

**PROVINCIAL REGULATION 2/2018 OF 21 MARCH  
CHARACTERISING CERTAIN EUROPEAN LONG-TERM  
INVESTMENT FUNDS FOR TAX PURPOSES AND  
AMENDING THE PROVINCIAL REGULATIONS ON  
PERSONAL INCOME TAX, PROPERTY TAX,  
CORPORATION TAX, CAPITAL TRANSFER TAX AND  
STAMP DUTY, INHERITANCE AND GIFT TAX, THE TAX  
FRAMEWORK OF COOPERATIVES AND THE GENERAL  
TAX CODE OF THE HISTORICAL TERRITORY OF  
BIZKAIA (FRAGMENT) <sup>(1)</sup>**

**PREAMBLE**

The entry into force of a new model of direct taxation in Bizkaia, effective as from tax year 2014, was the culmination of the process of reform that commenced with the reinstatement in 2013 of Property Tax. After three years in force, the results of that process have been assessed to determine the extent to which the goals pursued on its approval have been fulfilled, i.e. to make Bizkaia more modern, solidarity-based, sustainable and competitive by helping to provide a fairer, more progressive, more efficient tax system. The conclusion drawn on completion of that analysis is that the reform of direct taxation in Bizkaia has substantially furthered the attainment of the goals that motivated it.

This Provincial Regulation therefore merely introduces the modifications required in the various taxes to reinforce those goals and increase the extent to which they are fulfilled. The current upturn in economic activity makes it advisable to undertake these modifications and thus contribute via taxation to the consolidation of the economic recovery, without losing sight of the financial sufficiency required to maintain the current standard of public services in Bizkaia.

This Provincial Regulation therefore introduces a number of new tax measures and amends and adjusts the current tax treatment of certain main direct taxes via two distinct titles.

Title I comprises eleven articles which set out the tax treatment for certain European funds intended to foster innovation, the financing of economic activities and productive capitalisation, while also providing incentives for the private sector to become involved in attaining the goals pursued in the framework of the Europe 2020 Strategy.

That Strategy establishes that the core of Europe 2020 should comprise three mutually reinforcing priorities and provide a vision of Europe's social market economy for the 21st century. Those priorities are:

- Smart growth: developing an economy based on knowledge and innovation, which means consolidating knowledge and innovation as drivers for future growth. But to be successful this must be combined with entrepreneurial spirit, financing and priority attention for the needs of users and for market opportunities.

*(1) This text is meant purely as a documentation tool and has no legal effect. The Provincial Council of Bizkaia does not assume any liability for its contents. The authentic versions of the relevant acts, including their preambles, are those published in the corresponding official journal.*



- Sustainable growth: promoting a more resource-efficient, greener and more competitive economy that can take advantage of Europe's leading position in the race to develop new processes and technologies, speed up the development of smart networks in the EU and build on the competitive edge enjoyed by our corporations and SMEs, support economic, social and territorial cohesion and help consumers to make the most effective use of resources.
- Inclusive growth: fostering a high-employment economy, investing in qualifications, fighting poverty and modernising labour markets, training and social protection systems to help people to anticipate and manage change and build a cohesive society, guaranteeing access to equal opportunities and thus further economic, social and territorial cohesion.

To enable these goals to be reached, the institutions of the EU have drawn up three instruments in the context of the Strategy which, for the first time on a European scale, set common trading regulations to permit public private partnerships in the funding of business initiatives conducive to the desired smart, sustainable, inclusive growth.

Thus, Regulation (EU) n° 345/2013 of the European Parliament and the Council of 17 April 2013 on European venture capital funds, Regulation (EU) n° 346/2013 of the European Parliament and the Council of 17 April 2013 on European social entrepreneurship funds and Regulation (EU) 2015/760 of the European Parliament and the Council of 29 April 2015 on European long-term investment funds set out the legal basis for permitting collective participation in the financing of these initiatives without the constraints in the financial instruments established in the regulations of each Member State reducing their effectiveness, striving to achieve pan-European participation in the financing of the most important actions for fulfilling the Strategy.

