content, such as radio or television programs provided to the public through communication networks by a communication service provider, which act under your own editorial responsibility, to be heard or viewed simultaneously following a schedule.

- Section 2 is modified and the 3.5 is added by art. 1.12 and 13 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Section 2 k) is modified by article 79.8 of Law 39/2010, of December 22. Ref. BOE-A-2010-19703 .
- It is modified by art. 1.6 of Law 2/2010, of March 1. Ref. BOE-A-2010-3366 .
  This modification takes effect from January 1, 2010, as established in final provision 4.

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Modification published on 12/23/2010, effective as of 01/01/2011.

Modification published on 03/02/2010, effective as of 03/03/2010.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 84: # a70]

Article 70. Place of performance of services. Special rules.

One. The following services will be understood to be provided in the territory of application of the Tax:

1. Those related to real estate that reside in the aforementioned territory.

The following services, among others, will be considered related to real estate:

a) The lease or transfer of use by any title of said assets, including furnished homes.

b) Those related to the preparation, coordination and execution of real estate works.

c) Those of a technical nature related to said work executions, including those provided by architects, technical architects and engineers.

d) Those related to real estate or real estate operations.

e) Surveillance or security related to real estate.

f) Those for renting safety boxes.

g) The use of toll roads.

h) Those for accommodation in hotel, camping and spa establishments.

2. Those of transport that are mentioned below, for the part of the route that runs through the territory of application of the Tax as defined in article 3 of this Law:

a) Those for passenger transport, regardless of their recipient.

b) Those for the transport of goods other than those referred to in article 72 of this Law whose recipient is not an entrepreneur or professional acting as such.

3rd access to cultural, artistic, sporting, scientific, educational, recreational or similar events, such as fairs and exhibitions, and the accessory services to it, provided that its recipient is an entrepreneur or professional acting as such and such events have actually place in the said territory.

4. Those provided electronically, by telecommunications and by broadcasting and television, when the recipient is not a businessman or professional acting as such, provided that the recipient is established or has his habitual residence or domicile in the territory of application of the Tax. , in the following cases:

a) When the following requirements are met:

a ') that are carried out by an entrepreneur or professional acting as such established solely in another Member State for having there the seat of their economic activity, or their only permanent establishment or establishments in the Community, or, failing that, the place of your permanent residence or habitual residence; and

b ') that the total amount, excluding the Tax, of said provision of services to recipients who are not an entrepreneur or professional acting as such, who are established or have their habitual residence or domicile in the territory of the Community excluding the State member indicated in letter a '), has exceeded the amount of 10,000 euros or its equivalent in its national currency during the preceding calendar year.

The provisions of this letter a) will apply, in any case, to the provision of services made during the current year once the quantitative limit indicated in the preceding paragraph has been exceeded.

The aforementioned services rendered under the conditions indicated in this letter a) will also be considered to have been carried out in the territory of application of the Tax, even if the aforementioned limit has not been exceeded, when employers or professionals have opted for said taxation place in the Member State where they are established.

b) That they be carried out by an entrepreneur or professional acting as such other than those referred to in letter a ') of letter a) above.

5th A) Those of restoration and catering in the following cases:

a) Those provided on board a ship, an airplane or a train, in the course of part of a passenger transport carried out in the Community whose place of departure is in the territory of application of the Tax.

In the case of round-trip transport, the return journey shall be considered as a separate transport.

b) The rest of the catering and catering services when materially provided in the territory of application of the Tax.

B) For the purposes of the provisions of section A), letter a), of this number, it shall be considered as:

a) Part of a passenger transport carried out in the Community: the part of a passenger transport that, without stopping in a third country or territory, runs between the starting and finishing places located in the Community.

b) Starting place: the first place foreseen for boarding passengers in the Community, even after the last stop outside the Community.

c) Place of arrival: the last place foreseen for the disembarkation in the Community of passengers also embarked in it, even before another stopover made in a third country or territory.

6. Those of mediation in the name and for the account of another whose recipient is not an entrepreneur or professional acting as such, provided that the operations in respect of which it is intermediated are understood to be carried out in the territory of application of the Tax in accordance with the provisions this law.

7. Those listed below, when they are materially provided in said territory and their recipient is not an entrepreneur or professional acting as such:

a) Accessory services to transport such as loading and unloading, transhipment, handling and similar services.

b) The works and the executions of work carried out on personal movable property and the expert reports, valuations and opinions related to said goods.

c) Services related to cultural, artistic, sports, scientific, educational, recreational events, games of chance or similar, such as fairs and exhibitions, including the organization services of the same and other accessory services to the above.

8. Those provided electronically, by telecommunications, and by broadcasting and television, when the following requirements are met:

a) the recipient is not an entrepreneur or professional acting as such, provided that the recipient is established or has his habitual residence or domicile in another Member State;

b) They are carried out by an entrepreneur or professional acting as such established only in the territory of application of the Tax, since it has the headquarters of its economic activity, or its only permanent establishment in the territory of the Community, or, in his defect, the place of his permanent domicile or habitual residence; and

c) that the total amount, excluding the Tax, of said services, to the recipients mentioned in letter a), has not exceeded the amount of 10,000 euros or its equivalent in its national currency during the preceding calendar year.

The provisions of this number will apply to services rendered during the current year until the quantitative limit indicated in the previous paragraph has been exceeded.

Said businessmen or professionals may choose not to apply the provisions of this number, in the manner established by regulation even if they have not exceeded the

limit of 10,000 euros. The option will comprise at least two calendar years.

9.º A) The leasing services of means of transport in the following cases:

a) Those for short-term leasing when the means of transport are actually placed in the possession of the recipient in the said territory.

b) Those for long-term leasing when the recipient does not have the status of businessman or professional acting as such provided that he is established or has his domicile or habitual residence in said territory.

However, when long-term leases whose recipient is not an entrepreneur or professional acting as such are for pleasure boats, they will be understood to be loaned in the territory of application of the Tax when they are effectively placed in the recipient's possession at all times. that the service is actually provided by an entrepreneur or professional from the headquarters of their economic activity or a permanent establishment located in said territory.

B) For the purposes of the provisions of this number, short-term means the possession or continued use of the means of transport for an uninterrupted period not exceeding thirty days and, in the case of ships, not exceeding ninety days.

Two. Likewise, the services listed below will be considered to be provided in the territory of application of the Tax when, according to the location rules applicable to these services, they are not understood to be carried out in the Community, but their effective use or exploitation is carried out in said territory:

1. The statements in section Two of article 69 of this Law, whose recipient is a businessman or professional acting as such.

2nd those of mediation in the name and on behalf of others whose recipient is an entrepreneur or professional acting as such.

3rd those of leasing of means of transport.

4. Those provided electronically, telecommunications, radio broadcasting and television.

- The 4th and 8th sections are modified, with effect from January 1, 2019, by art. 79.1 of Law 6/2018, of July 3. Ref. BOE-A-2018-9268
- Sections 1.4, 8 and 2 are modified by art. 1.14 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Paragraph 2 is amended by art. 75 of Law 22/2013, of December 23. Ref. BOE-A-2013-13616 .
- Section 1.5º.A) is modified by art. 68 of Law 2/2012, of June 29. Ref. BOE-A-2012-8745 .
- It is modified by art. 1.7 of law 2/2010, of March 1. Ref. BOE-A-2010-3366 .
  This modification takes effect from January 1, 2010, as established in final provision 4, with the exceptions indicated in transitional provisions 1 to 3.
- Letter k) of section 5 is added and the previous one is reordered as l), with effect from January 1, 2005, by art. 1.5 of Law 22/2005, of November 18. Ref. BOE-A-2005-19003 .
- It is modified by art. 4.6 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
  Drafted in accordance with the correction of errors published in BOE no. 81, of April 4, 2003. Ref. BOE-A-2003-6800 .

- Section 1.4º is repealed by art. 6.4 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- Sections 1.6 and 8 are modified by art. Only 3 and 4 of Law 9/1998, of April 21. Ref. BOE-A-1998-9477 .
- Section 1.6 is modified and the 8th is added by art. Only 3 and 4 of Royal Decree-Law 14/1997, of August 29. Ref. BOE-A-1997-19125
- Section 1.3.d) is deleted and section 2 is modified by art. 10.2.1 and 2 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117
- Section 1.3º.f) is deleted and 1.7º is added by art. 28.9 and 10 of Royal Decree-Law 12/1995, of December 28. Ref. BOE-A-1995-27964
- Section 1.3º.f) is modified by art. 14 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968
- Section 1.4 is repealed, 1.7 is renumbered as 4th and 1.7 is left without content by art. sole.6 of Law 23/1994, of July 6. Ref. BOE-A-1994-15798
- Section 1.5º.c) is modified, with effect from January 1, 1994, by art. 75.4 of Law 21/1993, of December 29. Ref. BOE-A-1993-31087
- Drafted section 1.5º.h) and 7º according to the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

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Amendment published on 19/11/2005, effective from 20/11/2005.

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Modification published on 12/30/1999, effective as of 01/01/2000.

Modification published on 04/22/1998, effective as of 05/12/1998.

Modification published on 08/30/1997, effective as of 09/01/1997.

Modification published on 12/31/1996, effective as of 01/01/1997.

Modification published on 12/30/1995, effective as of 01/01/1996.

Modification published on 12/31/1994, effective as of 01/01/1995.

Modification published on 07/07/1994, effective as of 07/08/1994.

Modification published on 12/30/1993, effective as of 01/19/1994.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 85: # cii-3]

CHAPTER II

Intra-community operations

[Block 86: # a71]

Article 71. Place of realization of intra-community acquisitions of goods.

One. Intra-community acquisitions of goods will be considered made in the territory where the tax is applied when the place of arrival of the expedition or transport to the purchaser is found in this territory.

Two. Intra-community acquisitions referred to in article 13, number 1 of this Law shall also be considered made in the territory of application of the tax when the acquirer has communicated to the seller the identification number for the purposes of the attributed Value Added Tax. by the Spanish Administration, insofar as they have not been taxed in the Member State of arrival of the expedition or transport.

[Block 87: # a72]

Article 72. Place of performance of intra-community transport of goods whose recipient is not an entrepreneur or professional acting as such.

One. Intra-community transport of goods whose recipient is not an entrepreneur or professional acting as such will be considered to have been carried out in the territory of application of the Tax when they begin in it.

Two. For the purposes of the provisions of this Law:

a) Intra-community transport of goods: the transport of goods whose starting and finishing places are located in the territories of two different Member States.

b) Starting place: the place where the transportation of the goods actually begins, without taking into account the journeys made to reach the place where the goods are located.

c) Place of arrival: the place where the transportation of the goods actually ends.

- It is modified by art. 1.8 of Law 2/2010, of March 1. Ref. BOE-A-2010-3366 . *This modification takes effect from January 1, 2010, as established in final provision 4.*
- Paragraph 2 is amended by art. 28.11 of Royal Decree-Law 12/1995, of December 28. Ref. BOE-A-1995-27964

Last update, published on 03/02/2010, effective as of 03/03/2010.

Modification published on 12/30/1995, effective as of 01/01/1996.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 88: # a73]

Article 73. Place of performance of the accessory services to the intra-community transport of goods.

(Repealed)

- It is repealed, with effect from January 1, 2010, by the repeal provision of Law 2/2010, of March 1. Ref. BOE-A-2010-3366 .

Last update, published on 03/02/2010, effective as of 03/03/2010.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 89: # a74]

Article 74. Place of performance of the mediation services in the intra-community transport of goods and in the accessory services to said transports.

(Repealed)

- It is repealed, with effect from January 1, 2010, by the repeal provision of Law 2/2010, of March 1. Ref. BOE-A-2010-3366 .

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[Block 90: #tiv]

TITLE IV

Tax accrual

[Block 91: # ci-4]

CHAPTER I

Deliveries of goods and services

[Block 92: # a75]

Article 75. Accrual of the tax.

One. The Tax will accrue:

1. In the delivery of goods, when it is made available to the acquirer or, where appropriate, when they are made in accordance with the applicable legislation.

Notwithstanding the provisions of the preceding paragraph, in the deliveries of goods made by virtue of sales contracts with a reservation of title agreement or any other suspensive condition, lease-sale of goods or lease of goods with a transfer clause of the binding property for both parties, the tax will accrue when the assets that constitute its object are placed in the possession of the acquirer.

2. In the provision of services, when the encumbered operations are rendered, executed or carried out.

However, in the provision of services in which the recipient is the taxable person in accordance with the provisions of numbers 2 and 3 of section One of article 84 of this Law, which are carried out in a manner continued for a period of more than one year and that do not give rise to advance payments during said period, the accrual of the Tax will occur on December 31 of each year for the proportional part corresponding to the period elapsed since the beginning of the operation or from the previous accrual until the aforementioned date, as long as these services are not terminated.

With the exception of the provisions of the preceding paragraphs, in the case of executions of work with the provision of materials, at the time the goods to which they refer are made available to the owner of the work.

2nd bis. In the case of executions of work, with or without the provision of materials, whose recipients are the public administrations, at the time of their reception, in accordance with the provisions of article 235 of the Consolidated Text of the Public Sector Contracts Law, approved by Royal Legislative Decree 3/2011, of November 14.

3rd in the transfers of goods between the principal and commission agent made by virtue of sales commission contracts, when the latter acts in his own name, at the time that the commission agent makes the delivery of the respective assets.

In the case of deliveries of goods made by virtue of contracts by which one of the parties delivers to the other movable property, the value of which is estimated at a certain amount, the recipient is obliged to procure its sale within a period and to return the estimated value of the goods sold and the rest of the unsold, the accrual of deliveries related to the goods sold will occur when the recipient makes them available to the acquirer.

4th in the transfers of goods between commission agent and principal made under purchase commission contracts, when the former acts in his own name, at the time that the commissioner is delivered the goods to which they refer.

5. In the cases of self-consumption, when the taxed operations are carried out.

However, in the cases referred to in Article 9, number 1, letter d), third paragraph of this Law, the Tax will accrue:

a) When the circumstances that determine the limitation or exclusion of the right to deduction occur.

b) The last day of the year in which the assets that constitute its object are destined for operations that do not give rise to the right to deduction.

c) The last day of the year in which the general pro rata rule applies.

e) When the exempt delivery accrues.

6th **(Deleted)**

7.º In leases, in supplies and, in general, in successive or continued operations, at the moment when the part of the price that comprises each perception becomes demandable.

However, when a price has not been agreed or when, having agreed, the moment of its enforceability has not been determined, or the same has been established with a periodicity greater than one calendar year, the accrual of the Tax will occur on December 31 of each year for the proportional part corresponding to the period elapsed from the start of the operation, or from the previous accrual, until the aforementioned date.

When the aforementioned supplies constitute deliveries of goods included in sections One and Three of article 25 of this Law, and a price has not been agreed or when, having been agreed, the moment of their enforceability has not been determined, or the same has been established with a periodicity higher than the calendar month, the accrual of the Tax will occur on the last day of each month for the proportional part corresponding to the period elapsed from the start of the operation, or from the previous accrual, until the aforementioned date.

The operations referred to in the second paragraph of number 1 above are excepted from the provisions of the preceding paragraphs.

8.º In the deliveries of goods included in article 25 of this Law, other than those indicated in the previous number, the accrual of the Tax will take place on the 15th of the month following that:

a) In which the expedition or transportation of the goods to the purchaser begins.

b) In which the goods are made available to the acquirer, in the deliveries of goods made under the conditions indicated in article 9 bis, section two, of this Law.

For the purposes of letters a) and b) above, if an invoice for said operations had been issued prior to said date, the accrual of the Tax will take place on the date it is issued.

c) At the moment in which the breach of the conditions referred to in section three of article 9 bis of this Law occurs.

d) The day after the expiration of the 12-month period referred to in section four of article 9 bis of this Law.

Two. Notwithstanding the provisions of the preceding paragraph, in the operations subject to tax that originate advance payments prior to the realization of the taxable event, the tax will accrue at the time of total or partial collection of the price for the amounts actually received.

The provisions of the preceding paragraph shall not be applicable to deliveries of goods included in article 25 of this Law.

- Section 1.8 is amended by art. 214.7 of Royal Decree-Law 3/2020, of February 4. Ref. BOE-A-2020-1651
  This modification comes into effect on March 1, 2020, as established in final provision 16.3 of the aforementioned Royal Decree-law.
- Section 1.2 bis is modified by art. 1.15 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Section 1.6 is deleted by art. 76 of Law 22/2013, of December 23. Ref. BOE-A-2013-13616 .
- Section 1.7 is amended and section 1.8 is added by art. 66 of Law 17/2012, of December 27. Ref. BOE-A-2012-15651 .
- Section 1.2 is amended by art. 1.9 of Law 2/2010, of March 1. Ref. BOE-A-2010-3366 .
  This modification takes effect from January 1, 2010, as established in final provision 4.
- Section 1 is modified by art. 5.3 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .
- The second paragraph of section 2 is added by art. 1.3 of Royal Decree-Law 7/1993, of May 21. Ref. BOE-A-1993-13663

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- Modification published on 05/27/1993, effective as of 05/28/1993.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 93: # cii-4]

CHAPTER II

Intra-community acquisitions of goods

[Block 94: # a76]

Article 76. Accrual of the tax.

In intra-community acquisitions of goods, the tax will be accrued at the time that the deliveries of similar goods are considered to have been made in accordance with the provisions of article 75 of this Law.

Notwithstanding the provisions of the preceding paragraph, in the intra-community acquisitions of goods, section two of article 75, regarding the accrual of operations that originate prepayments prior to such acquisitions, shall not apply.

- The third paragraph is deleted by art. 76 of Law 22/2013, of December 23. Ref. BOE-A-2013-13616 .
- The second paragraph is modified by art. 1.4 of Royal Decree-Law 7/1993, of May 21. Ref. BOE-A-1993-13663

- **Last update, published on 12/26/2013, effective as of 01/01/2014.**
- Modification published on 05/27/1993, effective as of 05/28/1993.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 95: # ciii-3]

CHAPTER III

Imports

[Block 96: # a77]

Article 77. Accrual of the tax.

One. On imports of goods, the accrual of the tax will take place at the time the accrual of import duties would have taken place, in accordance with customs legislation, regardless of whether or not said imports are subject to the aforementioned duties. import.

However, in the event of abandonment of the deposit regime other than customs, the accrual will occur at the time the abandonment of said regime takes place.

Two. In the operations assimilated to the imports defined in article 19 of this Law, the accrual will take place at the moment in which the circumstances indicated therein take place.

[Block 97: #tv]

TITLE V

Taxable base

[Block 98: # ci-5]

CHAPTER I

Deliveries of goods and services

[Block 99: # a78]

Article 78. Taxable base. General rule.

One. The tax base will be constituted by the total amount of the consideration of the operations subject to it from the recipient or third parties.

Two. In particular, the concept of consideration includes:

1. The costs of commissions, freight and transportation, insurance, premiums for advance benefits and any other effective credit in favor of the person who makes the delivery or provides the service, derived from the main benefit or from the accessory ones to it.

Notwithstanding the provisions of the preceding paragraph, the interest for the deferment in the payment of the price shall not be included in the consideration in the part in which said deferral corresponds to a period subsequent to the delivery of the goods or the provision of the services.

For the purposes of the provisions of the preceding paragraph, only the remuneration of the financial operations of deferment or delay in the payment of the price, exempt from the tax pursuant to the provisions of article 20, paragraph one, number 18 shall be considered. , letter c), of this Law that is stated separately in the invoice issued by the taxpayer.

In no case shall the part of the consideration that exceeds that usually applied in the market for similar operations be considered interest.

2nd **(Repealed)**

3rd subsidies directly linked to the price of operations subject to tax.

Subsidies established based on the number of units delivered or the volume of services provided will be considered directly linked to the price of the operations subject to the Tax when they are determined prior to the completion of the operation.

However, no price-related subsidies shall be considered, nor shall the amount of the consideration referred to in section One of this article, the monetary contributions, whatever their denomination, that the Public Administrations make to finance:

a) The management of public services or the promotion of culture in which there is no significant distortion of competition, whatever its form of management.

b) Activities of general interest when their recipients are not identifiable and do not satisfy any consideration.

4.º Tributes and encumbrances of any kind that fall on the same encumbered operations, except the Value Added Tax itself.

The provisions of this number will include the special taxes that are required in relation to the goods that are the object of the taxed operations, with the exception of the special tax on certain means of transportation.

5. Perceptions withheld in accordance with the law by the person obliged to make the provision in cases of resolution of the operations subject to the tax.

6. The amount of the containers and packaging, including those subject to return, charged to the recipients of the operation, whatever the concept for which said amount is received.

7.º The amount of the debts assumed by the recipient of the operations subject as total or partial consideration of the same.

Three. The following will not be included in the tax base:

1. The amounts received by reason of compensation, other than those contemplated in the previous section, which, due to their nature and function, do not constitute consideration or compensation for deliveries of goods or services subject to tax.

2. The discounts and bonuses that are justified by any means of evidence admitted in law and that are granted prior or simultaneously to the moment in which the operation is carried out and based on it.

The provisions of the preceding paragraph shall not apply when price reductions constitute remuneration for other operations.

3. The sums paid in the name and on behalf of the client by virtue of its express mandate. The taxable person will be obliged to justify the effective amount of such expenses and will not be able to deduct the tax that would eventually have been imposed.

Four. When the value added tax quotas imposed on the operations subject to said tax had not been expressly passed on to the invoice, it shall be understood that the consideration did not include said quotas.

The following are excepted from the provisions of the preceding paragraph:

1º The cases in which the express repercussion of the tax was not obligatory.

2. The assumptions referred to in section two, number 5 of this article.

- Section 2.3 is modified and section 3.4 is deleted by final provision 10.2 and 4 of Law 9/2017, of November 8. Ref. BOE-A-2017-12902
- Section 3.4 is added by art. 1.16 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- Section 4 is modified by art. 4.7 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
  Drafted in accordance with the correction of errors published in BOE No. 81, of April 4, 2003. Ref. BOE-A-2003-6800 .
- Section 2.3 is modified by art. 5.2 of Law 14/2000, of December 29. Ref. BOE-A-2000-24357 .
- The third paragraph is added to section 2.3 by art. 6.9 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053
- Section 2.1 is amended and 2.2 is repealed by art. Only 7 and 8 of Law 23/1994, of July 6. Ref. BOE-A-1994-15798

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[Block 100: # a79]

Article 79. Taxable base. Special rules.

One. In operations whose consideration does not consist of money, the amount, expressed in money, that has been agreed between the parties will be considered as the tax base.

Unless proven otherwise, the tax base will coincide with the amounts that result from applying the rules set forth in sections three and four below.

However, if the consideration consists partially of money, the result of adding to the amount, expressed in money, agreed between the parties, for the non-monetary part of the consideration, the amount of the monetary part thereof, will be considered the taxable base. provided that said result is superior to that determined by application of the provisions of the preceding paragraphs.

Two. When in the same operation and for a single price, goods or services of various kinds are delivered, including in the event of transmission of all or part of a company's assets, the tax base corresponding to each of them will be determined in proportion to the market value of the goods delivered or the services provided.

The provisions of the preceding paragraph shall not apply when said goods or services constitute the object of ancillary benefits of another principal subject to the tax.

Three. In the cases of self-consumption and transfer of goods, included in article 9, numbers 1 and 3, of this Law, the following rules will be applied to determine the tax base:

1st If the goods were delivered in the same state in which they were acquired without having been subjected to any manufacturing, elaboration or transformation process by

the taxable person himself, or on his own account, the tax base will be the one established in the operation by which said assets were acquired.

In the case of imported goods, the tax base will be the one that would have prevailed for the liquidation of the import tax.

2. If the delivered goods had been subjected to processes of elaboration or transformation by the transferor or on their own account, the taxable base will be the cost of the goods or services used by the taxpayer to obtain said goods, including expenses of personnel made for the same purpose.

3 rd However, if the value of the delivered goods had undergone alterations as a consequence of their use, deterioration, obsolescence, debasement, revaluation or any other cause, the value of the goods will be considered as a taxable base at the time they are make delivery.

Four. In the cases of self-consumption of services, the cost of rendering the services will be considered as a taxable base, including, where appropriate, the amortization of the assets transferred.

Five. When there is a link between the parties involved in an operation, its tax base will be its normal market value.

The link may be proven by any of the means admitted in law. A link shall be considered to exist in the following cases:

a) In the event that one of the intervening parties is a taxable person of the Corporation Tax or a taxpayer of the Personal Income Tax or the Non-Resident Income Tax, when this is deducted from the regulatory standards of said taxes that are applicable.

b) In the operations carried out between the taxpayers and the people linked to them by labor or administrative relationships.

c) In the operations carried out between the taxpayer and his spouse or his blood relatives up to and including the third degree.

d) In operations carried out between a non-profit entity referred to in article 2 of Law 49/2002, of December 23, on the tax regime of non-profit entities and tax incentives for patronage and their founders, associates, employers, statutory representatives, members of the governing bodies, spouses or relatives up to the third degree inclusive of any of them.

e) In the operations carried out between an entity that is an entrepreneur or professional and any of its partners, associates, members or participants.

This valuation rule will only be applicable when the following requirements are met:

a) That the recipient of the operation does not have the right to fully deduct the corresponding tax and the agreed consideration is lower than that which would correspond under conditions of free competition.

b) When the professional entrepreneur who performs the delivery of goods or the provision of services determines their deductions applying the pro rata rule and, in the case of an operation that does not generate the right to deduction, the agreed consideration is less than the normal market value.

c) When the entrepreneur or professional who performs the delivery of goods or the provision of services determines their deductions applying the pro rata rule and, in the case of an operation that generates the right to deduction, the agreed consideration is higher than the normal market value.

For the purposes of this Law, normal market value shall be understood as that which, to acquire the goods or services in question at the same time, a recipient, in the same marketing phase in which the delivery of goods or services is made of services, you should pay in the territory of application of the Tax in conditions of free competition to an independent provider.

When there is no comparable delivery of goods or services, market value shall be understood as:

a) With respect to the delivery of goods, an amount equal to or greater than the acquisition price of said goods or similar goods or, in the absence of a purchase price, at their cost price, determined at the time of delivery.

b) With respect to the provision of services, all the costs that its provision supposes to the employer or professional.

For the purposes of the two preceding paragraphs, the provisions of article 16 of the revised text of the Corporation Tax Law, approved by Royal Legislative Decree 4/2004, of March 5, will apply, as appropriate.

Six. In the transfers of assets from the principal to the commission agent by virtue of sales commission contracts in which the commission agent acts in his own name, the tax base will be constituted by the consideration agreed by the commission agent less the amount of the commission.

Seven. In the transfer of assets from the commission agent to the principal, by virtue of purchase commission contracts in which the commission agent has acted in his own name, the taxable base will be constituted by the consideration agreed by the commission agent plus the amount of the commission.

Eight. In the provision of services carried out on behalf of a third party, when the service provider acts in his own name, the tax base of the operation carried out between the principal and the commission agent shall be constituted by the consideration of the service arranged by the commission agent less the amount of the commission.

Nine. In the acquisition of services carried out on behalf of third parties, when the person acquiring the services acts in his own name, the tax base of the operation carried out between the commission agent and the principal shall be constituted by the consideration of the service agreed by the commission agent plus the amount of the commission.

Ten. In deliveries of goods or services that do not have investment gold as an object or result and in which gold is used provided by the recipient of the operation whose purchase or import would have been exempt by application of the exemption provided in section one , number 1 of article 140 bis of this Law or its equivalent in the legislation of another Member State of the Community, the tax base will result from adding to the total amount of the consideration, the market value of said gold, determined in the tax accrual date.

Eleven. In operations whose consideration has been set in a currency or currency other than Spanish, the selling exchange rate, set by the Bank of Spain, which is in effect at the time of accrual, will be applied.

Twelve. In the tax base of the operations referred to in the preceding sections, as appropriate, the expenses or components included, respectively, in sections two and three of the preceding article must be included or excluded.

- Section 1 is modified by art. 1.17 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- section 5 is amended by art. 3.2 of Law 36/2006, of November 29. Ref. BOE-A-2006-20843 .
- Section 10 is added and the previous 10 and 11 are renumbered as 11 and 12 by art. 5.4 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .
- Drafted section 79.3.1ª in accordance with the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

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[Block 101: # a80]

Article 80. Modification of the tax base.

One. The tax base determined in accordance with the provisions of articles 78 and 79 above will be reduced by the following amounts:

1. The amount of the containers and packaging susceptible to reuse that have been returned.

2. The discounts and bonuses granted after the moment in which the operation has been carried out, provided they are duly justified.

Two. When by firm, judicial or administrative resolution or in accordance with Law or commercial practices, the encumbered operations are totally or partially ineffective or the price is altered after the moment in which the operation has been carried out, the tax base will be modified in the corresponding amount.

Three. The tax base may be reduced when the recipient of the operations subject to the Tax has not made effective the payment of the fees paid and provided that, after the accrual of the operation, a decree declaring bankruptcy is issued. The modification, where appropriate, may not be made after the expiration of a period of two months counted from the end of the maximum period established in number 5 of section 1 of article 21 of Law 22/2003, of July 9 , Insolvency.

Only when the conclusion of the bankruptcy is agreed for the causes expressed in article 176.1, sections 1, 4 and 5 of the Bankruptcy Law, the creditor who had modified the tax base should modify it again upwards through the issuance , within the period established by regulation, of a corrective invoice in which the applicable fee is passed on.

Four. The tax base may also be reduced proportionally when the credits corresponding to the fees passed on by the taxed operations are totally or partially uncollectible. To these effects:

A) A credit will be considered totally or partially uncollectible when it meets the following conditions:

1. A year has elapsed from the accrual of the passed-on Tax without the collection of all or part of the credit derived from it having been obtained.

However, in the case of installment or deferred price transactions, one year must have elapsed from the expiration of the term or unpaid installments in order to proceed to the proportional reduction of the tax base. For these purposes, installment or deferred price operations will be considered those in which it has been agreed that their consideration must be made in successive payments or in one, respectively, provided that the period elapsed between the accrual of the tax passed and the maturity the last or only payment exceeds one year.

When the holder of the credit right whose tax base is to be reduced is an entrepreneur or professional whose volume of operations, calculated in accordance with the provisions of article 121 of this Law, has not exceeded during the immediately preceding calendar year of 6,010,121, 04 euros, the term referred to in this 1st condition may be six months or one year.

In the case of operations to which the special regime of the cash criterion applies, this condition will be understood to be fulfilled on the accrual date of the tax that is produced by application of the December 31 deadline referred to in article 163. Third of this Law.

Notwithstanding the provisions of the preceding paragraph, in the case of installment or deferred price transactions, the period of six months or one year referred to in this rule 1 must have elapsed, since the expiration of the term or terms corresponding to the accrual date of the operation.

2. That this circumstance has been reflected in the Record Books required for this Tax.

3rd that the recipient of the operation acts in the capacity of businessman or professional, or, in another case, that the taxable base of that one, Value Added Tax excluded, is greater than 300 euros.

4th that the taxpayer has urged its collection by judicial claim to the debtor or by means of a notarial request to the same, even in the case of credits secured by public entities.

In the case of the installment operations referred to in the 1st condition above, it will be sufficient to request the collection of one of them by judicial claim to the debtor or by means of a notarial request to the same to proceed to the modification of the tax base in the corresponding proportion for the unpaid term or terms.

In the case of credits owed by public entities, the judicial claim or the notarial requirement referred to in condition 4 above, will be replaced by a certification issued by the competent body of the debtor public entity in accordance with the report of the Financial Controller or Treasurer of the one in which the recognition of the obligation in charge of the same and its amount is recorded.

B) The modification must be made within the three months following the end of the six-month or one-year period referred to in condition 1 above and communicated to the State Tax Administration Agency within the period set by regulation.

In the case of operations to which the special regime of the cash criterion applies, the period of three months to carry out the modification will be computed from the deadline of December 31 referred to in article 163 terdecies of this Law.

C) Once the reduction of the tax base has been practiced, it will not be modified upwards even if the taxable person obtained full or partial collection of the consideration, except when the recipient does not act as a businessman or professional. In this case, it will be understood that the Value Added Tax is included in the amounts received and in the same proportion as the part of consideration received.

Notwithstanding the provisions of the preceding paragraph, when the taxpayer desists from the judicial claim to the debtor or reaches a collection agreement with the latter after the notarial request made, as a consequence of this or for any other reason, he

must modify again the tax base upwards through the issuance, within a period of one month from the withdrawal or from the collection agreement, respectively, of an amending invoice in which the applicable fee is passed on.

Five. In relation to the cases of modification of the tax base included in sections three and four above, the following rules will apply:

1. The modification of the tax base will not proceed in the following cases:

a) Credits that enjoy a real guarantee, in the guaranteed part.

b) Credits secured by credit institutions or reciprocal guarantee companies or covered by a credit or surety insurance contract, on the part secured or insured.

c) Credits between persons or related entities defined in article 79, section five, of this Law.

d) Credits owed or guaranteed by public entities.

The provisions of this letter d) shall not apply to the reduction of the tax base made in accordance with section four of article 80 of this Law for credits that are considered totally or partially uncollectible, without prejudice to the need to comply with the documentary accreditation requirement of non-payment referred to in condition 4 of said precept.

2. The modification of the tax base will not proceed when the recipient of the operations is not established in the territory of application of the Tax, nor in the Canary Islands, Ceuta or Melilla.

3. The modification of the tax base in accordance with section four of article 80 of this Law shall not proceed after the bankruptcy decree for the credits corresponding to fees passed on by operations whose accrual occurs prior to said decree.

4.ª In the cases of partial payment prior to the aforementioned modification, it will be understood that the Value Added Tax is included in the amounts received and in the same proportion as the part of the consideration paid.

5. The rectification of the deductions of the recipient of the operations, which must be practiced according to the provisions of article 114, section two, number 2, fourth paragraph, of this Law, will determine the birth of the corresponding credit in favor of the Public estate.

