

LAW 19/1994, OF 6 JULY, MODIFYING THE CANARIES ECONOMIC AND TAX REGIME

TITLE V

THE CANARY ISLANDS SPECIAL ZONE

CHAPTER I

Creation, Duration and Scope of the Canary Islands Special Zone

Article 28. *Creation of the Canary Islands Special Zone.*

A Special Zone is hereby created in the Canary Islands (ZEC) for the purpose of fomenting the creation of quality employment, the economic and social development of the islands and the diversification of the manufacturing base. The area will be governed by the principle that it should be geographically hermetic and by the provisions of the present Act and the Regulations made hereunder, without prejudice to the application of the generality of the laws applicable in those matters which are not expressly dealt with here.

Article 29. *Duration of the Canary Islands Special Zone*

1. The Canary Islands Special Zone shall be operational until 31st December 2026 and may be renewed or extended beyond that date with the prior authorisation of the European Commission.

2. Notwithstanding the foregoing, authorisation for registration in the Official Register of Canary Islands Special Zone Entities shall not be possible after 31st December, 2020.

3. The continued operation of the Canary Islands Special Zone shall in any case be conditional on the periodic reviews to be made by the European Commission.

Article 30. *Geographical Scope of Application.*

The geographical scope of application of the Canary Islands Special Zone shall cover the entirety of the territory of the Canary Islands.

Article 31. *Subjective Scope of Application.*

1. Canary Islands Special Zone Entities are defined as those newly created corporate entities and branch offices which, satisfying the requirements set out in the following section, are registered in the Official Register of Entities of the Canary Islands Special Zone.

2. Only those corporate entities and branch offices that satisfy the following requirements may be registered:

a) They must have their registered address and their Head Office within the geographical scope of the Canary Islands Special Zone.

b) At least one of the senior managers or, in the case of branch offices, a legal representative must be resident in the Canary Islands.

c) Their corporate purpose must be the carrying on within the geographical scope of the Canary Islands Special Zone of economic activities included in the annexe to the present Royal Decree Law. Likewise, through a differentiated branch, it will be possible to carry out other activities to which the benefits of the Canary Islands Special Zone shall not be applicable, in which case they must keep separate accounts in accordance with the provisions of Article 42.1 b). a'), b') y c').

d) They must make investments in the first two years after authorisation which shall be realised in tangible or intangible fixed assets located or received within the geographical scope of the Canary Islands Special Zone, used within the said geographical area and which are necessary to the carrying out of the business activities conducted in the said geographical area by the taxpayer for a minimum amount:

- in the islands of Gran Canaria and Tenerife of 100,000 Euros.

- in the islands of El Hierro, Fuerteventura, La Gomera, Lanzarote and La Palma of 50,000 Euros.

For these purposes, fixed assets acquired by means of operations provided for in Chapter VII of Title VII of Act 27/2014, of 27th November, on Corporate Income Tax, shall not be computed.

These investments must fulfil the following conditions:

a') The assets acquired must remain within the Canary Islands Special Zone Entity during the entire period in which it enjoys this status, or during its useful lifetime, whichever period may be shorter, without being transferred. Nor may such assets be leased or ceded to third parties for their use, unless the corporate purpose or business activity of the Canary Islands Special Zone Entity is such lease or cession, and provided always that there is no direct or indirect link with the lessee or transferee of the said property. It shall be understood that this requirement is not infringed when the goods are transferred and the sum of money realized is reinvested in new fixed assets under the same conditions within the space of one year.

b') In the case of used assets, these may not have been previously applied for the purpose set out under this letter (d).

It shall be possible to authorize the registration or continuity under the ZEC regime of Entities which do not satisfy the investment requirement laid down in the present letter (d), provided always that the number of jobs to be created and the annual average number of staff are greater than the minimum laid down in letter (e) of this section.

e) Creation of jobs within the geographical scope of the Canary Islands Special Zone within the six months subsequent to authorization and maintenance of the annual average of staff members at at least that number during the period of time that the Canary Islands Special Zone status is enjoyed, with a minimum of:

- in the islands of Gran Canaria and Tenerife, 5 jobs.

- in the islands of El Hierro, Fuerteventura, La Gomera, Lanzarote and La Palma, 3 jobs.

When the same activity has previously been carried on under the same or different ownership, the net creation of at least:

- in the islands of Gran Canaria and Tenerife, 5 jobs.

- in the islands of El Hierro, Fuerteventura, La Gomera, Lanzarote and La Palma, 3 jobs.

f) Present a report on the main economic activities to be carried out, detailing the solvency, viability, international competitiveness and contribution to the economic and social development of the Canary Islands, the contents of which shall be binding upon the entity except in the case of variation of the activities with the express authorization of the Consortium Board.

3. The characteristics and conditions set out in section 2 above may be set by regulation.

CHAPTER II

The Consortium and Official Register of Canary Islands Special Zone Entities

*Section 1. The Consortium of the Canary Islands Special Zone***Article 32.** *Nature.*

Attached to the Ministry of Finance, with the denomination of Consortium of the Canary Islands Special Zone, a Public Authority with its own legal identity and property and full public and private competence is hereby created, which shall be governed by the provisions of the present Act and the regulations which develop it in accordance with the provisions of the tenth additional provision of Act 6/1997, of 14th April, on the Organization and Functioning of the General Administration of the State.