The first of the Regulations mentioned above refers to venture capital financing and assessing very small businesses at the start-up stages of their existence which have high potential for growth and expansion. Venture capital funds stimulate economic growth via their activities, help to create jobs and mobilise capital, foster the establishment and expansion of innovative businesses, increase investment by such businesses in research and development and encourage entrepreneurial spirit, innovation and competitiveness in line with the goals of the Europe 2020 Strategy.

The Regulation on European social entrepreneurship funds is based on the fact that there are more and more investors who are not just looking for financial profitability but also have social goals. This has resulted in the emergence in the EU of a social investment market made up in part of investment funds that invest in social economy businesses. Such investment funds seek to provide funding for social economy businesses that work to bring about social change by offering innovative solutions to social problems and make a valuable contribution to efforts to attain the goals of the Europe 2020 Strategy.

Finally, European long-term investment funds provide long-duration financing for a range of infrastructure projects for non-listed companies and listed SMEs that issue debt or capital instruments for which there are no easily identifiable buyers. They thus help to finance the real economy of the EU and to implement its policies.

These three financial instruments were created under the provisions of Article 114 of the Treaty on the Functioning of the European Union, which establishes that the European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market, though the said procedure does not apply to fiscal provisions. Indeed, jurisprudence from the Court of Justice of the European Union makes it clear that direct taxation is an area of authority of the Member States that has not been transferred to the Union, so the competent authorities in the Member States are responsible for regulating the fiscal consequences of the use of the financial instruments established by EU Law.



Moreover, in line with Additional Provision One to the Constitution, Article 41 of the Statute of Autonomy of the Basque Country, approved under Public General Act [Ley Orgánica] 3/1979 of 18 December, and the Economic Agreement with the Autonomous Community of the Basque Country approved under Act 12/2002 of 23 May, it is the provincial institutions of the Historical Territories which hold the authority to maintain, establish and regulate their tax framework.

It is therefore essential to establish the tax treatment for these European funds so that they can be used with legal certainty in the scope of the Historical Territory of Bizkaia and can serve the purposes for which they were established. One of the goals of Title I of this Provincial Regulation is therefore to set out the proper tax treatment for these funds and participants therein, in line with the system for taxation of collective investment undertakings and venture capital funds or companies, so that they are treated fiscally in a neutral fashion consistent with their characteristics.

In some cases, such as that of European long-term investment funds, recognition of their right to apply the tax rate established in Corporation Tax for the collective investment undertakings closest to them requires an assurance that participation will not be concentrated in the hands of a small number of people who could make use of the instrument for purposes other than the collective investment purpose for which it was created. It is therefore necessary to characterise these funds precisely for tax purposes.

Concurrently, one of the priorities of the Provincial Council of Bizkaia in the current mandate of the General Assembly of Bizkaia is to ensure the development of economic activity, create wealth and jobs and see that the territory develops in a smart, inclusive, sustainable fashion in accordance with the main goals of the Europe 2020 Strategy, as set out in the Bizkaia Goazen 2030 project.

Both long-term strategies are clearly based on the same goals and evidence the same governing principles, so the regulation in Title I of this Provincial Regulation is conducive to the best possible outcome, as it combines the financial instruments established by the European Parliament and the Council with the commitment of the the Provincial Council of Bizkaia to developing the financing of economic activity, to the productive capitalisation of the fabric of business, and to strengthening technological research, development and innovation activities.

The fiscal reform introduced in the Historical Territory for the tax years from 1 January 2014 onwards was undertaken with these major lines of action in mind, but the creation and implementation of the aforesaid European financial instruments and of the economic policies of the Provincial Council of Bizkaia itself require the establishment of the most suitable tax treatment for the new circumstances. This entails updating the various taxes in which the Economic Agreement recognises the regulatory autonomy of the Historical Territories.

The engagement of citizens in the funding of the said goals is another priority, since society must ultimately mobilise its savings if the main collective goals are to be attained and greater welfare is to result. To encourage the engagement of citizens in the financing of technological innovation and business capitalisation projects with a view to furthering economic activity in association with European funds for promoting investment, for promoting economic activity and for promoting productive capitalisation, this Provincial Regulation establishes a number of tax incentives in the main direct taxes levied on taxpayers.

