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VAT Treatment of EU Passenger Transport Services

European Shipowners | ECSA Position

Main recommendations

- **ES|ECSA considers that the current VAT rules on passenger transport services are appropriate and do not create significant distortions of competition** but rather deliver a competitive business environment for EU shipping companies. **Therefore, ES|ECSA calls for retaining the current rules and *de facto* zero-rate VAT for intra-EU and international passenger transport services.** Maintaining the zero-rate VAT should preserve the right to deduct or obtain refunds of VAT on business expenditure.
- Whereas the European Commission is looking at several alternatives to the current rule regarding the place of supply (i.e. the place of departure, the place of arrival or a split), **ES|ECSA advocates to retain the current place of supply, involving taxation where the transport service takes place, in proportion to the distances covered.**
- **ES|ECSA would like to highlight that the current VAT system imposes only minor administrative burdens for both companies and national administrations**. Would this system be abolished and in the absence of harmonised VAT rates between Member States, ES|ECSA believes that the cost of calculating and collecting the taxes would be disproportionate to the tax collected.
- Whilst the exact economic impact is difficult to quantify, changing the current zero rate of VAT for maritime passenger transport would have adverse effects, particularly for **ferry services that provide essential connections for islands and remote regions.**
- Maritime transport in Outermost Regions and Public Service Operators provides essential territorial continuity and access to goods and mobility. **Any restriction of the current VAT exemptions would have a disproportionate structural impact, jeopardising lifeline services and regional cohesion.**

About ES|ECSA

European Shipowners | ECSA represents 21 national shipowners' associations based in the EU and Norway. European shipowners control 34.5 % of the global commercial fleet, contribute 148.7 billion euros per year to the EU GDP and provide 1.7 million people with careers both on board and ashore. ES|ECSA strives for a regulatory environment that fosters the international competitiveness of European shipping, to the benefit of the EU.

The current VAT regime for sea transport does not distort competition

ES|ECSA would like to highlight that the current VAT rules on passenger transport services are appropriate and deliver a competitive business environment for EU shipping companies. The current rules do not create significant distortion of competition, something which was acknowledged in the **Final Report of the Study on the economic effects of the current VAT rules**

for passenger transport, commissioned by the European Commission.[1] The report provided an update on the structure of the passenger transport industry as it relates to VAT, an assessment of the distortions arising from the current VAT rules and regulations, and an evaluation of potential changes that might be considered to address those distortions. **The report asserts that the distortions are generally small or medium in size.**

The study attributes the limited scale of output distortions partly to low demand elasticities. For input distortions, it highlights operators' ability to recover input VAT, with the principal cost arising from financing VAT between payment and reimbursement.

The conclusion highlights that no major distortion of competition is caused by the current VAT rules for passenger transport. Therefore, **ES|ECSA believes that the current rules on passenger transport services are appropriate and do not require any changes.**

Furthermore, the current VAT regime does not create a distortion of competition between the various transport modes. Similarly, no significant distortion of competition is observed in transport between EU and non-EU countries. This is because EU Member States currently apply a zero-rate VAT to intra-EU and international passenger transportation by sea and air. Moreover, zero-rating and VAT exemptions are also widely applied to intra-EU and international passenger transport by rail and road, although the treatment varies between Member States.

ES|ECSA highlights that in the overall assessment of potential distortion of competition between the various modes of transport, it is also important to consider other factors.[2] The current VAT system has no advantages or disadvantages for sea transport when compared to other modes of transport. On the contrary, **the application of VAT to passenger transport would trigger distortions of competition, not only between the modes of transport but also between Member States**, because of the absence of harmonised VAT rates in the EU.

Place of supply and VAT rates

ES|ECSA considers that the current VAT treatment provides a practical and efficient solution for maritime passenger transport operators and their passengers. It also provides symmetry and fairness in accordance with the European Commission's own stated objective of ensuring a neutral influence of VAT rates on the place of supply.

The current place of supply rule is where the transport service takes place, proportionate to distances covered. If a Member State chooses to tax passenger transport, it can do so to the extent that transport takes place on its territory. **For passenger transport, this rule observes the principle of taxing at the place of consumption, i.e. consistent with the destination principle[3]**. This is a key underlying principle within the EU VAT framework and is consistent with OECD guidelines and international conventions (incl. UNCLOS) – serving to avoid disputes over taxing jurisdiction arising from conflicting rules**.**

[1] Study on the Economic Effects of Current VAT Rules for Passenger Transport, Final Report, Volume 1, 2015, pp.13-14.

[2] Such as the differences in VAT rates applied in e.g., the hotel sector between one country and another which are not seen as creating a distortion of competition.

