Box. 3.1

THE NEW TAX ON FINANCIAL INSTITUTIONS

Law 7/2024[1] created a new tax on the net interest and fee and commission income of certain financial institutions. This new tax can be considered, to some extent, a continuation of the temporary levy established by Law 38/2022,[2] since Article 2.12 of that law already envisaged the possibility of making it permanent and, subsequently, Royal Decree-Law 8/2023[3] reiterated this issue, by recalling that the form of the temporary levy had to be revised to include it in the tax system in the 2024 fiscal year.

The temporary levy stipulated by Law 38/2022 was justified by the legislator on the basis of a backdrop of high inflation. The legislator argued that the ensuing costs had to be distributed through the so-called “national income pact”, which refers to the mechanism for distributing the cost of inflation among economic agents. This is why the temporary levy was created, with the legal form of a non-tax public levy (i.e. strictly speaking, it was not a tax) which institutions had to pay in 2023 and 2024. The net interest and fee and commission income[4] from these institutions’ business in Spain in the previous year were subject to this 4.8% levy.

In late 2022, the European Central Bank (ECB), at the request of the Spanish Parliament, adopted an advisory and non-binding opinion[5] on the draft law on temporary levies. Most notably, it recommended a thorough analysis of the potential negative consequences for the banking sector to ensure that the application of the temporary levy did not pose risks to financial stability, banking sector resilience and the provision of credit.

The preamble of Royal Decree-Law 9/2024,[6] alluded to the results of the temporary levy and its inclusion in the tax system warranting the introduction of a new non-extraordinary tax on the banking sector.[7] Thus, the new tax, laid down in Law 7/2024, is a direct tax, with the following basic characteristics:

- Taxpayers: banks, savings banks, credit cooperatives, specialised lending institutions and branches in Spain of foreign credit institutions.

- Tax base: the positive balance resulting from the sum of net interest income plus the difference between fee and commission income and expenses of the business in Spain. As with the temporary levy, it is not banks’ profit for the year that is taxed, but rather an intermediate step in their income statement. This can potentially generate distortionary effects, since the tax is partially insensitive to falling profits and may discourage business models based on taking on higher credit risk and, accordingly, higher impairment provision costs (not deductible from the tax base).

- Net tax base: the tax base less €100 million. It cannot be negative.

- Gross tax payable: the result of applying the tax brackets shown in Table 1.[8]

- Net tax payable: the result of subtracting 25% of the net corporate income tax payable from the gross tax payable.

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1 Ninth final provision of Law 7/2024 of 20 December 2024 establishing a top-up tax to ensure a global minimum level of taxation for multinational groups and large-scale domestic groups, a tax on the net interest and fee and commission income of certain financial institutions and a tax on liquids for electronic cigarettes and other tobacco-related products and amending other tax rules.

2 Article 2 of Law 38/2022 of 27 December 2022 establishing temporary levies on energy and on credit institutions and specialised lending institutions and creating the temporary solidarity wealth tax and amending certain tax rules.

3 Fifth additional provision of Royal Decree-Law 8/2023 of 27 December 2023 adopting measures to address the economic and social consequences of the conflicts in Ukraine and the Middle East and to mitigate the effects of the drought.

4 Namely, the difference between interest, fee and commission income and interest, fee and commission expenses.

5 Opinion of the European Central Bank of 2 November 2022 on the imposition of temporary levies on certain credit institutions (CON/2022/36).

6 Royal Decree-Law 9/2004 of 23 December 2024 adopting urgent measures on economic, tax, transportation and social security matters and extending certain measures to address social vulnerability. Although this Royal Decree-Law was repealed by the Spanish Parliament’s decision of 22 January 2025, its preamble remains useful for understanding the rationale behind the new tax, which was not explained in Law 7/2024.

7 A charge is commonly defined as an obligation to pay a certain amount of money to the public administration to support public spending in general. A tax is a type of charge in which the tax authority does not directly provide anything in return (unlike, for example, a specific charge for a public service) and is generally payable based on the existence of economic capacity.

