

Detaxed Fuel for Commercial Yachts in Italy

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Someone in Italy had been baptized it as “*Law to Save Commercial Yachts Extra-EU*”, ie those naughty rules included “*silently*” in the Law no. 27/2012 in order to change the “*customs regime of Commercial Yachts non-EU*” to enable them to benefit from the tax relief scheme in the field of VAT, Excise duties and charges on transactions mandatory Definitive import. In an attempt to achieve this was amended accordingly also art. 2 of Law no. 171/2005, adding to the same “*two magic little words*”: ... or Non-EU.

On July 14 u.s. the Italian Customs Agency has issued Circular no. 10 / D entitled: “*Use of exemption from excise duty on fuel, denatured, and lubricating oils are not subject to taxation for navigation in marine waters of the Community. Units rented for recreational flying the flag. Criteria of application of the tax benefit.*”

A clarification that the Italian Operators (*Licensed Brokers and Shipping Agents*) have been waiting for over two years and not only has the merit of restoring in Italy the conditions of legality and respect of international conventions on the subject, but which we believe has the merit represent an example of a fair and transparent interpretation of the customs rules to be followed by all Member States of the European Community, France in particular.

In summary, the Customs Agency has reminded requirements that any “*Commercial Yachts Extra-EU*” was (*before July 14, 2014*) and has (*since July 14, 2014*) to be used in respect Charter business in Italy or in water Community territorial exemption from excise duty on fuel use, denatured oils and lubricants which are not subject to tax.

The first and fundamental clarification of the proof obligation by any “*Commercial Yacht Extra-EU*” intended to be used to provide Charter of the practice of “*Definitive import*” of the same. This necessary clarification is based on the assumption that “*can not be allowed, in fact, within the meaning of paragraph 3 of Table A attached to D.Lgs.n.504/95 when the medium used for sea transport for commercial use appears bound to the regime temporary admission.*”

The second clarification concerns the the fact that “*after being nationalized the Non-EU Commercial Yacht chartered for recreational purposes can use subsidized fuel oils and lubricants which are not subject to taxation.*”

The third clarification also defines all application requirements that must coexist:

- a) resulted registered as a commercial yacht (“*commercial vessel*”, or *commercial yachts* or “*yacht for commercial use*”) in the Register of Ships of the flag state DL n. 457/1997, converted with amendments into law n. 30/1998;
- b) was the subject of the declaration submitted upon arrival at the port, the competent maritime authority pursuant to art. 2, paragraph 3, of Legislative Decree n.171/2005, unless it is entered in the above-mentioned International Registry;
- c) is intended solely for use by “*real*” Charter Agreement;
- d) belongs to a business organization qualified by the availability of the Commercial yacht and other essential goods (*eg., the presence of enlisted crew employed by the shipowner for the activity, a commercial network insistent on the territory*).

The fourth and last (*but operationally more important*) clarification about the “*legal nature*” of the contract of use (*Charter Agreement*) that must necessarily provide directly (*under penalty of exclusion from the use of subsidized energy*) intake as well as exercise and the use by the Owning Company.



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In which cases it can benefit

Table 1

Cruising Area - "International waters only"				
Flag	Excise exemption	VAT exemption	Documentation	Obligation
Italian UE Extra-UE	YES (art. 254 TULD)	YES (art. 8 DPR 633/1972)	DAU Export	Memorandum Departure within 8 hrs

Table 2

Cruising Area - "In and Out international waters"				
Flag	Excise exemption	VAT exemption	Documentation	Obligation
Italian	YES (DM 575/1995)	YES (art. 8-bis DPR 633/1972)	Libretto di controllo (control book)	Memorandum
UE	YES (DM 575/1995)	YES (art. 8-bis DPR 633/1972)	Libretto di controllo (control book)	Memorandum
Extra-UE (1)	YES (DM 575/1995)	YES (art. 8-bis DPR 633/1972)	Libretto di controllo (control book)	Memorandum
Extra-UE (2)	NO	NO	----	----

Note (1)

If the Owning company of the "Extra-UE Commercial Yacht" has identified the activities carried out in Italy by enrolling in an Italian Chamber of Commerce (*permanent establishment*).

Note (2)

If the Owning company of the "Extra-UE Commercial Yacht" has **NOT** identified the activities carried out in Italy by enrolling in an Italian Chamber of Commerce (*permanent establishment*).