Article 33. *Legal Regime.*

1. The Consortium of the Canary Islands Special Zone shall be governed by general private law in all matters concerning its property and all contracts for promotion overseas of the Canary Islands Special Zone, and shall be bound in the performance of its public functions and in the remainder of its contractual activities by the provisions of Act 30/1992, of 26th November, on the Legal Regime of the Public Administration and on the Common Administrative Procedure, in Royal Legislative Decree 3/2011, of 14th November, by means of which the revised text of the Public Sector Contracts Act and other applicable Acts are approved .

2. All acts and decisions of the Consortium of the Canary Islands Special Zone in the exercise of its public functions shall be subject to administrative legal proceedings, except in taxation matters, which may be appealed against via economic-administrative proceedings, without prejudice in either case to subsequent access to the civil law proceedings for appeal against administrative decisions.

3. The decisions and resolutions of the Consortium Board and of the Chairperson of the Consortium of the Canary Islands Special Zone in the exercise of their public functions shall, in all cases, be considered to be acts of the Consortium for the purposes of the provisions of the foregoing section.

4. The staff who work in the Consortium of the Canary Islands Special Zone shall be governed in their relations with the said Consortium by the provisions of Employment Law. The selection of staff, with the exception of those of a managerial nature, shall be conducted by means of published public offer in accordance with systems based on the principles of merit and abilities, and shall be subject to the system of incompatible positions laid down with a general character for all persons in the service of the Public Administration.

5. Notwithstanding the foregoing, the exercise of the functions of supervision and surveillance delegated or entrusted to the Consortium of the Canary Islands Special Zone shall be undertaken by civil servants of the competent authority attached to the same.

6. The economic and financial monitoring of the Consortium of the Canary Islands Special Zone shall be carried out exclusively by periodic inspections or auditing proceedings, under the direction of the Office of the Comptroller of the State Administration, without prejudice to the functions that are within the competence of the Court of Auditors.

7. Legal advisory functions, defence and representation in court of the public authority may be undertaken by civil servants belonging to the Corps of State Lawyers, by means of the proper agreement, in accordance with the provisions of Act 52/1997, of 27th November, on Legal Assistance to the State and Public Institutions.

Article 34. *Organs of government.*

1. The organs of government and administration of the Consortium of the Canary Islands Special Zone are the Consortium Board and the Chairperson.

2. The Consortium Board shall be made up of:

a) The Chairperson of the Consortium of the Canary Islands Special Zone, who shall also be Chairperson of the Consortium Board, and one Vice-Chairperson, both of whom shall be appointed by the Spanish Central Government, at the joint proposal of the Minister of Finance and the

Government of the Canary Islands, and shall be a person of acknowledged competence in financial and economic matters.

b) Five members, of whom three shall be appointed by the Minister of Finance and two by the Government of the Canary Islands, from among persons of acknowledged competence in commercial matters and those of economic promotion.

The Consortium Board shall designate, at the proposal of the Chairperson, a Secretary, who, if not a member of the Board, shall attend the meetings of the same with the right to speak but no vote.

3. The Chairperson shall be responsible for the legal representation of the Consortium of the Canary Islands Special Zone and shall exercise the powers conferred upon him/her by the present Act, the Articles of the Consortium of the Canary Islands Special Zone and those delegated to him/her by the Consortium Board.

The Vice-Chairperson shall substitute for the Chairperson if the post should fall vacant, in cases of absence or illness, in which cases he/she shall likewise exercise the powers conferred by the Articles of the Consortium of the Canary Islands Special Zone and those delegated by the Board or the Chairperson.

4. The terms of office of the Chairperson, the Vice-Chairperson and of the members of the Consortium Board shall have a duration of four years, at the end of which period they may, when appropriate, be reappointed for a further two terms of four years, and shall vacate their positions in the following cases:

a) Through expiry of their respective terms of office.

b) Through resignation, accepted by the organ that appoints them.

c) Through grave breach of their duties, permanent incapacity for the exercise of their powers and functions, acquisition of an incompatible position of employment or when convicted of fraud. In all such cases investigative proceedings must be undertaken.

d) Through revocation of their appointments, by the organ which appointed them in its unfettered discretion and with like procedures and proceedings.

e) Through the Canary Islands Special Zone ceasing to be operative.

5. The members of the Board of the Consortium of the Canary Islands Special Zone shall be subject to the general regime of incompatible positions for staff in the service of Public Authorities, with the exception of the Chairperson and the Vice-Chairperson, who shall be subject to the regime of incompatible positions of senior officials.

6. The members of the Consortium Board and the Secretary, where applicable, shall be entitled to receive compensation for their attendance.

Article 35. *Technical Commission.*

1. Attached to the Consortium Board of the Canary Islands Special Zone, as a collegiate organ, a Technical Commission is hereby created, whose purpose shall be the preparation of reports on the applications for registration in the Official Register of Entities of the Canary Islands Special Zone, upon prior monitoring of the statutory and regulatory requirements necessary in order to obtain registration, which will be binding regarding matters of solvency, viability and international competitiveness, contained in letter f) of Article 31.2 of this Act.

2. The Technical Commission shall be composed of three civil servants, of whom two shall be designated by the Minister of Finance, and one by the Government of the Canary Islands.

The said civil servants shall maintain their employment relationship with the authority from which they have been seconded.

3. The Technical Commission shall produce reports on the applications for registration within a space of time not greater than one month from the date on which the request for the said reports occurs. In no case may this space of time be extended for a greater period than a further fifteen days.

4. The members of the Technical Commission may attend the meetings of the Consortium Board, at the request of the said Board, with the right to speak but not to vote.