[3] Meaning where the service is actually used

According to available information, the European Commission is looking at alternative options to the current system – i.e. taxing at the place of departure, at the place of arrival or splitting the place of supply equally between the Member States included in any given journey. For domestic transport taking place entirely within a single Member State, the allocation of taxing rights would generally remain unchanged under these options. However, for intra-EU and international passenger transport, particularly journeys taking place partly outside EU territory, these options could raise practical and legal questions requiring careful assessment.

ES|ECSA therefore supports retaining the current place-of-supply rules for maritime passenger transport. **Applying positive VAT rates to passenger fares under the current place-of-supply rule would create considerable practical difficulties** for operators whose voyages pass through the taxing jurisdictions of several Member States.

Changing the zero-rate VAT rules would have adverse economic and social effects

A review of EU VAT rules, including any broadening of the tax base through changes to exemptions or zero-rating arrangements, should consider the wider economic and social consequences alongside fiscal and technical considerations. Whilst the precise economic impact is difficult to quantify, applying positive VAT rates to maritime passenger transport would have adverse economic and social effects, particularly for ferry services, and increase administrative burdens for operators.

Any change in policy should take account of the cumulative costs of environmental compliance and digitalisation, the need for fleet renewal, seasonality, connectivity needs, high operating costs and substantial fixed costs. Any reform should support affordable year-round connections, the green transition and the shift from road freight to waterborne transport, including through ro-pax ferry services, in line with the direction set by the 2011 White Paper.

The public value of ferries

ES|ECSA highlights the essential role of maritime transport, including public service connections, in ensuring territorial continuity, access to goods and mobility. This role is particularly important in the outermost regions, whose specific constraints are recognised in Article 349 TFEU. Ferry services serve the public interest by supporting the EU's economic, social and territorial cohesion and enabling the free movement of citizens. The public value of ferry services should be recognized for all islands and regions depending on maritime connections. Reliable and affordable maritime connections are therefore essential throughout the year, ensuring territorial continuity, the supply of goods, passenger and vehicle transport, and access to healthcare, education and employment.

Restricting the current VAT exemptions could have a disproportionate impact on lifeline services and regional cohesion. **These services should therefore retain their current VAT treatment, including the right to deduct input VAT.** Imposing positive VAT rates on maritime passenger transport could put pressure on ferry operators' profitability. Operators could face a choice between absorbing some of the additional cost and increasing fares, potentially reducing demand. This could undermine their ability to maintain quality services at competitive prices. Operators could consequently discontinue unprofitable routes, reduce port calls or lower sailing frequencies. This problem would be more acute on routes to remote regions which are often very seasonal and

where ferries have an important impact on the local economy. Additionally, this would lead to the detriment of the quality of the ferry service as well as of the flexibility for customers.

Article 148 of the VAT Directive

The exemptions under Article 148 for the specified supplies and services to qualifying vessels providing passenger transport are distinct from the taxation of tickets.[4] ES|ECSA would like to emphasise that Article 148 of the VAT Directive is an administrative exemption (with no overall loss of revenue for EU Member States) designed to recognise that the supplies covered are removed from the EU. In addition, Article 148 is an exemption that is echoed within national rules around the globe, to the benefit of EU shipping companies operating outside the EU. Removing it would create not only an increase in the number of refunds and a high administrative burden for companies and national authorities, but also possible retaliation by non-EU countries. **ES|ECSA calls for more consistent application of the Article 148 exemptions across Member States.** Above all, simple procedures and timely VAT refunds are necessary for liquidity and investment.

Conclusion

For the reasons set out above, ES|ECSA has strong reservations about changing the current VAT place-of-supply rules for intra-EU passenger transport. If such changes led to positive VAT rates being applied to maritime passenger transport, the differences in rates across Member States could increase administrative burdens, have adverse economic consequences and **distort competition both between Member States and between modes of transport**. They could also put intra-EU maritime passenger transport at a disadvantage if comparable services between the EU and third countries continued to bear no VAT.

Any proposed reform should be preceded by a thorough assessment of its impact on maritime transport, citizens and remote regions, with particular attention to routes between Member States.

In the interests of the shipping industry and the wider European economy and society, ES|ECSA calls on the EU to retain the current place-of-supply rules and the existing VAT treatment of intra-EU and international maritime passenger transport.

Douwe van der Meulen
Senior Policy Advisor Social and Legal Affairs
European Shipowners | ECSA
Email address: douwe.vandermeulen@ecsa.eu
Phone number: +32472030190

[4] Under Article 269(2)(c) and (3) of the Union Customs Code, Union goods supplied to ships under a VAT or excise duty exemption are outside the standard export procedure, regardless of the vessel's destination. Proof of supply is required, and export declaration formalities still apply.