

ITALIAN TONNAGE TAX REGIME EXTENDED TO EU AND EEA VESSELS

23 JANUARY 2024 • ARTICLE



With two decrees published in the Official Gazette No. 303 dated 30 December 2023, the Italian Ministry of Infrastructure and Transport (MIT) implemented the final provisions of EU Pilot Case 7060/14/TAXU and extended the tax benefits of the optional tonnage tax regime which has so far been reserved for ships registered in the International Register under DL 457/97.

"With two decrees, the Italian Ministry of Infrastructure and Transport (MIT) extended the tax benefits of the optional tonnage tax regime."

Specifically, the first decree (Ministerial Decree No. 299 dated 21 November 2023) provides that, as of the fiscal year in progress on the date of the decree's entry into force (i.e., 14 January 2024), the tonnage tax regime will apply to resident and non-resident entities with permanent establishments in Italy that use vessels exclusively for international commercial traffic which are registered in the registries of EU and EEA countries. In particular, such provisions are intended to facilitate the establishment in Italy of entities active in international maritime traffic using vessels registered in the ship registry of their respective EU/EEA countries. In particular, such provisions are intended to facilitate the establishment in Italy of entities active in international maritime traffic using vessels registered in the ship registry of their

respective EU/EEA countries.

For this extension to operate, the decree requires compliance with the provisions of Art. 1 par. 5 and 3 of DL 457/97, Art. 317 of RD 327/42 and Art. 426 of Presidential Decree No. 328/52.

Entities meeting these requirements must apply to MIT for the registration of vessels in the list referred to in Art. 6-ter par. 2 of DL 457/97 kept at the ministry.

The local maritime authorities will verify compliance with the requirements and the actual exercise of the authorised activities, including through checks carried out upon the arrival and departure of ships. Failure to meet the requirements will result in removal from the MIT list and inability to take advantage of the tax benefits.

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With the second decree (Ministerial Decree No. 302 dated 22 November 2023), the MIT identifies, pursuant to Art. 6-quinquies, par. 3, of Decree Law No. 457 of December 30, 1997, a list of activities ancillary to maritime transport to which the tonnage tax regime can also be applied. The regime will only apply provided that the related revenues do not exceed 50% of the total revenues generated by the use of the ship and subject to separate accounting entry. Specifically, this list covers the following activities:

- the sale of goods and provision of services on board such as cinema, spa, hairdressing, gambling and other entertainment services, as well as the brokerage for the provision of local excursions and the rental of billboards on board;
- subcontracting or franchising contracts or in general contractual relationships with third parties for the operation of eligible activities;
- commercial management operations, such as the booking of cargo capacity and passenger tickets;
- administrative services and insurance services related to freight and passenger services, connected with the provision of transportation;
- passenger embarkation and disembarkation;
- loading and unloading of goods, including the handling and movement of containers within the port area;
- the grouping or partitioning of goods before or after transport by sea;
- the supply and provision of containers; and
- land transport immediately preceding or following sea transport.

In addition, the decree also regulates contracts for ground services (e.g., local excursions or partial road transportation included in the service package) between related parties, stipulating that these shall take place at market price.

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