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# REGULATORY CONSTITUTIONAL COMPETENCES IN TAXATION: THE CANARY ISLANDS'ECONOMIC AND FISCAL REGIME IN SPAIN

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## SUMMARY



## ABSTRACT

This research work is based on the study of the transition process of the integration of the Canary Islands in the European Economic Community, also including the historical principles of the Economic and Fiscal Regime and its evolution, with the main objective of analyzing and identifying the modifications in the main law that regulates it and check its evolution and identify the areas that have been most affected, determining the effectiveness and contribution of current tax incentives in achieving the objectives for which they were designed within the powers regulated by the Spanish Constitution . The consolidation of its special economic situation within the Spanish internal order facilitated by community recognition in the evolution of the special economic situation of the Canary Islands will be highlighted, and that for its development it is necessary to study the economic situation of the Canary archipelago and to know the essential needs of trade with other regions. Additionally, indirect taxes such as the IGIC and the AIEM, subject to imports of goods in the Canary archipelago, will be analyzed.

## KEY WORDS

Economic and Fiscal Regime, European Union, indirect taxes, imports, tax incentive.

## ÍNDICE



## RESUMEN

Este trabajo de investigación se basa en el estudio del proceso de transición de la integración de Canarias en la Comunidad Económica Europea, incluyendo además los principios históricos del Régimen Económico y Fiscal y su evolución, con el objetivo principal de analizar e identificar las modificaciones en la ley principal que lo regula y comprobar su evolución e identificar los ámbitos que se han visto más afectados, determinando la eficacia y contribución de los actuales incentivos fiscales en la consecución de los objetivos para los que fueron diseñados dentro de las competencias que regula la Constitución Española. Se pondrá de relieve la consolidación de su especial situación económica dentro del ordenamiento interno español facilitado por el reconocimiento comunitario en la evolución de la especial situación económica canaria, y que para su desarrollo es necesario estudiar la situación económica del archipiélago canario y conocer las necesidades esenciales del comercio con otras regiones. Adicionalmente, se analizarán los impuestos indirectos como el IGIC y el AIEM, sujetos a las importaciones de bienes en el archipiélago canario.

## PALABRAS CLAVE

Régimen Económico Fiscal, Unión Europea, impuestos indirectos, importaciones, incentive fiscal.

# I. INTRODUCTION

The island region of the Canary Islands enjoys an exceptional tax privilege compared to those enjoyed by other regions of the Spanish territory. This exceptional status is due to a peculiar set of geographical features, including its remoteness from other mainland Spain territories, its insufficient natural resources, as well as its geographical, climate and geological conditions. The fact that the islands are located in a region regarded as the outermost region gives rise to a series of social and economic problems for its inhabitants. For this reason, the Canary Islands have been granted advantages and incentives to help offset those disadvantages, framed within the Economic and Fiscal Regime ('Régimen Económico y Fiscal', hereinafter 'REF' as per the Spanish acronym), including inequality prevention measures in relation to other territories to boost the growth of economic activity and neutralise existing additional costs, thus placing the Canary Islanders on an equal footing with the rest of the Spanish population.

For these reasons, an amalgam of incentives or stimuli has been devised to overcome the disadvantages of its remoteness from Spain and the European Union (EU), which is laid down in the REF environment applied to the Canary Islands and which affects the daily life of its inhabitants. Through the rectification or compensation of the conditions endured by the territory and the attempt to boost the utilisation of profitable resources in production activities, this is deemed to be the main purpose of this special tax regime, which uses a mixed regulation model.

The REF relied on favourable treatment in both administrative and economic spheres upon its adoption by the Crown of Castile, as a result of the Canary Islands' scarcity of natural resources, its insular nature and geographical remoteness from Europe, by means of a special tax benefit based on free trade with respect to imports and exports, through the existence of local taxes, relief from customs duties and tax on consumption without giving rise to monopolies and monopolistic exploitation[1]. The first stage of the Economic Statute began with the Royal Decree of Commitments and the Charter of Rights granted to Gran Canaria by the Catholic Monarchs on 20 January 1487, and with the Royal Decree of 26 July 1501, in which the Island Council was granted control of the tax on imports and exports of certain stocks, and which was later extended to Tenerife and La Palma.

On the occasion of the approval of Royal Decree of 11 July 1852, a financial agreement was reached between the Provincial Council and the State Treasury, resorting to the geographical peculiarity of the region as the basis for a special institutional framework with the declaration of free ports. The Canary Islands territory would become a bridge in the commercial traffic between African territories and European cities, taking advantage of the geographical location of the archipelago. As a result, San Sebastián, Arrecife de Lanzarote, Ciudad Real de Las Palmas, Orotava, Puerto de Cabras, Santa Cruz de la Palma and Santa Cruz de Tenerife were declared free ports.

Further down the line, with the Law of 10 June 1870, the Royal Decree was expanded and ratified, with its main objective being the removal

1 MIRANDA CALDERÍN, S., DORTA VELÁZQUEZ J.A. y DÉNIZ MAYOR J.J. *La encrucijada del REF: Origen y actualidad de sus incentivos fiscales* [en línea]. 1ª ed. Las Palmas de Gran Canaria: Servicio de Publicaciones y Difusión Científica de la ULPGC, 2016, p. 25. [Fecha de consulta 6 de mayo de 2022]. Disponible en: https://bv.unir.net:3555/es/ereader/unir/57237?page=25.

of customs and tobacco duties, also meaning that the Canary Islands ports were treated as foreign territory in trade with mainland Spain. To prevent considerable damage to the Canary Islands' economy, it was approved that a large number of products would be recognised as national products, thus being exempt from the payment of customs duties. It was also decreed that goods arriving in the Canary Islands from the Spanish overseas territories would not lose their nationality upon arrival in mainland Spain, since these ports were treated as warehouses.

Subsequently, an imbalance emerged between indirect and direct taxes in the Canary Islands, and despite the Free Ports Decree of 1852 being in force, a law clarifying the tax framework of the Canary Islands became necessary since it had undergone countless taxation overhauls in that last century. With the approval of the Law of 6 March 1900, all this gave rise to an increase in the territory of application, extending it to all the other islands, not only to their ports, as well as the fact that by granting a tax exemption to consumption, their competences were also strengthened. This law also served as a basis for the Supreme Court to ratify, in its ruling of 8 April 1964, that this exemption would not only apply to imports and exports but also to all other acts involving the consumption of goods.