5. The members of the Technical Commission shall be entitled to receive compensation for attendance.

Article 36. *The Consultative Commission of the Consortium of the Canary Islands Special Zone.*

1. As an advisory body of the Consortium Board, the Consultative Commission of the Consortium of the Canary Islands Special Zone is hereby created, which shall be chaired by the Vice-Chairperson of the Consortium, and will be made up, in the manner determined by regulation, of a maximum of twelve persons in representation of the Canary Islands Special Zone Entities, of the Official Chambers of Commerce, Industry and Shipping, of Canarian business confederations and trades union organisations, of the sector of science and technology and of persons of acknowledged competence in legal, economic and financial matters, who shall be appointed by the Government of the Canary Islands.

2. The Consultative Commission of the Consortium of the Canary Islands Special Zone shall report on all matters remitted to it by the Consortium Board, and may put forward for the consideration of the same body such proposals as it may consider appropriate.

Article 37. *Functions.*

1. The Consortium of the Canary Islands Special Zone shall carry out, with a general character and without prejudice to other functions assigned to other organs or public organisations, the functions of surveillance and supervision of the activities carried on by Canary Islands Special Zone Entities and such other functions as may be conferred on it by this Act.

2. The procedures for information flow and co-operation between the Consortium of the Canary Islands Special Zone and the organs of the Spanish Central Administration and those of the Government of the Canary Islands in their respective areas of competence in relation to the Canary Islands Special Zone and, where applicable, the delegates of the said Administrations, shall be determined by regulations. Likewise the partial or total exercise of powers of these organs may be delegated to the Consortium of the Canary Islands Special Zone, in relation to the activities set out in the foregoing section.

3. In like manner, the Consortium of the Canary Islands Special Zone shall promote and facilitate the services necessary for the proper functioning of the Zone and the achievement of its purposes.

4. The Consortium of the Canary Islands Special Zone shall advise the National Government, the Minister of Finance and the Canary Islands Government on matters related to the Canary Islands Special Zone at the request of the said authorities or on its own initiative and may put forward such proposals on measures or provisions in relation to the said Zone as it deems necessary. The Consortium shall, on an annual basis, prepare and publicise a report on its own activities and the situation of the Canary Islands Special Zone without prejudice to the preparation and publication of statistics concerning the Zone with the frequency that it deems appropriate.

Article 38. *Powers of the Consortium Board.*

The Board of the Consortium of the Canary Islands Special Zone is responsible for:

a) Handling and deciding on the applications for authorisation of the entities which wish to be included within the special regime of the Canary Islands Special Zone and authorising, with a report of the Technical Commission, the registration or continuation of the registration of Entities when the case referred to in the final paragraph of letter d) of Article 31.2 of this Act occurs.

b) Managing the Special Register of Canary Islands Special Zone Entities.

c) Managing and collecting the fees regulated by Article 50 of this Act.

d) Ensuring compliance on the part of the Canary Islands Special Zone Entities with the provisions of this Act, and may require all such information as may be necessary, without prejudice to the powers assigned to other public bodies or organisations.

e) Deciding on the punitive sanctions to be applied in cases under the provisions of Chapter VI of this Title.

- f) Supplying the information that may be required of the Consortium by the competent Administrations or Bodies, in accordance with the provisions of this Act and the regulations made hereunder.
- g) Drawing up on an annual basis a draft budget with the structure determined by the Ministry of Finance.
- h) Issuing instructions on the functioning of the Canary Islands Special Zone in those aspects in which it has the said power assigned to it, and also those required for the development and execution of the regulations contained in the Act, without prejudice to the powers of other organs, in relation to the questions of procedure relative to the Official Register of Canary Islands Special Zone Entities.
- i) Laying down its rules and those of its attached organs, of management and internal functioning, and also determining the functions of the Secretary and, having received a favourable report from the Ministry of Finance, the economic regime of attendance of the Consortium Board and the Technical Commission.
- j) Proposing the removal of the members of the Technical Commission when, in its judgement, they are technically incompetent or act in breach of the law.
- k) Issuing such reports as may be required of it in relation to the matters that are within its competence, especially as regards fostering quality employment linked to the Canary Islands Special Zone.
- l) Promoting the Canary Islands Special Zone.
- m) Any other function or power which is directly assigned to it in this Act or the regulations made hereunder.

Article 39. *Assets and economic resources.*

1. The initial assets of the Consortium of the Canary Islands Special Zone will be made up of a founding grant, seventy five per cent of which will be contributed from the General Budget of the Spanish National Government and the remaining twenty five per cent from the General Budget of the Canary Islands Government.
2. The financial resources of the Consortium of the Canary Islands Special Zone will be made up of:
 - a) The goods and securities which make up its property and the product and income of the same or any others obtained by inheritance, legacy or donation.
 - b) The fees referred to in Article 50 of this Act.
 - c) The financial product or income obtained in consideration of its activities.
 - d) The value of the fines imposed by the Consortium Board in the exercise of its powers.
 - e) The current and capital transfers made in its favour from the General Budget of the Spanish National Government and the General Budget of the Canary Islands Government.
 - f) Any other resource which may be assigned to it.
3. In order to collect the resources of Public Law set out in the foregoing section, the Consortium of the Canary Islands Special Zone shall have the same prerogatives as those which are provided by Law in favour of the General Administration of the Spanish State, and shall act, where applicable, in accordance with the corresponding administrative procedures.
4. The annual surplus of the Consortium of the Canary Islands Special Zone shall not be distributed among the public administrations of which it is made up, but shall remain at the disposal of the Consortium for the purposes decided on by the Consortium Board.

