

ITALIAN AEROTAXI PASSENGERS TAX

Explanatory note

1.1 The Italian aerotaxi passengers tax – Short description

The tax is due by each passenger and paid to the operator as follows:

- euro 10 for each passenger for each flight to, from or within the Italian territory of less than 100 km (targeted primarily at helicopter transportation services)
- euro 100 for each passenger for each flight to, from or within the Italian territory of more than 100 km but less than 1500 km
- euro 200 for each passenger for each flight to or from the Italian territory in excess of 1500 km

For calculation purposes, flight distance between point of departure and point of arrival (regardless of any technical stop-over) is calculated by reference to the great circle route plus 95 km.

The tax is expressed to be due on “aerotaxi flights”, defined in an implementing directive as passengers’ flights where the aircraft is chartered for its entire capacity. More coherently “aerotaxi flights”, also for the purposes of this tax, should be limited to aircraft having seating capacity non-exceeding 19 passengers.

1.2 Who pays the tax

The tax is due by each passenger to the operator, who is then obliged to pay it to the tax authorities once collected. The amount of the tax is not part of the operator services subject to VAT. The operator acts as a collecting agent.

1.3 When is the tax paid

Time of payment of the tax by the operator depends on the aircraft country of registration.

For EU registered aircraft and aircraft registered within the European Economic Area (EU member States plus Iceland, Liechtenstein and Norway) the tax is due at the end of each month by reference to the passengers/flights carried out in the previous month.

For aircraft registered in other countries the tax is payable, for each passenger/flight, prior to departure from the Italian territory or within the day following the date of arrival on the Italian territory.

The tax is payable since April 29th 2012 (date when law 44/2012 came into force).

1.4 How is the tax paid

The tax is paid via the F24 form, typically used in Italy for tax payment purposes, but requires an Italian tax code.

Non-Italian operators not having an Italian tax code (unless with an Italian permanent establishment), can pay the tax via euro bank transfers as follows:

Beneficiary: "Bilancio dello Stato al Capo 8 – Capitolo 1224"

IBAN IT48 A010 0003 2453 4800 8122 400

BIC: BITAITRRENT

Payment description: (i) operator name; (ii) number of passengers; (iii) flight type (A for flights of less than 1500 km, B for flights in excess of 1500 km); (iv) date of flight (day/month/year)

1.5. Tax assessment

If the operator does not pay the tax when it becomes due (see par. 1.3-1.4 above), a tax assessment and a subsequent request of payment are issued by the Italian authorities as follows:

- The operator is served with a notice of assessment (so called "*verbale di constatazione*", "**Notice of Assessment**") issued by the Tax Police having authority at the airport where the concerned flight operations took place. The Notice of Assessment should contain a clear indication of the flights and number of passengers, the amount of tax due and the amount of penalty (equal to 30% of the overdue amounts). The operator is given a 60 days period to raise comments on the Notice of Assessment;
- The Notice of Assessment is subsequently sent by the Tax Police to the competent Inland Revenues Authority which, in case of non-payment by the operator in the meantime, issues to the operator an order of payment (so called "*avviso di liquidazione*", "**Order of Payment**"). The Order of Payment is issued for an overall amount including: (i) the tax due on the basis of flights length and the number of passengers carried by the operator (see par. 1.1. above); (ii) the 30% penalty on the amounts overdue; and (iii) interest for late payment, accruing from when the tax becomes due (see par. 1.3 above) to the date the Order of Payment is served to the operator. The time barring for the competent Inland Revenues Authority to issue the Order of Payment is the 31st December of the fourth (4th) year following the year when the concerned flight operations took place.

1.6 Remedies and challenges

After having received a Notice of Assessment, the operator may elect to proceed with a voluntary payment of the overdue tax according to a procedure named "*ravvedimento*"

operoso". Under this procedure, depending on the overdue period, the penalty can be significantly reduced in percentage.

A voluntary payment is an available option also after having received an Order of Payment, but in this case the penalty reduction will be of a lower percentage.

If upon having received an Order of Payment an operator believes that the claimed tax is not entirely due or has not been calculated accurately, it could also apply for a tax settlement procedure ("*accertamento con adesione*") which involves a formal negotiation with the tax authorities.

Finally, if the operator wishes to challenge the grounds of the Order of Payment, this can be done before the competent local Tax Courts. The challenge can be filed within 60 days of receipt of the Order of Payment.

For further information please refer also to the following website of the Inland Revenue Agency <http://www.agenziaentrate.gov.it/wps/content/nsilib/nsi/contatta/assistenza+fiscale>

For any legal assistance, you can contact franco.campomori@campomori.com, l.pierallini@pierallini.it or f.grassetti@pierallini.it, who helped us in producing this explanatory note.