As a result of the Law of 11 July 1912, the new budget for the financing of the Canary Islands Local Authorities came into existence due to the establishment of the Island Councils, with which a special financing regime was approved through the Islands' taxes. This system was repealed by the Law on the Economic and Fiscal Regime of the Canary Islands, of 22 July 1972, and in turn, the Island Tax on the Entry of Goods and the Tax on Luxury Goods were created as resources for the Canary Islands' Local Treasury Departments,[2] which were bound by a single regulation throughout the archipelago, the former being incompatible with Spain's obligations arising from the integration of the Canary Islands into Community policies.

On 11 June 1964, the Tax Reform Act was passed, which did not repeal the exemptions ratified and expanded in 1900. In terms of the tax exemption on consumption, it should be noted that it confirmed the exemptions already existing in the 1964 Reform in relation to the General Business Trade Tax on imports. Moreover, it signified the removal of the State Luxury Tax on imports, giving rise to an exponential growth of trade in the Islands.

On 22 July 1972, Law No. 30/1972 on the Economic and Fiscal Regime in the Canary Islands was passed, which updated and ratified the Canary Islands' tax regime, guaranteed by the Spanish Constitution of 1978 in its Third Additional Provision, which states that the REF will require a preliminary report from the interim autonomous body, and under Article 45 of Organic Law No. 1/2018 of 5 November 2018, of the Statute of Autonomy of the Canary Islands.

It is important to mention that until the approval of this tax regime there was no single legal text that included all the fiscal characteristics of the Canary Islands, and that it remained in force until the Canary Islands' full integration into the European Union in 1991. This economic re-

2 GONZÁLEZ LORENTE, A. *Canarias en el marco legal de la Unión Europea: los incentivos fiscales en el Impuesto de Sociedades español ante el proceso de armonización comunitaria*. Madrid: Instituto de Estudios Fiscales, D.L., 2002, p. 143. ISBN: 84-8008-137-6.

gime included protectionist principles and those of commercial freedom, both in terms of imports and exports, being exempt from customs duties or any similar type of taxation.

In 1986, the Act of Accession of Spain to the EEC was signed, culminating a process of political, economic and social modernisation, with Spain's entry into the European Union. However, it is in Protocol No. 2, considered to be a special framework, where the non-inclusion of the islands in the Community customs territory was established. The Canary Islands were excluded from a series of fundamental common policies, such as the Common Agricultural Policy, the Common Fisheries Policy, the Community customs territory and, therefore, also from the Common Commercial Policy and the scope of application of Value-Added Tax. These exclusions meant that this territory began to encounter certain disadvantages in terms of economic development, which led to the adoption of the Resolution of 21 December 1989, through which the Spanish Government was urged to agree new conditions for the Canary Islands that would lead to a greater integration. The African location of the Canary Islands, far from mainland Spain, meant that their integration conditions would extend beyond the official integration, so that, at the end of 1989, the Canary Islands Parliament, by means of a resolution, called for the greater integration of the islands into the European Community.[3]

As a result of the accession of Spain to the EEC in 1986 and the new political and administrative framework arising from the 1978 Constitution with the establishment of new relations between the State and the Autonomous Regions,[4] Amending Law No. 20/1991, of 7 June 1991, was passed, amending the fiscal aspects of the Canary Islands Economic and Fiscal Regime (LIGIC, in its Spanish acronym), which profoundly transformed the taxation that had hitherto been applicable under the Canary Islands' REF Law of 22 July 1972, respecting the special indirect tax burden on account of it being different and lower than in the rest of Spain, and therefore adjusted the tax rates to be applied in the islands.[5]

Furthermore, Law No. 20/1991 introduced the Canary Islands General Indirect Tax (IGIC) with the aim of streamlining, facilitating and standardising current indirect taxation, replacing existing taxes such as the General Tax on Company Traffic ('Impuesto General sobre el Tráfico de las Empresas', 'IGTE' in its Spanish acronym) and the Island Luxury Tax ('Arbitrio Insular sobre el Lujo', 'AILU' in its Spanish acronym), and upholding the specifications of the traditional REF in harmony with the integration of the Canary Islands into European Community policies. Part of an already existing local tax was maintained, such as the Special Tariff of the Island Tax on the Entry of Goods, in accordance with the provisions of Article 6.3 of Protocol No. 2 annexed to the Act of Accession.

3 NOREÑA SALTO, T. Canarias: De Comunidad Autónoma a región europea, *Boletín Millares Carlo*. Las Palmas de Gran Canaria: Centro Asociado de la UNED. 1996, núm. 15, p. 412.

4 DÍAZ DE MONASTERIO-GUREN, F y LUIS DE VILLOTA, I. La naturaleza del Impuesto General Indirecto Canario (IGIC) y su relación con el Impuesto sobre el Valor Añadido (IVA). En: VILLAR EZCURRA, M. Estudios Jurídicos en memoria de don César Albiñana García-Quintana. Madrid: Instituto de Estudios Fiscales, 2008, p. 3221.

5 GONZÁLEZ LORENTE, A. *Canarias en el marco legal de la Unión Europea: los incentivos fiscales en el Impuesto de Sociedades español ante el proceso de armonización comunitaria*. Madrid: Instituto de Estudios Fiscales, D.L., 2002, p. 21. ISBN: 84-8008-137-6.

This is why, at European level, following the various negotiations to fully integrate the Canary Islands into the EU, the framework for the accession of the Canary Islands introduced a series of components regulated by Council Regulation (EEC) No. 1911/1991 of 26 June 1991 on the application of the provisions of Community law to the Canary Islands; Council Decision (EEC) No. 91/314 of 26 June 1991 establishing a Programme of Options Specific to the Remote and Insular Nature of the Canary Islands ('Programa de Opciones Específicas para las Islas Canarias', hereinafter 'POSEICAN' as per the Spanish acronym), and the signing of the Treaty of Amsterdam in 1997 which clearly envisaged the particularities of development in the outermost regions (ORs) of the EU.[6]

## II. STRUCTURE OF THE ECONOMIC AND FISCAL REGIME

The Canary Islands Economic and Fiscal Regime can be defined as a differential legal institution, of a historical nature, constituted by a special and specific right, recognised and protected by the constitutional corpus of rules and principles, with a partially objective scope and characterised by the principle of the tax exemption on consumption and the special financing of the Canary Islands' treasury departments, and a special competence regime of the autonomous region.[7]

As a result of the recognition of the Canary Islands as an outermost region of the European Union, this regime is made up of principles and rules adapted to the provisions of Article 349 of the Treaty on the Functioning of the European Union (TFEU), thus the need to modify state action in economic policies, with the aim of ensuring that Canary Islanders have equal opportunities compared to all citizens of the European Union.

The REF covers a series of rules aimed at strengthening the economic, social and territorial cohesion of the archipelago and the competitiveness of its strategic areas, considering that a distinction can be made between the island economy and the rest of Spain's national territory in terms of the average cost of economic activity in the Canary Islands.