In particular, with regard to European funds for promoting innovation, a deduction on tax liability for personal income tax of 15% is established, up to a limit of €750, for amounts paid during the tax period for the purchase of stakeholdings and amounts deposited at banks that fund the purchase of same, provided that those amounts are held there for five years. This measure is supplemented by exemption from property tax on the stakeholdings acquired. With regard to European funds for promoting the financing of economic activity and for promoting productive capitalisation, the tax incentives to acquire stakeholdings are based on tax exemptions under property tax and inheritance and gift tax. Finally, to guarantee that the tax incentives provided serve their intended purpose, an obligation to provide documentary proof and information is



established, which obligation is to be supplemented by the drawing up of the relevant regulations for implementation.

[...]

## TITLE I

# TAX TREATMENT OF CERTAIN EUROPEAN FUNDS AND TAX MEASURES TO FOSTER INNOVATION, THE FUNDING OF ECONOMIC ACTIVITIES AND PRODUCTIVE CAPITALISATION

## CHAPTER I

### PURPOSE

#### **Article 1. Purpose.**

This Title sets out the tax treatment for European long-term investment funds, European venture capital funds and European social entrepreneurship funds and introduces measures into the tax system of the Historical Territory of Bizkaia to foster investment via the said European funds to help finance technological innovation and business capitalisation projects for the development of economic activities.

The provisions of this Title apply to those taxpayers to whom the provincial regulations of the Historical Territory of Bizkaia apply, in line with the provisions of the Economic Agreement and the provincial regulations governing the relevant taxes.

## CHAPTER II

### TAX FRAMEWORK FOR CERTAIN EUROPEAN FUNDS

#### **Article 2. Tax framework for certain European long-term investment funds.**

Article 80 of Provincial Regulation 11/2013 of 5 December on Corporation Tax is reworded to read as follows:

«Article 80.- Tax framework for certain European long-term investment funds

1. The framework envisaged in this chapter is applicable to European long-term investment funds regulated under Regulation (EU) 2015/760 of the European Parliament and the Council of 29 April 2015 on European long-term investment funds, with the special cases envisaged herein.

2. The application of the tax rate envisaged in Subsection 4 of Article 56 of this Provincial Regulation to the entities referred to in the previous subsection means that the following requirements must also be met:

a) The fund must invest at least 95% of its equity in assets suitable for investment as provided for under Article 10 of Regulation (UE) 2015/760 of the European Parliament and the Council of 29 April 2015 on European long-term investment funds.

b) No investor may hold more than a 15% stake in the equity of the fund, taking into account all direct and indirect stakes, including related persons or entities as per Article 42 hereof.

For the purposes of this subsection stakes held by institutional investors are not included. Such stakes are understood to be those defined in points 1, 2 and 4 of Subsection I of Annex II to Directive 2014/65/EU of the European Parliament and the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.»

#### **Article 3. Tax framework for European venture capital funds and European social entrepreneurship funds.**

A new subsection 11 is added to Article 77 of Provincial Regulation 11/2013 of 5 December on Corporation Tax which reads as follows:



«11. The framework envisaged in this article applies to the following entities:

- a) European venture capital funds regulated under Regulation (EU) N° 345/2013 of the European Parliament and the Council of 17 April 2013 on European venture capital funds.
- b) European social entrepreneurship funds regulated under Regulation (EU) N° 346/2013 of the European Parliament and the Council of 17 April 2013 on European social entrepreneurship funds.

However, the provisions of Subsection 1 of this article will apply only to income arising from securities considered as admissible investments as provided for in the said Regulations.»

### CHAPTER III

#### CHARACTERISATION OF CERTAIN EUROPEAN LONG-TERM INVESTMENT FUNDS

##### Article 4. European funds for fostering innovation.

For the purposes of this Title, "European funds for fostering innovation" shall mean the European long-term investment funds to which the provisions of Article 80 of Provincial Regulation 11/2013 of 5 December on Corporation Tax apply and which meet the following requirements:

- a) Their sole purpose must be to finance technological research projects by entities to which the provisions of Article 13 of Provincial Regulation 11/2013 of 5 December on Corporation Tax apply.