At the time of the liquidation and extinction of the Consortium of the Canary Islands Special Zone, the surplus shall be distributed between the public authorities of which it is made up in the proportion resulting from the contributions made by each of them in accordance with section one and with letter (e) of section 2 of this article. For these purposes, both current and capital contributions shall be added together.

Section 2. The Official Register of Canary Islands Special Zone Entities

Article 40. *The Official Register of Canary Islands Special Zone Entities.*

1. Object and legal regime.

The Official Register of Canary Islands Special Zone Entities is hereby created, attached to the Consortium of the Canary Islands Special Zone, with the character of a public administrative register.

The Official Register of Canary Islands Special Zone Entities shall be governed by the provisions of this Act, and also by the provisions of Act 30/1992, of 26th November, on the Legal Regime of the Public Authorities and the Common Administrative Procedure, and the regulations that develop the same.

2. Management and Administration of the Official Register.

The management and administration of the Official Register of Canary Islands Special Zone Entities shall be effected through the Oficina de Gestión (Administration Office), which shall have the status of an administrative organ.

The Administration Office shall be answerable to the Consortium Board, which may designate one of its members as the head of the same.

The organisation and functioning of the Administration Office, as well as the creation, modification or suppression of other Offices of the Official Register of Canary Islands Special Zone Entities shall be within the power of the Consortium Board, which shall pass the appropriate resolutions.

3. Management requirements and procedure.

Authorisation by the Consortium Board shall be a prior requirement for registration in the Official Register of Canary Islands Special Zone Entities. The Consortium Board shall give such authorisation only after receiving a favourable report from the Technical Commission.

The registration procedure may be set by regulations, as also the details and documents that applicants must supply to the Administration Office, the content of the registration, its modification and cancellation, and also complaints and appeals against the corresponding decisions and other pertinent instances.

CHAPTER III

The General Regime of Canary Islands Special Zone Entities

Section 1. General provisions

Article 41. *Procedure for the Registration of Canary Islands Special Zone Entities.*

1. The registration of an entity in the Official Register of Canary Islands Special Zone Entities is conditional upon its having previously obtained authorisation from the Consortium of the Canary Islands Special Zone.

For this purpose, an application must be presented accompanied by a report as indicated under letter f) of section 2 of Article 31 of this Act. Together with the application, a deposit or guarantee will be supplied in the amount of the registration fee, as regulated in Article 50 of this Act.

In view of the documentation supplied, the Consortium Board shall proceed to the authorisation, having received a favourable report from the Technical Commission.

The authorisation by the Consortium Board must be given, expressly, within the space of two months, to be counted from the date of reception of the application at the Consortium of the Canary Islands Special Zone. This period may be suspended in the cases provided for in article 42.5 of Act 30/1992, of 26th November, on the Legal Regime of Public Authorities and the Common Administrative Procedure. Nevertheless, the space of time provided for under letter c) shall be reduced to one

month. Once the indicated space of time has passed without an express decision being given, it shall be understood that the application for authorisation has been rejected.

2. Once authorisation has been obtained, the applicant must supply to the Official Register of Canary Islands Special Zone Entities, the documents accrediting the constitution of the entity in accordance with the law.

The registration must ensue within the space of ten days to be counted from the day on which the documents referred to in the foregoing paragraph were presented.

Section 2. Fiscal Regime

Article 42. Corporate Income Tax. Special Regime. Accumulability.

1. Canary Islands Special Zone Entities shall pay Corporate Income Tax in accordance with the following special provisions:

a) They shall apply the special taxation rate resulting from the provisions of the following Article to that part of the taxable base which corresponds to the operations that are materially and effectively carried out within the geographical ambit of the Canary Islands Special Zone.

b) Canary Islands Special Zone Entities shall keep their accounts in accordance with the provisions of the Commercial Code and other accounting regulations applicable to them, without prejudice to the following special features:

a') They must individualise in separate accounts the operations indicated in sections 1 and 2 of Article 44 of this Act.

b') The branches referred to under letter c) of section 2 of Article 31 of this Act must keep accounts separate from the accounts of the Canary Islands Special Zone entity.

c') A breakdown of that part of the profit and loss account and also all those accounts which reflect the application of the profit proceeding from the operations carried on effectively and materially in the geographical ambit of the Canary Islands Special Zone, as determined by the application to the same of the percentage obtained according to the provisions of Article 44 of this Act, must be included in the report.

2. The fiscal benefits of the Canary Islands Special Zone may be enjoyed simultaneously with other investment aids or those for the creation of employment within the limits and under the conditions laid down in EU Law.

Article 43. Corporate Income Tax. Special Rates of Tax.

The special rate applicable will be 4%.

Article 44. Corporate Income Tax. Determination of that part of the taxable base which corresponds to operations effectively and materially carried out within the geographical ambit of the Canary Islands Special Zone.

In order to determine the part of the taxable base of the Canary Islands Special Zone Entity which, for the purposes of the application of the special rates of tax, is derived from operations carried out materially and effectively within the geographical ambit of the Canary Islands Special Zone, the percentage resulting from multiplying by one hundred, the result of a fraction featuring the following will be applied:

1. In the numerator, with a positive sign, the amount of the following operations:

a) The transfers of tangible moveable assets made within the geographical ambit of the Canary Islands Special Zone.