If the recipient of the subject operations had not been entitled to the total deduction of the Tax, he will also be a debtor against the Public Treasury for the amount of the non-deductible tax fee. In the event that the recipient does not act as an entrepreneur or professional and to the extent that he has not paid said debt, the provisions of section Four C) above will apply.

Six. If the amount of the consideration is not known at the time the tax is due, the taxable person must provisionally fix it applying well-founded criteria, without prejudice to its rectification when said amount is known.

Seven. In the cases referred to in the preceding sections, the modification of the tax base will be conditioned on compliance with the requirements established by regulation.

- Sections 3 to 5 are modified by art. 1.18 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- Sections 4 and 5 are modified by art. 12.2 of Law 16/2012, of December 27. Ref. BOE-A-2012-15650 .
- Section 3, second paragraph is modified by art. 5.3 of Law 7/2012, of October 29. Ref. BOE-A-2012-13416 .
- Sections 4 and 5 are modified by art. 7 of Royal Decree-Law 6/2010, of April 9. Ref. BOE-A-2010-5879 .
- Section 4 is modified by final provision 3.1 of Law 11/2009, of October 26. Ref. BOE-A-2009-17000 .
- Section 4 is modified by art. 5.6 of Law 4/2008, of December 23. Ref. BOE-A-2008-20802 .
  Take into account for its application transitional provision 3.
- Sections 3 and 4 are modified by art. 7.1.4 and 7..2 of Law 62/2003, of December 30. Ref. BOE-A-2003-23936 .
  The amendment to section 3 takes effect on September 1, 2004, as established in final provision 19.3.
- It is modified by art. 6.10 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053
- It is modified by art. 10.3 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117
- Paragraph 2 is amended by art. 4.1 of Law 22/1993, of December 29. Ref. BOE-A-1993-31153

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[Block 102: # a81]

Article 81. Determination of the tax base.

One. In general, the tax base will be determined in the direct estimation regime, with no exceptions other than those established in this Law and in the regulatory norms of the indirect estimation regime of the tax bases.

The application of the indirect estimation regime will include the amount of the acquisitions of goods and services made by the taxpayer and the corresponding input

tax.

Two. By regulation, in the sectors or economic activities and with the limitations specified, the objective estimation regime may be established to determine the tax base.

In no case, this regime will be applied in the delivery of real estate or in the operations referred to in articles 9, number 1, letters c) and d), 13, 17 and 84, section one, number 2. , of this Law.

Three. In the cases of non-presentation of the declarations-liquidations, the provisions of article 168 of this Law will be followed in relation to the provisional liquidation ex officio.

[Block 103: # cii-5]

CHAPTER II

Intra-community acquisitions of goods

[Block 104: # a82]

Article 82. Taxable base.

One. The tax base of intra-community acquisitions of goods will be determined in accordance with the provisions of the previous chapter.

In particular, in the acquisitions referred to in article 16, number 2, of this Law, the tax base shall be determined in accordance with the provisions of article 79, section three, of this Law.

In the event that the acquirer obtains the refund of the special taxes in the Member State of departure of the expedition or transportation of the goods, his tax situation will be regularized in the manner determined by regulation.

Two. When the provisions of article 71, paragraph two apply, the tax base will be that corresponding to intra-community acquisitions that have not been taxed in the Member State of arrival of the expedition or the transport of the goods.

- Section 1 is modified by art. 10.4 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117

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[Block 105: # ciii-4]

CHAPTER III

Imports

[Block 106: # a83]

Article 83. Taxable base.

One. General rule.

In the importation of goods, the tax base will result from adding to the customs value the following concepts as long as they are not included in it:

a) Taxes, duties, levies and other charges that are accrued outside the territory of application of the tax, as well as those accrued on the occasion of importation, with the exception of Value Added Tax.

b) Ancillary expenses, such as commissions and packaging, transport and insurance expenses that occur up to the first destination of the goods within the Community.

"First place of destination" shall be understood as the one that appears on the consignment note or any other document that protects the entry of the goods into the interior of the Community. In the absence of this indication, the first place of destination shall be deemed to be that in which the first unbundling of the goods occurs within the Community.

Two. Special rules.

1st. The tax base of reimports of goods temporarily exported out of the Community to be subject to repair, transformation, adaptation or commissioned work will be the consideration for said works determined according to the rules contained in the first chapter of this title.

The concepts referred to in letters a) and b) of the previous section will also be understood in the tax base when they are not included in the consideration defined in the preceding paragraph.

2nd. The tax base of the imports referred to in article 19, numbers 1., 2. and 3., will include the amount of the consideration for all operations related to the corresponding means of transport, carried out prior to these imports, which they would have benefited from the tax exemption.

3rd. The tax base of the goods that leave the deposit regime other than customs will be as follows:

a) For goods coming from another Member State or from third countries, the one that results from applying, respectively, the rules of article 82 or section one of this article or, where appropriate, the one that corresponds to the last delivery made in said deposit.

b) For goods from the interior of the country, the one corresponding to the last delivery of said goods exempt from tax.

c) For the assets resulting from processes of incorporation or transformation of the assets included in the previous letters, the sum of the taxable bases that result from applying the rules contained in said letters.

d) In all cases, you must understand the amount of the consideration corresponding to the services exempt from the tax provided after the import, intra-community acquisition or, where appropriate, last delivery of the goods.

e) In all cases of abandonment of the deposit regime other than customs, either by importation of goods or by operation assimilated to the importation of goods, it will be included in the tax base of the special tax required for abandonment of said regime.

4th. The tax base of the other operations referred to in article 19, number 5., of this Law, will be the sum of the consideration of the last intra-community delivery or acquisition of goods and services provided after said delivery or acquisition, all of them

exempt from the tax, determined in accordance with the provisions of the first and second chapters of this article.

5th. In imports of standardized computer products, the tax base will be that corresponding to the support and the programs or information incorporated into it.

Three. The rules contained in article 80 of this Law shall also be applicable, when appropriate, to the determination of the tax base of imports.

Four. When the determining elements of the tax base have been set in a currency or currency other than Spanish, the exchange rate will be determined in accordance with the Community provisions in force to calculate the customs value.

- It is modified by art. 5 of Law 22/1993, of December 29. Ref. BOE-A-1993-31153
- Section 1 prepared in accordance with the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

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[Block 107: #tvi]

TITLE VI

Taxable persons

[Block 108: # ci-6]

CHAPTER I

Deliveries of goods and services

[Block 109: # a84]

Article 84. Taxable persons.

One. The following will be taxable:

1. Individuals or legal entities that have the status of businessmen or professionals and carry out the delivery of goods or provide the services subject to the Tax, except as provided in the following numbers.

2. The businessmen or professionals for whom the operations subject to the Tax are carried out in the cases indicated below:

a) When they are carried out by persons or entities not established in the territory of application of the Tax.

However, the provisions of this letter shall not apply in the following cases:

a ') In the case of provision of services in which the recipient is also not established in the territory of application of the Tax, except in the case of provision of services included in number 1 of section one of article 69 of this Law .

b ') In the case of deliveries of goods referred to in article 68, sections three and five of this Law.

c ') In the case of deliveries of goods that are exempt from the Tax by application of the provisions of articles 21, numbers 1 and 2, or 25 of this Law, as well as deliveries of goods referred to in the latter article that are subject and not exempt from the Tax.

b) In the case of deliveries of raw gold or semi-finished gold products, with a law equal to or greater than 325 thousandths.

c) In the case of:

Deliveries of new industrial wastes, foundry waste and scrap, residues and other recovery materials consisting of ferrous and non-ferrous metals, their alloys, slag, ash and industrial wastes containing metals or their alloys.

The selection, cutting, fragmentation and pressing operations carried out on the products mentioned in the previous script.

Deliveries of waste or scrap of paper, cardboard or glass.

Deliveries of semi-finished products resulting from the transformation, working or smelting of the non-ferrous metals referred to in the first indent, with the exception of nickel compounds. In particular, ingots, blocks, plates, bars, grain, shot and wire rod will be considered semi-finished products.

In any case, the deliveries of the materials defined in the Annex to this Law shall be considered included in the preceding paragraphs.

d) In the case of services that have emission rights as their object, certified emission reductions and greenhouse gas emissions reduction units referred to in Law 1/2005, of March 9, which Regulates the greenhouse gas emission rights trading regime and Royal Decree 1031/2007, of July 20, which develops the framework for participation in the flexibility mechanisms of the Kyoto Protocol.

e) In the case of the following deliveries of real estate:

- Deliveries made as a result of a bankruptcy process.

- The exempt deliveries referred to in sections 20. and 22. of article 20. One in which the taxpayer would have waived the exemption.

- Deliveries made in execution of the guarantee on real property, also understood that the guarantee is executed when the property is transferred in exchange for the total or partial extinction of the guaranteed debt or the obligation to extinguish said debt by the acquirer.

f) In the case of executions of works, with or without the supply of materials, as well as the assignments of personnel to carry them out, as a consequence of directly formalized contracts between the developer and the contractor whose purpose is the urbanization of land or the construction or rehabilitation of buildings.

The provisions of the preceding paragraph shall also apply when the recipients of the operations are, in turn, the main contractor or other subcontractors under the indicated conditions.

g) In the case of deliveries of the following products defined in the tenth section of the annex to this Law:

- Silver, platinum and palladium, raw, powder or semi-finished; deliveries for the purpose of said metals resulting from the carrying out of transformation activities by the entrepreneur or acquiring professional will be assimilated to them. In any case, they must be products that are not included in the scope of the special regime applicable to used goods, objects of art, antiques and collectibles.

- Mobile phones.

- Video game consoles, laptops and digital tablets.

The provisions of these last two scripts will only apply when the recipient is:

a ') An entrepreneur or professional reseller of these goods, whatever the amount of the delivery.

b ') An entrepreneur or professional other than those referred to in the previous letter, when the total amount of deliveries of said goods made to it, documented on the same invoice, exceeds 10,000 euros, excluding Value Added Tax.

For the purposes of calculating the aforementioned limit, the total amount of deliveries made will be taken into account when, documented in more than one invoice, it is proven that it is a single operation and that the artificial breakdown of the same has occurred for the sole purposes to avoid the application of this rule.

The accreditation of the status of the entrepreneur or professional referred to in the two previous letters must be carried out prior to or simultaneously with the acquisition, under the conditions determined by regulation.

The deliveries of said goods, in the cases in which their recipients are passive subjects of the Tax according to what is established in this number 2, must be documented in an invoice by special series.

3rd legal entities that do not act as businessmen or professionals but are recipients of the operations subject to the tax indicated below carried out by businessmen or professionals not established in the territory of application of the same:

a) Subsequent deliveries to intra-community acquisitions referred to in article 26, section Three, of this Law, when they have communicated to the employer or professional who performs them the identification number that, for the purposes of Value Added Tax, have assigned by the Spanish Administration.

b) The provision of services referred to in articles 69 and 70 of this Law.

4. Without prejudice to the provisions of the preceding numbers, businessmen or professionals, as well as legal entities that do not act as businessmen or professionals, who are recipients of gas and electricity deliveries or deliveries of heat or cold through of the heating or cooling networks that are understood to be carried out in the territory of application of the tax in accordance with the provisions of section seven of article 68, provided that the delivery is made by a businessman or professional not established in said territory and they have been communicated the identification number that for the purposes of Value Added Tax have been assigned by the Spanish Administration.

Two. For the purposes of the provisions of this article, the taxable persons who have the headquarters of their economic activity, their fiscal domicile or a permanent establishment that intervenes in the delivery of the deliveries shall be considered

established in the territory of application of the Tax. of goods and services subject to tax.

It will be understood that said permanent establishment intervenes in the delivery of goods or services when it orders its material and human production factors or one of them in order to carry out each one of them.

Three. Recipient inheritances, communities of property and other entities that, lacking legal personality, constitute an economic unit or a separate patrimony liable to tax, when they carry out operations subject to the Tax are considered taxable persons.

- Letter c´) of section 1.2 is modified by art. 214.8 of Royal Decree-Law 3/2020, of February 4. Ref. BOE-A-2020-1651
  This modification comes into effect on March 1, 2020, as established in final provision 16.3 of the aforementioned Royal Decree-law.
- Letter g) is added to section 1.2 by art. 1.19 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
  This modification is applicable as of April 1, 2015 as established in final provision 5.b).
- Section 1.2.e) is modified and letter f) is added by art. 5.4 of Law 7/2012, of October 29. Ref. BOE-A-2012-13416 .
- Section 1.4 is modified by art. 69 of Law 2/2012, of June 29. Ref. BOE-A-2012-8745 .
- Section 1.2 e) is added by the new final provision 11 bis of Law 22/2003, of July 9, in the wording given by art. sole.118 of Law 38/2011, of October 10. Ref. BOE-A-2011-15938 .
- It is modified by art. 1.10 of Law 2/2010, of March 1. Ref. BOE-A-2010-3366 .
  This modification takes effect from January 1, 2010 as established in final provision 4.
- Letter d) is added to section 1.2 by final provision 3.2 of Law 11/2009, of October 26. Ref. BOE-A-2009-17000 .
- Section 1.4 is added, with effect from January 1, 2005, by art. 1º.6 of Law 22/2005, of November 18. Ref. BOE-A-2005-19003 .
- Paragraph c) is added to section 1.2 by art. 7.3.2 of Law 62/2003, of December 30. Ref. BOE-A-2003-23936 .
- It is modified by art. 5.5 of law 24/2001, of December 27. Ref. BOE-A-2001-24965 .
- Section 2 b) is modified by art. 6.5 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- Section 1.2º.a) is modified by art. 28.12 of Royal Decree-Law 12/1995, of December 28. Ref. BOE-A-1995-27964
- It is modified by art. 6 of Law 22/1993, of December 29. Ref. BOE-A-1993-31153
- Section 1.3 is added by art. 1.5 of Royal Decree-Law 7/1993, of May 21. Ref. BOE-A-1993-13663

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- Modification published on 10/30/2012, effective as of 10/31/2012.
- Modification published on 06/30/2012, effective as of 07/01/2012.
- Modification published on 11/10/2011, effective as of 01/01/2012.
- Modification published on 03/02/2010, effective as of 03/03/2010.
- Modification published on 10/27/2009, effective as of 10/28/2009.
- Amendment published on 19/11/2005, effective from 20/11/2005.
- Modification published on 12/31/2003, effective as of 01/01/2004.
- Modification published on 12/31/2001, effective as of 01/01/2002.
- Modification published on 12/30/1999, effective as of 01/01/2000.
- Modification published on 12/30/1995, effective as of 01/01/1996.
- Modification published on 12/31/1993, effective as of 01/01/1994.
- Modification published on 05/27/1993, effective as of 05/28/1993.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 110: # cii-6]

CHAPTER II

Intra-community acquisitions of goods

[Block 111: # a85]

Article 85. Taxable persons.

In intra-community acquisitions of goods, the taxable persons of the tax will be those who carry them out, in accordance with the provisions of article 71 of this Law.

[Block 112: # ciii-5]

CHAPTER III

Imports

[Block 113: # a86]

Article 86. Taxable persons.

One. Those who make the imports will be taxable.

Two. The following shall be considered as importers, provided that the requirements set forth in customs legislation are met in each case:

1. The recipients of the imported goods, be they acquirers, assignees or owners thereof, or consignees acting on their own behalf in the importation of said goods.

2. Travelers, for the goods they drive upon entering the territory of application of the Tax.

3.º The owners of the goods in the cases not contemplated in the previous numbers.

4th the acquirers or, where appropriate, the owners, lessees or charterers of the goods referred to in article 19 of this law.

Three. Without prejudice to the provisions of section one of this article, in the case of imports referred to in number 12 of article 27 of this Law and the importer acting through a fiscal representative, the latter shall be bound to comply with the Material and formal obligations derived from said imports in the terms established by regulation.

- It is modified by art. 78.2 of Law 39/2010, of December 22. Ref. BOE-A-2010-19703 .
- The 4th point is modified by art. 6.11 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

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[Block 114: #civ]

CHAPTER IV

Responsible for the tax

[Block 115: # a87]

Article 87. Responsible for the tax.

One. They will be jointly and severally liable for the tax debt that corresponds to satisfy the taxpayer, the recipients of the operations that, by means of wrongful or willful action or omission, avoid the correct repercussion of the tax.

For these purposes, the responsibility will reach the sanction that may proceed.

Two. in the import of goods, they will also be jointly responsible for the payment of the tax:

1st guarantor associations in the cases determined in international agreements.

2. RENFE, when acting on behalf of third parties under international agreements.

3. The persons or entities that act in their own name and on behalf of the importers.

Three. Subsidiaries who act in the name and on behalf of their constituents will be responsible for the payment of the tax.

Four. The responsibilities established in sections two and three will not reach the tax debts that become apparent as a consequence of actions practiced outside the customs premises.

Five. 1. They will be subsidiary responsible for the tax quotas corresponding to the taxable operations that the taxpayers must satisfy those recipients of the same that are businessmen or professionals, who should reasonably presume that the Tax passed on

or that should have been passed on by the businessman or professional that performs them, or by any of those who would have made the acquisition and delivery of the goods in question, has not been and will not be subject to declaration and entry.

2. For these purposes, it will be considered that the recipients of the operations mentioned in the previous number should reasonably presume that the Tax passed on or that should have been passed on has not been and will not be subject to declaration and payment, when, as a consequence, they have satisfied by them a notoriously anomalous price.

A notoriously anomalous price shall be understood as:

a) The one that is appreciably inferior to that corresponding to said goods in the conditions in which the operation has been carried out or to that satisfied in previous acquisitions of identical goods.

b) The one that is appreciably lower than the acquisition price of said goods by the person who has delivered them.

To classify the price of the operation as notoriously anomalous, the Tax Administration will study the documentation at its disposal, as well as that provided by the recipients, and will evaluate, when possible, other operations carried out in the same economic sector that keep a high degree similar to the one analyzed, in order to quantify the normal market value of the goods existing at the time of the operation.

A price that is justified by the existence of economic factors other than the application of the Tax will not be considered a notoriously anomalous price.

3. In order to demand this responsibility, the Tax Administration must prove the existence of a Tax that has been passed on or that should have been passed on that has not been declared and entered.

4. Once the Tax Administration has confirmed the concurrence of the requirements established in the previous sections, it will declare responsibility in accordance with the provisions of article 41.5 of General Tax Law 58/2003.

- Section 5 is added by art. 3.3 of Law 36/2006, of November 29. Ref. BOE-A-2006-20843 .
- Section 1 is modified by art. 4.8 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- Section 1.1 is modified by art. 5.6 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .
- Section 2.3 is modified by art. 4.3 of Law 50/1998, of December 30. Ref. BOE-A-1998-30155 .
- Section 1 is modified by art. sole.5 of Law 9/1998, of April 21. Ref. BOE-A-1998-9477 .
- Section 1 is modified by art. sole.5 of Royal Decree-Law 14/1997, of August 29. Ref. BOE-A-1997-19125

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- Modification published on 12/31/1998, effective as of 01/01/1999.
- Modification published on 04/22/1998, effective as of 05/12/1998.
- Modification published on 08/30/1997, effective as of 09/01/1997.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 116: #cv]

CHAPTER V

Tax impact

[Block 117: # a88]

Article 88. Impact of the tax.

One. Taxpayers must fully pass on the amount of the tax on the person for whom the encumbered operation is carried out, the latter being obliged to bear it as long as the repercussion is in accordance with the provisions of this Law, whatever the stipulations existing between them.

In the deliveries of goods and services subject to and not exempt from the tax whose recipients were public entities, it will always be understood that the taxable persons, when formulating their economic proposals, even if they are verbal, have included within them the Tax on the Added Value that, however, must be passed on as an independent item, when appropriate, in the documents presented for collection, without the overall amount contracted experiencing an increase as a consequence of the entry of the passed on tax.

Two. The impact of the Tax must be made by invoice in the conditions and with the requirements determined by regulation.

For these purposes, the fee charged will be recorded separately from the tax base, even in the case of administratively fixed prices, indicating the tax rate applied.

The operations determined by regulation shall be excepted from the provisions of the preceding paragraphs of this section.

Three. The repercussion of the Tax must be made at the time of issuing and delivering the corresponding invoice.

Four. The right to the repercussion will be lost when one year has elapsed since the accrual date.

Five. The recipient of the operation taxed by the Value Added Tax will not be obliged to bear the repercussion thereof prior to the accrual of said tax.

Six. The controversies that may occur with reference to the repercussion of the tax, both regarding the origin and the amount thereof, will be considered of a tax nature for the purposes of the corresponding claims in the economic-administrative way.

- Sections 2 and 3 are modified by art. 67.1 of Law 17/2012, of December 27. Ref. BOE-A-2012-15651 .
- Sections 2 and 3 are modified by art. 4.9 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .

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[Block 118: # a89]

Article 89. Rectification of the tax quotas passed on.

One. Taxable persons must carry out the rectification of the tax contributions passed on when the amount thereof has been incorrectly determined or the circumstances that, according to the provisions of article 80 of this Law, give rise to the modification of the base taxable.

The rectification must be carried out at the time that the causes of the incorrect determination of the quotas are noticed or the other circumstances referred to in the preceding paragraph occur, provided that four years have not elapsed from the time the tax corresponding to the operation or, where appropriate, the circumstances referred to in said article 80 occurred.

Two. The provisions of the previous section will also apply when, without having paid any fee, the invoice corresponding to the operation had been issued.

Three. Notwithstanding the provisions of the previous sections, the rectification of the tax fees passed on in the following cases will not proceed:

1. When the rectification is not motivated by the causes provided for in article 80 of this Law, it implies an increase in the fees paid and the recipients of the operations do not act as businessmen or professionals, except in cases of legal elevation of the rates tax, in which the rectification may be made in the month in which the new tax rates come into force and in the following month.

2. When it is the Tax Administration that shows, through the corresponding settlements, accrued and unapplied tax quotas greater than those declared by the taxpayer and it is proved, through objective data, that said taxpayer participated in a fraud, or who knew or should have known, using reasonable diligence, that he was carrying out an operation that was part of a fraud.

Four. The rectification of the tax contributions passed must be documented in the form established by regulation.

Five. When the rectification of the quotas implies an increase of those initially passed on and there has been no prior requirement, the taxpayer must submit a corrective statement-liquidation, applying the surcharge and the default interest that proceed in accordance with the provisions of the Articles 26 and 27 of the General Tax Law.

Notwithstanding the provisions of the preceding paragraph, when the rectification is based on the causes of modification of the tax base established in article 80 of this Law or is due to a founded error of law, the taxable person may include the corresponding difference in the declaration-liquidation of the period in which the rectification must be made.

When the rectification determines a reduction in the fees initially passed on, the taxpayer may choose either of the following two alternatives:

a) Initiate before the Tax Administration the self-assessment rectification procedure provided for in Article 120.3 of General Tax Law 58/2003, of December 17, and its

implementing regulations.

b) Regularize the tax situation in the declaration-liquidation corresponding to the period in which the rectification must be made or in subsequent ones up to a period of one year from the moment in which the aforementioned rectification should have been made. In this case, the taxable person will be obliged to reimburse the recipient of the operation the amount of the excess fees.

In the cases in which the encumbered operation is null and void as a result of the exercise of a bankruptcy reinstatement action or other challenges filed within the bankruptcy, the taxable person must proceed to rectify the fees initially passed on in the declaration-liquidation corresponding to the period in which the accrued installments were declared.

- Letter a) of section 5 is modified by art. 1.20 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Section 3 is amended by art. 77 of Law 22/2013, of December 23. Ref. BOE-A-2013-13616 .
- Paragraph 2 is amended by art. 67.2 of Law 17/2012, of December 27. Ref. BOE-A-2012-15651 .
- Section 5 is modified by art. 5.5 of Law 7/2012, of October 29. Ref. BOE-A-2012-13416 .
- Paragraph 2 is amended by art. 4.10 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- Section 1 is modified by art. 6.6 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- It is modified by art. 10.5 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117

- (●) **Last update, published on 11/28/2014, effective as of 01/01/2015.**
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- ( ) Modification published on 12/28/2012, effective as of 01/01/2013.
- ( ) Modification published on 10/30/2012, effective as of 10/31/2012.
- ( ) Modification published on 12/31/2002, effective as of 01/01/2003.
- ( ) Modification published on 12/30/1999, effective as of 01/01/2000.
- ( ) Modification published on 12/31/1996, effective as of 01/01/1997.
- ( ) Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 119: #tvii]

TITLE VII

The tax rate

[Block 120: # a90]

Article 90. General tax rate.

One. The Tax will be required at the rate of 21 percent, except as provided in the following article.

Two. The tax rate applicable to each operation will be that in force at the time of accrual.

Three. For reimports of goods that have been temporarily exported outside the Community and that are made after having undergone repair, transformation, adaptation, execution of works or incorporation of other goods in a third country, the tax rate will be applied. that would have corresponded to the operations indicated if they had been carried out in the territory of application of the Tax.

In the operations assimilated to the imports of goods that have been exclusively object of exempt services while they have been linked to the regimes or situations referred to in articles 23 and 24 of this Law, the tax rate that would have corresponded to the aforementioned will be applied. services if they had not been exempt.

- Section 1 is modified, with effect from September 1, 2012, by art. 23.2 of Royal Decree-Law 20/2012, of July 13. Ref. BOE-A-2012-9364 .
- Section 1 is modified by art. 79 .1 of Law 26/2009, of December 23. Ref. BOE-A-2009-20765 .
- Section 3 is amended by art. 28.13 of Royal Decree-Law 12/1995, of December 28. Ref. BOE-A-1995-27964
- Section 1 is modified, with effect from January 1, 1995, by art. 78.1 of Law 41/1994, of December 30. Ref. BOE-A-1994-28967

- (●) **Last update, published on 07/14/2012, effective as of 07/15/2012.**
- ( ) Modification published on 12/24/2009, effective as of 01/07/2010.
- ( ) Modification published on 12/30/1995, effective as of 01/01/1996.
- ( ) Modification published on 12/31/1994, effective as of 01/20/1995.
- ( ) Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 121: # a91]

Article 91. Reduced tax rates.

One. The 10 percent rate will be applied to the following operations:

1. Deliveries, intra-community acquisitions or imports of the goods indicated below:

1.º Substances or products, whatever their origin, which, due to their characteristics, applications, components, preparation and state of conservation, are likely to be habitually and suitably used for human or animal nutrition, in accordance with the provisions of the Food Code and the provisions dictated for its development, except alcoholic beverages.

Alcoholic beverage means any liquid suitable for human consumption by ingestion that contains ethyl alcohol.

For the purposes of this number, tobacco or substances not suitable for human or animal consumption in the same state in which they were delivered, intra-community acquisition or import will not be considered food.

2. Animals, vegetables and other products that can be used habitually and ideally to obtain the products referred to in the previous number, directly or mixed with others of different origin.

This number includes the animals destined for fattening before being used for human or animal consumption and the reproductive animals of the same or of those others referred to in the preceding paragraph.

3. The following goods when, due to their objective characteristics, packaging, presentation and state of conservation, are capable of being used directly, habitually and suitably in carrying out agricultural, forestry or livestock activities: seeds and materials of exclusively animal or vegetable origin liable to cause the reproduction of animals or plants; fertilizers, organic residues, correctors and amendments, herbicides, pesticides for phytosanitary or livestock use; plastics for mulch, tunnel or greenhouse crops and paper bags for the protection of fruits before harvesting.

4. The waters suitable for human or animal food or for irrigation, even in a solid state.

5. Medicines for veterinary use.

6. The following assets:

a) The pharmaceutical products included in Chapter 30 "Pharmaceutical Products" of the Combined Nomenclature, susceptible of direct use by the final consumer, other than those included in number 5 of this section one.1 and those to which the tax rate established in number 3 of section two.1 of this article is applicable to them.

b) Compresses, tampons, panty liners, condoms and other non-medical contraceptives.

c) The medical equipment, devices and other instruments, related in the eighth section of the annex to this Law, which due to their objective characteristics, are designed to alleviate or treat deficiencies, for the personal and exclusive use of people who have physical or mental deficiencies, intellectual or sensory, without prejudice to the provisions of section two.1 of this article.

Other accessories, spare parts and spare parts of said goods are not included in this letter.

7.º The buildings or parts thereof suitable for use as dwellings, including garage spaces, with a maximum of two units, and annexes located in them that are transmitted together.

In relation to this law, business premises shall not be considered as annexes to dwellings, even if they are transmitted jointly with the buildings or part thereof destined for dwellings.

Buildings destined for demolition referred to in article 20, paragraph one, number 22., part A), letter c) of this law shall not be considered suitable buildings for use as housing.

8.º Flowers, live plants of an ornamental nature, as well as seeds, bulbs, cuttings and other products of exclusively vegetable origin that may be used to obtain them.

2. The following services:

1.º The transport of passengers and their luggage.

2. The hotel, camping and spa services, those of restaurants and, in general, the supply of food and beverages to be consumed on the spot, even if they are made on request of the recipient.

3.º Those carried out in favor of owners of agricultural, forestry or livestock operations, necessary for their development, which are indicated below: planting, sowing, grafting, fertilizing, cultivating and collecting; packaging and packaging of products, including drying, cleaning, shelling, chopping, silage, storage and disinfection of products; raising, keeping and fattening animals; leveling, grading or terracing of farmland; technical assistance; the elimination of harmful plants and animals and the fumigation of plantations and land; sewer system; cutting, thinning, chipping and debarking of trees and clearing of forests; and veterinary services.

The provisions of the preceding paragraph shall not be applicable in any case to assignments of use or enjoyment or leasing of assets.

This tax rate will also be applied to the provision of services made by agricultural cooperatives to their members as a result of their cooperative activity and in compliance with their corporate purpose, including the use by members of machinery in common.

4th cleaning services for public roads, parks and public gardens.

5. The services of collection, storage, transport, recovery or elimination of waste, cleaning of public sewers and rat removal of the same and the collection or treatment of wastewater.

In the previous paragraph, the services of assignment, installation and maintenance of standardized containers used in the collection of waste are included.

Also included in this number are the services for the collection or treatment of discharges in inland or maritime waters.

6. The entrance to libraries, archives and documentation centers, museums, art galleries, art galleries, movie theaters, theaters, circuses, bullfights, concerts, and other live cultural shows.

7. The provision of services referred to in number 8 of section one of article 20 of this law when they are not exempt in accordance with said provision or the tax rate established in number 3 of section two is not applicable to them.2 of this article.

8.º Sports shows of an amateur nature.

9.º Trade shows and fairs.

10. The executions of renovation and repair work carried out on buildings or parts thereof destined for housing, when the following requirements are met:

a) That the recipient is a natural person, does not act as an entrepreneur or professional and uses the dwelling to which the works refer for their private use.

Notwithstanding the provisions of the preceding paragraph, the aforementioned work executions will also be understood in this number when its recipient is a community of owners.

b) That the construction or rehabilitation of the dwelling to which the works refer has been completed at least two years before the start of the latter.

c) That the person who carries out the works does not contribute materials for its execution or, in the event that he contributes them, his cost does not exceed 40 percent of the tax base of the operation.

11. Leases with the option to purchase buildings or parts thereof intended exclusively for housing, including garage spaces, with a maximum of two units, and annexes located in them that are leased together.

12.º The transfer of the rights of use by turn of buildings, real estate complexes or sectors of them architecturally differentiated when the property has at least ten accommodations, in accordance with the provisions of the regulatory regulations for these services.

13. Those lent by performers, artists, directors and technicians, who are natural persons, to producers of cinematographic films that may be exhibited in showrooms and to the organizers of theatrical and musical works.

3. The following operations:

1. Executions of works, with or without the supply of materials, as a consequence of contracts directly formalized between the developer and the contractor whose purpose is the construction or rehabilitation of buildings or parts thereof intended mainly for housing, including premises, annexes, garages, facilities and complementary services located in them.

The buildings in which at least 50 percent of the constructed area is used for said use will be considered mainly destined for housing.

2. Sales with the installation of kitchen and bathroom cabinets and built-in cabinets for the buildings referred to in number 1 above, which are made as a result of contracts directly formalized with the promoter of the construction or rehabilitation of said buildings .

3rd the execution of work, with or without contribution of materials, consequence of contracts directly formalized between the communities of owners of the buildings or parts thereof referred to in number 1 above and the contractor whose purpose is the construction of complementary garages of said buildings, provided that said works are carried out on land or premises that are common elements of said Communities and the number of parking spaces to be awarded to each of the owners does not exceed two units.

4. Imports of art objects, antiques and collectibles, regardless of their importer, and deliveries of art objects by the following persons:

1. By its authors or beneficiaries.

2. By businessmen or professionals other than resellers of art objects referred to in article 136 of this Law, when they have the right to fully deduct the Tax borne by direct repercussion or satisfied in the acquisition or import of the same good.

5. Intra-community acquisitions of art objects when their supplier is any of the persons referred to in numbers 1 and 2 of number 4 above.

Two. The 4 percent rate will be applied to the following operations:

1. Deliveries, intra-community acquisitions or imports of the goods indicated below:

1. The following products:

a) Common bread, as well as frozen common bread dough and frozen common bread intended exclusively for the production of common bread.

b) Baking flour.

c) The following types of milk produced by any animal species: natural, certified, pasteurized, concentrated, skimmed, sterilized, UHT, evaporated and powdered.

d) The cheeses.

e) Eggs.

f) Fruits, vegetables, vegetables, legumes, tubers and cereals, which have the status of natural products in accordance with the Food Code and the provisions dictated for its development.

2. The books, newspapers and magazines that do not contain solely or fundamentally advertising, as well as the complementary elements that are delivered together with these goods by means of a single price.

Executions of work that immediately result in obtaining a book, newspaper or magazine in full or continuous form, a photolith of said goods or that consist of the binding thereof, will be understood in this issue.