For these purposes, "technological research projects" is understood to mean projects concerned with activities that result in entitlement to the deduction set out in Article 63 of Provincial Regulation 11/2013 of 5 December on Corporation Tax, including investment in new tangible and intangible fixed assets, but excluding buildings and land, which it is necessary to acquire in order to implement the technological innovation project.

- b) The nominal amounts of the loans granted must not exceed €600,000.
- c) The repayment periods on the loans granted must be at least five years, with the possibility of a period of grace of up to 1 year.
- d) The remuneration applied on the loans granted must not exceed 75% of the late payment interest rate referred to in Article 26 of Provincial Regulation 2/2005 of 10 of March (the General Tax Regulations of the Historical Territory of Bizkaia) and the loans must not be participative.
- e) The loans must be fully guaranteed by mutual guarantee society or by surety insurance.
- f) The granting of the loan must be linked to an application for a classification report for tax purposes on the technological innovation project as referred to in Subsection 2 of Article 64 of Provincial Regulation 11/2013 of 5 December on Corporation Tax.

If the technological innovation project includes investment in new tangible and intangible assets, the classification report for tax purposes on the project referred to in this subsection must also identify any investment in assets necessary for the implementation of the technological innovation project.

The European long-term investment funds referred to in this article must use the funding that they secure for their stated purpose of granting loans that meet the requirements of letters a) to f) hereof within no more than one year as from the outlay of the funding by their stakeholders.



## **Article 5. European funds for fostering the funding of economic activities.**

1. For the purposes of this Title of the regulation, "European funds for fostering the funding of economic activities" shall mean European long-term investment funds to which the provisions of Article 80 of Provincial Regulation 11/2013 of 5 December on Corporation Tax apply and which meet the following requirements:
2. The definition established in the foregoing subsection applies to European long-term investment funds that meet the following requirements:
  - a) Their sole purpose must be provide long-term loans to entities that meet the requirements set out in letter (c) below, in order to finance their economic activities, with the possibility of incorporating guarantees in rem on assets of the borrower.
  - b) The nominal amounts of the loans granted must exceed €500,000.
  - c) The loans must be granted to entities that meet the requirements set in Subsection 1 of Article 33 of Provincial Regulation 11/2013 of 5 December on Corporation Tax that are not listed on an organised secondary market, or that fall within the circumstances envisaged in point (iii) of letter (b) of Subsection 1 of Article 11 of Regulation (EU) 2015/760 of the European Parliament and the Council of 29 April 2015 on European long-term investment funds, and that meet the requirements of letters (a) and (c) of Subsection 3 of Article 13 of the aforesaid Provincial Regulation.
  - d) The repayment period on the loans granted must be no less than 5 years and no more than 15 years, and the remuneration thereon must be at a fixed interest rate and, as the case may be, a further variable rate depending on the development of the economic activities of the entity; or depending on the changes over time in market value of the assets on which guarantees are constituted if there is a guarantee in rem on assets of the borrower.
  - e) The borrowers must use the funding received to implement business projects that entail the development of new activities, products or markets, the extension or consolidation of existing ones or the creation of stable jobs and must be experiencing difficulties in accessing capital markets due to the scale, innovative nature or risk level of the investments to be undertaken.
  - f) The borrowers must not have prior indebtedness in excess of six times their EBITDA, and must not be in the position referred to in the provisions of Article 47 of Provincial Regulation 11/2013 of 5 December on Corporation Tax.
3. The definition established in Subsection 1 applies to European long-term investment funds that meet the following requirements:
  - a) Their sole purpose must be to hold stakes in the capital or equity of entities that meet the requirements set out in letter (c) below, in order to finance their economic activities.
  - b) They must hold capital or equity stakes of at least 5%, or 3% if the shares of the company in question are traded on an organised secondary market, and those stakes must in all cases exceed €500,000.
  - c) The entities in which stakes are held must meet the requirements set in subsection 1 of Article 33 of Provincial Regulation 11/2013 of 5 December on Corporation Tax, must not be listed on an organised secondary market, or must be covered by the circumstances envisaged in point (iii) of letter (b) of Subsection 1 of Article 11 of Regulation (EU) 2015/760 of the European Parliament and the Council of 29 April 2015 on European long-term investment funds, and must meet the requirements of letters (a) and (c) of Subsection 3 of Article 13 of the aforesaid Provincial Regulation.