These historical achievements, which are currently subject to continuous dispute, change and reform, resulted in the primary characteristics of this institutional framework. It was then, in 1991, when the introduction of important amendments was observed in the former REF of 1972, which were obligatorily imposed by the Community integration process. In this regard, in relation to the tax regime, Law No. 20/1991 created the Canary Islands General Indirect Tax ('Impuesto General Indirecto Canario', hereinafter 'IGIC' as per the Spanish acronym) in accordance with the European Community's conciliatory objective for tax purposes, which in comparison with the Community VAT had a reduced tax rate, and various tax measures were introduced to incentivise investment, such as deductions for investments in Corporation Tax.

The general tariff of the Island Tax on the Entry of Goods ('Arbitrio Insular a la Entrada de Mercancías') was also repealed but the special tariff continued. Furthermore, the Island Tax on the Production and Import of Goods in the Ca-

6 CONSEJO ECONÓMICO Y SOCIAL DE CANARIAS. *Informe Anual 2004 del CES sobre la situación económica, social y laboral de Canarias en el año 2003.* Núm. 12. 1ª ed. Las Palmas de Gran Canaria: Consejo Económico y Social de Canarias Secretaría General, 2004, C. II, p. 45.

7 OROZCO MUÑOZ, M. E. *El régimen fiscal especial de Canarias: su conformación por el bloque de constitucionalidad.* Madrid: Cabildo Insular de Tenerife, 1997, p. 151.

nary Islands ('Arbitrio Insular sobre la Producción y la Importación de Mercancías en Canarias') was created, which, despite it being a new indirect tax, can be considered as protectionist in nature.[8]

The main objective of these early changes for tax purposes was to adapt the REF to the new Community framework, and among its amendments, other measures of an economic nature ensued as established by Law No. 19/1994, including the proposal to create the Canary Islands Special Zone ('Zona Especial Canaria', hereinafter 'ZEC' as per the Spanish acronym) in an attempt to amend the REF.

After more than twenty years without amendments, the new Economic Regime came into force as a result of the approval of the recent Law No. 8/2018, of 5 November 2018, which amended Law No. 19/1994, of 6 July 1994, with the aim of updating the economic aspects of the traditional REF, guaranteeing that the remoteness, insularity and permanent structural limitations of the Canary Islands are well-balanced by means of policies deemed to be precise and effective.

To promote the economic, social and territorial progress and cohesion of the Canary Islands, among its amendments, is the promotion of a group of economic and fiscal measures, consisting of developing and promoting the internationalisation of the Canary Islands' economy in all the islands through its promotion as an Atlantic platform.

## 2. The Regulatory Framework of the Canary Islands Special Zone

According to Article 28 of Law No. 19/1994, the ZEC is a low-tax zone whose purpose is to promote the economic and social development of the archipelago and to diversify its economic structure, encouraging the development of activities in dynamic sectors which make a major contribution to the growth process. The measure provided for tax advantages in the form of different exemptions and reduced tax rates.

The amendments made to the 1972 REF following the accession of the Canary Islands to the EEC provided for the creation and operation of the ZEC, which were regulated in accordance with the provisions of Articles 28 to 71 of Law No. 19/1994, of 6 July 1994, on the Amendment of the Economic and Fiscal Regime of the Canary Islands; amended by Royal Decree Law No. 2/2000, of 23 June 2000; by Royal Decree Law No. 12/2006, of 29 December 2006; by Royal Decree Law No. 15/2014, of 19 December 2014; and by Law No. 8/2018, of 5 November 2018, which introduced the most recent regulatory amendments. In relation to the Canary Islands Special Zone factor, Royal Decree No. 1758/2007, of 28 December 2007, authorised the Implementing Regulation of Law No. 19/1994, of 6 July 1994, amending the Canary Islands Economic and Fiscal Regime.

Likewise, its operation led to the creation of a low taxation area for the benefit of the registered companies through a special tax rate throughout the Canary Islands and with important tax benefits at their disposal. To this end, the purpo-

8 CONSEJO ECONÓMICO Y SOCIAL DE CANARIAS. *Informe Anual 2003 del CES sobre la situación económica, social y laboral de Canarias en el año 2002*. Núm. 1. 1ª ed. Las Palmas de Gran Canaria: Consejo Económico y Social de Canarias Secretaría General, 2003, C. II, p. 43.

se of this subject matter is to promote the economic and social progress of the Canary Islands territory, the creation of high-level employment, and in terms of its structure, a transformation in both the business and production sectors, which have been affected mainly by the geographically hermetic principle.

Among the benefits, registered companies enjoy a reduction in the 4% Corporation Tax rate ('Impuesto sobre Sociedades', 'IS' as per the Spanish acronym), exemptions on Capital Transfer Tax and Stamp Duty ('Impuesto sobre Transmisiones Patrimoniales y Actos Jurídicos Documentados, hereinafter 'ITPAJD' as per the Spanish acronym), other IGIC exemptions, a series of exemptions from tax on dividends, as well as various tax incentives for the taxation of non-resident company subsidiaries and for Non-Resident Income Tax ('Impuesto sobre la Renta de No Residentes', 'IRNR' as per the Spanish acronym), as established by the ZEC Consortium itself.

That is why, for the Canary Islands, this limited economic zone represents one of the best tax regimes within the European Union territory, as well as being considered as an intensely useful and attractive tool for the establishment of production businesses in slightly developed sectors.

## 2.1. Integration of the Canary Islands into the European Economic Community

The integration of the Canary Islands was presented as an evolving process because, since its accession, its circumstances, in contrast to those applicable to the rest of the Community territories, have been regulated by special regulations.

At the beginning of December 1983, the position of Spain's accession to the EEC presented a wide range of alternatives for the Canary Islands,[9] which affected the negotiation of the inclusion of the Canary Islands within Spain's accession, negotiating its integration under the same conditions as the rest of mainland Spain, under special conditions, or its non-integration, leaving the Canary Islands out of the aforementioned process.[10] The second alternative was the one defended by the autonomous regional government, basing it on the geographical location, the region's distinctive characteristics and the existence of a REF that differs from the rest of the national territory.[11]

From 1986 to the present day, it is possible to identify three different stages in which the regime applicable to the Canary Islands has been amended in order to adapt to the needs of the Union as a whole.[12] Since the Canary Islands are considered to constitute a part of the Spanish territory, they are integrated within the sphere of the territorial administration stipulated in the Founding Treaties of Paris and Rome, applying,

9 PEREZ VOITURIEZ A. y BRITO GONZÁLEZ O. *Canarias: Encrucijada Internacional*. 2ª ed. Tenerife: Ecotopía, 1982, p.87.

10 NOREÑA SALTO, T. Canarias: De Comunidad Autónoma a región europea, *Boletín Millares Carlo*. Las Palmas de Gran Canaria: Centro Asociado de la UNED. 1996, núm. 15, p. 416.