For these purposes, the tapes, discs, videocassettes and other similar sound or video-magnetic supports that constitute a functional unit with the book, newspaper or magazine, will be considered as complementary elements, perfecting or completing their content and selling them, with the following exceptions:

a) Discs and tapes that exclusively contain musical works and whose market value is higher than the book, newspaper or magazine with which they are delivered jointly.

b) Videocassettes and other similar sound or videomagnetic supports that contain cinematographic films, fiction or musical television programs or series and whose market value is higher than the book, newspaper or magazine with which they are delivered jointly.

c) The computer products recorded by any means on the media indicated in the previous letters, when they mainly contain programs or applications that are sold independently in the market.

It will be understood that books, newspapers and magazines mainly contain advertising when more than 75 percent of the income they provide to their publisher is obtained through this concept.

Albums, sheet music, maps and drawing books will be considered included in this number, except for electronic articles and devices.

3. Medicines for human use, as well as dosage forms, magisterial formulas and official preparations.

4. The vehicles for people with reduced mobility referred to in number 20 of Annex I of Royal Legislative Decree 339/1990, of March 2, which approves the Articulated Text of the Law on Traffic, Movement of Vehicles to Motor and Road Safety, in the wording given by Annex II A of Royal Decree 2822/1998, of December 23, which approves the General Vehicle Regulation, and wheelchairs for the exclusive use of people with disabilities .

Vehicles intended to be used as auto taxis or special autotourisms for the transport of people with disabilities in wheelchairs, either directly or after their adaptation, as well as motor vehicles that, after adaptation or not, must regularly transport people with disabilities in a wheelchair or with reduced mobility, regardless of who is the driver of the same.

The application of the reduced tax rate to the vehicles included in the previous paragraph will require prior recognition of the right of the acquirer, which must justify the destination of the vehicle.

For the purposes of this section two, persons with disabilities shall be considered those with a degree of disability equal to or greater than 33 percent. The degree of disability must be accredited by means of a certification or resolution issued by the Institute for the Elderly and Social Services or the competent body of the autonomous community.

5. Prosthesis, orthotics and internal implants for people with disabilities.

6. The houses classified administratively as official protection of special regime or public promotion, when deliveries are made by their promoters, including garages and annexes located in the same building that are transmitted jointly. For these purposes, the number of garage spaces may not exceed two units.

The homes that are acquired by entities that apply the special regime provided for in Chapter III of Title VII of the Consolidated Text of the Corporation Tax Law approved by Royal Legislative Decree 4/2004, of March 5, provided that at Income derived from their subsequent lease is subject to the discount established in section 1 of article 54 of the aforementioned Law. For these purposes, the acquiring entity shall communicate this circumstance to the taxpayer prior to the accrual of the operation in the manner determined by regulation.

2. The following services:

1. The repair services of vehicles and wheelchairs included in the first paragraph of number 4 of section two.1 of this article and the adaptation services of autotaxis and autotourism for people with disabilities and the motor vehicles referred to in the second paragraph of the same provision, regardless of who is the driver of the same.

2. Leases with the option to purchase buildings or parts thereof intended exclusively for dwellings administratively classified as having official protection under a special regime or public promotion, including garage spaces, with a maximum of two units, and annexes in they located that are leased together.

3rd telecare services, home help, day and night center and residential care, referred to in letters b), c), d) and e) of section 1 of article 15 of Law 39/2006 , of December 14, for the Promotion of Personal Autonomy and Care for people in situations of dependency, provided they are provided in arranged places in centers or residences or through prices derived from an administrative tender awarded to the provider companies, or as a consequence of an economic benefit linked to such services that covers more than 10 percent of its price, in application, in both cases, of the provisions of the Law.

The provisions of this number 3 shall not apply to services that are exempt by application of number 8 of section one of article 20 of this Law.

Three. The provisions of sections one and two of this article will also be applicable to the execution of works that are provision of services, in accordance with the provisions of article 11 of this Law, and whose immediate result is obtaining any of the goods to which one of the reduced rates provided for in said provisions applies.

The content of the preceding paragraph shall not apply to the execution of works that have as their object the construction or rehabilitation of officially protected housing under special regime or public promotion referred to in section one.3 of this article.

- The number 13 is added to section One.2, with effect from January 1, 2019, by art. 2 of Royal Decree-Law 26/2018, of December 28. Ref. BOE-A-2018-

17990

- Sections 1.2.6º and 2.2.3º are modified by art. 78 of Law 6/2018, of July 3. Ref. BOE-A-2018-9268
- Section 1.2.2 and 6 are modified by art. 60 of Law 3/2017, of June 27. Ref. BOE-A-2017-7387
- Sections 1.1.5º, 6º and 8º and 2.2.1º are modified by art. 1.21 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Section 1.4 and 5 are added by art. 9.1 of Royal Decree-Law 1/2014, of January 24. Ref. BOE-A-2014-747 .
- It is modified, with effect from September 1, 2012, by art. 23.3 of Royal Decree-Law 20/2012, of July 13. Ref. BOE-A-2012-9364 .
  Drafted in accordance with the correction of errors published in BOE no. 172, of July 19, 2012. Ref. BOE-A-2012-9654 .
- Section 1.2.18 is added by final provision 3 of Law 4/2012, of July 6. Ref. BOE-A-2012-9111 .
  Note that it was already added by Royal Decree-Law 8/2012, of March 16.
- Section 1.2.18 is added by final provision 3 of Royal Decree-Law 8/2012, of March 16. Ref. BOE-A-2012-3811 .
- See, on the application of the reduced rate of 4% of VAT to deliveries of goods referred to in section 1.1.7, transitory provision 4 of Royal Decree-Law 9/2011, of August 19. Ref. BOE-A-2011-14021 . effective until December 31, 2011.
- Section 2.2.3º is modified by additional provision 15 of Law 32/2010, of August 5. Ref. BOE-A-2010-12616 .
- Sections 1.1.7º, 1.2.15º and 9º and 2.2 are modified by articles 2.3 to 4 and 16.1 to 2 of Royal Decree-Law 6/2010, of April 9. Ref. BOE-A-2010-5879 .
  The modification of section 1.2.15º will be valid until December 31, 2012, as established in art. 2.4.
- Section 1 is modified by art. 79.2 of Law 26/2009, of December 23. Ref. BOE-A-2009-20765 .
- Section 1.2.17 is added and section 2.2 is modified by final provision 3.3 and 4 of Law 11/2009, of October 26. Ref. BOE-A-2009-17000 .
  Take into account for application the final provision 12.c)
- Sections 2.1.4 and 2.2 are modified by arts. 1 and 2 of Law 6/2006, of April 24. Ref. BOE-A-2006-7317 .
- Section 1.2.16 is added by art. 63 of Law 30/2005, of December 29. Ref. BOE-A-2005-21525 .
- Section 2.1.6º is modified by art. 2.2 of Law 23/2005, of November 18. Ref. BOE-A-2005-19004 .
- Section 2.1.6º is modified by art. 4 of Law 36/2003, of November 11. Ref. BOE-A-2003-20695 .
- Section 2.1.6º is modified by art. 4 of Royal Decree-Law 2/2003, of April 25. Ref. BOE-A-2003-8589 .
- Section 1.6 and 1.3 are modified by art. 4.11 and 12 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- Section 1.2.1 is modified and 1.8 and 10 are removed by art. 5.7 and the sole repeal provision. 3 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .
- Section 1.2.10º is modified by art. 5.3 of Law 14/2000, of December 29. Ref. BOE-A-2000-24357 .

- Sections 1.1 and 1.2 are modified by art. 71.1 to 7 of Law 54/1999, of December 29 Ref. BOE-A-1999-24785 . and a paragraph is added to section 1.2.3º by art. 6.7 of Law 55/1999, of December 29 Ref. BOE-A-1999-24786
- Section 1.10 is added by art. 3 of Royal Decree-Law 15/1999, of October 1. Ref. BOE-A-1999-19686 .
  Drafted in accordance with the correction of errors published in BOE no. 242 of October 9, 1999. Ref. BOE-A-1999-20064 .
- Sections 1.1.3º and 1.2.7º are modified by art. 4.4 and 5 of Law 50/1998, of December 30. Ref. BOE-A-1998-30155 .
- Section 1.2.1º and 2.1.2º are modified by art. Only 6 and 10 of Law 9/1998, of April 21. Ref. BOE-A-1998-9477 .
  The modification of section 2.1.2º will be applicable as of April 1, 1998, as established in transitional provision 5.
- Section 1.2.10º is modified by additional provision 36 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053 and sections 1.1.5º, 1.1.7º, 1.2.7º, 2.1.1º to 3º and 6º by art. 68 of Law 65/1997, of December 30. Ref. BOE-A-1997-28052
- Section 1.2.1º is modified by art. sole.6 of Royal Decree-Law 14/1997, of August 29. Ref. BOE-A-1997-19125
- Section 1.2.8º is deleted by art. 10 of Law 17/1997, of May 3. Ref. BOE-A-1997-9711
  Note that the section was already suppressed by Royal Decree-Law 1/1997, of January 31
- Section 1.2.8º is deleted by art. 10 of Royal Decree-Law 1/1997, of January 31. Ref. BOE-A-1997-1954
  Drafted in accordance with the correction of errors published in BOE no. 37 of February 12, 1997. Ref. BOE-A-1997-3031
- Section 2.1.1º.a) is modified by art. 10.6 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117
- Paragraph 3 is added by art. 28.14 of Royal Decree-Law 12/1995, of December 28. Ref. BOE-A-1995-27964
- It is modified, with effect from January 1, 1995, by art. 78.2 of Law 41/1994, of December 30. Ref. BOE-A-1994-28967
- Section 2.1.11º, 1.2.2º is modified and section 1.1.8º is added, with effect from January 1, 1994, by art. 75.3, 5 and 6 of Law 21/1993, of December 29. Ref. BOE-A-1993-31087

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Modification published on 12/24/2009, effective as of 01/07/2010.
Modification published on 10/27/2009, effective as of 10/28/2009.
Modification published on 04/25/2006, effective as of 04/26/2006.
Modification published on 12/30/2005, effective as of 01/01/2006.
Amendment published on 19/11/2005, effective from 20/11/2005.
Modification published on 11/12/2003, effective as of 11/13/2003.
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Modification published on 12/31/2001, effective as of 01/01/2002.
Modification published on 12/30/2000, effective as of 01/01/2001.
Modification published on 12/30/1999, effective as of 01/01/2000.
Modification published on 02/10/1999, effective as of 03/10/1999.
Modification published on 12/31/1998, effective as of 01/01/1999.
Modification published on 04/22/1998, effective as of 05/12/1998.
Modification published on 12/31/1997, effective as of 01/01/1998.
Modification published on 08/30/1997, effective as of 09/01/1997.
Modification published on 06/05/1997, effective as of 06/05/1997.
Modification published on 02/01/1997, effective as of 02/01/1997.
Modification published on 12/31/1996, effective as of 01/01/1997.
Modification published on 12/30/1995, effective as of 01/01/1996.
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Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 122: #tviii]

TITLE VIII

Deductions and returns

[Block 123: # ci-7]

CHAPTER I

Deductions

[Block 124: # a92]

Article 92. Deductible tax quotas.

One. Taxable persons may deduct from the Value Added Tax quotas accrued by the taxable operations carried out in the interior of the country those that, accrued in the same territory, have borne by direct repercussion or correspond to the following operations:

1º Deliveries of goods and services rendered by another taxable person of the Tax.

2. Imports of goods.

3rd. Deliveries of goods and services included in articles 9.1. ° c) and d); 84.uno.2. And 4º, and 140 quinque, all of them of the present Law.

4th intra-community acquisitions of goods defined in articles 13, number 1, and 16 of this law.

Two. The right to the deduction established in the previous section will only proceed to the extent that the goods and services acquired are used in carrying out the operations included in article 94, section one, of this Law.

- Section 1 is modified by art. 1.22 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Section 1.3 is amended, with effect from January 1, 2005, by art. 1º.7 of Law 22/2005, of November 18. Ref. BOE-A-2005-19003 .
- Section 1 is modified by art. 4.13 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .

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Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 125: # a93]

Article 93. Subjective deduction requirements.

One. They will be able to make use of the right to deduct the taxable persons of the Tax who have the condition of businessmen or professionals in accordance with the provisions of article 5 of this Law and have initiated the habitual realization of deliveries of goods or services corresponding to your business or professional activities.

Notwithstanding the provisions of the preceding paragraph, the contributions borne or paid prior to the start of the regular performance of deliveries of goods or services corresponding to their business or professional activities may be deducted in accordance with the provisions of articles 111, 112 and 113 of this Law.

Two. They may also make use of the right to deduct taxable persons from the Tax who occasionally make the deliveries of the new means of transport referred to in article 25, sections one and two of this Law.

Three. The exercise of the right to deduction corresponding to the sectors or activities to which the special regimes regulated in Title IX of this Law are applicable shall be

carried out in accordance with the rules established in said Title for each of them.

Four. The contributions borne or paid for the acquisitions or imports of goods or services carried out without the intention of using them in the performance of business or professional activities may not be deducted, in any measure or amount, even if such goods or services are subsequently affected totally or partially to the mentioned activities.

Five. Taxable persons who jointly carry out operations subject to the Tax and operations not subject by application of the provisions of article 7.8 of this Law may deduct the fees paid for the acquisition of goods and services intended simultaneously to carry out some and other operations based on a reasonable and homogeneous criterion of imputation of the quotas corresponding to the goods and services used for the development of the operations subject to the Tax, including, for these purposes, the operations referred to in article 94.One. 2 of this Law. This criterion must be maintained over time unless for reasonable reasons it must be modified.

For these purposes, the proportion that represents the total amount, excluding the Value Added Tax, determined for each calendar year, of the deliveries of goods and services of the operations subject to the Tax, with respect to the total income, may be considered. that the taxable person obtains in each calendar year for the whole of his activity.

The calculation resulting from the application of said criterion may be provisionally determined based on the data of the preceding calendar year, without prejudice to the regularization that proceeds at the end of each year.

Notwithstanding the foregoing, the fees borne or paid for the purchases or imports of goods or services intended exclusively for the performance of operations not subject to the provisions of article 7.8 of this Law shall not be deductible in any proportion.

The deductions established in this section will also be adjusted to the conditions and requirements provided in Chapter I of Title VIII of this Law and, in particular, those that refer to the pro rata rule.

The provisions of this section shall not apply to the management activities of public services under the conditions indicated in letter a) of article 78.Two.3.º of this Law.

- Section 5 is modified by final provision 10.3 of Law 9/2017, of November 8. Ref. BOE-A-2017-12902
- It is added by art. 1.23 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- It is modified by art. 5.4 of Law 14/2000, of December 29. Ref. BOE-A-2000-24357 .

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Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 126: # a94]

Article 94. Operations whose realization originates the right to the deduction.

One. The taxpayers referred to in section one of the previous article may deduct the Value Added Tax quotas included in article 92 to the extent that the goods or services, whose acquisition or import determine the right to deduction , are used by the taxpayer in carrying out the following operations:

1. Those carried out in the spatial scope of application of the tax indicated below:

a) Deliveries of goods and services subject to and not exempt from Value Added Tax.

b) The provision of services whose value is included in the tax base of imports of goods, in accordance with the provisions of article 83 of this Law.

c) The operations exempt by virtue of the provisions of articles 21, 22, 23, 24 and 25 of this Law, as well as the other definitive exports of goods outside the Community that are not destined to carry out the operations that number 2 of this section refers.

d) The services provided by travel agencies that are exempt from the tax pursuant to the provisions of article 143 of this Law.

2. The operations carried out outside the territory of application of the tax that would give rise to the right to deduction if they had been carried out within it.

3rd insurance, reinsurance, capitalization and related services, as well as banking or financial operations, which would be exempt if they had been carried out in the territory of application of the tax, pursuant to the provisions of article 20, section one, numbers 16. and 18. of this Law, provided that the recipient of such benefits is established outside the Community or that the aforementioned operations are directly related to exports outside the Community and are carried out from the moment in that the goods are dispatched with such destination, whatever the moment in which said operations have been arranged.

For the purposes of the provisions of the preceding paragraph, persons or entities that do not have the status of entrepreneurs or professionals shall be considered not established in the Community when no place of habitual or secondary residence is located in said territory, nor the center of their economic interests, nor do they habitually provide dependent services in the mentioned territory derived from labor or administrative relations.

Two. Taxable persons included in section two of the previous article may only deduct the tax borne or paid for the acquisition of the means of transport that are the subject of the delivery referred to in article 25, section two of this Law, until the amount of the tax fee that would be passed on if the delivery was not exempt.

Three. In no case will the deduction of quotas proceed in an amount greater than that which legally corresponds nor before they have been accrued in accordance with law.

[Block 127: # a95]

Article 95. Limitations of the right to deduct.

One. The businessmen or professionals will not be able to deduct the quotas supported or paid for the acquisitions or imports of goods or services that are not directly and exclusively affected by their business or professional activity.

Two. No direct and exclusive affects will be understood on business or professional activity, among others:

1. The assets that are normally used for said activity and others of a non-business or professional nature for alternative periods of time.

2. The goods or services that are used simultaneously for business or professional activities and for private needs.

3rd assets or rights that do not appear in the accounting or official records of the business or professional activity of the taxpayer.

4th the assets and rights acquired by the taxable person that are not integrated into his business or professional assets.

5. The goods destined to be used to satisfy the personal or private needs of the businessmen or professionals, their family members or their dependent personnel, with the exception of those destined for free accommodation in the premises or facilities of the company. of the personnel in charge of the surveillance and security of the same, and to the economic and socio-cultural services of the personnel at the service of the activity.

Three. Notwithstanding the provisions of the preceding sections, the fees paid for the acquisition, import, lease or transfer of use by another title of the investment assets that are used in whole or in part in the development of business or professional activity may be deducted according to the following rules:

1. In the case of investment property other than those included in the following rule, insofar as said property is expected to be used, in accordance with well-founded criteria, in the development of business or professional activity.

2. In the case of tourism motor vehicles and their trailers, mopeds and motorcycles, they shall be presumed to be affected by the development of business or professional activity in the proportion of 50%.

For these purposes, passenger cars, trailers, mopeds and motorcycles will be considered those defined as such in the annex to Royal Legislative Decree 339/1990, of March 2, which approves the articulated text of the Law on Traffic, Circulation Motor Vehicles and Road Safety, as well as those defined as mixed vehicles in said annex and, in any case, the so-called all-terrain vehicles or eep type ''.

Notwithstanding the provisions of this 2nd rule, the vehicles listed below will be presumed to be affected by the development of business or professional activity in the proportion of 100%:

a) Mixed vehicles used in the transport of goods.

b) Those used in the provision of passenger transport services by way of consideration.

c) Those used in the provision of driver or pilot education services through consideration.

d) Those used by their manufacturers in conducting tests, trials, demonstrations or in sales promotion.

e) Those used in professional travel of representatives or commercial agents.

f) Those used in surveillance services.

3rd deductions referred to in the previous rules must be regularized when it is proven that the effective degree of use of the goods in the development of business or professional activity is different from that which was initially applied.

The aforementioned regularization will comply with the procedure established in Chapter I of Title VIII of this Law for the deduction and regularization of the fees paid for the acquisition of investment goods, substituting the percentage of operations that

give rise to the right to deduction with respect to the Total by the percentage that represents the degree of use in the development of business or professional activity.

4th degree of use in the development of business or professional activity must be accredited by the taxpayer by any means of evidence admitted in law. The declaration-liquidation presented by the taxable person, or the accounting or inclusion of the corresponding investment assets in the official records of business or professional activity, will not be sufficient proof.

5. For the purposes of the provisions of this section, the assets found in the cases provided for in numbers 3 and 4 of section two of this article shall not be understood as affected in any proportion to a business or professional activity. .

Four. The provisions of the preceding section shall also apply to the quotas borne or paid for the acquisition or import of the following goods and services directly related to the goods referred to in that section:

1. Accessories and spare parts for the mentioned goods.

2. Fuels, fuels, lubricants and energy products necessary for its operation.

3. Parking services and use of toll roads.

4. Rehabilitation, renovation and repair of the same.

- Paragraphs 3 and 4 are modified by art. 6.12 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

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Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 128: # a96]

Article 96. Exclusions and restrictions of the right to deduct.

One. The contributions borne as a result of the acquisition, including for self-consumption, importation, leasing, transformation, repair, maintenance or use of the goods and services indicated below and of the accessory or complementary goods and services:

1.º The jewels, jewels, precious stones, natural or cultured pearls, and objects made totally or partially with gold or platinum.

For the purposes of this tax, diamond, ruby, sapphire, emerald, aquamarine, opal and turquoise will be considered precious stones.

2nd **(Deleted)**

3.º Food, drinks and tobacco.

4.º Entertainment shows and services.

5. The goods or services intended to serve customers, employees or third parties.

They will not have this consideration:

a) Free samples and low-value advertising objects defined in article 7, numbers 2 and 4 of this Law.

b) The goods destined exclusively to be delivered or assigned for use, directly or through transformation, for consideration, which, at a time after their acquisition, were destined for customer, employee or third party services.

6. Displacement or travel services, hotels and restaurants, unless the amount thereof was considered a tax deductible expense for the purposes of the Personal Income Tax or the Corporation Tax.

Two. The fees paid for the operations mentioned in them and related to the following goods and services are excepted from the provisions of the previous section:

1. The goods that objectively considered are of exclusive industrial, commercial, agrarian, clinical or scientific application.

2. The goods destined exclusively to be the object of delivery or assignment of use for consideration, directly or through transformation by businessmen or professionals habitually dedicated to carrying out such operations.

3. The services received to be provided as such for consideration by businessmen or professionals regularly dedicated to carrying out said operations.

Three. The deductions established in this article and in the previous one will also be adjusted to the conditions and requirements foreseen in chapter I of title VIII of this Law and, in particular, those that refer to the pro rata rule.

- The number 2 of section 1 is deleted by art. 6.8 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- It is modified by art. 6.13 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053
- Section 1.4 is modified by art. 17.6 of Law 42/1994, of November 30. Ref. BOE-A-1994-28968

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Modification published on 12/31/1994, effective as of 01/01/1995.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 129: # a97]

Article 97. Formal requirements of the deduction.

One. Only employers or professionals who are in possession of the document justifying their right may exercise the right to deduction.

For these purposes, only supporting documents of the right to deduction will be considered:

1. The original invoice issued by the person who makes the delivery or provides the service or, on your behalf and on your behalf, by your client or by a third party, provided that, in any of these cases, the requirements established are met. by regulation.

2. The original invoice issued by the person who makes a delivery that results in an intra-community acquisition of goods subject to tax, provided that such acquisition is duly recorded in the declaration-settlement referred to in number 6 of section one of article 164 of this law.

3º In the case of imports, the document stating the liquidation practiced by the Administration or, in the case of operations assimilated to imports, the self-assessment in which the Tax accrued on the occasion of its realization is recorded.

4. The original invoice or the accounting proof of the operation issued by the person who makes a delivery of goods or a provision of services to the recipient, a taxable person, in the cases referred to in numbers 2, 3, and 3. and 4th of section one of article 84 and article 140 quinque of this Law, provided that said delivery or benefit is duly consigned in the declaration-liquidation referred to in number 6 of section one of article 164 of this Law.

When the person who delivers the goods or provides the services is established in the Community, the original invoice referred to in the preceding paragraph must contain the requirements set forth in Article 226 of Directive 2006/112 / EC of the Council of November 28, 2006, regarding the common system of value added tax.

5. The original receipt signed by the holder of the agricultural, forestry, livestock or fishing exploitation referred to in article 134, section three, of this law.

Two. The previous documents that do not meet each and every one of the requirements established by law and regulation will not justify the right to deduction, unless the corresponding rectification occurs. The right to deduct the fees whose exercise is justified by means of a rectifying document can only be carried out in the tax period in which the employer or professional receives said document or in the following ones, provided that the period referred to in the Article 100 of this Law, without prejudice to the provisions of section two of Article 114 thereof.

Three. In no case shall the right to deduct in an amount greater than the express and separately recorded tax quota that has been passed on or, where appropriate, satisfied according to the document justifying the deduction, be admissible.

Four. In the case of goods or services acquired jointly by several people, each of the acquirers may deduct, where appropriate, the corresponding proportional part, provided that the original and each of the duplicate copies of the invoice are recorded , in a different and separate way, the portion of the tax base and fee passed on to each of the recipients.

- Section 1.4º is modified by art. 79.9 of Law 39/2010, of December 22. Ref. BOE-A-2010-19703 .
- Section 1.3 is amended by art. 5.7 of Law 4/2008, of December 23. Ref. BOE-A-2008-20802 .
- Section 1 is modified by art. 7.1.5 of Law 62/2003, of December 30. Ref. BOE-A-2003-23936 .
- It is modified by art. 4.14 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- Section 4 prepared in accordance with the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

- **Last update, published on 12/23/2010, effective as of 01/01/2011.**
- Modification published on 12/25/2008, effective as of 12/26/2008.
- Modification published on 12/31/2003, effective as of 01/01/2004.
- Modification published on 12/31/2002, effective as of 01/01/2003.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 130: # a98]

Article 98. Birth of the right to deduct.

One. The right to deduction arises at the time the deductible fees are accrued, except in the cases provided in the following sections.

Two. **(Repealed)**

Three. In the delivery of new means of transport, occasionally made by the people referred to in article 5, section one, letter e) of this Law, the right to deduction arises at the time of making the corresponding delivery.

Four. The right to deduct the quotas borne or paid on the occasion of the acquisition or importation of objects of art, antiques and collectibles referred to in article 135, section two of this Law, arises at the time when the tax corresponding to the deliveries of said goods is accrued.

Five. The right to deduct the fees borne or paid on the occasion of the acquisition or import of the goods and services that, made for the realization of the trip, directly redound to the benefit of the traveler mentioned in article 146 of this Law and are destined to carry out an operation for which the special regime of travel agencies is not applicable, by virtue of the provisions of article 147 thereof, will be born at the time the Tax corresponding to said tax is accrued operation.

- Section 5 is added by art. 1.24 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Section 2 is repealed by final provision 7.2 of Law 51/2007, of December 26. Ref. BOE-A-2007-22295 .
- Section 2 is modified and section 4 is added by art. 15.1 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968 .

- **Last update, published on 11/28/2014, effective as of 01/01/2015.**
- Modification published on 12/27/2007, effective as of 01/01/2008.
- Modification published on 12/31/1994, effective as of 01/01/1995.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 131: # a99]

Article 99. Exercise of the right to deduction.

One. In the declarations-settlements corresponding to each of the settlement periods, taxpayers may globally deduct the total amount of deductible installments borne in said period from the total amount of the Value Added Tax installments accrued during the same settlement period in the territory of application of the Tax as a result of deliveries of goods, intra-community acquisitions of goods or provision of services by them.

Two. Deductions must be made based on the foreseeable destination of the goods and services purchased, without prejudice to their subsequent rectification if it is altered.

However, in the event of destruction or loss of the goods acquired or imported, for reasons not attributable to the taxpayer, duly justified, said rectification will not be required.

Three. The right to deduction can only be exercised in the declaration-liquidation relative to the liquidation period in which its holder has supported the deductible quotas or in the successive ones, provided that the term of four years, counted from the birth, has not elapsed. of the mentioned right.

However, in the event of a declaration of insolvency, the right to deduct the quotas supported prior to it, which were pending deduction, must be exercised in the declaration-liquidation corresponding to the liquidation period in which they were supported.

When the deductible supported quotas referred to in the preceding paragraph had not been included in said declarations-settlements, and provided that the term of four years had not elapsed, counted from the birth of the right to deduct such quotas, the bankrupt or, in the cases provided for in article 86.3 of the Bankruptcy Law, the bankruptcy administration may deduct them by rectifying the statement-liquidation relative to the period in which they were supported.

When there has been a request from the Administration or an inspection action, the supported contributions that are duly accounted for in the registry books established by regulation for this Tax will be deductible, in the corresponding settlements, while the unaccounted fees will be deductible in the statement-settlement of the period corresponding to their accounting or in those of the following. In any case, one or the other fees may only be deducted when the period referred to in the first paragraph has not elapsed.

In the event of the occasional sales referred to in article 5, section one, letter e) of this Law, the right to deduction can only be exercised in the statement regarding the period in which the delivery of the corresponding means is made new transport.

Four. The deductible installments will be understood as supported when the employer or professional who supported them receives the corresponding invoice or other supporting documents of the right to deduction.

If the accrual of the Tax occurs at a later time than the receipt of the invoice, said fees will be understood as supported when they are accrued.

In the case referred to in article 98, section four of this Law, the deductible quotas will be understood as supported at the moment the right to deduction arises.

Five. When the amount of the deductions coming exceeds the amount of the installments accrued in the same settlement period, the excess may be compensated in the subsequent statements-settlements, provided that four years have not elapsed counted from the presentation of the statement- settlement in which said excess originates.

However, the taxpayer may choose to return the existing balance in his favor when it is appropriate under the provisions of Chapter II of this Title, without in this case being able to make compensation in subsequent declarations-settlements, whatever is the period of time elapsed until such refund becomes effective.

In the declaration-liquidation, provided for in regulations, referring to the taxable events prior to the declaration of insolvency, all the accumulated balances to be compensated from liquidation periods prior to said declaration must be applied.

- Sections 3 and 5 are modified by art. 5.6 of Law 7/2012, of October 29. Ref. BOE-A-2012-13416 .
- Section 4 is modified by art. 79.10 of Law 39/2010, of December 22. Ref. BOE-A-2010-19703 .
- Section 4 is modified by art. 5.8 of Law 4/2008, of December 23. Ref. BOE-A-2008-20802 .
- Section 4 is modified by art. 4.15 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- Sections 3 and 5 are modified by art. 6.6 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- Sections 3 and 4 are modified by art. 15.2 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968 .

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Modification published on 12/30/1999, effective as of 01/01/2000.

Modification published on 12/31/1994, effective as of 01/01/1995.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 132: # a100]

Article 100. Expiration of the right to deduction.

The right to deduction expires when the owner has not exercised it within the terms and amounts indicated in article 99 of this Law.

However, in cases in which the source of the right to deduct or the amount of the deduction is pending the resolution of a dispute through administrative or jurisdictional channels, the right to deduction will expire when four years have elapsed from the date on which the resolution or sentence is firm.

- Paragraph 2 is modified by art. 6.6 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .

Last update, published on 12/30/1999, effective as of 01/01/2000.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 133: # a101]

Article 101. System of deductions in different sectors of business or professional activity.

One. Taxable persons who carry out economic activities in different sectors of business or professional activity must separately apply the deduction regime for each of them.

The application of the special pro rata rule may be carried out independently with respect to each of the different sectors of business or professional activity determined by application of the provisions of article 9, number 1, letter c), letters a '), c´) and d ') of this Law.

The deduction regimes corresponding to the different sectors of activity determined by application of the provisions of article 9, number 1, letter c), letter b ') of this Law shall be governed, in any case, by the provisions of the same for the simplified special regimes of agriculture, livestock and fishing, operations with investment gold and the equivalence surcharge, as appropriate.

When purchases or imports of goods or services are made for their common use in various different sectors of activity, the provisions of article 104, sections two and following of this Law, shall apply to determine the applicable deduction percentage with respect to the quotas supported in said acquisitions or imports, calculating for this purpose the operations carried out in the corresponding differentiated sectors and considering that, for such purposes, they do not give rise to the right to deduct the operations included in the special regime of agriculture, livestock and fishing or in the special regime of the equivalence surcharge.

As an exception to the provisions of the preceding paragraph, the operations carried out in the differentiated sector of activity of group of entities will not be taken into account. Likewise, and provided that the provisions of said paragraph cannot be applied, when such goods or services are intended to be used simultaneously in activities covered by the simplified special regime and in other activities subject to the special regime of agriculture, livestock and fishing or surcharge of equivalence, the aforementioned deduction percentage for the purposes of the simplified regime will be 50 percent if the affectation occurs with respect to activities subject to two of the aforementioned special regimes, or a third in another case.

Two. The Administration may authorize the application of a common deduction regime to the differentiated sectors of the taxpayer's business or professional activity determined solely by application of the provisions of article 9, number 1, letter c), letter a ') of this Law.

The authorization shall not take effect in the year in which the total amount of the deductible quotas for the application of the common deduction regime exceeds 20 percent to that which would result from applying the deduction regime independently with respect to each differentiated sector.

The authorization granted will continue in force during the following years as long as the taxable person is not revoked or renounces it.

Regulations will establish the requirements and procedure to which the authorizations referred to in this section must comply.

- Section 1 is modified by art. 1.25 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Section 1 is modified by art. 4.17 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .

- Section 1 is modified by art. 6.9 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- It is modified by art. 6.14 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053
- The 2nd paragraph of section 1 is modified by art. 15.3 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968 .

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Modification published on 12/31/1997, effective as of 01/01/1998.

Modification published on 12/31/1994, effective as of 01/01/1995.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 134: # a102]

Article 102. Pro rata rule.

One. The pro rata rule will apply when the taxable person, in the exercise of his business or professional activity, makes joint deliveries of goods or services that give rise to the right to deduction and other operations of a similar nature that do not enable the exercise of the aforementioned right.

Two. Notwithstanding the provisions of the preceding section, taxable persons may deduct in full the fees incurred in the acquisition or importation of goods or in the provision of services to the extent that they are used to carry out the self-consumption referred to in the article. 9, number 1, letter c), whose purpose is to constitute assets of inventories and self-consumption included in letter d) of the same article and number of this Law.

- Section 1 is modified by art. sole.2 of Law 3/2006, of March 29. Ref. BOE-A-2006-5691 .
- Section 1 is modified by art. 6.15 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

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Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 135: # a103]

Article 103. Pro rata classes and application criteria.

One. The pro rata rule will have two modes of application: general and special.

The general pro rata rule will apply when the circumstances indicated in the following section do not exist.

Two. The special pro rata rule will be applicable in the following cases:

1. When taxable persons choose to apply said rule within the terms and in the manner determined by regulation.

2. When the total amount of the deductible quotas in a calendar year by application of the general pro rata rule exceeds 10 percent or more than would result from the application of the special pro rata rule.

- Section 2.2 is amended by art. 1.26 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

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Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 136: # a104]

Article 104. The general proration.