- d) The stakes held by the fund must be maintained for at least 5 years and at most 15 years.
  - e) The entities in which stakes are held must use the funding received to implement business projects that entail the development of new activities, products or markets, the extension or consolidation of existing ones or the creation of stable jobs and must be experiencing difficulties in accessing capital markets due to the scale, innovative nature or risk level of the investments to be undertaken.
  - f) The entities in which stakes are held must not be in the position referred to in the provisions of Article 47 of Provincial Regulation 11/2013 of 5 December on Corporation Tax.
4. In addition to the requirements set in the foregoing subsections of this Article, European funds for fostering the funding of economic activities must, in all cases, have at least 5% of their equity guaranteed by a mutual guarantee society or by surety insurance.
5. The European long-term investment funds referred to in this article must use the funding that they secure for their stated purpose of granting loans that meet the requirements set out in Subsection 2 of this Article or for paying out contributions to the capital or equity of entities that meet the requirements set out in Subsection 3 of this article within no more than one year as from the outlay of the funding by their stakeholders.

#### **Article 6. European funds for fostering productive capitalisation.**

For the purposes of this Title of the regulation, "European funds for productive capitalisation" shall mean the European long-term investment funds to which the provisions of Article 80 of Provincial Regulation 11/2013 of 5 December on Corporation Tax apply and which meet the following requirements:

- a) Their sole purpose must be to acquire non-current assets for leasing to entities that meet the requirements set out in letter c) below that affect the implementation of their economic activities.
- b) The non-current assets acquired must be worth at least the amount indicated in letter e) of Article 10 of Regulation (EU) 2015/760 of the European Parliament and the Council of 29 April 2015 on European long-term investment funds.
- c) The non-current assets must be leased to entities that meet the requirements set in subsection 1 of Article 33 of Provincial Regulation 11/2013 of 5 December on Corporation Tax that are not listed on an organised secondary market, or that are covered by the circumstances envisaged in point (iii) of letter (b) of Subsection 1 of Article 11 of Regulation (EU) 2015/760 of the European Parliament and the Council of 29 April 2015 on European long-term investment funds, and that meet the requirements of letters (a) and (c) of Subsection 3 of Article 13 of the aforesaid Provincial Regulation.
- d) The lease agreements for the non-current assets acquired by the fund must be for a term of at least 5 years.

However, should the fund take over a current lease agreement the remaining term of which at the time of acquisition of assets does not exceed the minimum period indicated in the foregoing paragraph, for the requirement established in this point to be considered as met it must extend the term of the lease on its expiry up to the said minimum period as from the date of acquisition of the assets.

- e) The lessees must use the non-current assets to carry out economic activities on the terms envisaged in Subsection 4 of Article 13 of Provincial Regulation 11/2013 of 5 December on Corporation Tax.



- f) At least 5% of the equity of the fund must be guaranteed by a mutual guarantee society or by surety insurance.

The European long-term investment funds referred to in this article must use the funding that they secure for their stated purpose of acquiring non-current assets and leasing same on the terms set out in letters (a) to (f) hereof within no more than one year as from the outlay of the funding by their stakeholders.