8 The total gross tax payable relating to a specific tax base is obtained from the corresponding row (the first one where it is lower than the sum of “Net tax base, up to” and “Remaining net tax base, up to”), adding the “Gross tax payable” of that row to the amount resulting from applying the “Tax rate” to the portion of the tax base exceeding “Net tax base, up to”. For example, for a net tax base of €3,300 million, gross tax payable would be €123.75 million, i.e. €105.75 million + 18, where 18 equals 6% of 300.

Table 1
Tax brackets for the new bank tax

€m

Net tax base up to	Gross tax payable	Remaining net tax base up to	Tax rate (%)
0	0	750	1
750	7.50	750	3.5
1,500	33.75	1,500	4.8
3,000	105.75	2,000	6
5,000	225.75	Over 5,000	7

SOURCE: Law 7/2024.

- Extraordinary deduction (due to low profitability): a deduction is applied to the net tax payable when the taxpayer's profitability, calculated by dividing the accounting profit by total assets, falls below 0.7%.

- The amount resulting from the self-assessment: the net tax payable less the extraordinary deduction. It cannot be negative.

- Non-deductibility: as with the temporary levy, the new tax is non-deductible for corporate income tax purposes.

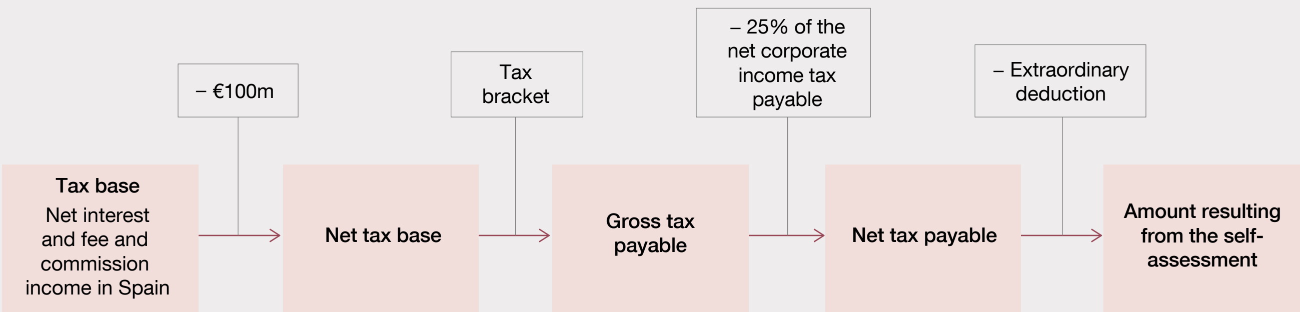
- Period in effect: the tax will be applicable during the first three consecutive tax periods starting on 1 January 2024.

Figure 1 shows, in simplified form, the steps required to calculate the new tax.

The law also provides for the distribution of these tax receipts among the ordinary-regime regions, based on their regional GDP.

At end-2024, the ECB adopted an opinion[9] on the draft tax law, which focused on the consequences of the tax from a financial stability, prudential supervision and monetary policy perspective. Specifically, the ECB stresses that its imposition may reduce the banking sector's resilience to shocks, and could have adverse economic effects by limiting banks' ability to grant credit and potentially contributing to less favourable terms for customers on loans and other services.

Figure 1
Calculation of the new tax on financial institutions



SOURCE: Banco de España.

9 Opinion of the European Central Bank of 17 December 2024 on a tax on the net interest and commission income of certain financial institutions (CON/2024/41).

Box 3.1
THE NEW TAX ON FINANCIAL INSTITUTIONS (cont'd)

The ECB recognises that the extraordinary deduction mechanism based on profitability mitigates the potential negative effects of the tax. However, this mitigation only occurs in the case of negative or low profitability, and only partially in the latter case. This means that the tax may lead to a decrease in banks' ability to build capital in these circumstances. Moreover, in periods of high profitability, the deduction would not operate and thus the tax would limit the capacity of financial institutions to build capital preventively against future shocks.

The ECB also considers that the tax, similarly to others of this kind established by other national authorities of the European Union, may lead to fragmentation in the European financial system and impair the level playing field across the banking union. Furthermore, the application of a progressive scale may give rise to competitive asymmetries based on bank size.

In the ECB's opinion, the foregoing considerations advise that the tax be continuously monitored from a financial stability perspective. The Banco de España shares the conclusions and recommendations of the ECB Opinion.