Transfers of tangible moveable assets are considered to have been effected within the geographical ambit of the Canary Islands Special Zone when the placing of such goods at the disposal of the purchaser is effected in the said ambit or the shipment or transport necessary for such placing at his/her disposal is initiated from there.

If the goods have to be the object of installation or assembly outside the geographical ambit of the Canary Islands Special Zone, the value of the preparatory or manufacturing work which is carried out

within the said geographical ambit will be included together with that of the provision of services which complete the delivery or installation, provided always that these are effected with resources belonging to the Canary Islands Special Zone Entity which are located in or attached to the said geographical ambit.

b) Transfers of real estate which forms part of the fixed assets of the activity including real property rights over the same, when the goods are located within the geographical ambit of the Canary Islands Special Zone.

c) The provision of services which is effected with the resources of the entity which are located or attached to the ambit of the Canary Islands Special Zone. For these purposes, operations with goods and services carried out by means of the use of information and telecommunications technology will enjoy this consideration, with the resources of the entity located in or attached to the ambit of the Canary Islands Special Zone in the manner and with the requirements that are determined by regulation.

d) The operations carried out from the centres of activity of the Canary Islands Special Zone Entity located within the geographical ambit of the Canary Islands Special Zone which are for the benefit of its branches, located outside the said geographical ambit, when they have been used by the branch for the delivery of goods or the provision of services to third parties.

2. In the numerator, with a negative sign, the value of the following operations:

a) Operations received by the centres of activity of the Canary Islands Special Zone Entity located in the geographical ambit of the Canary Islands Special Zone from its branches located outside the said geographical ambit, provided always that the said operations have been used by the Canary Islands Special Zone Entity for the delivery of goods or the provisions of services to third parties.

b) The transfers of elements of property acquired by the Canary Islands Special Zone Entity from entities that do not have the status of Canary Islands Special Zone Entities as a consequence of operations included within the special regime of mergers, spin offs, provisions of assets and exchange of stock and change of corporate domicile of a European company or a European cooperative from a Member State to another State in the European Union established by Chapter VII of Title VII of Act 27/2014, of 27th November, on Corporate Income Tax.

3. The amount of the totality of the income and other positive components of the taxable base of the Canary Islands Special Zone Entity will be included in the denominator.

4. The percentage resulting from the application of the foregoing criteria shall be rounded up to the next unit.

5. For the calculation of the foregoing fraction, the operations referred to shall be entered according to their value for the purposes of Corporate Income Tax, with the exception of those carried out between the centres of activity of the Canary Islands Special Zone Entity located within the geographical ambit of the Canary Islands Special Zone and its branches located outside the said geographical ambit, which shall be computed in accordance with the normal market value of the same, as determined according to the provisions of article 18.4 of Act 27/2014, of 27th November, on Corporate Income Tax.

For the purposes of the provisions of this article, the following will be understood to be located in the Canary Islands Special Zone:

a) The aircraft which, due to their destination, contribute to improving the connections between the Canary Islands, in the terms determined in regulations.

b) The ships under Spanish flag and with their home port in the Canary Islands, including those registered in the Special Registry of Ships and Shipping Companies.

c) The computer applications and the rights of industrial property which are not mere distinctive signs of the taxpayer or of its products, and intellectual property rights, in so far as these are generated with the entity's resources located within the Canary Islands Special Zone, provided that its business operation's management, production, contracting, distribution, organisation and invoicing are conducted from that location.

6. The special rate of taxation will be applied exclusively to that part of the taxable base which coincides with the lesser of the following quantities:

a) The amount which arises from applying to the taxable base the percentage determined in section 4.

b) The amount which arises from the application of the following rules:

- 1,800,000 Euros, for those Canary Islands Special Zone Entities which fulfil the requirement of minimum creation of employment set out in article 31.2 e) of this Act.

- 500,000 additional Euros for each employment position over and above the minimum indicated, up to a total of 50 jobs.

- The creation of above 50 jobs as well as that alluded to in the two foregoing rules is subject, in any case, to the following limit: the reduction of the gross tax payable in each taxation period, after the application of the special rate applicable in the Canary Islands Special Zone in relation with the general rate of the Corporate Income Tax may not be greater than 30 per cent of the Canary Islands Special Zone entity's net turnover.

For these purposes, net creation of employment is understood to mean the number of net employment positions created in the geographical scope of the Canary Islands Special Zone from the registration of the Canary Islands Special Zone Entity, excluding, if applicable, the incorporation of prior staff.

Variations in the net creation of employment will have effect in the tax year in which they arise.

Article 45. *Exemptions in the Canary Islands Special Zone.*

The exemptions set down in letters c) and h) of section 1 of article 14 of the revised text of the Act on non-Resident Income Tax, approved by Royal Legislative Decree 5/2004, of 5th March, will be applied likewise in the cases in which the income to which these letters refer is obtained, by residents in European Union non-Member States, in conditions and with like or equivalent requirements, according to the cases, to those there set out, when such income is paid by a Canary Islands Special Zone Entity, provided always that they come from operations carried out materially and effectively within the geographical scope of the Canary Islands Special Zone. For these purposes, the provisions of the final paragraph of the above-mentioned letter h) will not be applicable.

Such exemptions will not be applicable when the profit and capital gains are obtained through countries or territories with which there is no effective exchange of taxation information, in accordance with the provisions of section 3 of the first additional provision of Act 36/2006, of 29th November, on measures for the prevention of tax fraud, nor will they be applicable when the parent company has its tax residence in one of those countries or territories.