#### **Article 7. Publicity and obligations of information.**

1. European funds that meet the requirements set out in Articles 4, 5 and 6 above and wish to apply the taxation measures envisaged in Chapter IV of this Title of the regulation must advise the tax authorities accordingly before marketing begins or within the three months prior to the commencement of the first tax period in which they wish to apply the said tax measures, on the terms set out in the relevant regulations.
2. The tax authorities will check that the requirements set out in the three previous articles of this Title are met and will acknowledge each fund as a European fund for fostering innovation, a European fund for fostering the funding of economic activities or a European fund for fostering productive capitalisation, as relevant, by means of a resolution of the Directorate General for Internal Revenue, which resolution will be published to make it public knowledge.
3. The European funds referred to in the foregoing subsection must provide regular information to the tax authorities as and when set out in the relevant regulations concerning their compliance with the requirements set out in articles 4, 5 and 6 of this Provincial Regulation.

### **CHAPTER IV**

#### **TAX MEASURES FOR FOSTERING INNOVATION AND FUNDING ECONOMIC ACTIVITIES**

##### **Article 8. Personal Income Tax.**

###### **One.**

A new Subsection 4 is added to Article 48 of Provincial Regulation 13/2013 of 5 December on Personal Income Tax which reads as follows:

«4. The provisions of this article also apply to stakes in European funds for fostering innovation, European funds for fostering the financing of economic activities and European funds for fostering productive capitalisation that meet the requirements set out in Articles 4, 5 and 6 of Provincial Regulation 02/2018 of 21 March.»

###### **Two.**

A new Article 90a is added Provincial Regulation 13/2013 of 5 December on Personal Income Tax which reads as follows:

«Article 90a. Deductions for investment in European funds for fostering innovation.

1. Taxpayers may apply a deduction of 15% of the amounts paid within the tax period to acquire stakes in European funds for fostering innovation that meet the prerequisites set out in Article 4 of Provincial Regulation 02/2018 of 21 March.

Taxpayers may also apply the same rate of deduction on amounts deposited at credit institutions in accounts for the acquisition of stakes in such funds.

2. The deduction referred to in the foregoing subsection may not exceed €750 per annum.

3. The stakes acquired or amounts deposited must be maintained for five years as from the date of acquisition or the date on which the deposit is made.





The holding time requirement will not be considered as breached if the taxpayer who holds the stake or deposit dies before the end of the period referred to in the foregoing paragraph.

Any failure of the taxpayer to comply with the holding time indicated, failure of the financial institution to use the amounts deposited to acquire stakes in European funds for fostering innovation or failure of those funds to meet the requirements set out in Article 4 of Provincial Regulation 02/2018 of 21 March will result in the obligation to pay in the amounts improperly deducted, plus the relevant delayed payment interest. Such payments must be made by adding the amount improperly deducted to the differential liability for the tax period in which the aforesaid failures take place. However the taxpayer may choose to pay in any sums improperly deducted plus the delayed payment interest thereon at an earlier date.

4. The provisions of this Article will not apply to stakes acquired for which the taxpayer has acted in accordance with the provisions of Subsection 4 of Article 48 of this Provincial Regulation.»

### Three.

Letter (f) of Subsection 2 of Article 99 of Provincial Regulation 13/2013 of 5 December on Personal Income Tax is modified, with the current letter (f) becoming letter (g), reading as follows:

«f) The upper limit envisaged in Article 90a of this Provincial Regulation applies to each taxpayer who acquires stakes or deposits amounts at credit institutions in accordance with the provisions of the said Article.»

### Four.

Letter (f) of Article 105 of Provincial Regulation 13/2013 of 5 December on Personal Income Tax is reworded so that the current letters (f) and (g) become letters (g) and (h) and read as follows:

«f) Deductions for investment in European funds for fostering innovation.»

### Five.

A new letter (m) is added to Article 116 of Provincial Regulation 13/2013 of 5 December on Personal Income Tax which reads as follows:

«m) For entities that manage European funds for fostering innovation and for financial institutions in regard to stakes in such funds and amounts deposited for the acquisition of such stakes.»

