



# ECSA

European Community Shipowners' Associations

## REVIEW OF THE VAT TREATMENT OF INTRA-EU PASSENGER TRANSPORT SERVICES

### ECSA POSITION

#### Introduction and summary

The European Community Shipowners' Associations (ECSA) is the European association representing the interests of the national shipowners' associations of the European Union and Norway. European shipowners control 40 % of the global merchant fleet and are active in goods and passenger transport in all shipping trades, including between EU Member States.

The ECSA member-associations have European ferry and cruise companies amongst their member-companies and hence ECSA has a keen interest in monitoring the EU's plans on EU VAT rules for sea transport, as you will have noted from ECSA's various submissions in the context of the Commission's Green Paper and the consultant's questionnaire of October 2013.

ECSA understands that the EU is moving forward with its EU VAT agenda and would like to take this opportunity to remind you of the association's key points and concerns in this respect:

- ECSA strongly underlines the need to preserve the current zero-rating for intra EU passenger transport fares. Whilst it is very difficult to quantify the exact economic impact of changing VAT rules, it is obvious that a modification of the current zero-rated VAT as regards sea passenger transport will have adverse impact and unintended consequences, especially for ferries, and it will also increase the administrative burdens for shipping companies.
- ECSA disagrees with the Commission's finding that the current taxation regime for intra-EU passenger transport would create problems in terms of tax neutrality and distortion of competition. On the contrary, ECSA fears that it will be an application of VAT to passenger transport that will result in a distortion 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.
- ECSA wishes to stress that the current VAT treatment of intra EU passenger transport was introduced on the understanding that it would be reviewed only and just when an agreement could be reached on rules and rates harmonization.
- ECSA believes that in absence of simple rules and harmonized rates, the cost of calculating and collecting the taxes would be disproportionate to the tax collected. Furthermore, ECSA is aware of the current debate on moving from an origin-based principle to a destination-based principle. The disproportionate element would be even bigger in a destination-based system (e.g. a ferry does not invoice individual/people but vehicles and under a destination-based principle, it would be very different to correctly apply VAT).
- ECSA would like to draw attention to the fact that ferries have a strong public interest and play an important role in ensuring the economic, social and territorial cohesion of the EU as well as the free movement of citizens. This specific situation – in ECSA's opinion – fully justifies the current VAT arrangements.
- Finally, ECSA believes that in the current debate on fairness of taxes, the current situation for sea passenger transport is fair, notably because ship operators pass the saving on to their customers (this can be demonstrated) but also - as mentioned before - it contributes to the remote regions

of Europe. Furthermore, it helps in taking traffic off the road (which is a key objective of the EU's transport policy).

### **1. The current taxation regime for sea transport does not distort competition**

As said above, ECSA strongly disagrees with the Commission's finding that the current VAT regime creates a distortion of competition between the various transport modes or between intra-EU and international transport (i.e. transport between the EU and non-EU countries). This is because all Member States currently apply a zero-rate VAT to intra-EU and international passenger transportation by sea and air, as indicated in the latest list of VAT rates applied in the EU (vide Taxud.c.1 (2013)2823545 – EN). Moreover the vast majority of Member States also apply a zero rate to intra-EU and international passenger transport by rail or road.

The following example of a voyage between France and the UK illustrates the current situation:

- **Sea transport** – A ferry trip from/to the UK to/from the continent is zero rated.
- **Air transport** – Air fares from/to the UK to/from the continent are zero rated.
- **Rail transport** – Eurostar and Eurotunnel tickets from/to the UK to/from the continent are zero rated.
- **Road transport** – A coach trip to/from the UK to/from the continent is zero rated and will benefit from the ferry zero rating the fares.

It therefore follows that economic distortions between different modes of transport in the passenger transport sector are largely theoretical or minor at most. Moreover, the different modes of transport are hardly substitutable, if only because passengers can board a ferry with their car and then pursue their journey. Consequently, it may be argued that they constitute different markets for the most part.

ECSA underlines that in the overall assessment of whether there would be any distortion of competition between the various modes of transport, it is also important to take into account other factors as well, such as the uneven distribution of State subsidies and grants that provide benefits to the rail sector in particular, or the differences in VAT rates applied for example in the hotel sector between one country and another which are not seen as creating a distortion of competition.

**ECSA firmly believes that the current VAT system has no advantages or disadvantages for sea transport when compared to other modes of transport and hence disagrees with the view that there would be a distortion of competition amongst modes of transport. On the contrary, ECSA believes that it is the application of VAT to passenger transport that will result in 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.**

### **2. There is currently no VAT harmonisation amongst Member States**

ECSA is of the opinion that the current system of zero-rated VAT offers a smooth, efficient and satisfactory solution, both to industry operators and to passengers / transport users. It also provides symmetry and fairness in accordance with the Commission's own stated objective of ensuring a neutral influence of VAT rates on the place of supply.