Article 46. *Exemptions from Transfer Tax and Stamp Duty.*

Canary Islands Special Zone Entities shall enjoy exemption from Capital Transfer Tax and Stamp Duty in respect of the following deeds, contracts and operations:

a) Acquisitions of goods and rights which are devoted by the tax payer to the business activity, provided always that the same are located, may be exercised or have to be complied with within the geographical ambit of the Canary Islands Special Zone.

b) Company operations carried out by the said Entities, with the exception of the winding up of the same.

c) Deeds in connection with the operations carried on by the said Entities within the geographical ambit of the Canary Islands Special Zone, with the exception of bills of exchange, documents substituting for these or which have the function of a remittance, and notarial deeds, documents or certificates on which tax is payable under Article 31, section 1, of Legislative Royal Decree 1/1993, of 24th September, by which the revised text of the Capital Transfer Tax and Stamp Duty Act is approved.

Article 47. *Exemptions from Canarian Indirect General Tax.*

Deliveries of goods and provisions of services carried out by Canary Islands Special Zone Entities to other entities of the Canary Islands Special Zone shall be exempt from the payment of the Canarian Indirect General Tax. They shall give rise to a right to the deduction and repayment of the contributions paid through the direct passing on of the tax on their acquisitions of goods or on services received by the said Entities, or from the tax burden implicit in the same, as well as the contributions paid to the Treasury, to the extent that the corresponding goods and services are used by the tax payer in the carrying on of the above mentioned operations. Likewise, imports of goods carried out by Canary Islands Special Zone Entities shall be exempt from the said tax.

Article 48. *Local taxes: fiscal agreements.*

(Suppressed)

Article 49. *Local taxation: fiscal regulations.*

(Suppressed)

Article 50. *Fees payable by Canary Islands Special Zone Entities.*

1. The following fees are created:

- a) Registration fee for registration in the Official Register of Canary Islands Special Zone Entities.
- b) Annual fee for maintenance on the Official Register of Canary Islands Special Zone Entities.

2. Fee for registration in the Official Register of Canary Islands Special Zone Entities:

- a) The taxable transaction giving rise to this fee is the registration in the Official Register of Canary Islands Special Zone Entities in accordance with the provisions of this Act.
- b) The payers of this fee are the Canary Islands Special Zone Entities which apply for registration in the Official Register of Canary Islands Special Zone Entities.
- c) The fee is payable at the moment of the corresponding entry being made in the Official Register of Canary Islands Special Zone Entities.
- d) The amount of the registration fee will be of 850 Euros.

3. Annual fee for maintenance on the Official Register of Canary Islands Special Zone Entities:

- a) The transaction giving rise to this fee is maintenance of the registration of Canary Islands Special Zone Entities in the Official Register of Canary Islands Special Zone Entities in accordance with the provisions of this Act.
- b) The payers of this fee are Canary Islands Special Zone Entities registered in the Official Register of Canary Islands Special Zone Entities.
- c) The fee is payable on 31st December of each year, starting from that subsequent to the year of registration in the Official Register of Canary Islands Special Zone Entities.

In the case of the winding up of the Canary Islands Special Zone Entity or revocation of the corresponding authorisation to operate within the Canary Islands Special Zone and to take advantage of the special regime, the fee shall be payable at the moment of cancellation of the registration in the Official Register of Canary Islands Special Zone Entities.

d) The amount of the annual maintenance fee shall be 1,500 Euros. For the entities of the Canary Islands Special Zone which are established on an island other than Tenerife and Gran Canaria, this amount will be 1,300 euros.

In the case set out in the second paragraph of letter c) above, the amount of the fee shall be payable pro rata by quarters of calendar years, excluding that in which the cancellation of registration of authorisation arises.

4. The amounts and sums of the elements and criteria for quantification on the basis of which the fees regulated in the present article are determined may be modified by Royal Decree.

For the purposes of the provisions of the foregoing paragraph, the following are considered to be elements and criteria of quantification:

a) The fee for registration in the Official Register of Canary Islands Special Zone Entities: the nature of the applicant and the type of activity to be carried on in the geographical ambit of the Canary Islands Special Zone.

b) The annual fee for maintenance on the Official Register of Canary Islands Special Zone Entities: the nature of the registered entity, the type of activity carried on in the geographical ambit of the Canary Islands Special Zone and the number of jobs created in the said geographical ambit.

5. The fees may be self-assessed by the taxpayer under the conditions described in article 52.3 of the Regulations for development of the Act 19/1994, of 6th July, in matters in connection with the fiscal incentives in indirect taxation, the reserve for investments in the Canary Islands and the Canary Islands Special Zone, approved by Royal Decree 1758/2007, of 28th December.

6. The fees regulated in this article shall be governed by the present Act and by the other sources of regulations laid down for fees in Article 9 of Act 8/1989, of 13th April, on Fees and Public Prices.

Article 51. *Public prices applicable to Canary Islands Special Zone Entities.*

1. The Consortium of the Canary Islands Special Zone may propose to the Minister of Finance the setting, by Ministerial Order, of the public prices that it considers necessary in compensation for the activities it carries out.

2. The Consortium of the Canary Islands Special Zone shall demand the said public prices subject to the provisions of Act 8/1989, of 13th April, on Fees and Public Prices.

Article 52. *Loss of Fiscal Benefits.*

Non fulfilment of any of the requirements set out in Article 31 of this Act shall cause, without prejudice to revocation or cancellation of registration in the Official Register of Canary Islands Special Zone Entities, the loss of the right to enjoy the fiscal benefits set out in the present Title.

