

SUPER YACHT

INTERNATIONAL

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CHARTER

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LATEST RULES TO REFUELING

New clarifications from Italian Customs regarding concessions on the purchase of fuel and lubricating oils

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WITH CIRCULAR NO. 26/D of 1 October 2025, the Italian Customs Agency (ADM) returned to dealing with the concessions provided for by Ministerial Decree No. 225/2015 on the purchase of fuel and lubricating oils for refueling vessels operating in EU and inland waters.

The concession applies mainly to energy products used as fuel for maritime navigation in the context of passenger and freight transport, as well as for fishing activities. As regards navigation in inland waters, the benefit is limited to fishing, freight transport and dredging activities in waterways and ports.

With the new practice document, the Administration intended to provide important clarifications on the operating procedures for granting the concession to entities that use a vessel exclusively for the provision of services for remuneration other than the regular transport of passengers and goods.

In the case of "passenger transport", the excise duty exemption is reserved only for persons in possession of specific authorizations or licenses, issued following verification of access requirements that differ depending on whether the transport can be considered regular or not.

According to the definition contained in Circular No. 5 D of 15 March 2016, "regular transport" means "a series of organized connections with systematic characteristics on predetermined commercial routes" and therefore consists of a transport service,



including connections between two or more locations, carried out continuously and systematically, with predetermined itineraries, timetables and fares. This service is also offered to the public without distinction and in all circumstances, except in cases of force majeure. Furthermore, it is also characterized by the need for coordination with the local public transport plan in consultation with the competent local authorities.

Outside the scope of regular passenger transport, the concession is also granted to persons who intend to use a vessel exclusively, for a limited period of time, for the purpose of providing third parties with a transport service that does not qualify as regular passenger transport, but only on condition that they obtain the identification code



provided for in Article 6 bis of Ministerial Decree No. 225 of 2015. With regard to the procedure for obtaining this identification code, the Italian Customs (ADM) have already provided guidance in Circular No. 11 of 2024, which also clarified the operating procedures for taking advantage of the relief with different procedures depending on whether the use of the vessel lasts more or less than fifteen days.

The requirement to obtain this authorization is intended to enable the competent authority to conduct a rigorous assessment of the actual commercial use of the vessel, in order to verify that it meets the navigation characteristics required by Article 6a and also by the principles expressed by the Court of Justice of the European Union in its judgment of 16 September 2021 in case C-341/2020. The principles expressed by the Court of Justice are the most interesting element in the field of recreational yachting, considering that with this ruling, the EU judges established that the exemption from excise duty for fuel used in navigation is inextricably linked to the actual commercial nature of the activity carried out with the use of the vessel. In this regard, the judges clarified that 'the chartering of a vessel with fuel, or its leasing, as a commercial activity of the charterer or lessor, cannot be considered to give rise to the tax exemption provided for in that provision [i.e. Article 14(1) (c) of Directive 2003/96/EC] regardless of how that vessel is used by the lessee or charterer'.

This means that, in the opinion of the EU judges, the essential prerequisite for recognition of exemption from excise duty is the actual use of such a unit in a commercial activity by the end user, who, in the case of a unit operated under a lease or hire agreement, is respectively the lessee or the hirer charterer.

In this regard, the Court of Justice has observed that 'the charterer remains contractually the owner of the chartered vessel, so that it is the nature of the latter's use that determines whether the benefit of the excise duty exemption is granted'.

This is regardless of the 'circumstance that the charter may involve, in addition to the provision of the vessel itself, the provision of a crew, and that the charterer may (...) retain control over the technical and nautical operation of the vessel'.

Moreover, the issue had already been addressed by the Italian Customs (ADM) in Circular No. 11 of 2024, which clarified that, in line with the aforementioned case law, the essential element for the granting of the benefit is that, regardless of the title under which the vessel is operated, the end user of the vessel uses it to provide services for consideration that take the form of a specific activity covered by the corporate purpose of their company.

With this previous practice document, the Italian Customs, again based on the principles developed by case law, dealt with the specific case in which the vessel with which the charterer, in addition to navigation services, provides additional and different services 'comparable to those offered to passengers on a cruise ship, and from which the contractor benefits as a person being transported without having control over the use of the vessel'. In this case, in the opinion of the Administration, it would be possible for the charterer to benefit from the concession, as the vessel can be considered as being used for commercial purposes directly and exclusively by the latter.

Today, with the circular in question, Customs has returned to the subject to reaffirm that, in order to qualify for tax relief, 'the end use of the vessel must be directly instrumental to the provision of services for which remuneration is received'.

Considering that current rental contracts commonly used in the sector do not typically include pre-established itineraries and ancillary services that would make them comparable to a cruise activity, the new ADM circular no. 26/2025 confirms that excise duty exemption for the purchase of fuel and lubricating oils cannot be granted in the case of yachts solely on the grounds that they are used for leasing or chartering activities. **SY**