

Excise tax on fuel and recreational boats used for commercial purposes

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In its recent ruling No. 31987 of 17 November 2023, the Tax Division of the Supreme Court ruled that, in the case of bunkering to a pleasure craft that is effectively used for commercial purposes, exemption from excise duty on fuel is subject to the sole condition of an objectively ascertainable and ascertained situation of a vessel departing at the time when the exemption is requested, without the need for the additional requirements of direct destination to a foreign port and departure within eight hours of bunkering to be met.

In this case, Trieste customs office challenged the export declaration submitted by the bunker supplier, considering that the rules of Article 254 T.U.L.D. were applicable insofar as a pleasure craft was involved. The Trieste Provincial Tax Commission rejected the supplier's appeal, but the Regional Commission overturned the first instance decision, holding that the commercial use of the yacht had been ascertained on the basis of the documentation provided. The customs office challenged the Regional Commission's ruling, and the matter thus came before the Court of Cassation.

To reach the above-mentioned conclusion about the applicability of the excise tax exemption, the Supreme Court recalled the case law of the European Court of Justice, according to which the commercial use of a recreational craft cannot be inferred simply from the existence of a lease or rental contract, but must be concretely ascertained.



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