11 MARTÍN GÓMEZ C. y DOMÍNGUEZ I. *Evolución histórica de la integración de Canarias en le CEE*. Tebeto: Anuario del Archivo Histórico Insular de Fuerteventura, ISSN 1134-430X, núm. 6, 1993, p. 332.

12 CONSEJO ECONÓMICO Y SOCIAL DE CANARIAS. *Informe Anual 2003 del CES sobre la situación económica, social y laboral de Canarias en el año 2002*. Núm. 1. 1ª ed. Las Palmas de Gran Canaria: Consejo Económico y Social de Canarias Secretaría General, 2003, C. II, p. 46.

with certain singularities or even exceptions as established in the Act of Accession, all the Community regulations.[13]

In this respect, Protocol No. 2 to the Act of Accession of Spain to the EEC stipulated that the Canary Islands were excluded from the Community customs territory, the common commercial policy, the fiscal policy relating to VAT and the common agricultural and fisheries policies. In this way, requirements were laid down that did not fulfil all the Canary Islands' aspirations, essentially in terms of agricultural exports to the rest of the Community, and as a result, on 21 December 1989, the Canary Islands Parliament passed a Resolution requesting a greater degree of integration.[14]

Therefore, the process of integration of the Canary Islands into the EEC at this stage coincides with the content of the negotiations for the special legal regime, in connection with Spain's accession in 1986, whose most noticeable feature was the archipelago's non-membership of the Community customs territory.[15]

In June 1991, a new legal framework was approved for application in the Canary Islands, which entailed a greater integration into the European organisation. The new model was essentially set out in two texts, the EU Council Regulation on the application of Community law provisions in the Canary Islands, and an EU Council Decision establishing POSEICAN. It was a programme designed to structure a major solution to the issue of its ultraperipherality and to contribute to the reassessment of regional policy in these territories. Its regulations are primarily intended to ensure essential products are accessible for the Canary Islands' consumers and producers.

POSEICAN contributed to the success of the Canary Islands' integration into the European Community, in accordance with Council Decision No. 91/314/EEC of 26 June 1991, by providing an appropriate framework for the implementation of common policies in the region, its full participation in the internal market through the optimum use of existing Community regulations and mechanisms, and the contribution to economic and social recovery reflected in the Community financing of various specific standards. Therefore, this was not just a set of accompanying measures, but also financial commitments entered into by the European Community in cooperation with national and regional authorities.[16]

The framework for the accession of the Canary Islands is distinguished by the introduction of various components following the negotiations for the Canary Islands' full integration and the signing of the Treaty of Amsterdam in 1997, and in which the special conditions for the development of the EU's outermost regions are openly provided for.

13 ASÍN CABRERA M.A. *La naturaleza del Régimen Jurídico de Canarias en la Comunidad Europea*. Santa Cruz de Tenerife: Universidad de La Laguna, Facultad de Derecho, 1993, p. 78. ISBN 84-775-6357-8.

14 PINEDA RAMOS, E. El régimen económico y fiscal de canarias: antecedentes y situación actual, *Revista Atlántida: Revista Canaria de Ciencias Sociales* [en línea]. 2016, núm. 7, p. 191. ISSN 2171-4924. Disponible en: https://dialnet.unirioja.es/servlet/articulo?codigo=6026239

15 CLAVIJO HERNÁNDEZ F.F. y GÉNOVA GALVÁN A. «Análisis jurídico del Protocolo número 2 al tratado de adhesión de España a las Comunidades Europeas». *Noticias de la Unión Europea.* ISSN 1133-8660, núm. 22, 1986, p. 53.

16 NOREÑA SALTO, T. Canarias: De Comunidad Autónoma a región europea. *Boletín Millares Carlo*. Las Palmas de Gran Canaria: Centro Asociado de la UNED. 1996, núm. 15, p. 425.

The Treaty of Amsterdam was an essential piece of European Union legislation reinforcing the content of the founding Treaties, bringing to an end a lengthy period that dates back to the late 1980s, one renowned for constant dialogue and cooperation between these regions, and progress in the unification of the legal regimes for the outermost regions. For all these reasons, their commitment was the force behind the mobilisation and consensus of the respective Member States, as well as raising the awareness of Community institutions to enable the authorisation of a stable legal framework for the outermost regions policy.

Taking into consideration the structural social and economic situation of the French overseas departments, the Azores, Madeira and the Canary Islands, which are characterised by their remoteness, insularity, small size, difficult topography and climate, economic dependence on a limited number of products, the permanence and combination of which severely restrain their development, the Council, acting by qualified majority on a proposal of the Commission and after consulting the European Parliament, adopted specific measures aimed at laying down the conditions for the application of common policies in those regions.

The Council would therefore take into consideration public aid and the conditions of access to structural funds and horizontal Community programmes; customs and trade policies; tax policy; free zones; agricultural and fisheries policies; and conditions for the supply of raw materials and essential consumer goods. It would also assess the special characteristics and requirements of each of the outermost regions, without jeopardising the integrity and coherence of the Community legal order, including the internal market and common policies as mentioned above.

# III. CANARY ISLANDS INDIRECT TAXES

## 3. Canary Islands General Indirect Tax (IGIC)

The IGIC is a state tax, which is regulated by Amending Law No. 20/1991, of 7 June 1991, amending the fiscal aspects of the Economic and Fiscal Regime of the Canary Islands. Three years later, Amending Law No. 19/1994, of 6 July 1994, on the amendment of the Economic and Fiscal Regime of the Canary Islands, was passed, with the aim of updating the economic aspects of the traditional REF[17], in addition to ensuring that the Canary Islands' remoteness, insularity and permanent structural limitations, which determine its status as an outermost region of the EU, are well-balanced by means of policies deemed to be precise and effective. Alongside this, Royal Decree No. 2538/1994 of 29 December 1994 was approved, which established its implementing rules.

This is a state tax on the supply of goods and services, of an indirect nature, on transactions conducted by business owners and professionals, as well as on imports of goods. It is applied exclusively in the Canary Islands territory, which means that it acts as an actual customs office for all transactions involving the entry and exit of goods from this territory to mainland Spain and vice versa.