The present '*where the transport takes place proportionate to distances covered*' place of supply rule for passenger transport is, of course, the only one which totally observes the principle of taxing at the place of consumption.

However, there is no doubt that if fares were exposed to positive VAT rates under this rule it would cause considerable practical difficulties for those multilateral transport operators who enter the taxing jurisdiction of several Member States during the course of a single voyage.

**Nevertheless, ECSA believes that, with the plethora of VAT rates currently used in the EU, changing the place and way of taxation by the introduction of single reference point and new rates would actually give rise to competitive distortions between different modes of transport (sea versus air), as well as create additional burdens and complexity.**

In addressing the different policy options for the future VAT treatment of passenger transport at Section 3.8 of the Staff Working Document which accompanied their Green Paper on the future of VAT the Commission stated;

*“Experience has shown that unless the place of taxation, the rates and the exemptions are addressed as a whole, little progress is likely. A piecemeal approach that would not ensure equal treatment of the different types of passenger transport, or of the operators providing it, offers no satisfactory solution”.*

They went on to say in the third paragraph of Section 3.8.1;

*“It is difficult to imagine a review of the exemptions without also looking at the rules governing the place of taxation of transport services and the rates that may be applied. To identify solutions that are not only workable but also acceptable may be a challenge”.*

**ECSA fully endorses these statements and firmly believes that unless and until full harmonization on VAT rates is achieved any changes to the present treatment of passenger transport could cause serious damage to the transport infrastructures of Europe to the detriment of the proper functioning of the single market.**

### **3. Changing the current zero-rated VAT rules will have adverse economic and social effects**

ECSA is of the view that a reflection on the future of EU VAT in general and a broadening of the tax base by modifying current exemptions / zero-rating arrangements is not just a technical, fiscal exercise. This exercise should also be duly assessed in a broader context, taking into account its economic and social impacts.

Whilst it is very difficult to quantify the exact economic impact of changing VAT rules, it is obvious that a modification of the current zero-rated VAT as regards sea passenger transport will have adverse impact and unintended consequences, especially for ferries, and it will also increase the administrative burdens for shipping companies. The impact can be summarised as follows:

- ***Imposing VAT on sea passenger transport will have a strong impact on the profitability of ferry companies.*** It will result in price increases, which will dampen demand, and hence entail a loss of revenue. This situation will undermine the ability of ferry operators to maintain quality services at competitive prices. Furthermore, there is also a serious risk that many ferry operators will close unprofitable routes, stop calls at some ports, and/or reduce frequencies of sailings. This problem will be more acute on routes to remote regions which are often very seasonal and where ferries have an important impact on the local economy. This result will be to the detriment of the quality of the ferry service as well as of the flexibility for customers.

- ***Imposing VAT on sea passenger transport will lead to a system of disproportionate administrative burdens as a result of the different requirements and VAT rates that are applied in EU Member States to goods and services.*** In this respect, reference is made to the example mentioned in paragraph 1 above of a ferry sailing between the UK and France. Of course the administrative burdens will be even more significant in case the ferry calls at ports in more than two Member States.
- ***Imposing VAT on sea passenger transport will present ferry companies with major compliance challenges.*** These challenges will come in addition to an already wide range of severe regulatory challenges, and this at a time of economic difficulties. Such situation would also undermine the ability of ferry operators to maintain quality services at competitive prices, particularly on certain routes.
- Finally, it should not be overlooked that the ferry industry is currently already suffering from a huge competitive disadvantage compared to other transport sectors, e.g. due to environmental legislation.

#### **4. The public interest of ferry transportation**

ECSA would like to draw attention to the fact that ferries have a strong public interest and play an important role in ensuring the economic, social and territorial cohesion of the EU as well as the free movement of citizens. This specific situation – in ECSA's opinion – fully justifies the current VAT arrangements. Furthermore, the input exemption of some supplies to transport providers remains justified in view of the high investment required and the high level of safety and security required from European operators.

#### **Conclusion**

ECSA has strong reservations about the need to change the current zero-rated VAT for sea passenger transport for the various reasons explained above. Moreover, ECSA firmly believes that exposing sea transport to positive VAT rates under the plethora of VAT rates currently applied by the Member States will result in a distortion of competition, both between Member States and amongst the various modes of transport. Furthermore, a change from the current zero-rated VAT will hit the ferry sector very hard and will have adverse effects on the quality of the ferry services as well as on the public interest nature of ferry services. It will also increase the administrative burdens for ferry companies significantly.

**Instead of changing the VAT rules for transport modes in general and sea passenger transport in particular, ECSA calls upon the European Union to maintain the status quo of zero-rated VAT for passenger transport services, in the interest of the ferry industry and the wider European society and economy.**

In annex you will find information from a study carried out by Ernst & Young, which supports the above-mentioned ECSA findings.

We remain at your disposal to explain / clarify our position.

For more information, please contact:

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