In the case of Corporate Income Tax, this loss shall have effect in the tax year in which the said non fulfilment or breach takes place. Furthermore, if the unfulfilled requirement were that set out in letter d) of section 2 of article 31 of the present Act, together with the differential tax liability for the accounting year, the difference between the total tax liability settled in the previously terminated taxation periods and that which would have been paid by applying the general taxation rate to the totality of the taxable base will be included, as well as the corresponding interest for late payment.

CHAPTER IV

Special framework for financial institutions

Articles 53 to 62.

(Repealed)

CHAPTER V

Special regime for companies devoted to production, handling, processing, or marketing of goods

Article 63. *Canary Islands Special Zone Entities devoted to manufacture, handling, processing or marketing of goods in the scope of the Free Trade areas of the Canary Islands.*

The Canary Islands Special Zone Entities devoted to manufacture, handling, processing or marketing of goods and which, likewise, take advantage of the Free Trade areas established in the Canary Islands, must be located in the restricted geographical areas belonging to these areas.

CHAPTER VI

Violations and penalties

Article 64. *Legal Regime Applicable.*

1. Non-fulfilment of the obligations set out in the present Title, in relation to the requirements and conditions to which Canary Islands Special Zone Entities are subject in order to be able to take advantage of the regime set out in this Act, shall be penalised in accordance with the provisions in the rules contained in the present Chapter.

2. The Consortium of the Canary Islands Special Zone shall have the power to penalise and shall exercise the power through the Consortium Board in the case of sanctions or penalties regulated in this Chapter. In all other cases, the power of penalisation shall be exercised in accordance with the applicable regulations and laws.

Article 65. Responsibilities.

1. Administrative liability may be demanded without prejudice to the civil and penal liabilities or those of any other sort that may be applicable.

2. If the violations should constitute a crime or misconduct, the Consortium of the Canary Islands Special Zone shall pass the matter to the penal jurisdiction and shall abstain from continuing the proceedings for sanctions until the judicial authorities give a final decision.

When the penal action is completed with absolution or any other decision that puts an end to it, either provisionally or definitively, without a declaration of penal liability, provided that the decision is not based on non-existence of the fact, the corresponding proceedings for sanctions may be initiated, continued or recommenced in order to determine the possible existence of an administrative violation.

Article 66. Specification of violations.

1. Violations shall be classified as serious or minor.

2. The following are serious violations:

a) The carrying on by Canary Islands Special Zone Entities of activities not included in the authorisation as set out in Article 40 of this Act.

b) Non fulfilment of any of the requirements contained in the letters d), e), and f) of section 2 of Article 31 of the present Act, except in the case of force majeure and without prejudice to the provisions of the final paragraph of letter d) of section 2 of the said Article.

c) Non-observance of the duty of sending the information which may be demanded under article 38 of this Act, providing always that at least two express written requests from the Consortium of the Canary Islands Special Zone have been recorded.

3. The following are minor violations:

a) Non-fulfilment of the instructions on the functioning of the Canary Islands Special Zone that have been issued by the Consortium of the Canary Islands Special Zone.

b) Non fulfilment of any obligation deriving from this Act and the regulations that develop it, provided that they are not classified as serious violations.

Article 67. Sanctions.

1. Without prejudice to the provisions of Article 52 of the present Act, serious violations shall be penalised with a fine of 300 euros to 30,000 euros and with the loss of the fiscal benefits set down in this title corresponding to the financial year in which the violation was committed.

Notwithstanding that which is set out in the previous paragraph, the penalised entity may request the enjoyment of fiscal benefits in the following financial year, on the terms established by regulation, provided always that it has fulfilled all the requirements set down in section 2 of Article 31 of this Act. If the entity does not present this application, the cancellation of the registration of the entity in breach in the Official Register of Canary Islands Special Zone Entities will take place.

2. Minor violations shall be penalised by a fine of between 60 Euros and 300 Euros.

3. The imposition of the penalties set out in the foregoing sections shall be graduated taking into account in each case the gravity of the breach, the nature of the damages caused and the repetition

of the violation, by commission within the space of one year of more than one violation of the same nature, when it has been declared to be so by a firm and final decision.

Article 68. *Prescription of violations.*

1. Actions to impose sanctions corresponding to minor violations shall prescribe after one year and those corresponding to serious violations after four years.
2. The prescription period shall be counted from the day on which the violation was committed.
3. The prescription period shall be suspended by initiation, with the knowledge of the interested party, of the proceedings for sanctions, and shall start to run again if the investigative proceedings were to be paralysed for more than three months for reasons that cannot be imputed to the person or Entity allegedly committing the violation.

Article 69. *Prescription of sanctions.*

1. The sanctions imposed for minor violations shall prescribe after one year; those imposed for serious violations, after four years. The action to demand compliance with the sanctions imposed for minor violations shall prescribe after one year and, in the case of those imposed for serious violations, after four years.
2. The period of prescription shall start to run from the day following that on which the decision imposing the sanction becomes final.
3. The period of prescription shall be interrupted by the initiation, with the knowledge of the interested party, of the proceedings for execution, and shall start to run again if the proceedings are paralysed for more than three months for reasons that cannot be imputed to the person or Entity committing the violation.

