

## Reform of the International Register of Ships: approbation of implementation decrees

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The reform of D. L. No. 457/1997 containing the regulation of the International Register of Ships, approved by D.L. No. 144/2022 converted by Law No. 175/2022, provides for the extension of the tax and contribution benefits provided by D. L. 457/97, also to *"resident and non-resident shipping companies having permanent establishment in the territory of the State pursuant to Article 162 of Presidential Decree No. 917/1986, which use ships registered in the registers of the States of the European Union or the European Economic Area or ships flying the flag of States of the European Union or the European Economic Area exclusively for international commercial trade in relation to maritime transport or assimilated activities"*, by means of annotation, at the request of the shipping companies and subject to the issuance of authorization, in a special list kept by the Ministry.

The reform legislation deferred the actual entry into force of its regulations to the issuance of specific implementing ministerial decrees.

With three ministerial decrees published in the Official Gazette No. 303 of 30 December 2023, the Ministry of Infrastructure and

Transport, in consultation with the Ministry of Economy and Finance or on its own, enacted the provisions relating to the applicable tax regime, those relating to the requirements to be met in order to obtain authorization to register ships in the registry, and those relating to the activities "assimilated" to those of maritime transport that can also benefit from such tax and contribution reliefs.

The first of the implementing decrees, i.e. the decree issued in agreement between the ministries on 21 November 2023 *"EU Pilot No. (2022) 10164 - Tax concessions for ships registered in the registries of the states of the European Union or the European Economic Area"*, identifies the tax reliefs granted to authorized entities which are, in addition to the tax reliefs mentioned in Art. 4 of DL no. 457/1997 (i.e. regarding the allocation of the tax credit corresponding to the Irpef due on the wages paid to the embarked personnel and the 80% reduction of the income deriving from the use of the aforementioned vessels) already fully regulated by Art. 6 ter of Decree-Law No. 457/1997, relating to the determination of taxable income under art. 155 of the TUIR and of the value of production under art. 12 paragraph 3 of Legislative

Decree No. 446/1997 instituting IRAP.

The decree provides that companies wishing to benefit from tax and contribution reliefs must comply with the following requirements: i) the ships used by these companies must not carry out maritime cabotage services between Italian ports (subject to the exceptions provided for in Art. 1, paragraph 5 of Decree-Law no. 457 for cargo ships and ro-ro and ro-ro and pax ships); ii) compliance with the rules on the law regulating the employment agreement of Community and non-Community seafarers, as per Art. 3 of D. L. n. 457; iii) compliance with the provisions of the Code of Navigation concerning the minimum crew composition and manning tables.

The person who intends to obtain the vessel's listing in the International Registry has to submit a special request, accompanied by documentation proving that the above requirements are met. The continuing satisfaction of the requirements and the operation of the authorized activities are verified by the local maritime authorities upon the arrival and departure of ships.

With the second implementing decree dated 21 November 2023, the Ministry of Infrastructure and Transport established the list for the annotation of ships registered in the registries of the states of the European Union or the European Economic Area or ships flying the flag of states of the European Union or the European Economic Area exclusively engaged in international commercial trade in connection with maritime transport activities or assimilated activities authorized by the regulations (such as: ships providing assistance to offshore platforms, support ships such as ships providing deep-sea towing services, fire-fighting and anti-pollution service, cable-laying ships, scientific and seismological research ships, dredgers, service vessels providing other forms of assistance or rescue services at sea operating in regulatory

frameworks in the European Union similar to that of European Union shipping in terms of labour protection, technical requirements and safety and operating in the global market) and issued the application form to be used by the shipowner or the operator of the vessel to apply for annotation authorization.

Finally, Interministerial Decree of 22 November 2023 identifies the ancillary activities arising from maritime transport activities as well as the terms of acquisition of land-based services by a company, whose revenues are in both cases eligible to the benefits provided by the regulations.

Indeed, Article 4 paragraph 2 of the amended D. L. No. 457 provides that *"revenues from the use of vessels registered in the International Registry contribute in an amount equal to 20 percent to form the total income subject to personal income tax and corporate income tax"*, and the reform, in Article 6 quinquies, extended this benefit also to revenues derived from: *"a) the main income resulting from maritime transport activities..... (b) from the performance of activities assimilated to those of maritime transport referred to in Article 1, paragraph 1, and (c) from the performance of ancillary activities resulting from maritime transport activities, provided that in each financial year the relevant accrued income does not exceed 50 percent of the total eligible income resulting from the use of the ship, in which case the regime referred to in this paragraph does not apply to the portion exceeding 50 percent"*, providing that a ministerial decree shall identify the *"ancillary activities resulting from maritime transport"*.

Ancillary activities that will be eligible for relief are:

(a) the sale of goods (with the express exclusion of the sale of luxury goods and the sale of goods or services not consumed on board the ship) and the 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;

(b) subcontracting or franchising contracts or, in general, contractual relationships with third parties for the operation of eligible activities;

(c) commercial management operations, such as booking of cargo capacity and passenger tickets;

(d) administrative services and insurance services related to freight and passenger transportation services, connected with the provision of transportation;

(e) the embarkation and disembarkation of passengers;

(f) the loading and unloading of cargo, including the handling and moving of containers within the port area;

(g) the grouping or distribution of goods before or after transportation by sea;

(h) the supply and provision of containers;

(i) land transport immediately preceding or following sea transport.

Revenues from the performance of these ancillary activities (which must be evidenced by separate entries in accounting records) are eligible for relief limited to the portion that does not exceed 50 percent of the total eligible revenues from the use of the vessel.

Regarding the acquisition of so-called land-based services (excursions and passenger transport included in the tourist-cruise package), the decree specifies that such services must be purchased from unrelated companies that are subject to normal income taxation or, if purchased from companies belonging to the same group, said services must be purchased at market price.



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