



**COUNCIL OF  
THE EUROPEAN UNION**

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**LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: **COUNCIL DECISION on the AIEM tax applicable in the Canary Islands**

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**COUNCIL DECISION No .../2014/EU**

**of**

**on the AIEM tax applicable in the Canary Islands**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 349 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament<sup>1</sup>,

Acting in accordance with a special legislative procedure,

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<sup>1</sup> OJ: please insert date of publication of EP opinion.

Whereas:

- (1) Pursuant to Article 349 of the Treaty on the Functioning of the European Union (TFEU), the Council, taking into account the structural social and economic situation of the outermost regions, which is compounded by their remoteness, insularity, small size, difficult topography and climate, and economic dependence on a few products, adopts specific measures aimed, in particular, at laying down the conditions of application of the Treaties to those regions, including common policies.
- (2) Specific measures should therefore be adopted in order to establish the conditions for applying the TFEU to those regions. Such measures are to take account of the special characteristics and constraints of those regions, without undermining the integrity and coherence of the Union legal order, including the internal market and common policies.
- (3) The most significant handicap identified in the Canary Islands is the high dependence of their economy on the services sector, in particular tourism, together with the small share of industry in the Canary Islands' GDP.
- (4) Second to that is the isolation inherent in an archipelago which hinders the free movement of persons, goods and services. Dependence on certain modes of transport, air transport and maritime transport is increased, since those are modes of transport which have not yet been fully liberalised. Furthermore, production costs are greater because those modes of transport are less efficient and are more expensive than road or rail.

- (5) As a further consequence of this isolation, higher production costs result from dependence in terms of raw materials and energy, from the obligation to build up stocks and from difficulties affecting the supply of production equipment.
- (6) The small size of the market and the low level of export activity, the geographical fragmentation of the archipelago, and the obligation to maintain diversified but small production lines in order to meet the requirements of a small market restrict the opportunities for economies of scale.
- (7) It is in many cases more difficult or more expensive to obtain specialised and maintenance services, and training for managers and technicians, or to subcontract or promote business expansion beyond the Canary Islands' market. The narrow range of distribution methods also results in overstocking.
- (8) As regards the environment, the disposal of industrial waste and the treatment of toxic waste give rise to higher environmental costs. Those costs are higher because there are no recycling plants, other than for certain products, and waste has to be transported to the mainland and toxic waste has to be treated outside the Canary Islands.
- (9) On the basis of the above and of the notification from the Spanish authorities to the Commission on 4 March 2013, the authorisation concerning the application of a tax to a list of products for which exemptions for local products may be allowed should be renewed.

- (10) Council Decision 2002/546/EC<sup>1</sup>, adopted on the basis of Article 299 of the EC Treaty, initially authorised Spain, up to 31 December 2011, to apply exemptions from or reductions in the tax known as 'Arbitrio sobre Importaciones y Entregas de Mercancías en las Islas Canarias' ('AIEM') to certain products produced locally in the Canary Islands. The Annex to that Decision contains a list of products to which tax exemptions and reductions may be applied. The difference between the taxation of locally manufactured products and the taxation of other products may not exceed 5, 15 or 25 percentage points, depending on the product.
- (11) Council Decision No 895/2011/EU<sup>2</sup> amended Decision 2002/546/EC, extending its period of application to 31 December 2013.
- (12) Council Decision No 1413/2013/EU<sup>3</sup> further amended Decision 2002/546/EC, extending its period of application to 30 June 2014.
- (13) The AIEM tax serves the objectives of autonomous development of the Canary Islands' industrial production sectors and of diversifying the Canary Islands' economy.

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<sup>1</sup> Council Decision 2002/546/EC of 20 June 2002 on the AIEM tax applicable in the Canary Islands (OJ L 179, 9.7.2002, p. 22).

<sup>2</sup> Council Decision No 895/2011/EU of 19 December 2011 amending Decision 2002/546/EC as regards its period of application (OJ L 345, 29.12.2011, p. 17).

<sup>3</sup> Council Decision No 1413/2013/EU of 17 December 2013 amending Decision 2002/546/EC as regards its period of application (OJ L 353, 28.12.2013, p.13).

- (14) The maximum exemptions which may be applied to the industrial products in question vary from 5 % to 15 %, depending on sector and product.
- (15) The maximum exemption applicable to finished tobacco products is nevertheless higher, as the tobacco sector is an exceptional case. The tobacco industry, which had greatly expanded in the Canary Islands, has been declining markedly for a number of years. The traditional handicaps of insularity described above are at the root of the decline in local tobacco production in the Canary Islands. There are grounds for keeping a substantial exemption for tobacco. Exemption from taxation is directly related to the objective of maintaining production in the Canary Islands.
- (16) The objectives of promoting the socio-economic development of the Canary Islands are reflected at national level in the purpose of the tax and the allocation of the revenue it generates. The incorporation of the revenue from this tax in the resources of the Canary Islands' economic and tax system and its use for an economic and social development strategy involving the promotion of local activities is a legal obligation.
- (17) The exemptions from or reductions in the AIEM tax should apply for 6,5 years. It will, nevertheless, be necessary to evaluate the results of such exemptions or reductions. Therefore, the Spanish authorities should present to the Commission by 30 September 2017 at the latest a report on the application of the AIEM tax exemptions or reductions, in order to check the impact of the measures taken and their contribution to promoting or maintaining local economic activities, account being taken of the handicaps affecting the outermost regions. On this basis, the scope and the exemptions authorised under Union rules will be revised, if necessary.