Article 70. *Proceedings for sanctions.*

1. The Consortium of the Canary Islands Special Zone may not impose sanctions except by virtue of investigative proceedings for that purpose, in accordance with the provisions of Chapter II of Title IX of Act 30/1992, of 26th November, on the Legal Regime governing the Public Administration and the Common Administrative Proceedings and the regulations for its development.
2. The initiation and investigative stage of the proceedings to impose sanctions for serious or minor violations shall be the responsibility of a Member of the Board designated for this purpose by the Board of the Consortium of the Canary Islands Special Zone and the decision consequent on the proceedings shall be the responsibility of the Consortium Board, without the participation of the Member of the Board responsible for the prior stages of initiation and investigation.

Article 71. *Tax Violations and Sanctions.*

1. The provisions of this Chapter shall be construed without prejudice to the stipulations of the regulatory provisions of the regime of tax violations and sanctions and the proceedings for their application.
2. The decisions of the Consortium of the Canary Islands Special Zone which are taken as a result of the inception of proceedings for sanction arising from the regime set out in this chapter, shall not impede the exercise of the powers which the legal provisions assign to the tax authorities for verification of fulfilment of the requirements set by the present Act pertaining to Canary Islands Special Zone Entities for the enjoyment of the fiscal benefits set out in the same.

ANNEXE**List of economic activities (according to classification from Rev.2)**

- 01.28 Cultivation of medicinal and pharmaceutical plants.
- 03. Fishing and aquaculture.
- 10. Food industry.
- 11. Manufacture of drinks.
- 12. Tobacco industry.
- 13. Textile industry.
- 14. Making of clothing
- 15. Leather and footwear industry
- 16. Wood and cork industry, excepting furniture, basket making and esparto-grass products
- 17. Paper industry
- 18. Graphic arts and reproduction of recordings
- 20. Chemical industry
- 21. Manufacture of pharmaceutical products
- 22. Manufacture of rubber and plastic products
- 23. Manufacture of other mineral non-metallic products
- 24. Manufacture of basic metals
- 25. Manufacture of metallic products except machinery and equipment, except 25.4 Manufacture of arms and ammunition
- 26. Manufacture of computer, electronic and optical products
- 27. Manufacture of electrical material and equipment
- 28. Manufacture of machinery and equipment not mentioned elsewhere
- 30.12 Construction of recreational and sporting watercraft
- 30.3 Manufacture of remote-controlled aerial vehicles
- 30.92 Manufacture of bicycles and disabled vehicles
- 31. Manufacture of furniture
- 32. Other manufacturing industries.
- 33. Repair and installation of machinery and equipment.
- 35.1 Production, transport, distribution and marketing of electrical energy from renewable sources
- 36. Desalination of water using renewable energies
- 37. Collection and treatment of waste water
- 38. Collection, treatment and elimination of wastes; evaluation.
- 39. Activities of decontamination and other services of waste management.
- 41.20 Refurbishment, redecoration, remodelling or renovation of buildings or spaces. Assembly in situ of prefabricated constructions.

- 45. Sale and repair of motor vehicles and motorbikes, excepting retail sales of motor vehicles and motorcycles and of spare parts and accessories of both as classified in 45.1, 45.32 and 45.4
- 46. Wholesale trade and trade intermediaries, excepting motor vehicles and motorcycles
- 49. Land transport and by pipe
- 50. Maritime transport and through interior navigable routes
- 51. Air transport
- 52. Storage and similar activities to transport
- 53. Postal and postage activities
- 58. Publishing
- 59. Cinematographic, video and television programme, activities, sound recording and musical publishing, except 59.14 Activities of cinematographic exhibition
- 61. Telecommunications
- 62. Programming, consultancy and other activities related with computing
- 69. Legal activities and accounting
- 70. Activities of the headquarters; activities of consultancy of business management
- 71. Technical services of architecture and engineering; testing and technical analyses
- 72. Research and development
- 73. Advertising and market studies
- 74. Other professional, scientific and technical activities
- 77.4 Lease of intellectual property and similar products, excepting work protected by copyright
- 78. Activities related with employment
- 79. Activities of travel agencies, tour operators, reservation services and activities related therewith
- 80. Activities of security and investigation
- 82. Administrative office activities and other auxiliary activities for companies
- 85.32 Technical and professional secondary education
- 85.4 Post-secondary education
- 85.5 Other education
- 85.6 Auxiliary activities to education
- 86.9 Other health activities
- 87.1 Assistance in residential establishment with health care
- 90.2 Support activities to performing arts
- 90.4 Operation of arts facilities
- 93.11 Operation of sports facilities
- 93.19 Other sports activities
- 93.21 Activities of fun fairs and theme parks
- 93.29 Other amusement and recreation activities
- 96.04 Activities of physical maintenance

Those activities which, featuring on the list of activities in the annexe to Royal Legislative Decree 2/2000, of 23rd June, by means of which Act 19/1994, of 6th July, on Modification of the Economic and Fiscal Regime of the Canary Islands is modified, together with other tax laws and regulations, do not appear in the annexe reproduced above, will also be applicable, when their exclusion is exclusively due to the change of the code corresponding to such activities motivated by the substitution of the NACE Rev. 1.1 classification by the NACE Rev. 2 classification.

In those cases in which the denomination of the activity does not wholly coincide with that of the corresponding NACE code, the former will prevail.

For each of the activities 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 25, 26, 27, 28, 30.12, 30.3, 30.92, 31 and 32, the activities of hire/rental or those others which are carried on by the manufacturers for putting their own production into circulation are included.

The centres of coordination and intra-groups services are excluded from the activities comprised in categories 70.10 "Activities of headquarters" or 70.22 "Other activities of consultancy of business management".