One. In cases of application of the general pro rata rule, only the tax borne in each settlement period will be deductible in the percentage that results from the provisions of section two below.

For the application of the provisions of the preceding paragraph, the non-deductible fees shall not be computed in the input tax pursuant to the provisions of articles 95 and 96 of this Law.

Two. The percentage of deduction referred to in the previous section shall be determined by multiplying by 100 the result of a fraction that includes:

1.º In the numerator, the total amount, determined for each calendar year, of the deliveries of goods and services that give rise to the right to deduction, made by the taxpayer in the course of his business or professional activity or, where appropriate, in the corresponding differentiated sector.

2nd in the denominator, the total amount, determined for the same period of time, of the deliveries of goods and services rendered by the taxpayer in the course of his business or professional activity or, where appropriate, in the corresponding differentiated sector, including those that do not give rise to the right to deduct.

In the transfer of foreign currency, banknotes and coins that are legal means of payment, exempt from tax, the amount to be computed in the denominator will be the consideration for the resale of said means of payment, increased, where appropriate , in that of the commissions received and reduced in the price of acquisition of the same or, if this could not be determined, in the price of other currencies, notes or coins of the same nature acquired on the same date.

In the operations of assignment of promissory notes and securities not integrated in the portfolio of financial institutions, the amount to be computed in the denominator will be the consideration for the resale of said effects, increased, where appropriate, in the interest and commissions payable and reduced in the purchase price thereof.

In the case of securities integrated into the portfolio of financial entities, the interest payable during the corresponding period of time and, in the cases of transmission of said securities, the capital gains obtained shall be computed in the pro rata denominator.

The pro rata deduction resulting from the application of the above criteria will be rounded up to the upper unit.

Three. For the determination of the deduction percentage, the following shall not be computed in any of the terms of the relationship:

1. The operations carried out from permanent establishments located outside the territory of application of the Tax.

2. The amounts of the Value Added Tax that have been directly taxed on the operations referred to in the previous section.

3rd the amount of deliveries and exports of investment goods that the taxpayer has used in his business or professional activity.

4th the amount of real estate or financial operations that do not constitute habitual business or professional activity of the taxpayer.

In any case, the habitual business or professional activity of the taxpayer shall be deemed to be that of leasing.

Financial operations for these purposes shall be considered those described in article 20, section one, number 18 of this Law, including those that are not exempt.

5. Operations not subject to tax as provided in article 7 of this Law.

6. The operations referred to in article 9, number 1, letter d) of this Law.

Four. For the purposes of calculating the pro rata, the total amount of the operations shall be understood as the sum of the corresponding considerations, determined in accordance with the provisions of articles 78 and 79 of this Law, including with respect to exempt or non-subject operations. to the tax.

For the purposes of the provisions of the preceding paragraph, in those operations in which the consideration is less than the tax base of Value Added Tax, the amount of the latter must be computed instead of the former.

In the case of deliveries to other Member States or definitive exports, in the absence of consideration, the market value within the territory of application of the tax on products delivered or exported will be taken as the transaction amount.

Five. In the execution of works and services provided outside the territory of application of the tax, the result of multiplying the total consideration by the coefficient obtained by dividing the part of the cost borne in the territory of application of the tax by the total cost of the operation.

For the purposes of the provisions of the preceding paragraph, the expenses of the company's dependent personnel will not be computed.

Six. In order to make the temporary imputation, the rules on the accrual of the tax established in Title IV of this Law will be applied, with respect to all the operations included in the previous sections.

However, exports exempt from tax under the provisions of article 21 of this Law and other definitive exports of goods shall be deemed to have been made, for these purposes, at the time when the corresponding exit request is accepted by Customs. .

- Section 3.1 is modified by art. 78 of Law 22/2013, of December 23. Ref. BOE-A-2013-13616 .
- Section 2.2 is amended by art. sole.3 of Law 3/2006, of March 29. Ref. BOE-A-2006-5691 .
- Section 2.2 is amended by art. 6.1 of Law 6/2000, of December 13. Ref. BOE-A-2000-22616 .
- Section 2.2 is amended by art. 6.10 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- The third paragraph of section 2.2 is modified by art. sole.9 of Law 9/1998, of April 21. Ref. BOE-A-1998-9477 .
- Sections 1 and 2 are modified by art. 6.16 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053
  Drafted in accordance with the correction of errors published in BOE no. 157, of July 2, 1998. Ref. BOE-A-1998-15586

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( ) Modification published on 04/22/1998, effective as of 05/12/1998.
( ) Modification published on 12/31/1997, effective as of 01/01/1998.
( ) Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 137: # a105]

Article 105. General proration procedure.

One. Except as provided in sections two and three of this article, the deduction percentage provisionally applicable each calendar year will be that set as definitive for the preceding year.

Two. The application of a provisional percentage different from that established in the previous section may be requested when circumstances arise that may significantly alter it.

Three. In the cases of starting business or professional activities, and in the cases of starting activities that will constitute a differentiated sector with respect to those that were previously developed, the provisional percentage of deduction applicable during the year in which the realization begins of the deliveries of goods and services corresponding to the activity in question will be the one that would have been determined as provided in section two of article 111 of this Law.

In the cases in which a provisional percentage of deduction had not been determined in accordance with the provisions of section two of article 111 of this Law, the provisional percentage referred to in the preceding paragraph shall be established in a manner analogous to the provisions of said provision.

Four. In the last declaration-liquidation of the tax corresponding to each calendar year, the taxpayer will calculate the pro rata of definitive deduction based on the operations carried out in said calendar year and will practice the consequent regularization of provisional deductions.

Five. In the event of interruption during one or more calendar years of the business or professional activity or, where appropriate, of a sector differentiated from it, the percentage of deduction definitely applicable during each of the aforementioned years will be the one that globally corresponds to the set of the last three calendar years in which operations had been carried out.

Six. The deduction percentage, determined in accordance with the provisions of the preceding paragraphs of this article, will be applied to the sum of the contributions paid by the taxpayer during the corresponding calendar year, excluding those that are not deductible under the provisions of Articles 95 and 96 of this Law.

- Section 3 is amended by art. 5.5 of Law 14/2000, of December 29. Ref. BOE-A-2000-24357 .

Last update, published on 12/30/2000, effective as of 01/01/2001.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 138: # a106]

Article 106. The special pro rata.

One. The exercise of the right to deduct in the special pro rata will comply with the following rules:

1st tax quotas supported in the acquisition or import of goods or services used exclusively in the conduct of operations that give rise to the right to deduction may be deducted in full.

2. The tax quotas supported in the acquisition or import of goods or services used exclusively in carrying out operations that do not give rise to the right to deduct may not be deducted.

3rd tax quotas supported in the acquisition or import of goods or services used only in part in the carrying out of operations that give rise to the right to deduction may be deducted in the proportion resulting from applying to the global amount thereof the percentage to referred to in article 104, sections Two and following.

The application of said percentage will be adjusted to the procedural norms established in article 105 of this Law.

Two. In no case may non-deductible fees be deducted by virtue of the provisions of articles 95 and 96 of this Law.

- Section 1 is modified by art. sole.4 of Law 3/2006, of March 29. Ref. BOE-A-2006-5691 .
- Section 1.1a is modified by art. 6.17 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

- **Last update, published on 03/30/2006, effective as of 01/01/2006.**
- Modification published on 12/31/1997, effective as of 01/01/1998.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 139: # a107]

Article 107. Regularization of deductions for investment goods.

One. The deductible quotas for the acquisition or import of investment goods must be regularized during the four calendar years following that in which the taxpayers carry out the aforementioned operations.

However, when the effective use or entry into operation of the goods begins after their acquisition or import, the regularization will be carried out the year in which these circumstances occur and the following four.

The regularizations indicated in this section will only be carried out when, between the final deduction percentage corresponding to each one of said years and the one that prevailed in the year in which the repercussion was supported, there is a difference of more than ten points.

Two. Likewise, the regularization referred to in the previous section will be applied when the taxpayers have carried out, during the year of acquisition of the investment assets, exclusively operations that give rise to the right to deduction or exclusively operations that do not give rise to such right and, subsequently, during In the following years indicated in said section, this situation would be modified in the terms established in the previous section.

Three. In the case of land or buildings, the deductible fees for their acquisition must be regularized during the nine calendar years following the corresponding acquisition.

However, if its effective use or entry into operation begins after its acquisition, the regularization will take place in the year in which these circumstances occur and the following nine calendar years.

Four. The regularization of the tax quotas that would have been supported after the acquisition or import of the investment goods or, where appropriate, the beginning of their use or their entry into operation, must be carried out at the end of the year in which they are supported. said quotas with reference to the date on which the indicated circumstances would have occurred and for each of the years that have elapsed since then.

Five. The provisions of this article shall not apply to the operations referred to in article 7, number 1 of this Law, the acquirer being automatically subrogated in the position of the transferor.

In such cases, the applicable deduction rate to practice the regularization of deductions of said goods during the same year and those that are missing to finish the regularization period will be the one corresponding to the acquirer.

Six. In the event of loss or definitive uselessness of the investment assets, for a cause not attributable to the taxpayer, duly justified, no regularization shall be made during the years following that in which said circumstance occurs.

Seven. Income or, where appropriate, additional deductions resulting from the regularization of deductions for investment assets must be made in the statement-settlement corresponding to the last settlement period of the calendar year to which

they refer, except in the case mentioned in section four , in which it must be carried out in the same year in which the fees paid are supported.

- Section 3 is amended by art. 1.6 of Royal Decree-Law 7/1993, of May 21. Ref. BOE-A-1993-13663

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Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 140: # a108]

Article 108. Concept of investment assets.

One. For the purposes of this tax, personal property, furniture, semovientes or real estate that, due to their nature and function, are normally intended to be used for a period of time greater than one year as instruments of work or means of exploitation.

Two. The following shall not be considered as investment assets:

1. The accessories and spare parts acquired for the repair of the investment assets used by the taxpayer.

2. Executions of work for the repair of other investment assets.

3. The containers and packaging, even though they may be reused.

4. The clothes used for work by taxpayers or dependent personnel.

5. Any other good whose acquisition value is less than five hundred thousand pesetas.

[Block 141: # a109]

Article 109. Procedure to practice the regularization of deductions for investment goods.

The regularization of the deductions referred to in article 107 of this Law shall be carried out as follows:

1. Once the deduction percentage definitively applicable in each of the years in which the regularization must take place is known, the amount of the deduction that would proceed if the repercussion of the quotas had been borne in the year considered will be determined.

2. This amount will be subtracted from the deduction made in the year in which the repercussion took place.

3.º The positive or negative difference will be divided by five or, in the case of land or buildings, by ten, and the resulting quotient will be the amount of the complementary income or deduction to be made.

[Block 142: # a110]

Article 110. Deliveries of investment goods during the regularization period.

One. In the cases of deliveries of investment goods during the regularization period, a single regularization will be made for the time of said period that remains to elapse.

To this end, the following rules will apply:

1. If the delivery is subject to tax and is not exempt, it will be considered that the investment asset was used exclusively in carrying out operations that give rise to the right to deduct throughout the year in which said delivery was made and in the rest until the expiration of the regularization period.

However, the difference between the amount resulting from the application of the provisions of the preceding paragraph and the amount of the fee accrued for the delivery of the good will not be deductible.

2. If the delivery is exempt or not subject, it will be considered that the investment asset was used exclusively in the performance of operations that do not give rise to the right to deduct throughout the year in which said delivery was made and in the rest until the expiration of the regularization period.

The rule established in the previous paragraph will also be applicable in the cases in which the taxpayer allocates investment assets for purposes that, pursuant to the provisions of articles 95 and 96 of this Law, determine the application of limitations, exclusions or restrictions on the right to deduct, throughout the year in which said circumstances occur and the rest until the end of the regularization period.

Exemptions from exempt or non-subject investment goods that give rise to the right to deduction, to which the first rule will apply, are excepted from the provisions of the first paragraph of this rule. The deductions that proceed in this case may not exceed the quota that would result from applying the current tax rate in relation to the delivery of goods of the same nature to the internal value of the goods exported or sent to another Member State of the Community.

Two. The regularization referred to in this article must be practiced even in the event that the pro rata rule has not been applied in previous years.

Three. The provisions of this article will also apply when the investment assets are transferred before their use by the taxable person.

Four. The provisions of this article shall not be applicable, in any case, to the operations referred to in article 7, number 1, of this Law.

[Block 143: # a111]

Article 111. Deductions of the contributions borne or paid prior to the beginning of the delivery of goods or services corresponding to business or professional activities.

One. Those who have not previously carried out business or professional activities and acquire the status of entrepreneur or professional by making purchases or imports of goods or services with the intention, confirmed by objective elements, of allocating them to carrying out activities of this nature, may deduct the fees that, on the occasion of said operations, they support or satisfy before the moment in which they begin the habitual realization of the deliveries of goods or services corresponding to said activities, in accordance with the provisions of this article and in articles 112 and following 113.

The provisions of the preceding paragraph shall be equally applicable to those who, already having the status of entrepreneur or professional due to carrying out activities of this nature, start a new business or professional activity that constitutes a differentiated sector with respect to the activities that they had previously carried out.

Two. The deductions referred to in the previous section will be practiced by applying the percentage that the employer or professional proposes to the Administration, except in the event that the latter sets a different one based on the characteristics of the corresponding business or professional activities.

Such deductions will be considered provisional and will be subject to the regularizations provided for in articles 112 and 113 of this Law.

Three. Employers or professionals may request the refund of fees that are deductible under the provisions of this article, in accordance with the provisions of article 115 of this Law.

Four. Entrepreneurs who, under the provisions of this Law, must be subject to the special equivalence surcharge regime from the beginning of their commercial activity, may not make the deductions referred to in this article in relation to the activities included in said regime.

Five. Entrepreneurs or professionals who have made the deductions referred to in this article may not avail themselves of the special system of agriculture, livestock and fishing for the activities in which they use the goods and services for whose acquisition they have supported or satisfied the quotas subject to deduction until the end of the third calendar year of realization of the deliveries of goods or services rendered in the development of said activities.

The application of the provisions of the preceding paragraph will have the same effects as the waiver of the aforementioned special regime.

Six. For the purposes of the provisions of this article and articles 112 and 113 of this Law, it will be considered the first year of making deliveries of goods or provision of services in the development of business or professional activities, the one during which the employer or professional The regular exercise of said operations begins, provided that the start of the operations takes place before July 1 and, in any other case, the following year.

- It is modified by art. 5.6 of Law 14/2000, of December 29. Ref. BOE-A-2000-24357 .
- It is modified by art. 6.18 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053
- It is modified by art. 10.7 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117
- Section 4 prepared in accordance with the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

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[Block 144: # a112]

Article 112. Regularization of deductions from fees paid prior to the start of the delivery of goods or services corresponding to business or professional activities.

One. The provisional deductions referred to in article 111 of this Law shall be regularized by applying the definitive percentage that globally corresponds to the

period of the first four calendar years of delivery of goods or services rendered in the exercise of business activities or professionals.

Two. The definitive percentage referred to in the preceding paragraph shall be determined in accordance with the provisions of article 104 of this Law, computing for this purpose all the operations carried out during the period referred to in said paragraph.

Three. The regularization of the deductions referred to in this article will be carried out as follows:

1. Once the percentage of deduction definitively applicable to the contributions borne or paid prior to the start of the delivery of goods or services corresponding to the business or professional activity is known, the amount of the deduction that would proceed in application of the mentioned percentage.

2. Said amount shall be subtracted from the total sum of the provisional deductions practiced in accordance with the provisions of article 111 of this Law.

3. The difference, positive or negative, will be the amount of the income or the additional deduction to be made.

- Paragraph 2 is amended by art. sole.5 of Law 3/2006, of March 29. Ref. BOE-A-2006-5691 .
- It is modified by art. 5.7 of Law 14/2000, of December 29. Ref. BOE-A-2000-24357 .

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Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 145: # a113]

Article 113. Regularization of the quotas corresponding to investment goods, supported prior to the beginning of the delivery of goods or services corresponding to business or professional activities.

One. The provisional deductions referred to in article 111 of this Law corresponding to quotas supported or paid for the acquisition or import of investment goods, once regularized in accordance with the provisions of the previous article, shall be subject to regularization. provided for in article 107 of this same Law during the years of the regularization period that remain to elapse.

Two. For the practice of the regularizations provided for in this article, a deduction shall be considered made the year in which the repercussion took place for the purposes of the provisions of article 109, number 2 of this Law, which results from the percentage of deduction definitely applicable by virtue of what is established in section one of article 112 of this same Law.

Three. When the investment assets referred to in this article are delivered before the end of the regularization period to which it refers, the rules of article 110 of this Law shall apply, without prejudice to the provisions of articles 111 and 112 of the same and in the previous sections of this article.

- It is modified by art. 5.8 of Law 14/2000, of December 29. Ref. BOE-A-2000-24357 .
- The title and section 1 are modified by art. 10.13 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117

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Modification published on 12/31/1996, effective as of 01/01/1997.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 146: # a114]

Article 114. Rectification of deductions.

One. Taxable persons, when there has been no prior requirement, may rectify the deductions made when the amount thereof has been incorrectly determined or the amount of the contributions paid has been rectified in accordance with the provisions of article 89 of this law.

The rectification of the deductions will be obligatory when it implies a reduction of the amount initially deducted.

Two. The rectification of deductions originated by the previous rectification of the amount of the installments initially supported will be carried out as follows:

1. When the rectification determines an increase in the amount of the fees initially deducted, it may be made in the statement-settlement corresponding to the tax period in which the taxpayer receives the document justifying the right to deduct in which the fees initially passed are rectified , or in the following declarations-settlements, provided that four years had not elapsed since the accrual of the operation or, as the case may be, from the date on which the circumstances that determine the modification of the tax base of the operation have occurred. .

Notwithstanding the foregoing, in the cases in which the rectification of the quotas initially supported would have been motivated by a cause other than those provided for in article 80 of this Law, the rectification of the deduction thereof may not be made after a year from the date of issue of the document justifying the right to deduct by which said quotas are rectified.

2. When the rectification determines a reduction in the amount of the fees initially deducted, the taxpayer must submit a corrective statement-settlement, applying to it the surcharge and default interest that proceed in accordance with the provisions of articles 26 and 27 of the General Tax Law.

In the case of the case provided for in article 80.Three of this Law, the rectification must be made in the statement-settlement corresponding to the period in which the right to deduct the fees paid was exercised, without the application of surcharges or interest of delay.

In the cases in which the encumbered operation is null and void as a result of the exercise of a bankruptcy reinstatement action or other challenges filed in the bankruptcy, if the buyer or initial acquirer is also in bankruptcy, he must proceed to the rectification of the fees initially deducted in the statement-settlement corresponding to

the period in which the right to deduct the fees paid was exercised, without the application of surcharges or default interest.

However, when the rectification has its origin in a founded error of law or in the other causes of article 80 of this Law, it must be made in the declaration-liquidation corresponding to the tax period in which the taxpayer receives the document justifying the right to deduct in which the initially supported fees are rectified.

- Section 2.2 is modified by art. 5.7 of Law 7/2012, of October 29. Ref. BOE-A-2012-13416 .
- Section 2.1 is modified by art. 6.6 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- It is modified by art. 10.8 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117

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Modification published on 12/31/1996, effective as of 01/01/1997.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 147: # cii-7]

CHAPTER II

Returns

[Block 148: # a115]

Article 115. General assumptions of return.

One. Taxable persons who have not been able to make effective the deductions originated in a settlement period by the procedure provided for in article 99 of this Law, for exceeding the amount of the same of the accrued quotas, will have the right to request the refund of the balance in your favor as of December 31 of each year in the self-assessment corresponding to the last settlement period of that year.

Two. However, the taxpayers referred to in article 116 of this Law shall have the right to request the refund of the balance in their favor existing at the end of each settlement period.

Three. In the cases referred to in this article and the following, the Administration will proceed, where appropriate, to carry out provisional liquidation within the six months following the end of the period established for the presentation of the self-assessment in which the refund of the Tax is requested. . However, when the aforementioned self-assessment has been submitted outside this period, the six months will be computed from the date of its submission.

When the amount to be returned from the self-assessment or, as the case may be, the provisional settlement, the Tax Administration will proceed to its return ex officio, without prejudice to the practice of subsequent provisional or final settlements, as appropriate.

The refund procedure will be as provided for in articles 124 to 127, both inclusive, of General Tax Law 58/2003, of December 17, and in its implementing regulations.

If the provisional liquidation had not been practiced within the period established in the first paragraph of this section, the Tax Administration will proceed to return the total amount of the requested amount ex officio, without prejudice to the practice of subsequent provisional or definitive liquidations that could to come from.

If the term established in the first paragraph of this section has elapsed without the payment of the refund having been ordered for a reason attributable to the Tax Administration, the interest for delay referred to in article 26.6 of the General Tax Law, from the day after the end of said term and until the date of the order of its payment, without the need for the taxpayer to claim it.

The procedure and the method of payment of the official refund referred to in this section will be determined by regulation.

- It is modified by art. 5.9 of Law 4/2008, of December 23. Ref. BOE-A-2008-20802 .
  Applicable to the settlement periods starting from January 1, 2009, as established in final provision 5.d).
- Section 3 is amended by art. 4.16 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- Section 3 is amended by art. 6.19 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053
  Take into account, for its application, the transitional provision 2.3

Last update, published on 12/25/2008, effective as of 12/26/2008.

Modification published on 12/31/2002, effective as of 01/01/2003.

Modification published on 12/31/1997, effective as of.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 149: # a116]

Article 116. Request for returns at the end of each settlement period.

One. Taxpayers may choose to request the refund of the balance in their favor at the end of each settlement period in accordance with the conditions, terms, requirements and procedures established by regulation.

The settlement period of taxpayers who opt for this procedure will coincide with the calendar month, regardless of their volume of operations.

Two. In the cases referred to in article 15, section two of this Law, the legal entity that imports the goods in the territory of application of the Tax may recover the quota corresponding to the import when it proves the expedition or transportation of the goods to another Member State and the payment of the Tax in that State.

- It is modified by art. 5.10 of Law 4/2008, of December 23. Ref. BOE-A-2008-20802 .

Applicable to the settlement periods starting from January 1, 2009, as established in final provision 5.d).

- Paragraph 2 is amended by art. 10.14 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117

Last update, published on 12/25/2008, effective as of 12/26/2008.

Modification published on 12/31/1996, effective as of 01/01/1997.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 150: # a117]

Article 117. Returns to exporters under the passenger system.

One. In the passenger regime regulated in article 21, number 2, of this Law, the refund of the fees paid in the acquisition of goods shall be in accordance with the requirements and procedures established by regulation.

Two. The refund of the quotas referred to in the previous section will also proceed with respect to sales made by taxpayers to whom the special equivalence surcharge regime applies.

Three. The refund of the quotas regulated in this article may also be made through collaborating entities, under the conditions determined by regulation.

[Block 151: # a117bis]

Article 117 bis. Requests for the return of businessmen or professionals established in the territory of application of the Tax, Canary Islands, Ceuta and Melilla corresponding to fees borne by operations carried out in the Community, with the exception of those made in the territory of application of the Tax.

Entrepreneurs or professionals who are established in the territory of application of the Tax, the Canary Islands, Ceuta and Melilla, will request the refund of the fees paid for purchases or imports of goods or services made in the Community, with the exception of those made in the territory of application of the Tax, by filing electronically an application through the forms provided for this purpose on the electronic portal of the State Agency for Tax Administration.

The reception and processing of the request referred to in this article will be carried out through the procedure established by regulation.

- It is modified by final provision 48 of Law 2/2011, of March 4. Ref. BOE-A-2011-4117 .
- It is added by art. 1.11 of Law 2/2010, of March 1. Ref. BOE-A-2010-3366 .
  This article takes effect from January 1, 2010, as established in final provision 4.

Last update, published on 03/05/2011, effective as of 06/03/2011.

Modification published on 03/02/2010, effective as of 03/03/2010.

• Added text, published on 03/02/2010, effective as of 03/03/2010.

[Block 152: # a118]

Article 118. Guarantees of returns.

The Tax Administration may require from the taxpayers the provision of sufficient guarantees in the cases of return regulated in this chapter.

[Block 153: # ciii-6]

CHAPTER III

Returns to businessmen or professionals not established in the territory of application of the Tax

- It is modified by art. 1.12 of Law 2/2010, of March 1. Ref. BOE-A-2010-3366 . *This modification takes effect from January 1, 2010, as established in final provision 4.*
- It is modified by art. 5.8 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .

Last update, published on 03/02/2010, effective as of 03/03/2010.

Modification published on 12/31/2001, effective as of 01/01/2002.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 154: # a119]

Article 119. Special refund regime for businessmen or professionals not established in the territory of application of the Tax but established in the Community, Canary Islands, Ceuta or Melilla.

One. Entrepreneurs or professionals not established in the territory of application of the Tax but established in the Community, Canary Islands, Ceuta or Melilla, may request the refund of the quotas of the Value Added Tax that they have supported by the acquisitions or imports of goods or services performed in said territory, in accordance with the provisions of this article and in accordance with the terms and procedures established by regulation.

For these purposes, employers or professionals who, being holders of a permanent establishment located in the aforementioned territory, do not make deliveries of goods or services during the period to which they are considered not established in the territory of application of the Tax. refer the request.

Two. Entrepreneurs or professionals requesting the returns referred to in this article must meet the following conditions during the period to which their request refers:

1. To be established in the Community or in the Canary Islands, Ceuta or Melilla.

2. Not having made deliveries of goods or services subject to the Tax in the territory of application of the Tax other than those listed below:

a) Deliveries of goods and services in which the taxable persons of the Tax are their recipients, in accordance with the provisions of numbers 2, 3 and 4 of section One of article 84 of this Law.

b) Transportation services and their accessory services that are exempt from the Tax by virtue of the provisions of articles 21, 23, 24 and 64 of this Law.

3 ° not be recipients of deliveries of goods or services in respect of which such applicants have the status of taxpayers under the provisions of numbers 2 and 4 of paragraph one of article 84 of this Law.

4.º Comply with all the requirements and limitations established in Chapter I of Title VIII of this Law for the exercise of the right to deduction, in particular, those contained in articles 95 and 96 thereof, as well as the referred to in this article.

5. To destine the goods acquired or imported or the services of which they have been recipients in the territory of application of the Tax, to carry out operations that give rise to the right to deduct in accordance with the provisions of the regulations in force in the Member State in where they are established and based on the applicable deduction percentage in said State.

If, after the return request is submitted, the applicable deduction percentage is regularized, the applicant must in any case proceed to correct its amount, rectifying the amount requested or refunding the excess amount returned in accordance with the established procedure. by regulation.

In determining the amount to be returned, the criteria contained in article 106 of this Law will be applied. For these purposes, the use of goods or services by the entrepreneur or professional not established in the performance of operations that will be taken into account they give you the right to deduct, first, according to the regulations applicable in the Member State in which it is established and, second, according to the provisions of this Law.

6. Submit your return request electronically through the electronic portal provided for this purpose by the Member State in which they are established.

Three. The provisions of number 5 of section Two of this article will be equally applicable to businessmen or professionals established in the Canary Islands, Ceuta or Melilla, in accordance with the characteristics of the general indirect taxes on consumption in force in those territories. .

Four. Refund requests will not be accepted for an overall amount below the threshold that, according to the refund period, is determined by regulation.

Five. Refund requests must refer to the annual or quarterly periods immediately prior to their submission.

However, refund requests may refer to a period of less than three months when said period constitutes the balance of a calendar year.

Six. If the statutory deadlines have elapsed without payment of the refund due to a cause attributable to the Tax Administration, the interest for delay referred to in article 26 of Law 58/2003 will be applied to the amount pending refund. December 17, General Tax, from the day after the end of said periods and until the date of the order of their payment, without the need for the applicant to claim it.

However, default interest will not be accrued if the applicant does not meet the requirements for additional or subsequent information that are made to it within the

period established by regulation.

Nor will the accrual of default interest proceed until an electronic copy of the invoices or import documents referred to in the request is presented in the cases provided for by regulation.

Seven. The Tax Administration may require applicants, the Tax Administration of the Member State of establishment or third parties, to provide additional and, where appropriate, subsequent information, as well as the necessary supporting documents to be able to appreciate the basis of the refund requests that are presented and, in particular, for the correct determination of the amount of the refund as provided in this article and in its regulatory development.

If, after the payment of a refund, its inadmissibility is revealed due to the non-compliance with the requirements and limitations established by this article or due to its regulatory development, or because the latter has been obtained by virtue of false, incorrect or inaccurate data, the Tax Administration will proceed directly to recover its amount together with the interest of delay accrued and the sanction that could be imposed instructed the corresponding file, in accordance with the collection procedure regulated in Chapter V of Title III of Law 58/2003, of 17 December, General Tax, without prejudice to the provisions on mutual assistance in tax collection.

The lack of payment by the applicant in the voluntary period of the tax fee, a penalty or the interest accrued for delay, will allow the adoption of the precautionary measures referred to in article 81 of Law 58/2003, of December 17 , General Tax.

- It is modified by art. 1.13 of Law 2/2010, of March 1. Ref. BOE-A-2010-3366 . *This modification takes effect from January 1, 2010, as established in final provision 4.*
- Sections 2.2 and 3 are amended, with effect from January 1, 2005, by art. 1º.8 of Law 22/2005, of November 18. Ref. BOE-A-2005-19003 .
- It is modified by art. 5.8 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .
- Section 2.2 is amended by art. 1.7 of Royal Decree-Law 7/1993, of May 21. Ref. BOE-A-1993-13663

Last update, published on 03/02/2010, effective as of 03/03/2010.

Amendment published on 19/11/2005, effective from 20/11/2005.

Modification published on 12/31/2001, effective as of 01/01/2002.

Modification published on 05/27/1993, effective as of 05/28/1993.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 155: # a119bis]

Article 119 bis. Special refund regime for certain businessmen or professionals not established in the territory of application of the Tax, nor in the Community, Canary Islands, Ceuta or Melilla.

Entrepreneurs or professionals not established in the territory of application of the Tax or in the Community, Canary Islands, Ceuta or Melilla, may request the refund of the

quotas of the Value Added Tax that they have borne for the acquisitions or imports of goods or services. carried out in said territory, when the conditions and limitations provided for in article 119 of this Law are met without any other specialties than those indicated below and in accordance with the procedure established by regulation:

1. Applicants must previously appoint a representative who is resident in the territory of application of the Tax, who must comply with the corresponding formal or procedural obligations and who will respond jointly with them in cases of improper return. The Public Treasury may require said representative to provide sufficient guarantees for these purposes.

2. These applicants must be established in a State in which there is reciprocity of treatment in favor of the businessmen or professionals established in the territory of application of the Tax, Canary Islands, Ceuta and Melilla.

The recognition of the existence of reciprocity of treatment referred to in the preceding paragraph shall be made by resolution of the Director General of Taxes of the Ministry of Economy and Finance.

3. By exception to the provisions of the previous number, any entrepreneur and professional not established referred to in this article, may obtain the refund of the tax quotas supported with respect to the importation of goods and the acquisition of relative goods and services. to:

- The supply of templates, molds and equipment acquired or imported in the territory of application of the tax by the entrepreneur or non-established professional, for its provision to an entrepreneur or professional established in said territory to be used in the manufacture of goods that are dispatched or transported outside the Community to the employer or professional not established, provided that at the end of the manufacture of the goods are shipped to the employer or professional not established or destroyed.

- Access, hospitality, catering and transport services, linked to attending fairs, congresses and exhibitions of a commercial or professional nature held in the territory of application of the Tax.

- Section 3 is added by art. 1.27 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- It is added by art. 1.14 of Law 2/2010, of March 1. Ref. BOE-A-2010-3366 .
  This article takes effect from January 1, 2010, as established in final provision 4.

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• Added text, published on 03/02/2010, effective as of 03/03/2010.

[Block 156: #tix]

TITLE IX

Special regimes

[Block 157: # ci-8]

CHAPTER I

General rules

[Block 158: # a120]

Article 120. General rules.

One. The special regimes in Value Added Tax are as follows:

1. Simplified regime.

2nd special regime for agriculture, livestock and fishing.

3rd special regime of used goods, art objects, antiques and collectibles.

4th special regime applicable to operations with investment gold.

5. Special regime for travel agencies.

6. Special regime of the equivalence surcharge.

7.º Special regimes applicable to telecommunications, radio broadcasting or television services and those provided electronically.

8th special regime of the group of entities.

9. Special regime of the cash criterion.

Two. The special regimes regulated in this Title will be voluntary, with the exception of those included in numbers 4, 5 and 6 of the previous section, without prejudice to the provisions of article 140 ter of this Law.

Three. The special regime of used goods, objects of art, antiques and collectibles will apply exclusively to taxable persons who have submitted the declaration provided for in article 164, section one, number 1 of this Law, relative to the beginning of the activities that determine your tax liability.

Four. The simplified special regimes and those of agriculture, livestock and fishing will be applied unless the taxpayers waive them, exercised within the terms and in the manner determined by regulation.

The special regime of used goods, objects of art, antiques and collectibles will be applied unless waived by the taxpayers, which may be carried out for each particular operation and without express communication to the Administration.

Five. The special regimes applicable to telecommunications, radio broadcasting or television services and those provided electronically shall apply to those operators who have submitted the declarations provided for in articles 163 noniesdecies and 163 duovicies of this Law.

- Sections 1 and 5 are modified by art. 1.29 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Section 1 is modified by art. 23.1 of Law 14/2013, of September 27. Ref. BOE-A-2013-10074 .

- A new section 1.8 is added by art. 3.4 of Law 36/2006, of November 29. Ref. BOE-A-2006-20843 .
- It is modified by art. 4.18 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- It is modified by art. 6.11 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- Sections 1, 3 and 4 are modified by art. 17.7 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968

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Modification published on 12/30/1999, effective as of 01/01/2000.