The IGIC is an indirect tax since it burdens the

17 MIRANDA CALDERÍN, S. Los incentivos fiscales del Régimen Económico y Fiscal de Canarias en un contexto de crisis económica. *Anuario de Estudios Atlánticos*, n. 58, 2012, p. 470. ISSN 0570-4065.

taxpayer's capacity to settle the payment arising from the consumption of their own assets, and one that forms part of other indirect taxes together with VAT, ITPAJD and excise taxes, since they are incomes earned from certain transactions carried out by individuals, such as those derived from consumption or from the transfer of assets.[18]

Subsequently, Royal Decree No. 1022/2015, of 13 November 2015, was passed, amending the Implementing Regulation of Law No. 19/1994, on issues relating to tax incentives in indirect taxation, the Canary Islands Investment Reserve and the ZEC, approved by Royal Decree No. 1758/2007, of 28 December 2007.

The IGIC also falls under the remit of regional legislation in the form of Law No. 4/2012 of 25 June 2012, on administrative and fiscal measures, in addition to the Regulation on the tax management procedures derived from the Canary Islands Economic and Fiscal Regime, approved by Decree No. 268/2011, of 4 August 2011, and Law No. 17/2019, of 9 May 2019, which, with the IGIC, sets a zero tax rate applicable to the delivery, import, leasing or work performed on certain vehicles.

The Canary Islands Parliament approved the amendment of the regional law with the publication of the 2019 General Budget Law of the Autonomous Region of the Canary Islands and Law No. 19/2019, of 30 December 2019, on the 2020 General Budget of the Autonomous Region of the Canary Islands.

This is a tax partially granted to the Autonomous Region of the Canary Islands under Article 64 of the LIGIC which levies the difference obtained between the price paid by a business owner or professional when obtaining products and services for the completion of a product, and the price at which those goods are put up for sale. Therefore, like VAT, which is levied on the added value of a product or service, it is considered an impersonal tax, as it implies the direct no tax liability of the generated wealth subject to personal income tax, with a momentary singularity, but with tax periodic settlement, given that this tax is generated in its taxable transaction by activities carried out whose settlement is carried out in cycles of one to three months.

Its aim is to tax the supply of goods and services provided by business owners and professionals, as well as imports of goods, replacing Community VAT in the field of consumption taxation. This basic tax is considered to belong to the family of value-added taxes due to its similarity in the taxable transaction, tax settlements and date of accrual, without prejudice to the particularities of the IGIC regime[19]. However, it has a significant difference in its low tax rates as it currently has a general tax rate of 7%, one that is even as low as 0% on certain goods and services, compared to VAT in mainland Spain where the tax rate is 21%.

Likewise, transactions conducted on a regular or occasional basis in the Canary Islands, the production factors implemented in each stage of the production process, as well as imports of goods, regardless of the importer's nature, are subject to tax. It should be noted that the entry of goods into the Canary Islands from mainland Spain, the

18 PORTILLO NAVARRO, M.J. *Manual de Fiscalidad: Teoría y práctica*, Tecnos, 6ª edición, Madrid, 2013, p. 33.
19 GARI, D. La cuestión canaria ante la adhesión de España a la Comunidad Económica Europea (1983-1990). *Hispania Nova* [en línea]. 2018, núm. 16, p. 381. ISSN: 1138-7319. Disponible en: https://doi.org/10.20318/hn.2018.4041

Balearic Islands, Ceuta, Melilla, any EU Member State or, indeed, third countries, are also considered imports.

The particularities of each taxpayer are not considered when determining the laws that deal with the mechanism that taxes the wealth of the owner who has conducted the taxable transaction and the amount to be paid. For this reason, it is understood to be an objective tax, one that levies all the cycles of a product or service until it reaches the end-buyer, defined as a multi-phased tax. Moreover, the tax payable increases or decreases depending on how much the price of those goods increases or not at each stage.

The delimitation of territory in the application of the IGIC means that imports and exports are integrated as taxable transactions, therefore the entry or exit of goods or services will be considered as such. Due to the use of the IGIC and imports as a customs process, in addition to the economic, administrative and temporal implementations that this type of transaction entails, all transactions conducted in which the Canary Islands territory participates together with another national territory or another EU or non-EU country, shall be subject to the application of this tax.

The Canary Islands are therefore considered as a third territory, this is why they are classified as non-EU, but only for VAT purposes. The IGIC is levied on the supply of products or services, whether occasional or regular in nature, provided that a payment is made by business owners or professionals during the course of their commercial activities.

The transactions that are subject to this tax shall not be considered taxable asset transfers and shall have no tax liability where Capital Transfer Tax and Stamp Duty is concerned. As such, the supply and leasing of properties are exempt from tax, as well as the transfer or constitution of property rights of enjoyment and possession that apply to them. The taxpayer waives the exemption in the circumstances provided for in Article 50.5 of Law No. 4/2012.

Imports of products imply the existence of a link between the Canary Islands and different territories, whether national, EU or non-EU. It is therefore necessary to determine a specific location for these import transactions, thus making them subject to the legislation on consumption in that territory and subject to the legislation that applies in the Canary Islands for imports through the IGIC

The general rule for delimiting the location in which this transaction is conducted is provided for in Article 16.1 of the LIGIC, but imports are established in paragraph 2 of the same article for deliveries of goods carried out by the importer, and this special rule applies to the cases of goods that are in transit for their delivery.

The IGIC establishes different tax rates, which are provided for in regional legislation, specifically in Article 51 of Law No. 4/2012. However, Law No. 19/2019 introduced amendments to paragraphs 1 and 5 of said article of Law No. 4/2012. To this end, the 6th Final Provision included the amendments to the IGIC tax rates, in which a 0% tax rate is applicable to the supply of goods and services, like basic consumer goods or those considered to be community facilities, such as, for example, water, books, electricity, feminine hygiene products, school supplies, petroleum, inter-island transport, medicines intended for human use, electricity or oil.

The reduced 3% tax rate is applicable to the supply of goods and services, such as imports from industrial activities and manufactured foods. The 7% general tax rate applies to the supply of goods and services that are not subject to the other tax rates provided for in the IGIC. The increased 9.5% tax rate is applied both to the supply of goods and services, as well as the execution of construction works, aimed at motor vehicle production; boats and ships; and aircraft, light aircraft and all other aircraft. The 15% tax rate is allocated to the supply of goods and services, such as cigars priced higher than €1.80 per unit, various firearms, spirits, jewellery and precious stones, among others. Finally, the special 20% tax rate is only levied on the supply of manufactured tobacco products, with the exception of cigars.

Therefore, as of 1 January 2020, this Budget Law included different changes to the IGIC tax rates, whereby the general IGIC rate increased from 6.5% to 7%; the increased tax rate went from 13.5% to 15%; the tax applicable to telecommunications services rose from 3% to the general tax rate of 7%; and the tax applicable to the supply of electricity also increased from 0% to 3%, except for households, where it remained at 0%. In addition, retail trade surcharges related to the new tax rates of 7% and 15% were amended to 0.7% and 1.5%, respectively.

