

TVA Monaco

Février 2020



New VAT provisions in the yachting sector - Disappearance of the 50% reduction -

An official bulletin of the French Administration (27/01/2020) has just amended certain VAT rules applicable to the yachting sector, which will enter into force from 30 March 2020.

The European Commission has recently questioned certain national tax provisions affecting the VAT arrangements for the leasing of recreational craft. Five countries are involved to varying degrees: Cyprus, Greece, Italy, Malta, France and by extension the Principality of Monaco.

1. General Principle

The hire of a boat for the purpose of pleasure travel, to a person, whether liable or not, shall be taxable in France or Monaco, provided that the boat has actually been made available to that person in France or Monaco.

Whatever the duration of the contract, the rents are then in principle fully taxable in France.

2. Proration of VAT

By way of derogation, and in order to avoid any risk of double taxation or distortion of competition, with regard to article 259 A, 1° and 1° bis of the French CGI/ article 12 of the Monegasque Tax Code, it is specified that the rental of a means of transport used partly in France or Monaco (and, if the lessor uses the asset in another Member State of the EC (if applicable, in another Member State of the EC) and partly outside the EC, the lessor is taxable only on that part of the rental price which corresponds to the use of the asset in the EC, provided that the lessor provides proof of such use.

a. Before March 30, 2020

In the event of difficulties, the lessors of pleasure craft may determine on a flat-rate basis the time spent outside Community or French territorial waters by applying a 50% reduction to the total rental time, regardless of the category of the vessel (Inst. 3 A-1-05), it being specified that, when the vessel has its deed of francization, this reduction may be used by the lessor without it being necessary for it to provide proof of the use of the leased property outside territorial waters (Rép. Giran: AN 1-6-2004 p. 4028 No. 15895; Rep. Giran: AN 19-4-2005 p. 4067 n° 59015).

b. From 30 March 2020

The share of the rentals corresponding to the proportion of the duration of use or actual operation of the vessel outside French/Monegasque territorial waters or another Member State of the European Union will always benefit from the VAT exemption.

However, this proportion will be assessed by the taxpayer under his responsibility and subject to the administration's right of control (Article 59a(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax). And this assessment will have to be corroborated by any means of evidence.

- ✓ In the case of ships fitted with an automatic identification system complying with the technical and performance standards laid down in Chapter V of the 1974 International Convention for the Safety of Life at Sea (SOLAS), the data recorded by that system shall be presumed to be conclusive and may be questioned by the Administration only in the event of fraud involving that system.
- ✓ For ships which are not equipped with such an automatic identification system :
 - for vessels of strictly less than 15 meters in length overall, the assessment may be based on the terms of the rental contract or on the data recorded in the logbook if proof is provided that the vessel has left French territorial waters or the territorial waters of another Member State of the European Union ;
 - for vessels with an overall length of 15 meters or more, the assessment shall be carried out on the basis of any technical data making it possible to establish the actual time spent outside the territorial waters of France or another Member State of the European Union.

These provisions shall apply to ship rental and chartering contracts concluded as from 30 March 2020.



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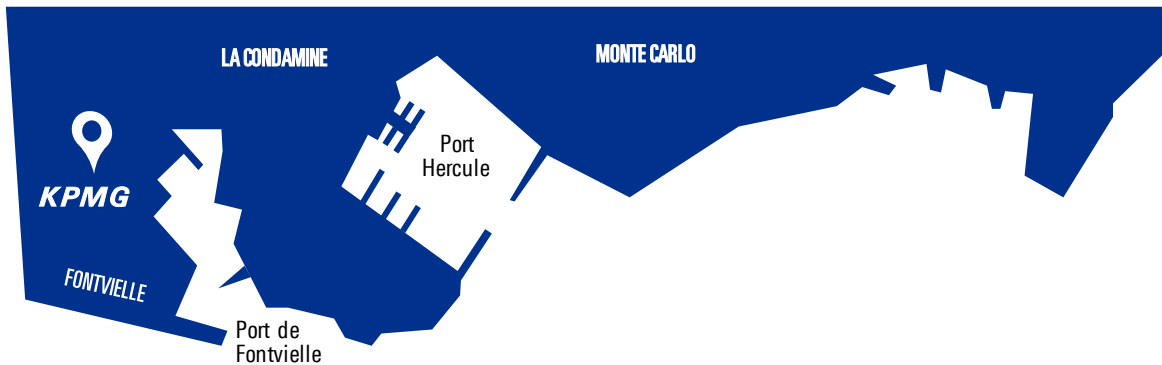
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