Modification published on 12/31/1994, effective as of 01/01/1995.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 159: # a121]

Article 121. Determination of the volume of operations.

One. For the purposes of the provisions of this Law, the volume of operations shall be understood as the total amount, excluding the Value Added Tax itself and, where appropriate, the equivalence surcharge and the flat-rate compensation of deliveries of goods and services rendered by the taxpayer during the previous calendar year, including those exempt from the Tax.

In the cases of transmission of all or part of a business or professional patrimony, the volume of operations to be computed by the acquiring taxpayer will be the result of adding to the one carried out, where appropriate, by the latter during the previous calendar year, the volume of operations carried out during the same period by the transferor in relation to the part of its assets transferred.

Two. The operations will be understood to have been carried out when the Value Added Tax accrues or, where appropriate, has occurred.

Three. To determine the volume of operations, the following will not be taken into account:

1. Occasional deliveries of real estate.

2. Deliveries of goods classified as investment with respect to the transferor, in accordance with the provisions of article 108 of this Law.

3. The financial operations mentioned in article 20, section one, number 18. of this Law, including those that are not exempt, as well as the exempt operations related to investment gold included in article 140 bis of this Law. , when both are not habitual of the business or professional activity of the taxpayer.

- It is modified by art. 6.12 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- It is modified by art. 6.20 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

Last update, published on 12/30/1999, effective as of 01/01/2000.

Modification published on 12/31/1997, effective as of 01/01/1998.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 160: # cii-8]

CHAPTER II

Simplified regimen

[Block 161: # a122]

Article 122. Simplified regime.

One. The simplified regime will be applied to individuals and to entities under the attribution of income in the Personal Income Tax, who carry out activities and meet the requirements provided in the regulations that regulate it, unless they resign. to him in the terms established by regulation.

Two. The following will be excluded from the simplified regime:

1. Entrepreneurs or professionals who carry out other economic activities not included in the simplified regime, unless such activities are covered by the special regimes of agriculture, livestock and fishing or the equivalence surcharge. However, the exclusion of the simplified regime will not entail the performance by the employer or professional of other activities that are determined by regulation.

2. Those entrepreneurs or professionals in which any of the following circumstances concur, in the terms established by regulation:

That the volume of income in the immediately preceding year exceeds any of the following amounts:

- For all their business or professional activities, except agricultural, forestry and livestock, 150,000 euros per year.

- For all agricultural, forestry and livestock activities that are determined by the Minister of Finance and Public Administrations, 250,000 euros per year.

When an activity has been started in the immediately preceding year, the volume of income will rise to the year.

For the purposes of the provisions of this number, the volume of income will include all of those obtained in the set of activities mentioned, not including current or capital grants or compensation, as well as Value Added Tax and, where appropriate, the equivalence surcharge imposed by the operation.

3. Those entrepreneurs or professionals whose acquisitions and imports of goods and services for all their business or professional activities, excluding those related to elements of the fixed assets, have exceeded the amount of 150,000 euros per year in the immediately preceding year, excluding the Tax about added value.

When an activity has started in the immediately preceding year, the amount of said acquisitions and imports will rise to one year.

4. The businessmen or professionals who resign or have been excluded from the application of the objective estimation regime of the Personal Income Tax for any of their activities.

Three. The resignation to the simplified regime will take effect for a minimum period of three years, under the conditions established by regulation.

- The 2nd and 3rd sections are modified by art. 1.29 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
  This modification is applicable from January 1, 2016 as established in final provision 5.a).
- It is modified by art. 4.19 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- It is modified by art. 6.21 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053
- Section 1 prepared in accordance with the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

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Modification published on 12/31/1997, effective as of 01/01/1998.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 162: # a123]

Article 123. Content of the simplified regime.

One. A) The entrepreneurs or professionals under the simplified regime will determine, for each activity to which this special regime is applicable, the amount of the fees accrued as Value Added Tax and the equivalency surcharge, by virtue of the indices , modules and other parameters, as well as the procedure established by the Minister of Economy and Finance.

From the amount of the accrued quotas indicated in the previous paragraph, the amount of the quotas supported or paid for current operations related to goods or services affected by the activity for which the employer or professional is covered by this special regime, may be deducted, in accordance with the provisions of Chapter I of Title VIII of this Law. However, the deduction thereof shall be adjusted to the following rules:

a) The fees borne by the travel or travel, hospitality and restaurant services will not be deductible in the case of businessmen or professionals who carry out their activity in a

specific location. For these purposes, any building will be considered a specific premises, excluding warehouses, parking lots or warehouses closed to the public.

b) Contributions paid or paid will only be deductible in the statement-settlement corresponding to the last tax period of the year in which they must be understood as paid or paid, so, regardless of the tax system applicable in subsequent years, their deduction will not proceed in a later tax period.

c) When purchases or imports of goods and services are made for common use in various activities for which the employer or professional is covered by this special regime, the fee to be deducted in each of them will be the one resulting from the proration in function of its effective use. If it is not possible to apply said procedure, they will be imputed in equal parts to each of the activities.

d) The agricultural compensations referred to in article 130 of this Law may be deducted, paid by employers or professionals for the acquisition of goods or services from entrepreneurs under the special regime of agriculture, livestock and fishing.

e) In addition, employers or professionals will have the right, in relation to the activities for which they are covered by this special regime, to deduct 1 percent of the amount of the accrued fee referred to in the first paragraph of this section, in concept of supported quotas of difficult justification.

B) The fees accrued for the following operations will be added to the amount resulting from the provisions of the previous letter:

1. Intra-community acquisitions of goods.

2. The operations referred to in article 84, section one, number 2 of this Law.

3. Deliveries of tangible fixed assets and transfers of intangible fixed assets.

C) The amount of the contributions paid or paid for the acquisition or import of fixed assets will be deducted from the result of the two previous letters, considering as such the elements of the fixed assets and, in particular, those that are available under contracts of financial leasing with purchase option, whether said option is binding or not.

The exercise of this right to deduction will be carried out in the terms established by regulation.

D) The liquidation of the tax corresponding to the imports of goods destined to be used in activities for which the employer or professional is covered by this special regime, will be carried out in accordance with the general rules established for the liquidation of the imports of goods.

Two. In the indirect estimation of the Value Added Tax, the indices, modules and other parameters established for the simplified regime will preferably be taken into account, in the case of taxpayers who have renounced the latter regime.

Three. Taxable persons who have incurred in omission or falsification of the indices, modules referred to in section one above, will be obliged to pay the total tax quotas resulting from the application of the simplified regime, with the penalties and interest for delay that proceed.

Four. This simplified regime will be regulated and the formal and registry obligations to be met by the taxpayers covered by it will be determined.

Five. In the event that the taxable person under the simplified special regime carries out other business or professional activities subject to Value Added Tax, those subject

to the aforementioned special regime will in any case be considered a differentiated sector of economic activity.

- Section 1.A) and C) are modified by art. Only 6 and 7 of Law 3/2006, of March 29. Ref. BOE-A-2006-5691 .
- Section 1 is modified by art. 4.20 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- It is modified by art. 6.22 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053
- Section 5.4 is modified by art. 10.9 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117

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Modification published on 12/31/1996, effective as of 01/01/1997.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 163: # ciii-7]

CHAPTER III

Special regime for agriculture, livestock and fisheries

[Block 164: # a124]

Article 124. Subjective scope of application.

One. The special regime of agriculture, livestock and fishing will be applicable to the holders of agricultural, forestry, livestock or fishing operations in whom the requirements indicated in this Chapter meet, unless they renounce it in the terms established by regulation.

The following shall not be considered owners of agricultural, forestry, livestock or fishing operations for the purposes of this special regime:

a) The owners of farms or farms that lease them in leasing or sharecropping or that in any other way cede their exploitation, as well as when they yield the use of the resin of the pines located on their farms or farms.

b) Those who carry out livestock operations under an integrated livestock system.

Two. They will be excluded from the special regime of agriculture, livestock and fishing:

1. Mercantile companies.

2. Cooperative societies and agrarian transformation societies.

3. The businessmen or professionals whose volume of operations during the immediately previous year would have exceeded the amount determined by regulation.

4. Entrepreneurs or professionals who renounce the application of the objective estimation regime of the Personal Income Tax for any of their economic activities.

5. Entrepreneurs or professionals who renounce the application of the simplified regime.

6. Those entrepreneurs or professionals whose acquisitions and imports of goods and services for all of their business or professional activities, excluding those related to elements of the fixed assets, have exceeded the amount of 150,000 euros per year in the immediately preceding year, excluding the Tax. about added value.

When an activity has started in the immediately preceding year, the amount of said acquisitions and imports will rise to one year.

Three. Entrepreneurs or professionals who, having been excluded from this special regime for having exceeded the volume limits of operations or acquisitions or imports of goods or services provided in numbers 3 and 6 of section two above, do not exceed said limits in successive years, will be subject to the special regime of agriculture, livestock and fishing, unless they renounce it.

Four. The renunciation of the special regime of agriculture, livestock and fishing will take effect for a minimum period of three years, under the conditions established by regulation.

- Sections 1 and 2.6 are amended by art. 1.30 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- It is modified by art. 4.21 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- It is modified by art. sole.11 of Law 9/1998, of April 21. Ref. BOE-A-1998-9477 .

- **Last update, published on 11/28/2014, effective as of 01/01/2015.**
- Modification published on 12/31/2002, effective as of 01/01/2003.
- Modification published on 04/22/1998, effective as of 05/12/1998.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 165: # a125]

Article 125. Objective scope of application.

The special regime for agriculture, livestock and fishing will be applicable to agricultural, forestry, livestock or fishing farms that directly obtain natural, vegetable or animal products from their crops, farms or catches for transmission to third parties, as well as accessory services. to said exploitations referred to in article 127 of this Law.

- It is modified by art. 6.25 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

Last update, published on 12/31/1997, effective as of 01/01/1998.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 166: # a126]

Article 126. Activities excluded from the special regime of agriculture, livestock and fishing.

One. The special regime regulated in this chapter shall not be applicable to agricultural, forestry, livestock or fishing operations, insofar as the natural products obtained therein are used by the owner of the operation for any of the following purposes:

1. The transformation, elaboration and manufacture, directly or through third parties for its subsequent transmission.

In any case of transformation, any activity for the exercise of which is mandatory the discharge in an epigraph corresponding to industrial activities of the rates of the Tax on Economic Activities will be presumed.

2. Marketing, mixed with other products purchased from third parties, even if they are identical or similar in nature, unless the latter are intended to merely preserve them.

3. The commercialization carried out continuously in fixed establishments located outside the place where the agricultural, forestry, livestock or fishing exploitation is located.

4th the commercialization carried out in establishments in which the taxable person also carries out other business or professional activities other than the agricultural, forestry, livestock or fishing exploitation itself.

Two. The special regime of agriculture, livestock and fishing will not be applicable to the following activities:

1st hunting or recreational hunting operations.

2nd sea fishing.

3rd independent livestock.

For these purposes, independent livestock farming shall be considered the one defined as such in the Tax on Economic Activities, with reference to all the livestock activity directly exploited by the taxable person.

4th the provision of services other than those provided for in article 127 of this law.

- It is modified by art. 6.27 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

Last update, published on 12/31/1997, effective as of 01/01/1998.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 167: # a127]

Article 127. Accessory services included in the special regime.

One. Services of an ancillary nature to the farms to which said special regime is applicable, which the owners of the same provide to third parties with the means ordinarily used in said farms, shall be considered included in the special regime for agriculture, livestock and fishing. provided that such services contribute to the realization of the agricultural, forestry, livestock or fishing productions of the recipients.

Two. The provisions of the preceding section shall not apply if during the immediately preceding year the amount of all the accessory services provided exceeds 20 percent of the total volume of operations of the main agricultural, forestry, livestock or fishing operations to which it results. applicable the special regime regulated in this chapter.

- It is modified by art. 6.28 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

Last update, published on 12/31/1997, effective as of 01/01/1998.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 168: # a128]

Article 128. Carrying out economic activities in different sectors of business or professional activity.

Holders of agricultural, forestry, ranching or fishing operations to which it is applicable, even if they carry out other business or professional activities, may avail themselves of the special regime regulated in this chapter. In such case, the special regime will only produce effects with respect to the activities included in it, and said activities will always be considered as a differentiated sector of the taxpayer's economic activity.

- It is modified by art. 6.29 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

Last update, published on 12/31/1997, effective as of 01/01/1998.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 169: # a129]

Article 129. Obligations of taxpayers subject to the special regime of agriculture, livestock and fishing.

One. The taxable persons included in this special regime will not be subject, as regards the activities included in it, to the obligations of liquidation, repercussion or payment of the tax or, in general, to any of those established in the Titles X and XI of this Law, with

the exception of those contemplated in article 164, section one, numbers 1, 2 and 5 of said Law and those of registration and accounting, which are determined by regulation.

The previous rule will also apply with respect to deliveries of investment goods other than real estate, used exclusively in the aforementioned activities.

Two. The following operations are excepted from the provisions in the previous section:

1. Imports of goods.

2. Intra-community acquisitions of goods.

3. The operations referred to in article 84, section one, number 2 of this Law.

Three. If the entrepreneurs under this special regime carry out activities in other different sectors, they must duly keep and keep the books and documents determined by regulation.

- It is modified by art. 6.23 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

Last update, published on 12/31/1997, effective as of 01/01/1998.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 170: # a130]

Article 130. System of deductions and compensation.

One. Taxpayers subject to the special system of agriculture, livestock and fishing may not deduct the fees borne or paid for the purchases or imports of goods of any nature or for the services provided, to the extent that said goods or services are used in carrying out the activities to which this special regime is applicable.

For the purposes of the provisions of Chapter I of Title VIII of this Law, it shall be considered that they do not give rise to the right to deduct the operations carried out in the development of activities to which this special regime is applicable.

Two. Entrepreneurs under the special regime of agriculture, livestock and fishing will have the right to receive a lump sum compensation for the Value Added Tax quotas that they have borne or paid for the acquisitions or imports of goods or services that they have received. been provided, to the extent that they use said goods and services in carrying out activities to which said special regime is applicable.

The right to receive compensation will be born at the time the operations referred to in the following section are carried out.

Three. The business owners of the farms to which the special regime of agriculture, livestock and fishing is applicable shall have the right to receive the compensation referred to in this article when they carry out the following operations:

1. Deliveries of natural products obtained in said farms to other entrepreneurs or professionals, whatever the territory in which they are established, with the following exceptions:

a) Those made to businessmen who are covered by this same special regime in the territory of application of the tax and who use the aforementioned products in the development of the activities to which they apply said special regime.

b) Those made to businessmen or professionals who exclusively carry out operations exempt from the tax in the territory where the tax is applied, other than those listed in article 94, section one of this Law.

2nd deliveries referred to in article 25 of this law of natural products obtained in such farms, when the acquirer is a legal person that does not act as an entrepreneur or professional and is not affected in the Member State of destination the non-subjection established according to the criteria contained in article 14 of this Law.

3. The provision of services referred to in article 127 of this Law, whatever the territory in which its recipients are established and provided that the latter are not covered by this same special regime in the area of tax.

Four. The provisions of sections two and three of this article shall not be applicable when the taxable persons under the special regime of agriculture, livestock and fishing carry out deliveries or exports of natural products in the development of activities to which said said provision does not apply. special regime, without prejudice to your right to the deductions established in Title VIII of this Law.

Five. The flat-rate compensation referred to in section three of this article will be the amount resulting from applying, to the sale price of the products or services indicated in said section, the percentage that comes from among those indicated below :

1. 12%, in the deliveries of natural products obtained in agricultural or forestry operations and in the accessory services of said operations.

2nd 10.5 per cent, in deliveries of natural products obtained in livestock or fishing farms and in accessory services of such farms.

For the determination of the aforementioned prices, the indirect taxes imposed by the aforementioned operations will not be computed, nor the accessory or complementary expenses to the same charged separately to the acquirer, such as commissions, packaging, freight, transportation, insurance, financial or others.

In operations carried out without monetary consideration, said percentages will be applied on the market value of the products delivered or the services provided.

The applicable percentage in each operation will be the one in force at the moment the right to receive compensation is born.

- Section 5 is modified, with effect from September 1, 2012, by art. 23.4 of Royal Decree-Law 20/2012, of July 13. Ref. BOE-A-2012-9364 .
- section 5 is amended by art. 79.3 of Law 26/2009, of December 23. Ref. BOE-A-2009-20765 .
- section 5 is amended by art. 5 of Law 4/2006, of March 29. Ref. BOE-A-2006-5692 .
- section 5 is amended by art. 2 of Royal Decree-Law 10/2000, of October 6. Ref. BOE-A-2000-18137 .
- section 5 is amended by art. 71.4 of Law 54/1999, of December 29. Ref. BOE-A-1999-24785 .
- It is modified by art. 6.30 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

Last update, published on 07/14/2012, effective as of 07/15/2012.

Modification published on 12/24/2009, effective as of 01/07/2010.

Modification published on 03/30/2006, effective as of 03/31/2006.

Modification published on 07/10/2000, effective as of 07/10/2000.

Modification published on 12/30/1999, effective as of 01/01/2000.

Modification published on 12/31/1997, effective as of 01/01/1998.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 171: # a131]

Article 131. Obliged to reimburse compensation.

The reimbursement of the compensation referred to in article 130 of this Law shall be made by:

1. The Public Treasury for the deliveries of goods that are the object of export or of dispatch or transport to another Member State and for the services included in the special regime provided to recipients established outside the territory of application of the Tax.

2. The purchaser of the goods that are the object of deliveries other than those mentioned in the previous number and the recipient of the services included in the special regime established in the territory where the tax is applied.

[Block 172: # a132]

Article 132. Resources.

The controversies that may occur with reference to the compensations corresponding to this special regime, both regarding the origin and the amount thereof, will be considered of a tax nature for the purposes of the pertinent economic-administrative claims.

[Block 173: # a133]

Article 133. Refund of undue compensation.

The compensation improperly received must be reimbursed to the Public Treasury by whoever received it, without prejudice to the other obligations and responsibilities that may be required.

- It is modified by art. 6.31 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

Last update, published on 12/31/1997, effective as of 01/01/1998.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 174: # a134]

Article 134. Deduction of compensation corresponding to the special regime of agriculture, livestock and fishing.

One. Taxable persons who have satisfied the compensations referred to in article 130 of this Law may deduct their amount from the fees accrued by the operations they carry out applying the provisions of Title VIII of this Law with respect to the deductible supported fees.

Two. Taxpayers to whom the special equivalence surcharge regime applies in relation to the acquisition of natural products destined for their commercialization under said special regime are exempt from the provisions of the preceding section.

Three. To exercise the right established in this article, they must be in possession of the document issued by themselves in the manner and with the requirements determined by regulation.

[Block 175: # a134bis]

Article 134 bis. Beginning or cessation of the application of the special regime for agriculture, livestock and fishing.

One. When the tax regime applicable to a certain agricultural, livestock, forestry or fishing activity changes from the general tax regime to the special one for agriculture, livestock and fishing, the entrepreneur or professional owner of the activity will be obliged to:

1. Enter the amount of compensation corresponding to the future delivery of natural products that have already been obtained in the activity on the date of the change in the tax regime and that had not been delivered on that date. The calculation of this compensation will be carried out in accordance with the provisions of article 130 of this Law, provisionally fixing the basis of its calculation by applying sound criteria, without prejudice to its rectification when said amount is known.

2. Rectify the deductions corresponding to the goods, except those of investment, and the services that have not been consumed or effectively used in whole or in part in the activity or exploitation.

For the purpose of fulfilling the obligations established in this section, the employer or professional will be obliged to prepare and present an inventory on the date in which the general regime ceases to apply. Both the presentation of this inventory and the realization of the corresponding income will comply with the requirements and conditions established by regulation.

Two. When the tax regime applicable to a certain agricultural, livestock, forestry or fishing activity changes from the special regime of agriculture, livestock and fishing to the general Tax, the employer or professional owner of the activity will have the right to:

1. Make the deduction of the quota resulting from applying to the value of the goods affected by the activity, Value Added Tax excluded, on the date the special regime ceases to apply, the types of said tax that were in force in the mentioned date. For these purposes, the following will not be taken into account:

a) Investment assets, defined in accordance with the provisions of article 108 of this Law.

b) Goods and services that have been used or consumed totally or partially in the activity.

2. Deduct the flat-rate compensation provided for in article 130 of this Law for natural products obtained from farms that have not been delivered at the date of the change in the tax regime.

For the purposes of exercising the rights contained in this section, the entrepreneur or professional must prepare and present an inventory on the date that the general regime ceases to apply. Both the presentation of this inventory and the exercise of these rights will comply with the requirements and conditions established by regulation.

Three. For the regularization of deductions from the quotas borne or paid for the acquisition or import of investment goods, the pro rata deduction applicable during the period or periods in which the activity is covered by this special regime will be zero.

- It is added by art. 4.22 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .

- **Added text, published on 12/31/2002, effective as of 01/01/2003.**

[Block 176: # civ-2]

CHAPTER IV

Special regime for used goods, art objects, antiques and collectibles

- It is modified by art. 17.8 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968

- **Last update, published on 12/31/1994, effective as of 01/01/1995.**
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 177: # a135]

Article 135. Special regime for used goods, art objects, antiques and collectibles.

One. Taxable persons who are resellers of used goods or personal property that are considered objects of art, antiques or collectibles will apply the special regime regulated in this Chapter to the following deliveries of goods:

1. Deliveries of used goods, art objects, antiques and collectibles acquired by the reseller to:

a) A person who does not have the status of entrepreneur or professional.

b) An entrepreneur or professional who benefits from the franchise regime of the Tax in the Member State of beginning of the expedition or transport of the good, provided that said good had for the said entrepreneur or professional the consideration of investment good.

c) An entrepreneur or professional by virtue of a tax exempt delivery, by application of the provisions of article 20, section one, numbers 24 or 25 of this Law.

d) Another taxable reseller who has applied the special regime of used goods, art objects, antiques and collectibles to his delivery.

2. Deliveries of art objects, antiques or collectibles that have been imported by the taxable reseller himself.

3. Deliveries of art objects acquired to businessmen or professionals by virtue of the operations to which the reduced tax rate established in article 91, section one, numbers 4 and 5, of this Law has been applied.

Two. Notwithstanding the provisions of the preceding paragraph, taxable resellers may apply to any of the operations listed therein the general tax regime, in which case they will have the right to deduct the tax quotas borne or paid in the acquisition or import of the goods subject to resale, subject to the rules established in Title VIII of this Law.

Three. The special regime regulated in this chapter shall not apply to deliveries of the new means of transport defined in number 2 of article 13 when such deliveries are made under the conditions provided for in article 25, sections one, two and three. of this Law.

- Section 1.3 is modified by art. 9.2 of Royal Decree-Law 1/2014, of January 24. Ref. BOE-A-2014-747 .
- Paragraph 3 is added by art. 10.10 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117
- It is modified by art. 17.8 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968

- **Last update, published on 01/25/2014, effective as of 01/26/2014.**
- Modification published on 07/14/2012, effective as of 07/15/2012.
- Modification published on 12/31/1996, effective as of 01/01/1997.
- Modification published on 12/31/1994, effective as of 01/01/1995.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 178: # a136]

Article 136. Concept of used goods, objects of art, antiques and collectibles and taxpayer reseller.

One. For the purposes of the provisions of this Law, the following shall be considered:

1. Used goods, personal movable goods that are capable of lasting use that, having been previously used by a third party, are capable of being reused for their specific purposes.

The following are not considered used goods:

a) Recovery materials, packaging, packaging, gold, platinum and precious stones.

b) Assets that have been used, renewed or transformed by the transferring taxpayer or on his own account. For the purposes of the provisions of this chapter, operations whose purpose is to maintain the original characteristics of the goods shall be considered as renewal when their cost exceeds the purchase price of the same.

2.Art objects, the goods listed below:

a) Pictures, collages and similar small-size pictures, paintings and drawings, made entirely by hand by the artist, with the exception of architectural and engineering plans and other industrial, commercial, topographical or similar drawings, of manufactured articles hand-decorated, from painted canvas for theater decorations, studio backgrounds or similar uses (CN code 9701).

b) Original engravings, prints and lithographs of limited editions to 200 copies, in black and white or in color, that come directly from one or several plates totally executed by hand by the artist, whatever the technique or the material used, to exception of mechanical or photomechanical means (CN code 9702 00 00).

c) Original sculptures and statues of any material, provided they have been made entirely by the artist; castings of sculptures, limited edition to eight copies and controlled by the artist or his successors (CN code 9703 00 00).

d) Upholstery (CN code 5805 00 00) and wall textiles (NC code 6304 00 00) hand-woven on the basis of original cardboard made by artists, provided that there are no more than eight copies of each.

e) Unique ceramic specimens, made entirely by the artist and signed by him.

f) Enamels on copper made entirely by hand, with a limit of eight numbered copies and in which the signature of the artist or the workshop appears, with the exception of articles of costume jewelery, silverware and jewelry.

g) Photographs taken by the artist and revealed and printed by the author or under his control, signed and numbered with a limit of thirty copies in total, regardless of the formats and supports.

3rd collection objects, the goods listed below:

a) Postage stamps, fiscal stamps, postal marks, first day envelopes, franked and similar items, obliterated, or not obliterated that do not have and should not have legal tender (CN code 9704 00 00).

b) Collections and specimens for collections of zoology, botany, mineralogy or anatomy, or that have historical, archaeological, paleontological, ethnographic or numismatic interest (CN code 9705 00 00).

4. Antiques, objects that are over one hundred years old and are not objects of art or collectibles (CN code 9706 00 00).

5. Reseller of goods, the entrepreneur who routinely makes deliveries of the goods included in the previous numbers, that had been acquired or imported for subsequent resale.

The organizer of sales by public auction of the goods mentioned in the previous paragraph, when acting in his own name under a sales commission contract, also has the status of a reseller.

Two. In no case will this special regime be applied to investment gold defined in article 140 of this Law.

- Section 2 is added and the previous text is numbered 1 by art. 6.13 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- It is modified by art. 17.8 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968

Last update, published on 12/30/1999, effective as of 01/01/2000.

Modification published on 12/31/1994, effective as of 01/01/1995.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 179: # a137]

Article 137. The tax base.

One. The tax base of deliveries of goods to which the special regime of used goods, objects of art, antiques and collectibles applies shall be constituted by the profit margin of each operation applied by the taxpayer, reseller, reduced in the Value Added Tax quota corresponding to said margin.

For these purposes, the difference between the sale price and the purchase price of the good will be considered the profit margin.

The sale price will be constituted by the total amount of the consideration for the transfer, determined in accordance with the provisions of articles 78 and 79 of this Law, plus the amount of Value Added Tax imposed by the operation.

The purchase price will be constituted by the total amount of the consideration corresponding to the acquisition of the transferred property, determined in accordance with the provisions of articles 78, 79 and 82 of this Law, plus the amount of Value Added Tax that, in your case, you have taxed the operation.

When transmitting objects of art, antiques or collectibles imported by the taxable reseller, for the calculation of the profit margin, the tax base of the importation of the good, determined in accordance with the provisions of the article, will be considered as the purchase price. 83 of this Law, plus the amount of the Value Added Tax imposed by the import.

Two. Taxable resellers may choose to determine the taxable base by means of the global profit margin, for each settlement period, applied by the taxpayer, reduced by the amount of Value Added Tax corresponding to said margin.

The global profit margin will be the difference between the sale price and the purchase price of all deliveries of goods made in each settlement period. These prices will be determined in the manner provided in the previous section to calculate the profit margin of each operation subject to the special regime.

The application of this method of determining the tax base will comply with the following rules:

1.ª The modality of the global profit margin may only be applied to the following assets:

a) Stamps, stamped effects, bills and coins, of philatelic or numismatic interest.

b) Discs, magnetic tapes and other sound or image supports.

c) Books, magazines and other publications.

However, the Tax Administration, upon request of the interested party, may authorize the application of the global profit margin modality to determine the tax base for goods other than those indicated above, setting the conditions of the authorization and may revoke it when it is not give the circumstances that motivated it.

2. The option will be carried out in the manner determined by regulation, and will take effect until its resignation and, at least, until the end of the following calendar year. The taxable reseller who would have exercised the option must determine in accordance with said modality the tax base corresponding to all the deliveries of the said goods made during the period of application thereof, without the general regime applying to said deliveries. of the tax.

3. If the global profit margin corresponding to a settlement period is negative, the tax base for said period will be zero and the referred margin will be added to the amount of purchases for the following period.

4th taxable resellers who have opted for this method of determining the tax base must practice an annual regularization of their inventories, for which the difference between the final and initial balance of inventories for each year must be calculated and add that difference, if positive, to the amount of sales for the last period and if negative add it to the amount of purchases for the same period.

5th when the goods were subject to exempt deliveries in application of articles 21, 22, 23 or 24 of this law, the taxable person must reduce the purchase price of the said goods from the total amount of the purchases of the period. When the aforementioned purchase price is not known, the market value of the goods may be used at the time of purchase by the reseller.

Likewise, the taxable person will not compute the amount of said exempt deliveries between sales for the period.

6. For the purposes of the regularization referred to in rule 4, in the cases of initiation or cessation of the application of this method of determining the tax base, the taxpayer must make an inventory of the inventories to the start or end date, stating the purchase price of the goods or, failing that, the value of the property on the date of its acquisition.

- It is modified by art. 10.11 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117
- It is modified by art. 17.8 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968

Last update, published on 12/31/1996, effective as of 01/01/1997.

Modification published on 12/31/1994, effective as of 01/01/1995.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 181: # a138]

Article 138. Impact of the Tax.

In the invoices documenting the operations to which this special regime is applicable, taxpayers may not separately enter the passed-on fee, which must be understood as included in the total price of the operation.

The fees borne by the acquirers of used goods, objects of art, antiques or collectibles that have been delivered to them by taxable resellers with application of the special regime regulated in this chapter will not be deductible.

- It is modified by art. 17.8 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968

Last update, published on 12/31/1994, effective as of 01/01/1995.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 182: # a139]

Article 139. Deductions.

The taxable resellers will not be able to deduct the Tax quotas supported or paid for the acquisition or import of goods that are in turn transmitted by them by virtue of deliveries subject to this special regime.

- It is modified by art. 17.8 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968

Last update, published on 12/31/1994, effective as of 01/01/1995.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 183: # cv-3]

CHAPTER V

Special regime for investment gold

- It is added by art. 6.14 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .

- **Added text, published on 12/30/1999, effective as of 01/01/2000.**

[Block 184: # a140]

Article 140. Concept of investment gold.

For the purposes of the provisions of this Law, the following shall be considered investment gold:

1. Gold bars or sheets of law equal to or greater than 995 thousandths and whose weight is in accordance with the provisions of section ninth of the annex to this Law.

2. Gold coins that meet the following requirements:

a) That they are of law equal to or greater than 900 thousandths.

b) They were minted after 1800.

c) That they are or have been legal tender in their country of origin.

d) That they are usually marketed for a price no higher than 80 percent of the market value of the gold contained therein.

In any case, it will be understood that the above requirements are met in relation to the gold coins included in the list that, for this purpose, will be published in the "Official Journal of the European Communities" series C, prior to 1 December of each year, said currencies will be considered to meet the requirements required to be considered as investment gold during the calendar year following that in which the aforementioned relationship is published or in the following years while the previously published ones are not modified.

- It is modified by art. 6.14 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- It is repealed by art. 17.9 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968

- (●) **Last update, published on 12/30/1999, effective as of 01/01/2000.**
- ( ) Modification published on 12/31/1994, effective as of 01/01/1995.
- ( ) Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 185: # a140bis]

Article 140 bis. Exemptions.

One. The following operations will be exempt from the tax:

1. Deliveries, intra-community acquisitions and investment gold imports. Loans and financial swap operations, as well as operations derived from futures or forward contracts, will be included in the scope of the exemption, as long as they are intended, in all cases, investment gold and as long as they involve the transmission of the power of disposal over said gold.

The provisions of the preceding paragraph shall not apply:

a) To the provision of services whose purpose is investment gold, without prejudice to the provisions of number 2 of this article.

b) To intra-community acquisitions of investment gold in the event that the entrepreneur making the delivery has waived the tax exemption in the special regime provided for such delivery in the Member State of origin.

2. The mediation services in the exempt operations in accordance with number 1 above, provided in the name and on behalf of others.

Two. In the event that the exemption regulated in this provision and the one contemplated in article 25 of this Law apply to the same delivery, the one regulated in this provision will be considered applicable, unless the waiver is made, of in accordance with the provisions of section one of article 140 ter.

- It is added by art. 6.14 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .

- **Added text, published on 12/30/1999, effective as of 01/01/2000.**

[Block 186: # a140ter]

Article 140 ter. Waiver of exemption.

One. The exemption from the tax applicable to deliveries of investment gold, referred to in Article 140 bis, one.1 of this Law, may be waived by the transferor, in the manner and with the requirements that are determined by regulation and provided that the following conditions are met:

1. The transferor is regularly engaged in carrying out investment gold production activities or gold transformation that is not investment gold investment and provided that the purpose is investment gold resulting from the activities cited.

2. That the acquirer is an entrepreneur or professional acting in the exercise of his business or professional activities.

Two. The exemption from the tax applicable to mediation services referred to in number 2 of section one of article 140 bis of this Law may be waived, provided that the recipient of the mediation service is a businessman or professional acting in the exercise of their business or professional activities, in the manner and with the requirements that are determined by regulation and whenever the waiver of the exemption applicable to the delivery of investment gold to which the mediation service refers is made.

- It is added by art. 6.14 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .

- **Added text, published on 12/30/1999, effective as of 01/01/2000.**

[Block 187: # a140cuarter]

Article 140 barracks. Deductions.

One. The Value Added Tax quotas included in article 92 of this Law will not be deductible to the extent that the goods or services whose purchase or import are supported or satisfy said quotas are used in the delivery of investment gold exempt in accordance with the provisions of article 140 bis of this Law.