The IGIC does not tax transactions conducted in the development of activities that are not of a business nature, nor those conducted between private individuals that do not have a pecuniary purpose. Therefore, 29 domestic transactions are considered exempt, including education; services provided by sports organisations; postal services; health care; blood supplies; social welfare services; financial transactions; insurance and reinsurance transactions; and retail trade and cultural enterprises.

## 3.1. Tax on Imports and Deliveries of Goods in the Canary Islands (AIEM)

The Tax on Imports and Deliveries of Goods in the Canary Islands ('Arbitrio sobre Importaciones y Entregas en las Islas Canarias', hereinafter 'AIEM' as per the Spanish acronym) is an indirect state tax, levied only once and collected by the Autonomous Region of the Canary Islands. It is levied on the supply of goods produced in the Canary Islands by producers, such as imports of similar goods belonging to the same category irrespective of their place of origin. It is applied in the form of a tax exemption for the supply of certain locally produced goods, which shall not give rise to differences in tax rates of more than 5%, 10%, 15% or 25%, applicable to the different categories of products.[20]

In this sense, the AIEM is an exclusive tax whose primary purpose is to promote and incentivise production and the new industrial and production activities that have the capacity to replace imported products in the future and, similarly, to protect the Canary Islands' domestic production. It is therefore deemed to have been created with the intention of protecting local industry from the production of goods from outside the region. It should be noted that while the AIEM is one of the most important countervailing benefits of the Canary Islands for industrialists, for importers the tax raises some prices, such as those of food.

In terms of the regulation of the tax and the applicable tax rates, within the authorised differentials, its regularisation is included in Law No.

20 EU Council Decision No. 377/2014/EU of 12 June 2014

20/1991 on the Fiscal Aspects of the REF and in Law No. 4/2014, of 26 June 2014, of the Parliament of the Canary Islands, which amended the regulation of the AIEM, exempting 178 local product codes from tax upon delivery. As detailed in the Law, the general applicable tax rate for the AIEM is 5%, although there are some products that are taxed at 10%, 15% and even up to 25%, as listed in Appendix I of Law No. 4/2014.

The AIEM exemption applies to local production, whether textile, agricultural or fishing products. According to Article 2 of Law No. 4/2014, goods such as refined petroleum products, certain beverages or materials, such as stone and wood, are exempt. Imports of essential goods are also considered exempt, as well as fuels for energy production, newspapers and magazines, or food items for coeliacs.

## IV. DIFFERENCES BETWEEN VAT AND IGIC

Both the IGIC and VAT were created for the same purpose, to indirectly tax the consumption of goods or services between the administration and consumers, trying not to disrupt the commercial transactions conducted with the territories within the European Union. The regularisation of both taxes is similar, as the LIGIC is based on Law No. 30/1985, of 2 August 1985, on Value-Added Tax, and its Regulation, which also served as the basis for Law No. 37/1992[21].

VAT is an indirect tax on consumption, levied on supplies and services provided by professionals or business owners, on transactions between Member States and on imports of products. It is regulated by Law No. 37/1992 of 28 December 1992 on Value-Added Tax and Royal Decree No. 1624/1992 of 29 December 1992. This tax is indirect, general, objective and instantaneous. It is partially transferred to the Autonomous Regions as established in Article 2 of Law No. 22/2009, which regulates its impact, and the transfer of 50% of the return produced on VAT in each of the regions as stipulated in Article 13.[22]

In terms of the existing differences in territorial application, the scope of VAT is mainland Spain and the Balearic Islands plus the adjacent maritime and air spaces, and the scope of the IGIC is only the island territory of the Canary Islands. Likewise, Law No. 37/1992 refers to the exclusion of the Canary Islands in the application of VAT, but it is included in the customs union. There are also differences in the delimitation of the taxable transaction in both taxes, since Law No. 37/1992 regulates the supply of goods and services, transactions between Member States and the import of goods, whereas the LIGIC includes the regularisation of the taxable transaction without including transactions between Member States as a separate manifestation of the taxable transaction. This differential treatment of intra-Community transactions is due to the exceptional circumstances of the Canary Islands with respect to the EU and their removal from the scope of Community Directives.

Article 4.2 of the LIGIC stipulates the application of this Canary Islands tax on imports of goods, regardless of the purpose for which they are used or the nature of the importer. Consequently, the

21 OLIVERA HERRERA, A. J. La Zona Especial Canaria: Luces y sombras. *Revista Hacienda Canaria*. Santa Cruz de Tenerife, n. 33, 2011, p. 101, ISSN 1696-6945.

22 PORTILLO NAVARRO, M.J. *Manual de Fiscalidad: Teoría y práctica*, Tecnos, 6ª edición, Madrid, 2013, p. 375.

IGIC applies to goods entering the Canary Islands from any territory, whether from an EU member state or from mainland Spain, Ceuta, Melilla or the Balearic Islands.

Furthermore, VAT regulates the self-consumption of goods or services stipulated in Articles 9 and 12 of Law No. 37/1992, but the LIGIC makes no specific mention in its articles of this scenario. However, in the 9th Additional Provision it affords the opportunity for self-consumption to be taxed by the IGIC, although it shall be the General State Budget Law that shall exercise the right to amend this regulation, on the Canary Islands' own initiative.

There are also differences between the regularisation of the IGIC and VAT on tax exemptions, since Article 20 of Law No. 37/1992 contains the delimitation related to the provision of services and supply of goods carried out by political parties for events aimed at providing them with financial support for the fulfilment of their specific purpose and organised for their exclusive benefit.[23]

The LIGIC contains three exceptions to the privileges granted during the product sales period or the consumer service provision period on transactions carried out by retailers,[24] which are set out in Article 50 of Law No. 4/2012 of 25 June 2012 on the administrative and fiscal measures in relation to relief from custom duties in domestic transactions, and which were previously included in Article 10 of Law No. 20/1991.

There is also an exemption in the LIGIC from the duty-free regime for transactions conducted by taxpayers and transactions involving the supply or provision of services by public bodies, as described in Article 50(26) of Law No. 4/2012, which relates only to transactions conducted by territorial public bodies, but not institutional ones.

Another significant difference between VAT and the IGIC are their tax rates, as a result of the increase in the revenue-raising power resulting from the 2012 reforms, which made it necessary to amend the established IGIC tax rates, thus repealing those set out in the 1991 LIGIC, which were laid down in Article 51 of Law No. 4/2012.[25] The main difference between the VAT and IGIC tax rates is that the latter is zero-rated, although some EU countries retain the right to apply this rate as a transitional right measure for certain products.[26]

The zero-tax rate is used as a tool to ensure that exemptions are fully effective and that all transactions subject to the application of this tax rate are exempt from taxation, since taxpayers have the right to deduct or claim back the tax payments recognised in the Law for the purchases related to these transactions.

