

ITALY CONSULTANCY

NEW RULES CONCERNING ITALIAN CHARTERS

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VAT due on Italian charters must to be calculated on the basis of the **actual time spent by the charter into the EU territorial waters**. As a result, the lump sum VAT criteria would no longer apply.

The new VAT rules refer to the European Union Commission's goal to harmonize the applicable rules abolishing the laws that were in place in Italy, France, Malta, Cyprus and Greece concerning the reduction of VAT on the taxable base for charter contracts. As far as Italy is concerned, the new rules had to enter in force in April 2020, but the Italian Government has decided, through Decree 76/2020 (in force since 17 July 2020), to postpone until November 1, 2020 the entry into force of the new provisions regulating VAT **on short term charters** starting in Italy, in order to revitalise the yachting industry, especially after the recent spreading of COVID-19 pandemic.

From November 1, 2020, the "lump sum VAT criteria" related to the length of the yachts (ex. 6.6% VAT for the charter of yachts over 24 meters) **will be no longer applicable**, and ordinary VAT rate of 22% will be due unless it will be proved the navigation outside EU waters.

On October 29, 2020, Italian Revenue Agency has issued Provision n. 341339/2020, which clarifies the **means of proof** necessary to prove the effective use of the vessel outside the EU waters, to enjoy the VAT exemption.

Starting from November 1, 2020, the navigation time spent outside the European waters must be proved by the taxpayer. About that, we have to distinguish between:

- 1) Vessels equipped with satellite navigation systems
- 2) Vessel NOT equipped with satellite navigation systems.

Captains/Officers on board need to split the Charter time into two parts:

- a. total hours spent into EU Waters
- b. total hours spent at the High Sea (International Waters).

Short term lease contracts (maximum duration 90 days)

For vessels equipped with satellite navigation systems the necessary information will be extracted from the satellite navigation systems in use or transponders. The device will indicate the effective sea routes of the vessel.

For vessels without satellite navigation systems, the proof of navigation time spent outside the EU will be provided through the **exhibition of the lease, charter, and other similar short-term contracts**. At least two of the following evidences must be shown:

- the data obtained from paper/digital navigation logbook;
- digital photographs (made by any device) of the "vessel's position" for each week of navigation and detected with a frequency of at least two for each week of sailing;

- the documentation (invoices, contracts, tax payments receipts) proving the mooring of the yacht at ports located outside the European Union;
- the documentation (invoices, contracts, tax payments receipts) proving purchases of goods and/or services (relating to the use outside the European Union of the yacht), from sellers established outside of the European Union.

All the evidences/proofs collected must be kept on file for a period of time according to Art. 57, paragraphs 1 and 2, of the Presidential Decree N. 633/1972 (therefore, until 31st Dec. of the fifth year subsequent to the year in which the VAT Return has been filed or – in the event that the Declaration hasn't been filed – until the 31st Dec. of the seventh year subsequent to the year in which the VAT Return should have been filed).

Long term lease contracts (financial leasing contracts included)

Evidence of the time spent in navigation in non-EU waters (for each year of the contract duration) must be proved by the exhibition of the contract, including financial leasing, charter, and other similar agreements, as well as by the production of paper or digital data of the official logbook or by a certified book attesting all the movements made, the relative hours of motion, proved by an hour counter device. At least one of the following evidence must be shown:

- data and information extracted from systems of satellite navigation or transponder
- digital photographs (made by any device) of the "vessel's position" for each week of navigation and detected with a frequency of at least two for each week of navigation;
- invoices, contracts, tax payments receipts proving the mooring of the yacht at ports located outside the European Union.
- invoices, contracts, tax payments receipts proving purchases of goods and/or services (relating to the use outside the European Union of the yacht), from sellers established outside of the European Union.

		RENTAL CONTRACTS		
		Short term contracts vessels equipped with satellite navigation systems	Short term contracts vessels not equipped with Satellite navigation systems	Long term contracts
EVIDENCES REQUIRED	Contratcts documentation		YES	YES
	Logbook data or certified book attesting all the movements made, the relative hours of motion, proved by an hour counter			YES
	Satellite navigation data	YES		YES
	Logbook data		YES	
	Digital photographs (made by any device) of the "vessel's position" for each week of navigation and		YES	YES

	detected with a frequency of at least two for each week of sailing			
	papers attesting any berth stay in non-EU ports (e.g. berth invoices, berth contracts agreements, arrival/departure formalities, and so on).		YES	YES
	papers (invoices, contracts, tax payments receipts) attesting any purchase of goods and/or services in non-EU shops or businesses.		YES	YES
			at least two proofs are necessary	at least one proof is necessary

As a consequence of the new rules, the VAT TAXABLE BASE will be subject to a pro-rata reduction based on the cruising outside the European territorial waters (international waters), according to the real time miles spent at “high sea” (international waters).

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