Two. As an exception to the provisions of the previous section, the realization of the investment gold deliveries to which it refers will generate the right to deduct the following fees:

1. Those supported by the acquisition of that gold when the supplier of the same has made the waiver of the exemption regulated in article 140 ter, section one.

The provisions of the preceding paragraph shall also apply to the quotas corresponding to intra-community acquisitions of investment gold in the event that the businessman who makes the delivery has waived the tax exemption in the special regime provided for said delivery in the State member of origin.

2. Those supported or satisfied by the acquisition or import of that gold, when at the time of acquisition or import did not meet the requirements to be considered investment gold, having been converted into investment gold by the person making the exempt delivery or on your own.

3rd those supported by the services that consist of the change of form, weight or grade of that gold.

Three. Likewise, by exception to the provisions of section one above, the making of investment gold deliveries exempt from the tax by the businessmen or professionals who have produced it directly or obtained through transformation will generate the right to deduct the tax quotas borne or satisfied by the acquisition or import of goods and services related to said production or transformation.

- It is added by art. 6.14 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .

- **Added text, published on 12/30/1999, effective as of 01/01/2000.**

[Block 188: # a140quinque]

Article 140 quinque. Passive subject.

The tax corresponding to the deliveries of investment gold that are taxed for having made the waiver of the exemption referred to in article 140 ter, will be subject to the employer or professional for whom the encumbered operation is carried out.

- It is added by art. 6.14 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .

- **Added text, published on 12/30/1999, effective as of 01/01/2000.**

[Block 189: # a140sexies]

Article 140 sexies. Conservation of invoices.

Entrepreneurs and professionals who carry out operations with investment gold as their object must keep copies of the invoices corresponding to said operations, as well as their records, for a period of five years.

- It is added by art. 4.23 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .

- **Added text, published on 12/31/2002, effective as of 01/01/2003.**

[Block 190: #cvi]

CHAPTER VI

Special scheme for travel agents

- It is modified by art. 1.31 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- **Last update, published on 11/28/2014, effective as of 01/01/2015.**
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 191: # a141]

Article 141. Special regime for travel agencies.

One. The special regime of travel agencies will apply:

1º To the operations carried out by the travel agencies when they act in their own name with respect to the travelers and use in the realization of the trip goods delivered or services provided by other businessmen or professionals.

For the purposes of this special regime, travel shall be considered as accommodation or transport services provided jointly or separately and, where appropriate, with other accessory or complementary services.

2. To the operations carried out by the organizers of tourist circuits and any businessman or professional in which the circumstances set forth in the previous number concur.

Two. The special regime of travel agencies will not apply to operations carried out using only their own means of transport or hospitality for the purpose of the trip.

In the case of trips made using part of their own means and part of other means, the special regime will only apply with respect to services provided by means of others.

- It is modified by art. 1.31 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- Section 1 is modified by art. 16.1 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968 .

Last update, published on 11/28/2014, effective as of 01/01/2015.

Modification published on 12/31/1994, effective as of 01/01/1995.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 192: # a142]

Article 142. Impact of the tax

In the operations to which this special regime is applicable, taxpayers will not be obliged to enter the invoiced fee separately on an invoice, and should be understood, where appropriate, included in the price of the operation.

- It is modified by art. 1.31 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- It is modified by art. 16.2 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968 .

Last update, published on 11/28/2014, effective as of 01/01/2015.

Modification published on 12/31/1994, effective as of 01/01/1995.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 193: # a143]

Article 143. Exemptions.

The services provided by taxable persons subject to the special regime of travel agencies will be exempt from the Tax when the deliveries of goods or services, acquired for the benefit of the traveler and used to make the trip, are made outside the Community.

In the event that the aforementioned deliveries of goods or services are made only partially in the territory of the Community, only the part of the provision of services of the agency corresponding to those made outside said territory shall enjoy exemption.

- It is modified by art. 1.31 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

Last update, published on 11/28/2014, effective as of 01/01/2015.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 194: # a144]

Article 144. Place of performance of the taxable event.

The operations carried out by the agencies with respect to each traveler for the realization of a trip will be considered the sole provision of services, even if several deliveries or services are provided within the framework of said trip.

Said provision shall be understood to be carried out in the place where the agency has established the headquarters of its economic activity or has a permanent establishment from where it carries out the operation.

- It is modified by art. 1.31 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

Last update, published on 11/28/2014, effective as of 01/01/2015.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 195: # a145]

Article 145. The tax base.

One. The tax base will be the gross margin of the travel agency.

For these purposes, the gross margin of the agency will be considered the difference between the total amount charged to the client, excluding the Value Added Tax imposed by the operation, and the effective amount, including taxes, of the deliveries of goods or services. that, carried out by other businessmen or professionals, are acquired by the agency for use in carrying out the trip and directly redound to the benefit of the traveler.

For the purposes of the provisions of the preceding paragraph, the services provided by other travel agencies for said purpose shall be considered acquired by the agency for use in carrying out the trip, except for mediation services provided by retail agencies. , in the name and on behalf of the wholesalers, in the sale of trips organized by the latter.

For the determination of the gross margin of the agency, the amounts or amounts corresponding to the operations exempt from the Tax will not be computed by virtue of the provisions of article 143 of this Law, nor of the goods or services used to carry them out. .

Two. The following services, among others, will not be considered provided for the realization of a trip:

1. The operations of sale or exchange of foreign currency.

2. The telephone, telex, correspondence and other similar expenses made by the agency.

- It is modified by art. 1.31 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- The third paragraph of section 1 is modified by art. sole.9 of Law 23/1994, of July 6. Ref. BOE-A-1994-15798

Last update, published on 11/28/2014, effective as of 01/01/2015.

Modification published on 07/07/1994, effective as of 07/08/1994.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 196: # a146]

Article 146. Deductions.

The travel agencies to which this special regime applies may practice their deductions in the terms established in Title VIII of this Law.

However, they will not be able to deduct the Tax borne on the acquisitions of goods and services that, carried out for the realization of the trip, will directly benefit the traveler.

- It is modified by art. 1.31 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

Last update, published on 11/28/2014, effective as of 01/01/2015.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 197: # a147]

Article 147. Assumption of non-application of the special regime.

By exception to the provisions of article 141 of this Law, and in the manner established by regulation, taxable persons may not apply the special regime provided in this Chapter and apply the general regime of this Tax, operation by operation, with respect to those services that are performed and for which business or professional recipients are entitled to the deduction or refund of Value Added Tax as provided in Title VIII of this Law.

- It is modified by art. 1.31 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

Last update, published on 11/28/2014, effective as of 01/01/2015.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 198: #cvii]

CHAPTER VII

Special regime of the equivalence surcharge

- The title is modified by art. 6.15.1º of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .

Last update, published on 12/30/1999, effective as of 01/01/2000.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 200: # a148]

Article 148. Special regime of the equivalence surcharge.

One. The special equivalency surcharge regime will be applied to retail merchants who are natural persons or entities under the income attribution regime of the Individual Income Tax, who carry out their activity in the economic sectors and meet the requirements. that are determined by regulation.

Two. In the event that the taxable person to whom this special regime applies carries out other business or professional activities subject to Value Added Tax, retail trade subject to said special regime will, in any case, be considered a differentiated sector of economic activity.

Three. Articles or products whose commercialization will be excluded from this special regime may be determined by regulation.

- It is modified by art. 6.15.3 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .

Last update, published on 12/30/1999, effective as of 01/01/2000.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 201: # a149]

Article 149. Concept of retail merchant.

One. For the purposes of this Law, retail merchants shall be considered the taxable persons in whom the following requirements are met:

1. Make regular deliveries of personal or mobile goods without having subjected them to any manufacturing, elaboration or manufacturing process, by themselves or through

third parties.

In relation to the products transformed by them, those who have submitted the products object of their activity by themselves or through third parties, to some of the processes indicated in the previous paragraph, without prejudice to their consideration as Such with respect to other products of an analogous or different nature that are marketed in the same state in which they were purchased.

2. That the sum of the consideration corresponding to the deliveries of said goods to the Social Security, to its managing or collaborating entities or to those who do not have the status of businessmen or professionals, made during the previous year, would have exceeded 80 percent. of the total of the deliveries made of the mentioned goods.

The requirement established in the preceding paragraph shall not apply in relation to taxpayers who have the status of retail merchants according to the regulations on Economic Activity Tax, provided that one of the following circumstances occurs:

a) They cannot calculate the percentage indicated in said paragraph for not having carried out commercial activities during the previous year.

b) That it is applicable to them and they have not renounced the modality of signs, indices and modules of the objective estimation method of the Personal Income Tax.

Two. The operations or processes that do not have the consideration of transformation for the purposes of the loss of the status of retail merchant will be determined by regulation.

[Block 203: # a150]

Article 150. Special regime for proportional determination of the tax bases.

(Repealed)

- It is repealed by art. 6.16 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .

Last update, published on 12/30/1999, effective as of 01/01/2000.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 204: # a151]

Article 151. Exclusions from the special regime of proportional determination of tax bases.

(Repealed)

- It is repealed by art. 6.16 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- It is modified by art. 6.24 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

Last update, published on 12/30/1999, effective as of 01/01/2000.

Modification published on 12/31/1997, effective as of 01/01/1998.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 205: # a152]

Article 152. Content of the special regime for proportional determination of the tax bases.

(Repealed)

- It is repealed by art. 6.16 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .

Last update, published on 12/30/1999, effective as of 01/01/2000.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 207: # a153]

Article 153. Special regime of the equivalence surcharge.

(Repealed)

- It is repealed by art. 6.16 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .

Last update, published on 12/30/1999, effective as of 01/01/2000.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 208: # a154]

Article 154. Content of the special regime of the equivalence surcharge.

One. The exaction of the Value Added Tax payable to the retailers to whom this special regime is applicable will be carried out through the repercussion of the equivalence surcharge made by their suppliers.

The provisions of this section shall be understood without prejudice to the obligation of self-assessment and payment of the tax corresponding to intra-community acquisitions of goods and to the operations referred to in article 84, section one, number 2 of this Law.

Two. Taxpayers subject to this special regime will not be obliged to make the liquidation or payment of the Tax to the Public Treasury in relation to the commercial operations carried out by them to which this special regime is applicable, nor for the transfers of goods or rights used exclusively in said activities, excluding the deliveries of real estate subject and not exempt, for which the transferor will have to pass on, settle and enter the tax quotas accrued.

Neither may they deduct the fees borne by the acquisitions or imports of goods of any nature or for the services that have been provided to them, to the extent that said goods or services are used in carrying out the activities that this special regime affects.
.

For the purposes of the regularization of deductions for investment goods, the pro rata deduction applicable in this differentiated sector of economic activity during the period in which the taxable person is subject to this special regime will be zero. The regularization referred to in article 110 of this Law shall not proceed in the cases of transfer of investment assets used exclusively for the performance of activities subject to this special regime.

Three. Retail merchants subject to this special regime will pass on to their customers the fee resulting from applying the tax rate of the tax to the tax base corresponding to sales and other operations subject to said tax that they carry out, without, in any case, being able to increase said percentage in the amount of the equivalence surcharge.

- Paragraph 2 is amended by art. 1.32 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- The first paragraph of section 2 is modified by art. 6.32 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053

Last update, published on 11/28/2014, effective as of 01/01/2015.

Modification published on 12/31/1997, effective as of 01/01/1998.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 209: # a155]

Article 155. Beginning or cessation of activities subject to the special equivalence surcharge regime.

In the event of initiation or cessation in the special equivalence surcharge regime, the following rules will apply:

1º In the cases of initiation, the taxpayers must carry out the liquidation and payment of the amount resulting from applying to the acquisition value of inventoried inventories, Value Added Tax excluded, the rates of the aforementioned tax and the current equivalency surcharge on the initiation date.

The provisions of the preceding paragraph shall not apply when the stocks have been acquired from a merchant also subject to said special regime by virtue of the transfer of all or part of a business asset not subject to Value Added Tax under the provisions of article 7, number 1 of this Law.

2. In cases of cessation due to the lack of concurrence of the requirements provided for in article 149 of this Law, taxable persons may deduct the fee resulting from applying

to the acquisition value of their inventoried inventories on the date of the cessation, Value Added Tax and equivalency surcharge excluded, the types of said tax and surcharge that were in force on the same date.

If the cessation occurs as a result of the transfer, in whole or in part, of the business assets not subject to the tax to merchants not subject to the special equivalency surcharge regime, the acquirers may deduct the fee resulting from applying the tax rates that were in force the day of the transfer to the market value of the stocks on that date.

3º For the purposes of the provisions of the two previous rules, taxpayers must prepare, in the manner determined by regulation, inventories of their stocks with reference to the days of initiation and cessation of the application of this regime.

[Block 210: # a156]

Article 156. Equivalence surcharge.

The equivalence surcharge will be required in the following operations that are subject and not exempt from Value Added Tax:

1. Deliveries of movable or moving goods that businessmen make to retail merchants who are not commercial companies.

2. The intra-community acquisitions or imports of goods made by the merchants referred to in the previous number.

3. The acquisitions of goods made by the aforementioned merchants referred to in article 84, section one, number 2. of this Law.

[Block 211: # a157]

Article 157. Cases of non-application of the equivalence surcharge.

The following operations are excepted from the provisions of the previous article:

1. Deliveries made to merchants who prove, in the manner determined by regulation, not to be subject to the special equivalency surcharge regime.

2. Deliveries made by taxable persons under the special regime of agriculture, livestock and fishing subject to the rules that regulate said special regime.

3rd deliveries, intra-community acquisitions and imports of goods of any nature that are not traded by the acquirer.

4th the operations of the previous number relating to articles excluded from the application of the special regime of the equivalence surcharge.

[Block 212: # a158]

Article 158. Taxable persons of the equivalence surcharge.

They will be obliged to pay the equivalency surcharge:

1. The taxable persons of the tax who make the deliveries subject to it.

2. The merchants themselves subject to this special regime in the intra-community acquisitions of goods and imports that they carry out, as well as in the cases contemplated in article 84, section one, number 2 of this Law.

[Block 213: # a159]

Article 159. Impact of the equivalence surcharge.

The taxable persons indicated in number 1 of the previous article are obliged to carry out the repercussion of the equivalence surcharge on the respective acquirers in the manner established in article 88 of this Law.

[Block 214: # a160]

Article 160. Taxable base.

The tax base of the equivalency surcharge will be the same as that for the Value Added Tax.

[Block 215: # a161]

Article 161. Types.

The rates of the equivalence surcharge will be as follows:

1. In general, 5.2 percent.

2. For deliveries of goods to which the tax rate established in article 91, section one of this Law, 1.4 percent is applicable.

3rd for deliveries of goods to which the tax rate provided for in article 91, section two of this law, 0.50 percent is applicable.

4th for deliveries of goods subject to the Special Tax on Tobacco Work, 1.75 percent.

- It is modified, with effect from September 1, 2012, by art. 23.5 of Royal Decree-Law 20/2012, of July 13. Ref. BOE-A-2012-9364 .
- It is modified by art. 10.15 of Law 13/1996, of December 30. Ref. BOE-A-1996-29117

Last update, published on 07/14/2012, effective as of 07/15/2012.

Modification published on 12/31/1996, effective as of 01/01/1997.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 216: # a162]

Article 162. Liquidation and income.

The settlement and the entry of the equivalence surcharge will be made jointly with the Value Added Tax and adjusting to the same rules established for the exaction of said tax.

[Block 217: # a163]

Article 163. Obligation to prove that the equivalence surcharge is subject to the special regime.

People or entities that are not commercial companies and usually carry out retail sales operations will be obliged to prove to their suppliers or, where appropriate, to Customs,

the fact of being subject or not to the special regime of the equivalence surcharge in relationship with the acquisitions or imports of goods they carry out.

[Block 218: #cviii]

CHAPTER VIII

Special regime applicable to services provided electronically

- It is suppressed by art. 1.35 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- It is added by art. 4.24 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .

Last update, published on 11/28/2014, effective as of 01/01/2015.

Modification published on 12/31/2002, effective as of 01/01/2003.

- **Added text, published on 12/31/2002, effective as of 01/01/2003.**

[Block 219: # as163bisa163quater]

Articles 163 bis to 163 quater.

(Deleted)

- They are suppressed by art. 1.35 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- **Added text, published on 11/28/2014, effective as of 01/01/2015.**

[Block 223: #cix]

CHAPTER IX

Special regime of the group of entities

- It is added by art. 3.5 of Law 36/2006, of November 29. Ref. BOE-A-2006-20843 .

- **Added text, published on 11/30/2006, effective as of 12/01/2006.**

[Block 224: # a163quinquies]

Article 163 quinquies. Subjective requirements of the special regime of the group of entities.

One. The special regime of the group of entities may be applied by entrepreneurs or professionals who are part of a group of entities. The group of entities shall be considered to be the one formed by a dominant entity and its dependent entities, which are firmly linked to each other in the financial, economic and organizational orders, in the terms that are developed by regulation, provided that the headquarters of economic activity or permanent establishments of each and every one of them reside in the territory of application of the Tax.

No entrepreneur or professional may simultaneously form part of more than one group of entities.

Two. A dominant entity is one that meets the following requirements:

a) That it has its own legal personality. However, permanent establishments located in the territory of application of the Tax may have the status of dominant entity with respect to the entities whose participations are affected by said establishments, provided that the rest of the requirements established in this section are met.

b) That it has effective control over the entities of the group, through a participation, direct or indirect, of more than 50 percent, in the capital or in the voting rights of the same.

c) That said participation is maintained throughout the calendar year.

d) That it is not dependent on any other entity established in the territory of application of the Tax that meets the requirements to be considered as dominant.

Notwithstanding the provisions of section one above, commercial companies that do not act as businessmen or professionals may be considered as the dominant entity, provided that they meet the above requirements.

Three. A dependent entity shall be deemed to be one that, constituting an entrepreneur or professional other than the dominant entity, is established in the territory of application of the Tax and in which the dominant entity holds an interest that meets the requirements contained in letters b) and c) of the previous section. In no case may a permanent establishment located in the territory of application of the Tax constitute by itself a dependent entity.

Four. The entities in which a stake is acquired as defined in letter b) of section two above will be included in the group of entities with effect from the calendar year following the acquisition of the stake. In the case of newly created entities, the integration will take place, as the case may be, from the moment of its constitution, provided that the remaining requirements necessary to form part of the group are met.

Five. The dependent entities that lose such condition will be excluded from the group of entities with effect from the settlement period in which such circumstance occurs.

- Sections 1 and 2 are modified by art. 1.33 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- It is added by art. 3.5 of Law 36/2006, of November 29. Ref. BOE-A-2006-20843 .

Last update, published on 11/28/2014, effective as of 01/01/2015.

Modification published on 11/30/2006, effective as of 12/01/2006.

- **Added text, published on 11/30/2006, effective as of 12/01/2006.**

[Block 225: # a163sexies]

Article 163 sexies. Conditions for the application of the special regime of the group of entities.

One. The special regime of the group of entities will be applied when the entities that meet the requirements established in the previous article and choose to apply it so agree individually. The option will have a minimum validity of three years, provided that the requirements for the application of the special regime are met, and it will be understood as extended, unless waived, which will be carried out in accordance with the provisions of article 163 nonies. of this Law. This resignation will have a minimum validity of three years and will be carried out in the same way. In any case, the application of the special regime will be conditioned to its application by the dominant entity.

Two. The agreements referred to in the previous section must be adopted by the Boards of Directors, or bodies that exercise an equivalent function, of the respective entities before the start of the calendar year in which the special regime will be applicable.

Three. The entities that henceforth join the group and decide to apply this special regime must comply with the obligations referred to in the preceding sections before the start of the first calendar year in which said regime is applicable.

Four. The lack of adoption in time and form of the agreements referred to in sections one and two of this article will determine the impossibility of applying the special regime of the group of entities by the entities in which the agreement is missing, without prejudice of its application, where appropriate, to the other entities of the group.

Five. The group of entities may choose to apply the provisions of sections one and three of article 163 octies, in which case the obligation established in article 163 nonies.four.3.ª, both of this Law, must be fulfilled.

This option will refer to the set of entities that apply the special regime and are part of the same group of entities, and must be adopted in accordance with the provisions of section two of this article.

In relation to the operations referred to in article 163 eighties one of this Law, the exercise of this option will suppose the faculty to renounce the exemptions regulated in article 20, one of the same, notwithstanding that they are exempt, where applicable, other operations carried out by entities that apply the special regime of the group of entities. The exercise of this faculty will be carried out with the requirements, limits and conditions that are determined by regulation.

- It is added by art. 3.5 of Law 36/2006, of November 29. Ref. BOE-A-2006-20843 .

- **Added text, published on 11/30/2006, effective as of 12/01/2006.**

[Block 226: # a163septies]

Article 163 septies. Determining causes of the loss of the right to the special regime of the group of entities.

One. The special regime regulated in this Chapter will cease to apply for the following reasons:

1. The concurrence of any of the circumstances that, in accordance with the provisions of article 53 of the General Tax Law 58/2003, of December 17, determine the application of the indirect estimation method.

2. Failure to comply with the obligation to prepare and maintain the information system referred to in article 163 nonies.cuatro.3.ª of this Law.

The non-application of the special regime regulated in this chapter for the aforementioned causes will not prevent the imposition, where appropriate, of the sanctions provided for in article 163 nonies. Seven of this Law.

Two. The cessation of the application of the special regime for the group of entities established in the previous section will take effect in the liquidation period in which any of these and subsequent circumstances occur, and the total number of entities belonging to the group must comply with all of the obligations established in this Law as of said period.

Three. In the event that an entity belonging to the group was at the end of any liquidation period in bankruptcy or in liquidation process, it will be excluded from the special regime of the group from that period.

The foregoing shall be understood without prejudice to the continued application of the special regime to other entities that meet the requirements established for this purpose.

- It is added by art. 3.5 of Law 36/2006, of November 29. Ref. BOE-A-2006-20843 .

- **Added text, published on 11/30/2006, effective as of 12/01/2006.**

[Block 227: # a163octies]

Article 163g. Content of the special regime of the group of entities.

One. When the option established in article 163 sexies five of this Law is exercised, the taxable base of the deliveries of goods and services rendered in the territory of application of the Tax between entities of the same group that apply the special regime regulated in this Chapter will be constituted by the cost of the goods and services used directly or indirectly, totally or partially, in its realization and for which the Tax has been effectively supported or paid. When the assets used have the status of investment assets, the imputation of their cost must be made entirely within the period of regularization of quotas corresponding to said assets established in article 107, sections one and three, of this Law.

However, for the purposes of the provisions of articles 101 to 119 and 121 of this Law, the valuation of these operations will be made in accordance with articles 78 and 79 thereof.

Two. Each of the entities of the group will act, in its operations with entities that are not part of the same group, in accordance with the general rules of the Tax, without, for this purpose, the regime of the group of entities having any effect.

Three. When the option established in article 163 sexies five of this Law is exercised, the operations referred to in section one of this article will constitute a differentiated sector of the activity, to which the goods and services used will be understood as directly affected. or indirectly, totally or partially, in carrying out the aforementioned operations and for which the Tax would have been effectively supported or paid.

Entrepreneurs or professionals may deduct in full the fees borne or paid for the acquisition of goods and services intended directly or indirectly, in whole or in part, to carry out these operations, provided that said goods and services are used in carrying out operations that generate the right to deduction in accordance with the provisions of article 94 of this Law. This deduction will be practiced depending on the foreseeable destination of the aforementioned goods and services, without prejudice to their rectification if it is altered.

Four. The amount of deductible fees for each of the businessmen or professionals included in the group of entities will be that resulting from the application of the provisions of Chapter I of Title VIII of this Law and the special rules established in the previous section. These deductions will be practiced individually by each of the businessmen or professionals who apply the special regime of the group of entities.

Once the amount of deductible fees has been determined for each of said businessmen or professionals, they will be the ones who individually exercise the right to deduction in accordance with the provisions of said Chapter and Title.

However, when an entrepreneur or professional includes the balance to be offset that results from one of their individual statement-settlements in an aggregated statement-settlement of the group of entities, the compensation of that amount cannot be made in any corresponding individual statement-settlement to a subsequent period, irrespective of whether the special regime for the group of entities is subsequently applicable or not.

Five. In the event that any of the other special regimes regulated in this Law were applicable to the operations carried out by any of the entities included in the group of entities, said operations will follow the deduction regime that corresponds to them according to said regimes.

- Section 3 is amended by art. 1.34 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- It is added by art. 3.5 of Law 36/2006, of November 29. Ref. BOE-A-2006-20843 .

Last update, published on 11/28/2014, effective as of 01/01/2015.

Modification published on 11/30/2006, effective as of 12/01/2006.

• Added text, published on 11/30/2006, effective as of 12/01/2006.

[Block 228: # a163nonies]

Article 163 nonies. Specific obligations in the special regime of the group of entities.

One. The entities that apply the special regime of the group of entities will have the tax obligations established in this Chapter.

Two. The dominant entity will hold the representation of the group of entities before the Tax Administration. In such a concept, the dominant entity must comply with the specific material and formal tax obligations derived from the special regime of the group of entities.

Three. Both the dominant entity and each of the dependent entities must comply with the obligations established in article 164 of this Law, except for the payment of the tax debt or the request for compensation or refund, and must proceed, in accordance with the provisions of obligation 2 of the following section.

Four. The dominant entity, without prejudice to the fulfillment of its own obligations, and with the requirements, limits and conditions determined by regulation, will be responsible for the fulfillment of the following obligations:

1. Communicate the following information to the Tax Administration:

a) Compliance with the required requirements, the adoption of the corresponding agreements and the option for the application of the special regime referred to in articles 163 quinies and sexies of this Law. All this information must be submitted in the month of December prior to beginning of the calendar year in which the special regime is to be applied.

b) The list of group entities that apply the special regime, identifying the entities that motivate any alteration in their composition compared to the previous year, if applicable. This information must be communicated during the month of December of each calendar year regarding the following.

c) The resignation to the special regime, which must be exercised during the month of December prior to the beginning of the calendar year in which it must take effect, both in relation to the resignation of all entities that apply the special regime and in terms of resignations individual.

d) The option established in article 163 sexies.five of this Law, which must be communicated during the month of December prior to the start of the calendar year in which it must take effect.

2. Present the aggregated periodic self-assessments of the group of entities, proceeding, where appropriate, to the entry of the tax debt or to the corresponding request for compensation or refund. These aggregated self-assessments will integrate the results of the individual self-assessments of the entities that apply the special regime of the group of entities.

The aggregated periodic self-assessments of the group of entities must be presented once the individual periodic self-assessments of each of the entities that apply the special regime of the group of entities have been presented.

The liquidation period of the entities that apply the special regime of the group of entities will coincide with the calendar month, regardless of their volume of operations.

When, for a settlement period, the total amount of the balances to be returned in favor of the entities that apply the special regime of the group of entities exceeds the amount of the balances to be paid from the rest of the entities that apply the special regime of the group of entities for the same settlement period, may request the return of the excess, provided that four years had not elapsed counted from the presentation of the individual self-assessments in which said excess originated. This refund will be carried out in the terms provided in section three of article 115 of this Law. In such case, the compensation of said balances will not proceed to return in subsequent

aggregate self-assessments, whatever the period of time elapsed until said refund is make effective.

In the event that the special regime of the group of entities ceases to apply and there are amounts pending return or compensation for the entities integrated in the group, these amounts will be attributed to said entities in proportion to the volume of operations of the last calendar year in which the special regime would have been applicable, applying for that purpose the provisions of article 121 of this Law.

3rd Have an analytical information system based on reasonable criteria for the imputation of goods and services used directly or indirectly, in whole or in part, in carrying out the operations referred to in article 163 octies.uno of this Law. This system should reflect the successive use of said goods and services until their final application outside the group.

The information system must include a report justifying the imputation criteria used, which must be homogeneous for all the entities of the group and must be maintained during all periods in which the special regime is applicable, unless they are modified for reasonable reasons, which must be justified in the memory itself.

This information system must be kept during the statute of limitations of the Tax.

Five. In the event that any of the entities included in the group of entities submits an extemporaneous individual declaration-liquidation, the surcharges and interests will be applied, which, as the case may be, proceed in accordance with article 27 of Law 58/2003, of December 17 , General Tax, for which purpose the fact that the balance of the individual statement-liquidation, if any, presented, had not been included in an aggregate statement-liquidation of the group of entities.

When the aggregate declaration-liquidation corresponding to the group of entities is submitted out of time, the surcharges established by article 27 of General Tax Law 58/2003, of December 17, will be applied to the result thereof, being responsible for its the dominant entity entered.

Six. The entities that apply the special regime of the group of entities will be jointly and severally liable for the payment of the tax debt derived from this special regime.

Seven. Failure to maintain or maintain the information system referred to in obligation 3 of section four will be considered a serious tax offense by the dominant entity. The sanction will consist of a proportional pecuniary fine of 2 percent of the group's volume of operations.

The inaccuracies or omissions in the information system referred to in obligation 3 of section four will be considered a serious tax offense by the dominant entity. The sanction will consist of a proportional pecuniary fine of 10 percent of the amount of the goods and services acquired from third parties to which the inaccurate or omitted information refers.

In accordance with the provisions of section 3 of article 180 of the General Tax Law 58/2003, of December 17, the sanctions provided for in the two preceding paragraphs shall be compatible with those that proceed for the application of articles 191, 193 , 194 and 195 of said law. The imposition of the sanctions established in this section will prevent the classification of the offenses typified in articles 191 and 193 of said law as serious or very serious due to the lack of conduct, incorrect conduct or non-preservation of the information system to which the obligation refers. 3rd of section four.

The dominant entity will be the offending subject for breaches of the specific obligations of the special regime of the group of entities. The other entities that apply the special regime of the group of entities will be jointly and severally liable for the payment of these penalties.

The entities that apply the special regime of the group of entities will be liable for the infractions derived from the breaches of their own tax obligations.

Eight. The actions aimed at verifying the adequate fulfillment of the obligations of the entities that apply the special regime of the group of entities will be understood with the dominant entity, as its representative. Likewise, the actions may be understood with the dependent entities, which must attend to the Tax Administration.

The verification or investigation actions carried out on any entity in the group of entities will interrupt the limitation period of the Tax referring to the total number of entities in the group from the moment that the dominant entity has formal knowledge of them.

The minutes and settlements derived from the verification of this special regime will be extended to the parent entity.

It will be understood that the circumstance of special complexity provided for in article 150.1 of the General Tax Law 58/2003, of December 17, occurs when this special regime is applied.

- Section 4 is modified by art. 5.11 of Law 4/2008, of December 23. Ref. BOE-A-2008-20802 .
  Applicable to the settlement periods starting from January 1, 2009, as established in final provision 5.d).
- It is added by art. 3.5 of Law 36/2006, of November 29. Ref. BOE-A-2006-20843 .

Last update, published on 12/25/2008, effective as of 12/26/2008.

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• Added text, published on 11/30/2006, effective as of 12/01/2006.

[Block 229: #cx]

CHAPTER X

Cash regimen special regime

- It is added by art. 23.2 of Law 14/2013, of September 27. Ref. BOE-A-2013-10074 .

• Added text, published on 09/28/2013, effective as of 01/01/2014.

[Block 230: # a163decies]

Article 163 decies. Subjective application requirements.

One. The tax regime's taxable regime whose volume of operations during the previous calendar year has not exceeded 2,000,000 euros may apply the special regime of the

cash criterion.

Two. When the taxpayer has started to carry out business or professional activities in the previous calendar year, the amount of the volume of operations must be increased to one year.

Three. When the taxpayer has not started carrying out business or professional activities in the previous calendar year, he may apply this special regime in the current calendar year.

Four. In order to determine the volume of operations carried out by the taxpayer referred to in the previous sections, they will be understood to have been carried out when the Value Added Tax accrues or, if applicable, if the operations were not the special regime of the cash criterion would have applied to them.

Five. Taxable persons whose cash receipts from the same recipient during the calendar year exceed the amount determined by regulation will be excluded from the cash regime.

- It is added by art. 23.2 of Law 14/2013, of September 27. Ref. BOE-A-2013-10074 .

- **Added text, published on 09/28/2013, effective as of 01/01/2014.**

[Block 231: # a163undecies]

Article 163 undecies. Conditions for the application of the special regime of the cash criterion.

The special regime of the cash criterion may be applied by taxpayers who meet the requirements established in the previous article and choose to apply it in the terms established by regulation. The option will be understood as extended unless waived, which will be carried out under the conditions established by regulation. This resignation will be valid for a minimum of 3 years.

- It is added by art. 23.2 of Law 14/2013, of September 27. Ref. BOE-A-2013-10074 .

- **Added text, published on 09/28/2013, effective as of 01/01/2014.**

[Block 232: # a163duodecies]

Article 163 duodecies. Objective application requirements.

One. The special regime of the cash criterion may be applied by the taxpayers referred to in article 163 decies to the operations that are understood to be carried out in the territory of application of the Tax.

The special regime of the cash criterion will refer to all the operations carried out by the taxpayer without prejudice to the provisions of the following section of this article.

Two. The following operations are excluded from the special regime of the cash criterion:

a) Those covered by the simplified special regimes, for agriculture, livestock and fisheries, the equivalence surcharge, investment gold, applicable to services provided electronically and by the group of entities.

b) Deliveries of exempt goods referred to in articles 21, 22, 23, 24 and 25 of this Law.

c) Intra-community acquisitions of goods.

d) Those in which the taxable person of the Tax is the businessman or professional for whom the operation is carried out in accordance with numbers 2, 3 and 4 of section one of article 84 of this Law.

e) Imports and operations assimilated to imports.

f) Those referred to in articles 9.1.º and 12 of this Law.

- It is added by art. 23.2 of Law 14/2013, of September 27. Ref. BOE-A-2013-10074 .

- **Added text, published on 09/28/2013, effective as of 01/01/2014.**

[Block 233: # a163terdecies]

Article 163 terdecies. Contents of the special regime of the cash criterion.