VAT does not have this zero-tax rate. However, this tax also provides for the effect of full exemp-

23 DÍAZ DE MONASTERIO-GUREN, F y LUIS DE VILLOTA, I. La naturaleza del Impuesto General Indirecto Canario (IGIC) y su relación con el Impuesto sobre el Valor Añadido (IVA). En: VILLAR EZCURRA, M. Estudios Jurídicos en memoria de don César Albiñana García-Quintana. Madrid: Instituto de Estudios Fiscales, 2008, p. 3225.

24 Memento práctico Canarias. IGIC. Otros Regímenes Especiales. (2019). Ed. Francis Lefebvre, p. 120.

25 Law No. 4/2012, of 25 June 2012, on administrative and fiscal measures. BOE, 12 July 2012, No. 166, p. 49824.

26 DÍAZ DE MONASTERIO-GUREN, F y LUIS DE VILLOTA, I. La naturaleza del Impuesto General Indirecto Canario (IGIC) y su relación con el Impuesto sobre el Valor Añadido (IVA). En: VILLAR EZCURRA, M. Estudios Jurídicos en memoria de don César Albiñana García-Quintana. Madrid: Instituto de Estudios Fiscales, 2008, p. 3225.

tions for imports even though it is not through this mechanism. Therefore, the main difference is that in the IGIC the zero-tax rate specifies the supply of goods of a series of products, whereas in VAT these same transactions are taxed at one of the reduced rates.

## V. IMPORTS AND INTERNATIONAL ASPECTS

The administrative body in charge of the inspection of products imported from third countries is the Spanish Customs and Excise Department ('Departamento de Aduanas e Impuestos Especiales'), a centralised customs authority belonging to Spain's State Tax Administration Agency ('Agencia Estatal de la Administración Tributaria', 'AEAT' as per the Spanish acronym). Although the Canary Islands have been part of the EU customs territory since 1992, counting up to 2000 as its transition period, there are some exceptions to customs regulations, such as specific provisions for indirect taxes, imports of essential agricultural products, end-consumer goods, raw materials, components for industrial processing, as well as quantitative restrictions on textile and clothing products from certain source markets that are not applicable. Moreover, fishery products are also exempted from import duties subject to tariff or autonomous regional quotas and suspensions.

With regards to imports, it should be noted that the surcharge rates applicable to imports of goods subject to and not exempt from the IGIC by retailers for their commercial activity are regulated by the 6th Final Provision of Law No. 19/2019. With regards to the AIEM, it is important to note that the management of imports is associated with the international traffic of goods that is channelled through customs, and in which tax management procedures are routed through customs procedures, which require the completion of the Single Administrative Document (SAD) to settle payment.

Regulation (EU) No. 952/2013 of the European Parliament and Council of 9 October 2013, which established the Customs Code, contains the general provisions and procedures applicable to goods brought into or leaving the European Union. Specifically, Recital 4.1 of Regulation (EU) No. 952/2013 mentions that Spain, with the exception of Ceuta and Melilla, shall be understood to be a customs territory of the EU, including its territorial sea, internal waters and air space, thus placing the Canary Islands as part thereof.

In terms of transactions between the VAT-application territory and the Canary Islands, the Law establishes its application both to the import and entry of goods into the Canary Islands, from mainland Spain, the Balearic Islands, Ceuta, Melilla, another EU Member State or third countries, for whatever purpose they are intended or regardless of the nature of the importer, according to Article 8.1 of Law No. 20/1991[27].

In relation to imports, shipments to the Canary Islands require the processing of the SAD which, according to Resolution of 11 July 2014, established that the SAD would be useful in ensuring compliance with customs clearance formalities, specifically for exports, imports or transits. In accordance with the Spanish Institute of Foreign Trade, it is compulsory to complete it at

27 CLAVIJO HERNÁNDEZ F. F. y MAZORRA MANRIQUE DE LARA S. La valoración de mercancías en la Renta de Aduanas, en *Valoración en Derecho Tributario*, IEF: Madrid, 1991, pp. 159-184. ISBN 84-7196-957-2.

the customs office for the trade of goods, which serves as the basis for the tax declaration and serves as proof directly related to the details of the customs dispatch in order for customs offices to inspect the goods and check the details regarding origin, value, type of content, consignee and taxes.

The SAD must be processed in the case of setting up commercial trade with or without a container, as the value of the goods and taxes are established on this document, thereby justifying the trade of the product, as the introduction and transport of goods to and from the Canary Islands is subject to the payment of the corresponding taxes, depending on the nature and origin of the imported goods. In addition, due to the application of the corresponding customs duties for purchases over €150, it is compulsory to fill in the SAD, even if it does not specify whether a surcharge must be paid on arrival of the product, as online retailers only provide a warning that the delivery of the goods may be subject to customs payments and do not usually specify the amount to be paid.[28]

In terms of non-EU origin goods, according to Article 4(R) of Recital (EEC) No. 1911/91, and as a result of the Canary Islands being outside the scope of application of the common VAT regime, all transactions carried out with any country, whether EU or non-EU, including the rest of the national territory, are considered imports or exports of both goods and services, and the concept of intra-Community transactions, in which no customs duties are paid on goods that are moved between EU countries, is inapplicable.

Article 8.1 of Law No. 20/1991 specifies that trade from third countries for purchases of goods via the Internet will also be considered as imports, regardless of the nature of the supplier. In this case, this presents a major disadvantage in comparison to mainland Spain and, hence, to other EU Member States as a result of them not being able to receive goods in the Islands or having to pay more customs duties. It should be noted that these disadvantages are due to the Canary Islands' geographical location, making logistics costs higher, rendering it difficult to reduce transport costs.

In relation to business owners, they are also burdened with another tax on the Import and Delivery of Goods that is applied to certain products and will end up raising the end price. Therefore, the AIEM should only be more product-specific in some instances, with a more realistic approach and with the aim of protecting the Canary Islands industry, even though a high percentage of what is taxed under this tariff is not manufactured on the islands.[29]

## VI. FINAL REFLECTIONS

The benefits of the REF for the Canary Islands are justified, given that it is one of the European regions affected by the additional structural cost overruns arising from its outermost location. This area has a series of distinct characteristics that

28 JIMÉNEZ, J. De 'no enviamos a Canarias' a pagar más en aduanas: las trabas de comprar por internet en las Islas, *El Diario*. 27 de octubre de 2019. Disponible en: https://www.eldiario.es/canariasahora/economia/enviamos-Canarias-aduanas-internet-Islas_0_956454999.html

29 MILLE, D. "Si el modelo de negocio de los comercios de Canarias no se adapta a los consumidores, no tiene futuro", *Cinco-Días*, [en línea], Santa Cruz de Tenerife, 23 de diciembre de 2021. [Fecha de consulta 6 de julio de 2022]. Disponible: https://cincodias.elpais.com/cincodias/2021/12/23/companias/1640256974_768957.html

differentiate it from other areas, especially in terms of its geography and climate, leading to greater difficulty both in terms of trade and in the creation of a solid economic structure, which is why the REF includes prevention measures for existing inequalities with respect to other Spanish territories on account of it being an Autonomous Region located far away within the national territory.