- (18) The fiscal advantage granted by the AIEM needs to remain proportionate so as not to undermine the integrity and the coherence of the Union legal order, including safeguarding undistorted competition in the internal market and State aid policies.
- (19) This Decision is without prejudice to the possible application of Articles 107 and 108 TFEU,

HAS ADOPTED THIS DECISION:

## *Article 1*

1. By way of derogation from Articles 28, 30 and 110 TFEU, the Spanish authorities shall be authorised until 31 December 2020 to lay down, in respect of the products listed in the Annex that are produced locally in the Canary Islands, total exemptions from or partial reductions in the tax known as 'Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias' (AIEM). Those exemptions or reductions must form part of the strategy for economic and social development of the Canary Islands and must contribute to the promotion of local activities.
  
2. Application of the total exemptions or reductions referred to in paragraph 1 shall not lead to differences in excess of:
  - (a) 5 % for the products listed in Section A of the Annex;
  - (b) 10 % for the products listed in Section B of the Annex;
  - (c) 15 % for the products listed in Section C of the Annex;
  - (d) 25 % for the products listed in Section D of the Annex. Nevertheless, the Spanish authorities may establish a minimum tax on cigarettes of not more than EUR 18 per 1 000 cigarettes, applicable only if the AIEM tax resulting from the application of general types of taxation is below this figure.



## *Article 2*

The Spanish authorities shall present to the Commission by 30 September 2017 at the latest a report on the application of the measures referred to in Article 1, in order to check the impact of the measures taken and their contribution to the promotion or maintenance of local economic activities, account being taken of handicaps affecting the outermost regions.

On that basis, the Commission shall present a report to the Council comprising a full analysis of the economic and social aspects and, where appropriate, a proposal for adapting the provisions of this Decision.

*Article 3*

This Decision shall be applicable from 1 July 2014.

*Article 4*

This Decision is addressed to the Kingdom of Spain.

Done at Brussels,

*For the Council*

*The President*

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## ANNEX

### A. List of products referred to in point (a) of Article 1(2) according to the classification of the Common Customs Tariff nomenclature

#### Agricultural and fishery products:

0207 11/0207 13

#### Minerals:

2516 90 00 00/6801/6802

#### Building materials:

3816/3824 40 00 00/3824 50/3824 90 45 00/3824 90 70 00/ 3824 90 97 99/ 6809

#### Chemicals:

2804 30 00 00/2804 40 00 00/3105 20 90 00/3208/3209/3210/3212 90 00

00/3213/3214/3304 99 00 00/3925 90 80 00/ 3401/3402/3406/3814 00 90/3923 90 00

00/4012 11 00/4012 12 00/4012 13/4012 19

#### Metal-working industries:

7604/7608

Food industry:

0210 12 11 00/0210 12 19 00/0210 19 40 00/0210 19 81/0305 41 00/0305 43 00 90/

0901 22 00 00/1101/1102/1601/1602/1704 90 30 00/1704 90 51 00/1704 90 55 00/

1704 90 75 00/1704 90 71 00/1806/1901 20 00 00/1901 90 91 00/1901 90 99/

1904 10 10/1905/2005 20 20/2006 00 31 00/2008 11 96 00/2008 11 98 00/2008 19 92/

2008 19 93/2008 19 95/2008 19 99/2309

Beverages:

2009 11/2009 12 00/2009 19/2009 41/2009 49/2009 50/2009 61/2009 71/2009 79/2009 89/

2009 90/2201/2202/2204

Textiles and leather:

6112 31/6112 41

Paper:

4818 90 90 00/4823 90 85 90

Graphic arts and publishing:

4910

B. List of products referred to in point (b) of Article 1(2) according to the classification of the Common Customs Tariff nomenclature

Agricultural and fishery products:

0203 11/0203 12/0203 19/0701 90/0703

Building materials:

2523 29 00 00/

Food industry:

0210 11 11 00/0210 11 31 00/1905/2105

Paper:

4808/4819/4823 90 40 00

C. List of products referred to in point (c) of Article 1(2) according to the classification of the Common Customs Tariff nomenclature

Agricultural and fishery products:

0407 21 00 00/0407 29 10 00/0407 90 10 00

Building materials:

2523 90/7010

Chemicals:

3809 91 00/3917 21/3917 23/3917 32 00/ 3917 33 00/3917 39 00/3917 40 00/3923 10 00/39 23 21 00/3923 30 10/3924 10 00

Metal-working industries:

7309 00/7610 10 00 00/9403 20 80 90

Food industry:

0403/0901 21/1902/2103 20 00 00/2103 30/2103 90 90/2106 90 98/

Beverages:

2203/2208 40

Textiles and leather:

6302

Paper:

4818 10/4818 20/4818 30/4821

Graphic arts and publishing:

4909/4911

- D. List of products referred to in point (d) of Article 1(2) according to the classification of the Common Customs Tariff nomenclature

Tobacco:

2402

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