One. In the operations to which this special regime applies, the Tax will accrue at the time of total or partial collection of the price for the amounts actually received or if it has not occurred, the accrual will occur on December 31 of the year immediately following that in which the operation was carried out.

For these purposes, the time of collection, total or partial, of the transaction price must be proven.

Two. The repercussion of the Tax in the operations to which this special regime is applicable must be carried out at the time of issuing and delivering the corresponding invoice, but it will be understood as produced at the time of accrual of the operation determined in accordance with the provisions of the preceding paragraph.

Three. Taxpayers to whom this special regime is applicable may practice their deductions in the terms established in Title VIII of this Law, with the following characteristics:

a) The right to deduct the fees paid by taxpayers under this special regime arises at the time of total or partial payment of the price for the amounts actually paid, or if it has not occurred, on December 31, year immediately following the year in which the operation was carried out.

The foregoing shall apply regardless of when the taxable event is understood to have been carried out.

For these purposes, the time of payment, total or partial, of the transaction price must be proven.

b) The right to deduction can only be exercised in the declaration-liquidation relative to the liquidation period in which the right to deduction of the contributions paid or in the successive ones has arisen, provided that the term of four years has not elapsed , counted from the birth of the aforementioned right.

c) The right to deduct the contributions paid expires when the owner has not exercised it within the period established in the previous letter.

Four. Regulations will determine the formal obligations that must be met by taxpayers who apply this special regime.

- It is added by art. 23.2 of Law 14/2013, of September 27. Ref. BOE-A-2013-10074 .

- **Added text, published on 09/28/2013, effective as of 01/01/2014.**

[Block 234: # a163quaterdecies]

Article 163 quaterdecies. Effects of the resignation or exclusion of the special regime of the cash criterion.

The waiver or exclusion of the application of the special regime of the cash criterion will determine the maintenance of the rules regulated in the same with respect to the operations carried out during its validity in the terms indicated in the previous article.

- It is added by art. 23.2 of Law 14/2013, of September 27. Ref. BOE-A-2013-10074 .

- **Added text, published on 09/28/2013, effective as of 01/01/2014.**

[Block 235: # a163quinquiesdecies]

Article 163 quinquiesdecies. Operations affected by the special regime of the cash criterion.

One. The birth of the right to deduction of taxable persons not covered by the special regime of the cash criterion, but who are recipients of the operations included in it, in relation to the fees supported by those operations, will occur at the time of the total or partial payment of the price thereof, for the amounts effectively paid, or, if this has not occurred, on December 31 of the year immediately following that in which the operation was carried out.

The foregoing shall apply regardless of when the taxable event is understood to have been carried out.

For these purposes, the time of payment, total or partial, of the transaction price must be proven.

Regulations will determine the formal obligations that must be met by taxpayers who are recipients of the operations affected by the special regime of the cash criterion.

Two. The modification of the tax base referred to in section four of article 80 of this Law, made by taxpayers who are not covered by the special regime of the cash criterion, will determine the birth of the right to deduct the fees paid by the taxpayer debtor, availed of said special regime corresponding to the modified operations and that were still pending deduction on the date on which the aforementioned modification of the tax base is made.

- It is added by art. 23.2 of Law 14/2013, of September 27. Ref. BOE-A-2013-10074 .

- **Added text, published on 09/28/2013, effective as of 01/01/2014.**

[Block 236: # a163sexiesdecies]

Article 163 sexies. Effects of the declaration of the contest.

The declaration of insolvency of the taxable person under the special regime of cash criteria or of the taxpayer recipient of their operations will determine, on the date of the insolvency decree:

a) the accrual of the fees passed on by the taxable person under the special regime of the cash criterion that were still pending accrual on that date;

b) the birth of the right to deduct the fees borne by the taxpayer with respect to the operations that have been addressed and to which the special regime of the cash criterion has been applied that were pending payment and in which there has been no after the period provided for in article 163.terdecies.Three, letter a), on that date;

c) the birth of the right to deduct the fees borne by the insolvent taxable person under the special regime of the cash criterion, with respect to the operations that have been received not covered by said special regime that are still pending payment and in the that the period provided for in article 163.terdecies.Three, letter a) has not elapsed on that date.

The taxable person in bankruptcy must declare the accrued quotas and exercise the deduction of the supported quotas referred to in the preceding paragraphs in the statutory declaration-liquidation, corresponding to the taxable events prior to the bankruptcy declaration. Likewise, the taxable person must declare in said declaration-liquidation, the other supported contributions that were pending deduction at said date.

- It is added by art. 23.2 of Law 14/2013, of September 27. Ref. BOE-A-2013-10074 .

- **Added text, published on 09/28/2013, effective as of 01/01/2014.**

[Block 237: #cxi]

CHAPTER XI

Special regimes applicable to telecommunications, broadcasting or television services and to those provided electronically

- It is added by art. 1.35 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- **Added text, published on 11/28/2014, effective as of 01/01/2015.**

[Block 238: # s1a]

Section 1. Common provisions

- It is added by art. 1.35 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- **Added text, published on 11/28/2014, effective as of 01/01/2015.**

[Block 239: # a163septiesdecies]

Article 163 septiesdecies. Definitions and causes of exclusion.

One. For the purposes of this Chapter, the following definitions shall apply:

a) "Telecommunications services" means the services referred to in number 3 of section Three of article 69 of this Law;

b) "Electronic services" or "services provided electronically": the services defined in number 4 of section Three of article 69 of this Law;

c) "Radio or television services" means the services referred to in number five of section Three of article 69 of this Law;

d) "Member State of consumption": the Member State in which the provision of telecommunications, broadcasting or television and electronic services is considered to take place in accordance with numbers 4 and 8 of section One of the Article 70 or its equivalents in the laws of other Member States;

e) "Periodic declarations-settlements of the special regimes applicable to telecommunications, radio broadcasting or television and electronic services": the declaration-liquidation containing the information necessary to determine the amount of the corresponding tax in each Member State of consumption.

Two. Any of the following circumstances listed below will be causes of exclusion from these special regimes:

a) The presentation of the declaration of cessation of the operations included in said special regimes.

b) The existence of facts that allow us to presume that the operations of the businessman or professional included in these special regimes have ended.

c) Failure to comply with the requirements necessary to avail of these special regimes.

d) Repeated non-compliance with the obligations imposed by the regulations of these special regimes.

The exclusion decision will be the exclusive competence of the Member State of identification that is defined for each of these special regimes.

Three. Without prejudice to the provisions of the previous section, the employer or professional may voluntarily unsubscribe from these regimes.

Four. Regulations shall establish the necessary provisions for the development and application of the provisions of this Chapter.

- It is added by art. 1.35 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

● **Added text, published on 11/28/2014, effective as of 01/01/2015.**

[Block 240: # s2a]

Section 2. Special regime applicable to telecommunications, radio broadcasting or television services and to those provided electronically by businessmen or professionals not established in the Community.

- It is added by art. 1.35 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

● **Added text, published on 11/28/2014, effective as of 01/01/2015.**

[Block 241: # a163octiesdecies]

Article 163 eighties. Area of application.

One. Entrepreneurs or professionals not established in the Community, who provide telecommunications, radio broadcasting or television and electronic services to persons who do not have the status of entrepreneur or professional, acting as such, and who are established in the Community or who have their domicile or habitual residence there, they may avail themselves of the special regime provided in this section.

The special regime will apply to all the services that, in accordance with the provisions of numbers 4 and 8 of section One of article 70 of this Law, or their equivalents in the laws of other Member States, must understood to be carried out in the Community.

Two. For the purposes of this Section, the following shall be considered:

a) "Entrepreneur or professional not established in the Community": any entrepreneur or professional who has his or her economic activity outside the Community and does not have a permanent establishment in the territory of the Community;

b) "Member State of identification": the Member State where the entrepreneur or professional not established in the Community has chosen to declare the start of his activity as such entrepreneur or professional in the territory of the Community.

- Section 2.a) is modified, with effect from January 1, 2019, by art. 79.2 of Law 6/2018, of July 3. Ref. BOE-A-2018-9268
- It is added by art. 1.35 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

Last update, published on 07/04/2018, effective as of 01/01/2019.

Modification published on 11/28/2014, effective as of 01/01/2015.

- **Added text, published on 11/28/2014, effective as of 01/01/2015.**

[Block 242: # a163noniesdecies]

Article 163 noniesdecies. Formal obligations.

One. In the event that Spain is the Member State of identification chosen by the employer or professional not established in the Community, the latter will be obliged to:

a) Declare the start, modification or cessation of its operations included in this special regime. This declaration will be submitted electronically.

The information provided by the entrepreneur or professional not established in the Community when declaring the start of their taxed activities will include the following identification data: name, postal and email addresses, electronic addresses of the internet sites through which it operates where appropriate, the number by which you are identified before the Tax Administration of the third territory in which you have your headquarters and a statement stating that you have not located the headquarters of your economic activity in the territory of the Community and that it does not have a permanent establishment. Likewise, the employer or professional not established in the Community will communicate any possible modification of the aforementioned information.

In the case of businessmen or professionals established in the Canary Islands, Ceuta or Melilla, the information to be provided when declaring the start of their taxable activities will include name, postal and email addresses and the electronic addresses of the internet sites through those that operate and the tax identification number assigned by the Spanish Tax Administration.

For the purposes of this regime, the Tax Administration will identify the entrepreneur or professional not established in the Community by means of an individual number.

The Tax Administration will electronically notify the employer or professional not established in the Community of the identification number assigned to it.

b) Submit electronically a declaration-liquidation of Value Added Tax for each calendar quarter, regardless of whether or not they have provided telecommunications, radio broadcasting or television and electronic services. The declaration may not be negative and shall be submitted within twenty days from the end of the period to which the declaration refers.

This declaration-settlement must include the identification number that has been notified to it by the Tax Administration in accordance with the provisions of letter a) above and, for each Member State of consumption in which the tax has accrued, the total value, excluding the value added tax levied on the operation of telecommunications, radio broadcasting or television and electronic services during the period referred to in the declaration, the global amount of the tax corresponding to each Member State broken down by tax rates and the total amount, resulting from the sum of all these, which must be entered in Spain.

If the amount of the consideration for the operations has been set in a currency other than the euro, it will be converted to euros using the valid exchange rate corresponding to the last day of the settlement period. The change will be made following the exchange rates published by the European Central Bank for that day or, if there was no publication corresponding to that day, the following day.

Any subsequent modification of the figures contained in the filed declarations must be made, within a maximum period of three years from the date the initial declaration was to be presented, through the rectification procedure for self-assessments and additional declarations provided in the Articles 120.3 and 122, respectively, of General Tax Law 58/2003, of December 17, and its implementing regulations. However, the Member State of consumption may accept corrections after the end of the indicated period subject to the provisions of its national tax regulations.

c) Enter the tax corresponding to each declaration, referring to the specific declaration to which it corresponds, the amount will be deposited in euros in the bank account designated by the Tax Administration, within the period of presentation of the declaration.

Any subsequent rectification of the amounts entered, which determines an additional income of the Tax, must be made with reference to the specific declaration to which it corresponds, without being added or introduced in another subsequent declaration.

d) Keep a record of the operations included in this special regime. This register must be kept with sufficient precision so that the Tax Administration of the Member State of consumption can verify if the declaration mentioned in letter b) above is correct.

This register will be available to both the Member State of identification and the Member State of consumption, the employer or professional not established in the Community being obliged to make it available to the Tax Administrations of said States, upon their request, by electronic means.

The entrepreneur or non-established professional must keep this record for a period of ten years from the end of the year in which the operation was carried out.

e) Issue and deliver invoice when the recipient of the operations is established or has his habitual residence or domicile in the territory of application of the Tax, adjusted to what is determined by regulation.

Two. In the event that the entrepreneur or professional not established in the Community had chosen any other Member State other than Spain to present the declaration of initiation in this special regime, and in relation to the operations that, in accordance with the provisions of numbers 4 .º and 8º of section One of article 70 of this Law, must be considered made in the territory of application of the Tax, the income of the Tax corresponding to the same must be made at the time of the presentation in the Member State of identification of the statement referred to in the previous section.

In addition, the entrepreneur or professional not established in the Community must fulfill the rest of the obligations contained in section One above in the Member State of identification and, in particular, those established in letter d) of said section.

Three. The Minister of Finance and Public Administrations will dictate the necessary provisions for the development and application of the provisions of this section.

- Section 1.a) is modified, with effect from January 1, 2019, by art. 79.3 of Law 6/2018, of July 3. Ref. BOE-A-2018-9268
- It is added by art. 1.35 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

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- **Added text, published on 11/28/2014, effective as of 01/01/2015.**

[Block 243: # a163vicies]

Article 163 vicies. Right to deduct dues paid.

One. Entrepreneurs or professionals not established in the Community who avail themselves of this special regime may not deduct in the declaration-liquidation referred to in letter b) of section One of article 163 noniesdecies of this Law, any amount of fees. supported in the acquisition or import of goods and services that, in accordance with the applicable rules, are intended to provide the telecommunications, radio broadcasting or television and electronic services referred to in this regime.

Notwithstanding the foregoing, said entrepreneurs or professionals covered by this special regime will be entitled to the refund of the Value Added Tax quotas supported in the acquisition or import of goods and services that are destined to the provision of telecommunications services, broadcasting or television and electronic systems to which this special regime refers, which must be understood to have been carried out in the Member State of consumption, in accordance with the procedure provided for in the regulations of the developing Member State of consumption, as provided for in Directive 86/560 EEC, of the Council, of November 17, 1986, in the terms provided for in Article 368 of Directive 2006/112 / EC, of November 28, 2006. In particular, in the case of entrepreneurs or professionals who are established in Canary Islands,Ceuta and Melilla will request the refund of the contributions paid, with the exception of those made in the territory of application of the Tax, through the procedure provided for in article 117 bis of this Law.

Two. In the event that Spain is the Member State of consumption, without prejudice to the provisions of number two of section Two of article 119 of this Law, employers or professionals not established in the Community who avail themselves of this special regime will have right to the refund of the Value Added Tax quotas supported in the acquisition or import of goods and services that must be understood to be carried out in the territory of application of the Tax, provided that said goods and services are destined to the provision of the services of telecommunications, broadcasting or television and electronics referred to in this special regime. The procedure for exercising this right will be as provided in article 119 bis of this Law.

For these purposes, the existence of reciprocity of treatment in favor of the businessmen or professionals established in the territory of application of the Tax will not be required. Entrepreneurs or professionals who avail themselves of the provisions of this article shall not be required to appoint a representative before the Tax Administration for these purposes.

In the case of businessmen or professionals established in the Canary Islands, Ceuta or Melilla, the procedure for the exercise of the right to refund the quotas of the Value Added Tax referred to in this section shall be as provided in article 119 of this Law.

- It is added by art. 1.35 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- **Added text, published on 11/28/2014, effective as of 01/01/2015.**

[Block 244: # s3a]

Section 3. Special regime applicable to telecommunications, radio broadcasting or television services and services provided electronically by businessmen or professionals established in the Community, but not in the Member State of consumption

- It is added by art. 1.35 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- **Added text, published on 11/28/2014, effective as of 01/01/2015.**

[Block 245: # a163unvicies]

Article 163 unvicies. Area of application.

One. Employers or professionals established in the Community but not established in the Member State of consumption that provide telecommunications, radio broadcasting or television and electronic services to persons who do not have the status of being eligible for the special regime provided for in this section entrepreneur or professional acting as such and who are established in a Member State or have their habitual residence or residence there.

The special regime will apply to all the services that, in accordance with the provisions of numbers 4 and 8 of section One of article 70 of this Law, or their equivalents in the laws of other Member States, must understood to be carried out in the Community, provided that they are provided in a Member State other than that in which the employer or professional covered by this special regime has established the headquarters of his economic activity or has a permanent establishment.

Two. For the purposes of this Section, the following shall be considered:

a) "Entrepreneur or professional not established in the Member State of consumption": any entrepreneur or professional who has established the headquarters of his economic activity in the territory of the Community or who has a permanent establishment there, but who has not established said it is established in the territory of the Member State of consumption or has a permanent establishment there;

b) "Member State of Identification": the Member State in which the employer or professional has established the headquarters of his economic activity. When the entrepreneur or professional has not established the headquarters of his economic activity in the Community, he will attend to the only Member State in which he has a permanent establishment or, in case of having permanent establishments in several Member States, to the State he chooses the employer or professional from among the Member States in which he has a permanent establishment. In the latter case, the option for a Member State will bind the employer or professional as long as it is not revoked by it, although the option for its application will have a minimum validity of three calendar years, including the calendar year to which it refers the option exercised.

Three. For the purposes of this section, Spain will be considered the "Member State of identification" in the following cases:

a) In any case, for the businessmen or professionals who have the headquarters of their economic activity in the territory of application of the tax and those who have not established the headquarters of their economic activity in the territory of the

Community but have exclusively in the territory of application of the tax one or more permanent establishments.

b) In the case of businessmen or professionals who do not have the headquarters of their economic activity in the territory of the Community and who have more than one permanent establishment in the territory of application of the Tax and in some other Member State have chosen Spain as Member State of identification.

- It is added by art. 1.35 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- **Added text, published on 11/28/2014, effective as of 01/01/2015.**

[Block 246: # a163duovicies]

Article 163 duovicies. Formal obligations.

One. In the event that Spain is the Member State of identification, the entrepreneur or professional, who provides telecommunications, broadcasting or television and electronic services under the special regime in another Member State, shall be obliged to:

a) Declare the start, modification or cessation of its operations included in this special regime. This declaration will be submitted electronically.

b) Submit electronically a declaration-liquidation of Value Added Tax for each calendar quarter, regardless of whether or not they have provided telecommunications, radio broadcasting or television and electronic services. The declaration may not be negative and shall be submitted within twenty days from the end of the period to which the declaration refers.

This declaration-settlement must include the tax identification number assigned to the entrepreneur or professional by the Tax Administration in relation to their tax obligations and, for each Member State of consumption in which the tax has accrued, the total value, excluding the value added tax levied on the operation of telecommunications, radio broadcasting or television and electronic services, during the period referred to in the declaration, the global amount of the tax corresponding to each Member State, broken down by tax rates and the total amount, resulting from the sum of all these, which must be paid into Spain.

When the entrepreneur or professional has one or more permanent establishments in Member States other than Spain, from which he provides the services referred to in this special regime, he must also include in the declaration-liquidation the information referred to in the preceding paragraph, corresponding to each permanent establishment, identified with its individual tax identification number or the fiscal reference number of said establishment, and broken down by each Member State of consumption.

If the amount of the consideration for the operations has been set in a currency other than the euro, it will be converted to euros using the valid exchange rate corresponding to the last day of the settlement period. The change will be made following the exchange rates published by the European Central Bank for that day or, if there was no publication corresponding to that day, the following day.

Any subsequent modification of the figures contained in the filed declarations must be made, within a maximum period of three years from the date the initial declaration was to be presented, through the rectification procedure for self-assessments and additional

declarations provided in the Articles 120.3 and 122, respectively, of General Tax Law 58/2003, of December 17, and its implementing regulations. However, the Member State of consumption may accept corrections after the end of the indicated period subject to the provisions of its national tax regulations.

c) Enter the tax corresponding to each declaration, referring to the specific declaration to which it corresponds, the amount will be deposited in euros in the bank account designated by the Tax Administration, within the period of presentation of the declaration.

Any subsequent rectification of the amounts entered that determines an additional income of the Tax, must be made referring to the specific declaration to which it corresponds, without being added or introduced in another subsequent declaration.

d) Keep a record of the operations included in this special regime. This register must be kept with sufficient precision so that the Tax Administration of the Member State of consumption can verify if the declaration mentioned in letter b) above is correct.

This register will be available to both the Member State of identification and that of consumption, the employer or professional being obliged to make it available to the Tax Administrations of the said States, upon their request, by electronic means.

The employer or professional must keep this record for a period of ten years from the end of the year in which the operation was carried out.

Two. The businessman or professional who considers Spain as a Member State of identification must submit, exclusively in Spain, the declarations-settlements and enter, where appropriate, the amount of the tax corresponding to all the operations referred to in this special regime carried out in all Member States of consumption.

Three. The Minister of Finance and Public Administrations will dictate the necessary provisions for the development and application of the provisions of this section.

- It is added by art. 1.35 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- **Added text, published on 11/28/2014, effective as of 01/01/2015.**

[Block 247: # a163tervicies]

Article 163 tervicies. Right to deduct dues paid.

One. The businessmen or professionals who avail themselves of this special regime may not deduct in the declaration-liquidation referred to in letter b) of section One of article 163 duovicies of this Law, any amount for the fees supported in the acquisition or import of goods and services that, in accordance with the applicable rules, are intended for the provision of the telecommunications, radio broadcasting or television and electronic services referred to in this regime.

Notwithstanding the foregoing, employers or professionals who avail themselves of this special regime and carry out operations referred to in this special regime in the Member State of consumption together with other different ones that determine the obligation to register and to present declarations-settlements in said Member State may deduct the fees incurred in the acquisition or import of goods and services that, in accordance with the applicable rules, are understood to have been carried out in the Member State of consumption and which are intended for the provision of telecommunications services, radio or television and electronic systems referred to in

this special regime through the corresponding tax declarations-settlements that must be submitted in that Member State.

Two. Without prejudice to the provisions of the previous section, businessmen or professionals who avail themselves of this special regime will be entitled to the refund of the Value Added Tax quotas supported in the acquisition or import of goods and services intended for the provision of the telecommunications, radio broadcasting or television and electronic services referred to in this regime that must be understood to be carried out in the Member State of consumption, in accordance with the procedure provided for in the regulations of the Member State of consumption in development of what provides for Council Directive 2008/9 / EC of February 12, 2008, in the terms provided for in Article 369 of the Directive 2006/112 / EC of November 28, 2006. In particular,

Three. In the event that Spain is the Member State of identification, the fees incurred in the acquisition or import of goods and services that are understood to have been made in the territory of application of the Tax and are destined to the provision of telecommunications, broadcasting or television and electronic, may be deducted through the corresponding statements-settlements under the general tax regime, regardless of whether or not the special regime provided in this section is applicable to said services.

Four. In the event that Spain is the Member State of consumption, without prejudice to the provisions of number two of section Two of article 119 of this Law, the businessmen or professionals established in the Community who avail themselves of this special regime will have the right to the return of the quotas of the Value Added Tax supported in the acquisition or import of goods and services that must be understood carried out in the territory of application of the Tax, provided that said goods and services are intended for the provision of telecommunications services , radio or television broadcasting and electronics to which this special regime refers. The procedure for exercising this right will be as provided in article 119 of this Law.

- It is added by art. 1.35 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- **Added text, published on 11/28/2014, effective as of 01/01/2015.**

[Block 248: # a163quatervicies]

Article 163 quatervicies. Provision of telecommunications, radio broadcasting or television and electronic services performed in the territory of application of the Tax by businessmen or professionals established therein.

The special regime provided for in this section will not be applicable to telecommunications, radio broadcasting or television and electronic services provided in the territory of application of the Tax by businessmen or professionals who have their economic activity headquarters or a permanent establishment in it. . The general regime of the Tax will be applicable to said provision of services.

- It is added by art. 1.35 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- **Added text, published on 11/28/2014, effective as of 01/01/2015.**

[Block 249: #tx]

TITLE X

Obligations of taxable persons

[Block 250: # a164]

Article 164. Obligations of taxpayers.

One. Notwithstanding what is established in the previous Title, the taxable persons of the tax will be obliged, with the requirements, limits and conditions determined by regulation, to:

1º Present declarations relative to the beginning, modification and cessation of the activities that determine its subjection to the tax.

2. Request from the Administration the tax identification number and communicate and accredit it in the cases that are established.

3. Issue and deliver invoice of all its operations, adjusted to what is determined by regulation.

4. Keeping the accounting and records established in the manner defined by regulation, without prejudice to the provisions of the Commercial Code and other accounting standards.

5. Periodically submit, or at the request of the Administration, information regarding its economic operations with third parties and, in particular, a summary statement of intra-community operations.

6. Present the corresponding declarations-settlements and enter the amount of the resulting tax.

Without prejudice to the provisions of the preceding paragraph, taxpayers must submit an annual summary statement.

In the cases of article 13, number 2, of this Law, the payment of the tax must be proven to carry out the definitive registration of the means of transport.

7. To appoint a representative for the purposes of complying with the obligations imposed in this Law in the case of taxable persons not established in the Community, unless they are established in the Canary Islands, Ceuta or Melilla, or in a State with which there are instruments of mutual assistance analogous to those instituted in the Community.

Two. The obligation to issue and deliver invoice for the operations carried out by the businessmen or professionals may be fulfilled, in the terms established by regulation, by the client of the aforementioned businessmen or professionals or by a third party, who will act, in any case, in the name and on behalf of the same.

When the aforementioned obligation is fulfilled by a client of the businessman or professional, there must be a prior agreement between both parties. Likewise, the acceptance by said businessman or professional of each of the invoices issued in his name and on his own behalf, by his client, must be guaranteed.

The issuance of invoices by the businessman or professional, by his client or by a third party, in the name and on behalf of the aforementioned businessman or professional, may be carried out by any means, on paper or in electronic format, provided that, in the latter case, the recipient of the invoices has given his consent.

The invoice, on paper or electronic, must guarantee the authenticity of its origin, the integrity of its content and its legibility, from the date of issue and throughout the preservation period.

Regulations will determine the requirements to which the issuance, remission and preservation of invoices must comply.

Three. The provisions of the preceding sections shall be equally applicable to those who, without being taxable persons of this tax, nevertheless have the status of businessmen or professionals for the purposes thereof, with the requirements, limits and conditions determined by regulation.

Four. The Tax Administration, when it deems it necessary for the purposes of any action aimed at verifying the tax situation of the employer or professional or taxpayer, may require a translation into Spanish, or any other official language, of the invoices corresponding to deliveries of goods or services rendered in the territory of application of the tax, as well as those received by employers or professionals or taxpayers established in said territory.

- Section 1.5 is modified by art. 214.9 of Royal Decree-Law 3/2020, of February 4. Ref. BOE-A-2020-1651
  This modification comes into effect on March 1, 2020, as established in final provision 16.3 of the aforementioned Royal Decree-law.
- Section 1.4 is modified by art. 1.36 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Paragraph 2 is amended by art. 67.4 of Law 17/2012, of December 27. Ref. BOE-A-2012-15651 .
- It is modified by art. 4.25 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- Section 1.7 is modified by art. 5.9 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .

Last update, published on 02/05/2020, effective as of 03/01/2020.

Modification published on 11/28/2014, effective as of 01/01/2015.

Modification published on 12/28/2012, effective as of 01/01/2013.

Modification published on 12/31/2002, effective as of 01/01/2003.

Modification published on 12/31/2001, effective as of 01/01/2002.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 251: # a165]

Article 165. Special rules regarding billing.

One. The invoices received, the accounting supporting documents and the copies of the invoices issued, must be kept, including by electronic means, during the statute of limitations of the Tax. This obligation may be fulfilled by a third party, who will act in the name and on behalf of the taxpayer.

When the documents referred to in the preceding paragraph refer to acquisitions for which Value Added Tax quotas have been borne or paid, the deduction of which is subject to a regularization period, they must be kept during the regularization period corresponding to said quotas. and the following four years.

Regulations will establish the requirements for compliance with the obligations set forth in this section.

Two. By regulation, alternative formulas may be established to comply with the invoicing and preservation obligations of the documents referred to in section two above, in order to prevent disturbances in the development of business or professional activities.

Three. When the taxpayer keeps the documents referred to in section one of this article electronically, the Tax Administration must be guaranteed both online access to them and their remote uploading and use. The previous obligation will be independent of the place of conservation.

- It is modified by art. 79.11 of Law 39/2010, of December 22. Ref. BOE-A-2010-19703 .
- Section 1 is modified by art. 7.1.6 of Law 62/2003, of December 30. Ref. BOE-A-2003-23936 .
- It is modified by art. 4.26 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- Paragraph 2 of section 2 is modified by art. 5.10 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .
- Section 1 is modified by art. 6.17 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .

Last update, published on 12/23/2010, effective as of 01/01/2011.

Modification published on 12/31/2003, effective as of 01/01/2004.

Modification published on 12/31/2002, effective as of 01/01/2003.

Modification published on 12/31/2001, effective as of 01/01/2002.

Modification published on 12/30/1999, effective as of 01/01/2000.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 252: # a166]

Article 166. Accounting obligations.

One. The accounting shall allow to determine precisely:

1.º The total amount of Value Added Tax that the taxpayer has passed on to his clients.

2nd the total amount of tax borne by the taxpayer.

Two. All operations carried out by taxable persons in the exercise of their business or professional activities must be accounted for or registered within the deadlines established for the payment and payment of the tax.

Three. The Minister of Economy and Finance may order adaptations or modifications of the registry obligations of certain business or professional sectors.

[Block 253: #txi]

TITLE XI

Tax management

[Block 254: # a167]

Article 167. Liquidation of the tax.

One. Except as provided in the following section, taxpayers must determine and enter the tax debt in the place, form, terms and forms established by the Minister of Economy and Finance.

Two. On imports of goods, the Tax will be settled in the manner provided by customs legislation for customs duties.

The collection and entry of import tax quotas will be carried out in the manner determined by regulation, where the requirements applicable to taxpayers may be established, so that they can include said quotas in the declaration-liquidation corresponding to the period in which receive the document stating the settlement made by the Administration.

Three. The corresponding guarantees will be determined by regulation to ensure compliance with the corresponding tax obligations.

- Paragraph 2 is amended by art. 1.37 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

Last update, published on 11/28/2014, effective as of 01/01/2015.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 255: # a167bis]

Article 167 bis. Provisional liquidation.

The tax management bodies may issue the provisional liquidation that proceeds in accordance with the provisions of article 123 of the General Tax Law 230/1963, of December 28, even in the cases referred to in the following article.

- It is added by art. 5.9 of Law 14/2000, of December 29. Ref. BOE-A-2000-24357 .

- **Added text, published on 12/30/2000, effective as of 01/01/2001.**

[Block 256: # a168]

Article 168. Provisional liquidation ex officio.

One. After thirty days from the notification to the taxpayer of the requirement of the Tax Administration to make the declaration-settlement that it did not make within the regulatory period, the procedure for the practice of the provisional settlement of the Tax on Corresponding Added Value, unless in the indicated period the breach is rectified or the non-existence of the obligation is duly justified.

Two. The provisional liquidation ex officio will be made based on the data, background, signs, indices, modules or other elements available to the Tax Administration and that are relevant to the effect, adjusting to the procedure determined by regulation.

Three. The provisional settlements regulated in this article, once notified, will be immediately enforceable, without prejudice to the claims that may regally be brought against them.

Four. Without prejudice to the provisions of the preceding sections of this article, the Administration may subsequently check the tax status of taxpayers, practicing the settlements that proceed in accordance with the provisions of the General Tax Law.

[Block 257: #txii]

TITLE XII

Suspension of income

[Block 258: # a169]

Article 169. Suspension of income.

One. The Government, at the proposal of the Minister of Economy and Finance, may authorize the suspension of the tax levy in the event of acquisition of goods or services directly related to the delivery of goods, destined for another Member State or for export, in sectors or activities and with the requirements established by regulation.

Two. Acquirers of goods or services covered by the suspension of income regime will be obliged to make the payment of fees not paid by their suppliers when they do not accredit, in the manner and within the terms determined by regulation, the performance of the operations that justify said suspension. . In no case will the fees paid by virtue of the provisions of this section be deductible.

Three. The Government may establish quantitative limits for the application of the provisions of this article.

[Block 259: #txiii]

TITLE XIII

Infringements and sanctions

[Block 260: # a170]

Article 170. Infractions.

One. Without prejudice to the special provisions set forth in this title, the tax offenses in this Tax will be classified and sanctioned in accordance with the provisions of the General Tax Law and other generally applicable rules.

Two. The following will constitute tax infractions:

1. The acquisition of goods by taxable persons under the special equivalency surcharge regime without the equivalence surcharge being expressly stated in the corresponding invoices, except in cases where the purchaser had reported this to the Administration in the form determined by regulation.

2. Obtaining, through wrongful or willful action or omission, an incorrect repercussion of the Tax, as long as the recipient of the same is not entitled to the full deduction of the contributions paid.

The persons or entities that are the recipients of the aforementioned operations that are responsible for the action or omission referred to in the preceding paragraph will be offending subjects.

3. The improper repercussion on the invoice, by people who are not taxable persons of the Tax, of tax quotas without proceeding to the entry of the same.

4. The non-consignment in the self-assessment that must be presented for the corresponding period of the amounts of which the recipient of the operations is a taxable person according to numbers 2, 3 and 4 of article 84. one, of article 85 or article 140 quinque of this Law.

5. The lack of presentation or the incorrect or incomplete presentation of the declarations-settlements related to the operations regulated in number 5 of article 19 of this Law.

6. The lack of communication within the deadline or the incorrect communication, by the recipients of the operations referred to in article 84, section one, number 2, letter e), third indent, of this Law, to the businessmen or professionals who carry out the corresponding operations, from the circumstance of being acting, with respect to said operations, in their capacity as businessmen or professionals, in the terms that are regulated by regulation.

7. The lack of communication within the deadline or the incorrect communication, by the recipients of the operations referred to in article 84, section one, number 2, letter f) of this Law, to employers or professionals who carry out the corresponding operations, of the following circumstances, in the terms that are regulated by regulation:

That they are acting, with respect to said operations, in their capacity as businessmen or professionals.

That such operations are carried out within the framework of a process of urbanization of land or construction or rehabilitation of buildings.

8.º The non-consignment or the incorrect or incomplete consignment in the self-assessment, of the tax quotas corresponding to import operations liquidated by the Administration by the taxpayers referred to in the second paragraph of section two of article 167 of this Law.

- The numbers 6, 7 and 8 are added to section 2 by art. 1.38 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Paragraph 2 is amended by art. 5.8 of Law 7/2012, of October 29. Ref. BOE-A-2012-13416 .
- Section 2.4 is amended, with effect from January 1, 2005, by art. 1º.9 of Law 22/2005, of November 18. Ref. BOE-A-2005-19003 .
- It is modified by final provision 5.1 of Law 58/2003, of December 17. Ref. BOE-A-2003-23186 .