## Article 9. Property Tax.

### One.

A new subsection Twelve is added to Article 5 of Provincial Regulation 2/2013 of 27 February on Property Tax which reads as follows:

«Twelve

Stakes in European funds for fostering innovation that meet the requirements set out in Article 4 of Provincial Regulation 02/2018 of 21 March, provided that they remain part of the equity of the taxpayer for a period of five years as from their date of acquisition. Failure by taxpayers to comply with the holding time requirement indicated, or failure by the funds to meet the requirements set out in Article 4 of Provincial Regulation 02/2018 of 21 March will be grounds for the forfeiting of the exemption granted, resulting in an obligation to submit supplementary self-assessment returns for the corresponding tax years and to pay in the amounts that result, together with delayed payment interest.

The holding time requirement will not be considered as breached if the taxpayer who holds the stake or deposit dies before the end of the period referred to in the foregoing paragraph.»

### Two.

A new subsection Thirteen is added to Article 5 of Provincial Regulation 2/2013 of 27 February on Capital Gains Tax which reads as follows:



«Thirteen

Stakes in European funds for fostering the funding of economic activities and European funds for fostering productive capitalisation that meet the requirements set out in Articles 5 or 6 of Provincial Regulation 02/2018 of 21 March, as relevant, provided that they remain part of the equity of the taxpayer for a period of five years as from their date of acquisition. Failure by taxpayers to comply with the holding time requirement indicated, or failure by the funds to meet the requirements set out in Articles 5 or 6 of Provincial Regulation 02/2018 of 21 March will be grounds for the forfeiting of the exemption granted, resulting in an obligation to submit supplementary self-assessment returns for the corresponding tax years and to pay in the amounts that result, together with delayed payment interest.

The holding time requirement will not be considered as breached if the taxpayer who holds the stake or deposit dies before the end of the period referred to in the foregoing paragraph.

If taxpayers hold stakes indirectly via companies in the capital of which they have a direct or indirect holding of at least 5%, they may apply a reduction on the taxable base for this tax equivalent to the result of multiplying their percentage of ownership of the company in whose assets the stakes in European funds referred to here in are held by the value of those stakes. However the said reduction may in no case give rise to a negative tax base.»

### **Three.**

A new paragraph three is added to Subsection 2 of Article 36 of Provincial Regulation 2/2013 of 27 February on Capital Gains Tax which reads as follows:

«Self-assessment returns must include stakes in European funds for fostering innovation, European funds for fostering the funding of economic activities and European funds for fostering productive capitalisation which, pursuant to Subsections 12 and 13 of Article 5 of Provincial Regulation 2/2013 of 27 February on Capital Gains Tax, are exempt from or entitled to reductions on the taxable base for the said tax.»

### **Article 10. Inheritance and Gift Tax.**

A new subsection 7 is added to Article 12 of Provincial Regulation 4/2015 of 25 March on Inheritance and Gift Tax which reads as follows:

«7. Stakes acquired by inheritance or bequest in European funds for fostering the funding of economic activities and European funds for fostering productive capitalisation that meet the requirements set out in Articles 5 or 6 of Provincial Regulation 02/2018 of 21 March, as relevant, which have remained part of the equity of the deceased for a period of at least one year immediately prior to the date of accrual of the tax.»

### **Article 11. Documentary proof and obligations of information.**

For the tax measures contained in this chapter to be applied, taxpayers must provide documentary proof as relevant. Regulations will be drawn up to specify the obligations of information in regard to the stakes in funds referred to in Articles 4, 5 and 6 of this Provincial Regulation and the deposits at banks which are to be used to acquire stakes in European funds for fostering innovation. Fulfilment of those obligations may, as relevant, be required via the financial institutions that hold the deposits which entitle taxpayers to apply the tax measures envisaged in this Provincial Regulation.

[...]

## **FINAL PROVISION**

### **Sole. Entry into force.**

This Provincial Decree will enter into force on the day following its publication in the Official Gazette of Bizkaia. The foregoing notwithstanding,

- The provisions of Title I, except Article 2 and 3, [...] of this Provincial Regulation will be effective as from 1 January 2018.



- And the provisions of Articles 2 and 3 of Title I [...] of this Provincial Regulation will be effective for tax periods commencing as from 1 January 2018.

Bilbao, 21 March 2018.

The Chair of the Provincial Council

UNAI REMENTERIA IMAZ