The achievement of this distinctive regulatory system is the result of the progressive evolution of different provisions from its annexation to the Crown of Castile up to the 20th century, where its turning point was the integration of Spain into the EEC. With this historical event, the government of the Canary Islands demanded the establishment of its own regime that would grant it the autonomy to conduct transactions in the field of exports and imports.

Although the REF reforms contain attractive tax incentives and different reduced tax rates compared to the rest of Spain, suppliers and business owners in the Canary Islands end up paying taxes and tariffs that result in more expensive products than those in mainland Spain. This is due to transport costs; logistics costs due to the Canary Islands' remoteness and geographical location; indirect taxes, such as the IGIC; surcharges, or the AIEM levied on certain products; the customs duties incurred by imports; as well as other taxes when the goods come from outside the EU.

The IGIC is remarkably similar in nature to other taxes, although it differs in the territorial scope of application. One of its key features is that it is a substitute and complementary tax to VAT, and both are indirect and levied on consumption, the taxpayer's wealth or economic capacity. All this means that actual customs offices have been set up around the Islands for the exit or entry of goods within this territory and, for the LIGIC, any purchase or sale involving other countries is determined as an export or import.

Another difference is the rates of taxation applied in both taxes, where the IGIC has more tax brackets, which are still lower than those of VAT. There is also a zero-tax rate in the IGIC that acts as a true full exemption, which is not the case in VAT. It is true that, due to the economic development of recent years, these rates are increasingly higher, as evidenced in the latest amendments to the regulations that came into force in 2019 and 2020. In addition, this latest amendment has been influenced by the type of healthcare products needed to deal with the pandemic, which were not previously considered and have now become essential for taxpayers.

Within the applicable IGIC rates, ranging from 0% to 20%, a general charging criterion is followed according to the importance of the goods. Products that are essential for the sustenance of taxpayers, such as food, beverages, means of transport for the disabled and goods aimed at culture, education, essential activities or health care, are taxed at the exemption rate or the reduced rate. Conversely, when the need for these goods decreases, or when they are considered luxury goods, a higher rate is applied to them, including tobacco and alcohol, which, as in the case of VAT, applies a higher rate.

It should be noted that the two taxes also differ in terms of their collection, more specifically that the amount collected from VAT forms part of the national government's revenue collection and is allocated to the General State Budgets. By contrast, IGIC revenue is directly allocated to the

financing of the Autonomous Region and all the bodies forming part thereof.

This tax is also levied on several types of transactions, including those conducted by commercial businesses in the provision of services or goods, as well as the delivery of products, regardless of whether they are intended for commercial activities or are goods for the consumption or use of private individuals. In conjunction with this definition, determining the place where these transactions are conducted, or the place where the taxable transaction takes place, comes into play. Determining this is of significant importance because it prevents double taxation, and the transaction is subject to the application of tax corresponding to each territory.

The exemption is another highly relevant point, not only because it is one of the most important features in this tax, but also because it is of an exceptional nature, since its application means the taxpayer has the privilege of not having to pay the tax liability even though the transaction being carried out is considered to be subject to the taxable transaction.

The transactions falling within the remit of this privilege are those that are conducted within the Islands, these also include sales made by taxpayers outside this region and imports of goods. The LIGIC and the Regulation provide for specific lists for each of these cases. In terms of the exclusive exemptions that the legislation attributes to imports, these place special emphasis on the introduction of goods considered personal care products, in the different scenarios that may arise.

The exemptions relating to personal property introduced by tourists are relevant, where goods and gifts purchased in this territory can be brought in and out without having to pay an additional percentage for them, albeit with a series of limitations.

It should be noted that the law also provides for these exemptions for those entries of goods in the Islands that are deemed to be of low value. For this purpose, the regulations set out a series of mandatory requirements, among which are that the price of the goods must be less than €150. In relation to these shipments, and despite the fact that the IGIC rates are lower than VAT rates and therefore, in principle, seem more advantageous, it must be taken into account that as a result of actual customs offices having been set up around the Canary Islands, the costs arising from the SAD can be a real obstacle on certain occasions. Therefore, although the creation of a special zone with its own customs authority in the Canary Islands is a positive and equitable thing, it can also sometimes become a problem for the taxpayer.

On the other hand, there are several types of special scenarios for imports of products that are affected by the special regime, in relation to the notion of the fiscal interruption that occurs when these goods enter the Canary Islands. As a result of this, the law provides for a different provision for such cases, in addition to the requirement of the deposit that must be made to make up for the expenses that may be incurred in the event of the exemption not being applied, and subsequently adding the accrual of tax, which would also provide for differential rules in the event that the products entering the Islands are subject to these regimes.

It is essential to consider an importer of goods to be any person who is the recipient of goods,

irrespective of their nature. Therefore, it is important to establish that there will be no imports in which the intervening person is unidentified. The importance lies in the fact that in domestic transactions the role of the importer(s) is clearly defined, while in transactions involving the introduction of goods into the island territory, any person, whether a private individual or a business owner, is the importer or taxable person. Anyone who conducts this type of transaction shall be considered to be an importer and will be liable for the payment of tax. However, it should be noted that there are three different methods for determining this role, and in the one where the traveller is considered the importer, they will be exempt from this obligation, but in all cases the role of the importer is determined.

In the case of the AIEM, its main function is to protect the Canary Islands' domestic production and local industry against goods from outside the region and to promote and incentivise development and new industrial and manufacturing activities that have the capacity to replace imported products in the future. For this reason, a potential reduction or removal of this protection could be detrimental to local industry and, in general, to the economic and social development of the Canary Islands, a factor which should not be taken into consideration for the purposes of the improvements that have been sought out throughout this evolutionary period of the REF.

However, it would be important to take into consideration the present and future of the REF, clarifying and eliminating ambiguities in scenarios that influence the main developmental needs of the archipelago. To this end, it would be essential to settle the inter-administrative disputes arising from the dual customs regime, which could establish a single regulation for the whole archipelago, or rather, the creation of a Single Canary Islands Customs Office.

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