- Section 3 is modified by art. 4.27 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .

Last update, published on 11/28/2014, effective as of 01/01/2015.

Modification published on 10/30/2012, effective as of 10/31/2012.

Amendment published on 19/11/2005, effective from 20/11/2005.

Modification published on 12/18/2003, effective as of 07/01/2004.

Modification published on 12/31/2002, effective as of 01/01/2003.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 261: # a171]

Article 171. Sanctions.

One. The infractions contained in section two of the previous article will be serious and will be punished according to the following rules:

1. Those established in section 1, section two, with a proportional pecuniary fine of 50 percent of the amount of the equivalence surcharge that should have been passed on, with a minimum amount of 30 euros for each of the acquisitions made without the corresponding repercussion of the equivalence surcharge.

2. Those established in section 2, section two, with a proportional pecuniary fine of 50 percent of the benefit unduly obtained.

3. Those established in section 3, section two, with a proportional pecuniary fine of 100 percent of the fees unduly passed on, with a minimum of 300 euros for each invoice in which the offense occurs.

4. Those established in section 4, section two, with a proportional pecuniary fine of 10 percent of the quota corresponding to operations not recorded in the self-assessment.

5. Those established in ordinal 5. of section two, with a proportional pecuniary fine of 10 percent of the quotas accrued corresponding to the operations not reported or incorrectly or incompletely reported in the declarations-settlements. However, in the case of declarations-settlements related to the abandonment of the deposit regime other than customs, it will be sanctioned with a proportional pecuniary fine of 10 percent of the fees accrued corresponding to the operations not reported or incorrectly or incompletely reported, always that the total sum of quotas declared in the declaration-liquidation is less than that actually accrued in the period.

6. Those established in paragraphs 6 and 7 of section two, with a proportional pecuniary fine of 1 percent of the quotas accrued corresponding to the deliveries and operations in respect of which the communication obligation has been breached, with a minimum of 300 euros and a maximum of 10,000 euros.

7.º Those established in section 8. of section two, with a proportional pecuniary fine of 10 percent of the quotas accrued corresponding to the settlements made by Customs corresponding to the operations not recorded in the self-assessment.

Two. The sanction imposed in accordance with the provisions of rules 4, 5 and 7 of section one of this article shall be reduced in accordance with the provisions of section

1 of article 188 of the General Tax Law.

Three. The sanctions imposed in accordance with the provisions of section one of this article shall be reduced in accordance with the provisions of section 3 of article 188 of the General Tax Law.

Four. The sanction of loss of the right to obtain tax benefits will not be applied in relation to the exemptions established in this law and other regulations on Value Added Tax.

- Sections 1.6 and 7 are added and 2 is modified by art. 1.39 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
- Section 1.3 is amended by art. 67.5 of Law 17/2012, of December 27. Ref. BOE-A-2012-15651 .
- Section 1 is modified by art. 5.9 of Law 7/2012, of October 29. Ref. BOE-A-2012-13416 .
- It is modified by final provision 5.2 of Law 58/2003, of December 17. Ref. BOE-A-2003-23186 .
- The amounts established in sections 1.1 and 1.3 by the annex to the Resolution of September 20, 2001 are converted into euros. Ref. BOE-A-2001-22447 .

- **Last update, published on 11/28/2014, effective as of 01/01/2015.**
- Modification published on 12/28/2012, effective as of 01/01/2013.
- Modification published on 10/30/2012, effective as of 10/31/2012.
- Modification published on 12/18/2003, effective as of 07/01/2004.
- Modification published on 11/30/2001, effective as of 12/20/2001.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 262: #daprimera]

First additional provision. Real Estate Tax.

1. Article 70, section five, of the Local Tax Regulatory Law, of December 28, 1988, reads as follows:

> "Five. As of the publication of the Presentations, the cadastral values resulting from them must be individually notified to each taxpayer before the end of the year immediately prior to the year in which said values must take effect, and may be appealed in an economic-administrative way without that the filing of the claim suspends the execution of the act.
>
> The notification of the cadastral values will be made by the Cadastral Management and Tax Cooperation Center directly or through specialized service companies. For these purposes, the notifiers, duly authorized by the Cadastral Management and Tax Cooperation Center, will draw up a record of their actions, collecting the events that occurred therein. The notification will be made at the address of the interested party.In the event that the interested party or his or her address is unknown, or any circumstance that prevents proof of the

notification being made having attempted it in time and form twice, it will be understood as carried out without further processing with the publication of the values by means of edicts within the period indicated above, without prejudice to the fact that, in these cases,

The edicts will be exhibited at the Town Hall corresponding to the municipal term in which the properties are located, prior announcement made in the "Official Gazette" of the province.

In any case, the interested parties may indicate to the Cadastral Management and Tax Cooperation Center the address where the notifications are to be made, accompanying the list of the real estate whose valuation must be notified.

In the cases of notification of revised or modified values, the term for filing the appeal for reinstatement or administrative economic claim will be one month, counted from the day following the reliable receipt of the notification or, where appropriate, that of the end of the period of publication of the edicts. "

2. The following section is added to article 73 of the Local Tax Regulatory Law of December 28, 1988:

"Seven. The Municipalities whose municipalities are affected by processes of revision or modification of cadastral values will approve the types of encumbrance of the corresponding Real Estate Tax during the first semester of the year immediately preceding that in which they must take effect, giving the agreement to the Management Center Cadastral and Tax Cooperation before the end of said term. »

3. Officially protected dwellings will enjoy a 50% bonus in the Real Estate Tax quota for a period of three years, counted from the granting of the definitive qualification.

The granting of these bonuses will not give the right to any financial compensation in favor of the affected local entities, in accordance with article 9 of the Local Tax Regulatory Law.

[Block 263: #dasecond]

Second additional provision. Draft Corporation Tax Law.

The term established in the twentieth additional provision of Law 18/1991, of June 6, on the Income Tax on Natural Persons, is extended until December 31, 1993, so that in the preparation of the draft Law of the Corporate Tax may take into account community proposals regarding harmonization in taxation on business profit.

[Block 264: #datercera]

Third additional provision. Consolidated text of the Tax on Patrimonial Transmissions and Documented Legal Acts.

The authorization granted to the Government by the ninth additional provision of Law 29/1991, of December 16, adapting certain tax concepts to the Directives and Regulations of the European Communities, is extended until December 31, 1993, for prepare and approve a new consolidated text of the Tax on Capital Transfers and Documented Legal Acts, including in it all the current legal provisions that refer to the tax, extending it to the regularization, clarification and harmonization of its content.

- Written in accordance with the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

[Block 265: #dacuarta]

Fourth additional provision. Delimitation of references to Special Taxes.

References to the Special Taxes contained in this Law must be understood as being made to the Special Taxes for manufacturing included in article 2 of Law 38/1992, of December 28, on Special Taxes.

However, for the purposes of the provisions of this Law, neither the nature of the goods subject to the Special Taxes nor the electricity or natural gas delivered through a network located in the territory of the Community or any network connected to said network.

- It is modified by art. 79.12 of Law 39/2010, of December 22. Ref. BOE-A-2010-19703 .
- It is modified by art. 6.18 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- It is modified by art. 6.33 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053
- Written in accordance with the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

- **Last update, published on 12/23/2010, effective as of 01/01/2011.**
- Modification published on 12/30/1999, effective as of 01/01/2000.
- Modification published on 12/31/1997, effective as of 01/01/1998.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 266: #daquinta]

Fifth additional provision. References of the Value Added Tax to the Canarian Indirect General Tax.

1. The references that are contained in the regulations of the Tax on Patrimonial Transmissions and Documented Legal Acts to the Value Added Tax, will be understood to be made to the Canarian Indirect General Tax, within the scope of its application, when the latter comes into force.

2. The criterion of the previous section will also be applied with respect to the Tax on the production and import of goods and on the provision of services in Ceuta and Melilla, taking into account the specialties of the configuration of its taxable event.

- The rubric was drawn up in accordance with the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

[Block 267: #dasexta]

Sixth additional provision. Administrative and Justice on forcive procedures.

In administrative and judicial procedures of forced execution, the successful bidders who have the status of businessman or professional for the purposes of this Tax are empowered, in the name and on behalf of the taxpayer and with respect to the delivery of goods and services subject to the same that occur in those, to:

1. Issue an invoice documenting the operation.

2. Make, where appropriate, the waiver of the exemptions provided for in section two of article 20 of this law.

3rd to reimburse the tax fee on the invoice that is issued, present the corresponding statement-settlement and enter the amount of the resulting tax, except in the cases of deliveries of goods and services in which the taxpayer of the They are their recipient in accordance with the provisions of article 84.One.2.º of this Law.

The conditions and requirements for the exercise of these powers will be determined by regulation.

- It is modified, with effect from October 31, 2012, by art. 79 of Law 22/2013, of December 23. Ref. BOE-A-2013-13616 .
- It is modified by art. 5.10 of Law 7/2012, of October 29. Ref. BOE-A-2012-13416 .
- It is modified by the new final provision 11 bis of Law 22/2003, of July 9, in the wording given by art. sole.118 of Law 38/2011, of October 10. Ref. BOE-A-2011-15938 .
- It is added by art. 5.10 of Law 14/2000, of December 29. Ref. BOE-A-2000-24357

(●) **Last update, published on 12/26/2013, effective as of 01/01/2014.**
( ) Modification published on 10/30/2012, effective as of 10/31/2012.
( ) Modification published on 11/10/2011, effective as of 01/01/2012.
( ) Modification published on 12/30/2000, effective as of 01/01/2001.

- **Added text, published on 12/30/2000, effective as of 01/01/2001.**

[Block 268: #daseptima]

Seventh additional provision. Inclusion in the groups of entities of banking foundations.

They may be considered dependent entities of a group of entities regulated in Chapter IX of Title IX of the Tax Law, the banking foundations referred to in article 43.1 of Law 26/2013, savings banks and bank foundations , who are businessmen or professionals and are established in the territory of application of the tax, as well as those entities in

which they maintain a participation, direct or indirect, of more than 50 percent of their capital.

The credit institution referred to in article 43.1 of Law 26/2013, on savings banks and bank foundations, and that, for these purposes, determines the binding policies and strategies of the group's activity will be considered as dominant and internal and management control.

- It is added by final provision 2 of Law 26/2013, of December 27. Ref. BOE-A-2013-13723 .

- **Added text, published on 12/28/2013, effective as of 12/29/2013.**

[Block 269: #daoctava]

Eighth additional provision. Normative reference.

The terms "the Community" and "the European Community" that are included in this Law, shall be understood to refer to "the Union", the terms "of the European Communities" or "of the EEC" shall be understood to refer to "of the Union European "and the terms" community "," community "," community "and" community "shall be understood as referring to" of the Union ".

- It is added by art. 1.40 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .

- **Added text, published on 11/28/2014, effective as of 01/01/2015.**

[Block 270: #dtprimera]

First transitional provision. Franchises relating to travelers from the Canary Islands, Ceuta and Melilla.

During the transitional period referred to in Article 6 of Regulation 91/1911 / EEC, of June 26, the franchise limits of the equivalent in pesetas to 600 ECU for the importation of goods driven by travelers from the Canary Islands will subsist, Ceuta and Melilla and the equivalent of 150 ECU for travelers under the age of fifteen who come from the aforementioned territories.

[Block 271: #dtsecond]

Second transitional provision. Ship exemptions for international maritime navigation.

For the purposes of the application of these exemptions, the ships that, on December 31, 1992, had carried out during the periods established in articles 22, section one, third, second and second paragraph, number 27 of this Law, the routes also established in said precepts, will be considered affected to international maritime navigation.

Vessels that, on the aforementioned date, have not yet made the indicated routes in the indicated periods, will be considered affected by international maritime navigation at the time they make them in accordance with the provisions of this Law.

[Block 272: #dttercera]

Third transitional provision. Exemptions related to aircraft essentially dedicated to international air navigation.

For the purposes of applying these exemptions, air navigation companies, whose aircraft, on December 31, 1992, had carried out during the periods established in articles 22, section four, third paragraph, second and 27, number 3. º of this Law, the routes also established in said precepts, will be considered essentially dedicated to international air navigation.

The companies whose aircraft, on the aforementioned date, have not yet made the indicated routes in the indicated periods, will consider themselves essentially engaged in international air navigation at the time they make them in accordance with the provisions of this Law.

[Block 273: #dtcuarta]

Fourth transitional provision. Rectification of passed tax fees and deductions.

The conditions established by this Law for the rectification of the tax quotas passed on and the deductions made will be applied with respect to the operations whose tax has accrued prior to its entry into force without the prescription period having elapsed.

[Block 274: #dtquinta]

Fifth transitional provision. Deduction in acquisitions used in self-consumption.

The quotas supported by the acquisition of goods or services that are destined to carry out the self-consumption referred to in article 102, section two of this Law, may only be deducted in full when the accrual of the aforementioned self-consumption occurs after December 31, 1992.

[Block 275: #dtsexta]

Sixth transitional provision. Deductions prior to the start of the activity.

The procedure of deduction of the fees paid prior to the start of business activities, which had been started before the entry into force of this Law, shall be adapted to what is established therein.

When the term established in article 111, paragraph one, first paragraph has elapsed, taxpayers must request the extension referred to in the second paragraph of the same paragraph, before March 31, 1993.

- Written in accordance with the correction of errors published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

[Block 276: #dtseptima]

Seventh transitional provision. Regularization of deductions made prior to the start of the activity.

The regularization in progress at the entry into force of this Law of deductions for quotas supported prior to the start of business or professional activities or, where appropriate, a different sector of activity, will be completed in accordance with the regulations effective December 31, 1992.

When the start of business or professional activity or, where appropriate, of a sector of activity, occurs after the entry into force of this Law, the regularization of the deductions made previously will be carried out in accordance with the regulations contained in articles 112 and 113 thereof.

[Block 277: #dtoctava]

Eighth transitional provision. Waivers and options in the special regimes.

The resignations and options provided in the special regimes that have been made prior to the entry into force of this Law shall exhaust their effects in accordance with the regulations under which they were made.

[Block 278: #dtnovena]

Ninth transitional provision. Legislation applicable to goods in exempt areas or suspensive regimes.

Community goods that on December 31, 1992 were in the areas or under the regimes referred to, respectively, articles 23 and 24 of this Law will be subject to the provisions applicable before January 1 from 1993 while they remain in the indicated situations.

[Block 279: #dtdecima]

Tenth transitional provision. Operations assimilated to imports.

Operations assimilated to imports will be considered as exits from the areas or abandonment of the regimes referred to, respectively, in articles 23 and 24 of this Law when they occur after December 31, 1992 and refer to merchandise that was in such situations before January 1, 1993.

However, no import of goods will occur in the following cases:

1. When the goods are subsequently shipped or transported outside the Community.

2. In the case of goods other than means of transport, which were previously under temporary importation and abandoned this situation to be shipped or subsequently transported to the Member State of origin.

3. In the case of means of transport that were previously under a temporary import regime and any of the following two conditions is met:

a) That the date of its first use is before January 1, 1985.

b) That the tax accrued by the import is less than 25,000 pesetas.

[Block 280: #dtundecima]

Eleventh transitional provision. Special regime for used goods, art objects, antiques and collectibles.

The taxable resellers of used goods or movable goods, referred to in article 136.One.5.º of this Law, may apply the special regime of used goods, objects of art, antiques and collectibles to the deliveries of art objects, acquired from businessmen or professionals, other than the resellers referred to in article 136 of the Law, when a reduced rate of the Tax would have applied to said acquisition.

- It is added, with effect from September 1, 2012, by art. 23.7 of Royal Decree-Law 20/2012, of July 13. Ref. BOE-A-2012-9364 .

- It is repealed by the sole repealing provision of Law 9/1998, of April 21. Ref. BOE-A-1998-9477 .
  Note that art. it was already repealed by Law 9/1998, of April 21
- It is repealed by the sole repealing provision of Royal Decree-Law 14/1997, of August 29. Ref. BOE-A-1997-19125
- It is modified by additional provision 19 of Law 12/1996, of December 30. Ref. BOE-A-1996-29116
- It is modified, with effect from January 1, 1995, by art. 78.3 of Law 41/1994, of December 30. Ref. BOE-A-1994-28967.
  Drafted in accordance with the correction of errors published in BOE no. 38, of February 14, 1995. Ref. BOE-A-1995-3864
- The first paragraph is modified, with effect from January 1, 1994, by art. 75.7 of Law 21/1993, of December 29. Ref. BOE-A-1993-31087

Last update, published on 07/14/2012, effective as of 07/15/2012.

Modification published on 04/22/1998, effective as of 05/12/1998.

Modification published on 08/30/1997, effective as of 09/01/1997.

Modification published on 12/31/1996, effective as of 01/20/1997.

Modification published on 12/31/1994, effective as of 01/20/1995.

Modification published on 12/30/1993, effective as of 01/19/1994.

Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 281: #dtduodecima]

Twelfth transitional provision. I accrue on deliveries of certain means of transport.

The accrual of the Value Added Tax on the delivery of means of transport, whose first registration would have been made before January 1, 1993 and would have been subject to the Special Tax on certain means of transport as of that date, will occur on December 31, 1992 when the corresponding provision for said deliveries took place from January 1, 1993.

[Block 282: #dtdecimotercera]

Thirteenth transitional provision. Limits for the application of the simplified regime and the special regime for agriculture, livestock and fisheries in the years 2016, 2017, 2018, 2019 and 2020.

For the years 2016, 2017, 2018, 2019 and 2020, the magnitude of 150,000 euros referred to in the first indent of number 2 and number 3 of section two of article 122, and number 6 of section two of article 124 of this Law, is fixed at 250,000 euros.

- It is modified, with effect from January 1, 2020, by art. 4 of Royal Decree-Law 18/2019, of December 27. Ref. BOE-A-2019-18611
- It is modified, with effect from January 1, 2019, by art. 4 of Royal Decree-Law 27/2018, of December 28. Ref. BOE-A-2018-17991

- It is modified, with effect from January 1, 2018, by art. 3 of Royal Decree-Law 20/2017, of December 29. Ref. BOE-A-2017-15836
- It is added, with effect from January 1, 2016, by art. 70 of Law 48/2015, of October 29. Ref. BOE-A-2015-11644 .

Last update, published on 12/28/2019, effective as of 12/29/2019.

Modification published on 12/29/2018, effective as of 12/30/2018.

Modification published on 12/30/2017, effective as of 12/30/2017.

Modification published on 10/30/2015, effective as of 01/01/2016.

• Added text, published on 10/30/2015, effective as of 01/01/2016.

[Block 283: #ddprimera]

First repealing provision. Provisions that are repealed.

Upon the entry into force of this Law, the provisions listed below will be repealed, without prejudice to the right of the Administration to demand the tax debts accrued prior to that date or the recognition of those rights payable under them:

1. Law 30/1985, of August 2, on Value Added Tax.

2. The third additional provision of Law 22/1987, of November 11, on Intellectual Property.

[Block 284: #ddsecond]

Second repeal provision. Provisions that will continue in force.

The following rules will continue to apply:

1. The provisions related to Value Added Tax contained in Law 6/1987, of May 14, on budgetary provisions for investments and maintenance of the Armed Forces.

2. The regulatory norms of the Value Added Tax created by Law 30/1985, of August 2, insofar as they do not oppose the provisions of this Law or the norms that develop it.

[Block 285: #dfprimera]

First final provision. Modifications by Budget Law.

By means of the Budget Law, the following modifications to the regulations on Value Added Tax may be made:

1st Determination of the tax rates and the equivalence surcharge.

2.º The quantitative limits and fixed percentages established in the Law.

3rd exemptions from the tax.

4.º The procedural and management aspects of the Tax regulated in this Law.

5. The other adaptations that are required by the tax harmonization standards approved in the European Economic Community.

[Block 286: #dfsecond]

Second final provision. Entry into force of the Law.

This Law shall enter into force on January 1, 1993.

[Block 287: #signature]

So,

I command all Spaniards, individuals and authorities, to keep and enforce this Law.

Madrid, December 28, 1992.

JUAN CARLOS R.

The president of the Government,
FELIPE GONZÁLEZ MÁRQUEZ

[Block 288: #an]

ANNEXED

For the purposes of the provisions of this Law, the following shall be considered:

First. Ships: Those included in headings 89.01; 89.02; 89.03; 89.04 and 89.06.10 of the Customs Tariff.

Second. Aircraft: The aerodinos that operate with the help of a propulsion machine included in heading 88.02 of the Customs Tariff.

Third. Provisioning products: On-board supplies, fuels, fuels, lubricants and other oils for technical use and on-board accessory products.

It will be understood by:

a) On-board provisions: Products intended exclusively for consumption by the crew and passengers.

b) Fuels, fuels, lubricants and other oils for technical use: Products intended for powering the propulsion organs or for the operation of other machines and apparatus on board.

c) On-board accessory products: Those for consumption for domestic use, those intended for feeding the transported animals and the consumables used for the conservation, treatment and preparation on board of the transported goods.

Quarter. Normal fuel and fuel tanks: Those directly connected to the propulsion organs, machines and on-board devices.

Fifth. Deposit regime other than customs:

Definition of the regime:

a) In relation to the goods subject to Special Taxes, the deposit regime other than customs will be the suspensive regime applicable in the cases of manufacture, transformation or possession of products subject to Special Taxes of manufacture in factories or fiscal warehouses, of circulation of the aforementioned products between said establishments and their importation to the factory or tax warehouse.

The provisions of the preceding paragraph shall be equally applicable to natural gas delivered through a network located in the territory of the Community or any network connected to said network.

b) In relation to other goods, the deposit regime other than customs will be the suspensive regime applicable to goods excluded from the customs deposit regime by reason of their origin or provenance, subject otherwise, to the same rules that regulate the aforementioned customs regime.

Also included in this regime will be assets that are traded in official futures and options markets based on non-financial assets, as long as said assets are not made available to the acquirer.

The deposit regime other than customs referred to in this letter b) will not be applicable to goods destined for delivery to people who do not act as businessmen or professionals, with the exception of those destined to be introduced into stores duty free.

The holders of the deposits referred to in this provision will be subsidiary responsible for the payment of the tax debt that corresponds to the departure or abandonment of the assets of these deposits, with the exception of those referred to in letter a) of this provision, regardless of whether they can act as fiscal representatives of businessmen or professionals not established in the tax area.

Sixth. Payment of the tax in the cases included in article 19, number 5, second paragraph, of this Law.

The liquidation of the tax in the cases included in article 19, number 5, second paragraph of this Law, will be adjusted to the following norms:

1. When the goods leave the areas or leave the regimes included in articles 23 and 24, the obligation to pay the tax corresponding to the operations that would have previously benefited from the exemption due to their entry into the areas or connection will be produced. to the indicated regimes, according to the following rules:

a) If the goods had been the subject of one or more previous exempt deliveries, the income tax will be the one that would have corresponded to the last exempt delivery made.

b) If the goods had been the subject of an exempt intra-community acquisition due to having entered the areas or linked to the indicated regimes and had not been the subject of a subsequent exempt delivery, the income tax will be the one that would have corresponded to that operation of not have benefited from the exemption.

c) If the goods had been the object of exempt operations carried out after those indicated in letters a) or b) above or the latter operations had not been carried out, the income tax will be the one that, if applicable, results from the provisions in said letters, increased by the corresponding exempted subsequent operations.

d) If the goods had been subject to an exempt import because they had been linked to the deposit regime other than customs and had been the subject of exempt operations carried out after said import, the tax to be paid will be the one that would have corresponded to the said import of not having benefited from the exemption, increased in the corresponding to the mentioned exempt operations.

2. The person obliged to settle and pay the fees corresponding to leaving the areas or abandoning the aforementioned regimes will be the owner of the property at that time, who will have the status of a taxable person and must file the declaration- settlement relating to the operations referred to in article 167, section one, of this Law.

The obliged to enter the quotas indicated may deduct them in accordance with the provisions of the Law for the cases contemplated in its article 84, section one, number 2

Entrepreneurs or professionals not established in the territory of application of the tax who turn out to be taxable persons thereof, in accordance with the provisions of this number, may deduct the fees settled for this cause in the same conditions and manner as those established in said territory. .

3.º The holders of the areas or deposits referred to in this provision will be jointly and severally liable for the payment of the corresponding tax debt, as provided in the previous numbers of this sixth section, regardless of whether they can act as fiscal representatives of the entrepreneurs or professionals not established in the spatial field of the tax.

Seventh. Waste or scrap of cast iron, iron or steel, scrap or ingots of iron or steel scrap, waste or scrap of non-ferrous metals or their alloys, slag, ash and industrial residues containing metals or their alloys.

Waste or scrap of cast iron, iron or steel, scrap or ingots of scrap iron or steel, waste or scrap of non-ferrous metals or their alloys, slag, ash and residues from industry containing metals or their alloys shall be considered as included in the following items of the Customs Tariff:

Code. NCE	Commodity designation
7204	Waste and scrap of cast iron or steel (scrap metal and ingots).

Waste and scrap of ferrous metals include:

a) Waste obtained during the manufacture or machining of cast iron or steel, such as turning, filing, ingot ingots, billets, bars or profiles.

b) Manufacture of cast iron or steel that is definitively unusable as such due to breaks, cuts, wear or other reasons, as well as its waste, even if any of its parts or pieces are reusable.

Products susceptible of being used for their original use as is or after repair are not understood.

Scrap metal ingots are generally roughly cast iron or highly alloyed steel, obtained from remelted fine waste and scrap (grinding powder or fine turning) and have a rough and uneven surface.

Cod. NCE	Commodity designation
7402	Unrefined copper; copper anodes for refining.

7403	Refined copper in the form of cathodes and cathode sections.
7404	Copper waste and scrap.
7407	Copper bars and profiles.
7408.11.00	Refined copper wire, in which the largest dimension of the cross section is T6 mm.
7408.19.10	Refined copper wire, in which the largest dimension of the cross section is T 05 mm, but R = 6 mm.
7502	Nickel
7503	Nickel waste and scrap.
7601	Raw aluminum.
7602	Waste and scrap of aluminum.
7605.11	Non-alloy aluminum wire.
7605.21	Alloyed aluminum wire.
7801	Lead
7802	Waste and scrap of lead.
7901	Zinc.
7902	Waste and scrap of zinc (calamine).
8001	Tin
8002	Waste and scrap of tin.
2618	Granulated slag (slag sand) from the steel industry.
2619	Slag (except granules), dross and other waste from the iron and steel industry.
2620	Ash and residues (except iron and steel) containing metal or metal compounds.
47.0	Waste or scrap of paper or paperboard. Paper or cardboard waste includes scrapes, cutouts, torn sheets, old newspapers and publications, waste and

7	printing proofs and the like. The definition also includes old paper or cardboard manufactures sold for recycling.
70.01	Glass waste or scrap. Glass waste or scrap includes waste from the manufacture of glass objects, as well as that produced by its use or consumption. They are generally characterized by their sharp edges. Recovered lead batteries.

Eighth. List of goods referred to in article 91.One.1.6.ºc) of this Law.

- Glasses, prescription glasses frames, prescription contact lenses and the necessary products for their use, care and maintenance.

- Lancing devices, automatic glucose level reading devices, insulin administration devices and other devices for the self-control and treatment of diabetes.

- Devices for self-monitoring of ketone bodies and blood coagulation and other devices for self-monitoring and treatment of disabling diseases such as morphine infusion systems and cancer drugs.

- Urine collection bags, incontinence pads and other systems for urinary and faecal incontinence, including irrigation systems.

- Prostheses, orthoses, orthoprostheses and surgical implants, in particular those provided for in Royal Decree 1030/2006, of September 15, which establishes the portfolio of common services of the National Health System and the procedure for updating them, including its components and accessories.

- Tracheostomy and laryngectomy cannulas.

- Therapeutic chairs and wheels, as well as anti-decubitus cushions and harnesses for their use, crutches, walkers and cranes to mobilize people with disabilities.

- Lifting platforms, wheelchair lifts, stair chair adapters, portable ramps and self-supporting bars to stand up on your own.

- Devices and other instruments intended to reduce internal injuries or malformations, such as jockstraps and compression garments for varicose veins.

- Home dialysis treatment devices and respiratory treatment.

- Medical equipment, devices and other instruments, intended to compensate for a defect or disability, that are designed for the personal and exclusive use of people with visual and hearing impairment.

- The following support products that are designed for the personal and exclusive use of people with physical, mental, intellectual or sensory deficiencies:

• Assistive products for dressing and undressing: shoes and boots with special handles to reach the ground, hangers, hooks and rods to hold clothes in a fixed position.

• Assistive products for toilet functions: risers, armrests and backrests for the toilet.

• Support products for washing, bathing and showering: brushes and sponges with special handles, bath or shower chairs, bath tables, stools, support products to reduce the length or depth of the bath, support bars and handles.

• Support products to enable the use of new information and communication technologies, such as cephalic or eye movements mice, high-contrast keyboards, blink buttons, software to enable writing and handling of the device for people with motor disabilities severe through the voice.

• Assistive products and devices that enable people with motor disabilities to grasp, operate, reach objects: long grippers and grip adapters.

• Functional stimulators.

Nineth. Weight of gold bars or sheets for purposes of consideration as investment gold.

Gold bullion or sheets of gold equal to or greater than 995 thousandths and that conform to any of the following weights in the form accepted by the bullion markets shall be considered investment gold for the purposes of this Law:

12.5	kilograms.
one	kilogram.
500	grams.
250	grams.
100	grams.
fifty	grams.
twenty	grams.
10	grams.
5	grams.
2.5	grams.
two	grams.
100	ounces.
10	ounces.
5	ounces.
one	ounce.
0.5	ounces.
0.25	ounces.
10	tael.
5	tael.
one	tael.
10	tolas.

Tenth. Deliveries of silver, platinum, palladium, as well as the delivery of mobile phones, video game consoles, laptops and digital tablets.

Cod. NCE	Commodity designation
7106 10 00	Silver Powder
7106 91 00	Rough silver
7106 92 00	Semi-finished silver
7110	Platinum raw or powder

11 00	
7110 19	Platinum. Others
7110 21 00	Raw or powdered palladium
7110 29 00	Palladium. Others
8517 12	Mobile phones (cellular) and those of other wireless networks. Exclusively as regards mobile phones
9504 50	Game consoles and video game machines except those of subheading 950430. Exclusively with regard to video game consoles
8471 30	Automatic data processing machines, portable, weighing less than 10 kg, consisting of at least one central processing unit, a keyboard and a display. Exclusively for digital laptops and tablets.

- The first indent of section 8 is modified by art. 61 of Law 3/2017, of June 27. Ref. BOE-A-2017-7387
- Sections 8 and 10 are added and 5 is modified by art. 1.41 of Law 28/2014, of November 27. Ref. BOE-A-2014-12329 .
  The modification of section 5 is applicable as of January 1, 2016 as established in final provision 5.
- Section 5 a) is modified by art. 79.13 of Law 39/2010, of December 22. Ref. BOE-A-2010-19703 .
- Section 7 is amended by art. 7.3 of Law 62/2003, of December 30. Ref. BOE-A-2003-23936 .
- Section 5 b) is modified by art. 4.28 of Law 53/2002, of December 30. Ref. BOE-A-2002-25412 .
- Section 8 is repealed by the sole derogation provision.3 of Law 24/2001, of December 27. Ref. BOE-A-2001-24965 .
- Sections 5.a), 6.3º are modified and 9 is added by article 6.19 to 21 of Law 55/1999, of December 29. Ref. BOE-A-1999-24786 .
- Section 5.b) is modified by art. sole.2 of Royal Decree-Law 10/1999, of June 11. Ref. BOE-A-1999-13070 .
- Section 5 and 6 are modified and 8 is added by art. Only 7 and 8 of Law 9/1998, of April 21. Ref. BOE-A-1998-9477 .
- Section 7 is added by art. 6.26.3 of Law 66/1997, of December 30. Ref. BOE-A-1997-28053
- section 5 is amended by art. sole.7 of Royal Decree-Law 14/1997, of August 29. Ref. BOE-A-1997-19125
- Section 5 is modified by additional provision 18 of Law 42/1994, of December 30. Ref. BOE-A-1994-28968 .
  Drafted in accordance with the correction of errors published in BOE no. 40, of February 16, 1995. Ref. BOE-A-1995-4035 .
- Point 2 was drafted in accordance with the error correction published in BOE no. 33, of February 8, 1993. Ref. BOE-A-1993-3297

- **Last update, published on 06/28/2017, effective as of 06/29/2017.**
- Modification published on 11/28/2014, effective as of 01/01/2015.
- Modification published on 12/23/2010, effective as of 01/01/2011.
- Modification published on 12/31/2003, effective as of 01/01/2004.
- Modification published on 12/31/2002, effective as of 01/01/2003.
- Modification published on 12/31/2001, effective as of 01/01/2002.
- Modification published on 12/30/1999, effective as of 01/01/2000.
- Modification published on 06/12/1999, effective as of 07/01/1999.
- Modification published on 04/22/1998, effective as of 05/12/1998.
- Modification published on 12/31/1997, effective as of 01/01/1998.
- Modification published on 08/30/1997, effective as of 09/01/1997.
- Modification published on 12/31/1994, effective as of 01/01/1995.
- Original text, published on 12/29/1992, effective as of 01/01/1993.

[Block 289: # related information]

Related information

- See the Resolution of August 2, 2012, of the General Directorate of Taxes, on the tax rate applicable to certain deliveries of goods and services in the Value Added Tax. Ref. BOE-A-2012-10534 .
- See the counter value in pesetas of the tax exemptions fixed in ECUs that mention the following orders:

Order of December 17, 1993. Ref. BOE-A-1993-31089 .

Order of December 18, 1995. Ref. BOE-A-1996-1 . and correction of errors Ref. BOE-A-1996-1222 .

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