

# AVIATION AND MARITIME

NEW CARBON TAX ON AIR  
AND SEA TRAVEL

VdA EXPERTISE



July 2021

## Most relevant aspects of **Ordinance no. 38/2021, of February 16, which creates carbon taxes on air and maritime travels**

### Framework and incidence

#### Air transport

- Framework: A tax is created on tickets for commercial passenger air transport departing from airports and aerodromes located in Portuguese territory, pursuant to article 390 of Law 75-B/2020, of 31 December.
- Objective incidence: the tax is charged on all legal transactions which grant passengers a commercial air transport ticket to travel on board a fossil fuel-powered aircraft departing from an airport or aerodrome located in Portuguese territory, including on airline tickets, booking vacation packages or bonus flights awarded through a bonus system offered by an airline operator or any other type of offer or prize, including prizes obtained in the context of a game or competition.
- Subjective incidence: air passengers are subject to the tax which is charged by air carriers that market tickets for commercial flights departing from airports and aerodromes located in Portuguese territory. In the case of a flight marketed in a single legal transaction involving several stages operated by different air carriers, the tax is charged by the air carrier operating the departure from Portugal. If the flight on which the tax is charged is marketed by several air carriers, the tax is charged by the carrier actually operating the flight.

**Framework and incidence**

**Transport by Sea**

- **Framework:** a tax is created on passenger ships docking at terminals located in continental Portugal, as defined under the terms of Decree-Law no. 93/2020, of November 3.
- **Objective incidence:** the tax is charged on the docking of fossil-fueled passenger ships at terminals located in mainland Portugal for the fueling, repair, embarkation or disembarkation of passengers.
- **Subjective incidence:** The owners of passenger ships or their legal representatives are subject to the tax.

**Tax**

**Air transport**

- 2 (two) euros per passenger

**Transport by Sea**

- 2 (two) euros per passenger, in transit, disembarking or embarking

**Charge**

**Air transport**

- Reflected in the end price to be paid by the final acquirer

**Transport by Sea**

- Reflected in the end price to be paid by the final acquirer

**Most relevant aspects of [Ordinance no. 38/2021, of February 16](#), which creates carbon taxes on air and maritime travels****Air Transport**

- **Exemptions:** (i) children under 2 years of age; (ii) passengers who, for technical or meteorological reasons or similar contingency, are forced to land at an airport or aerodrome located in Portuguese territory; (iii) flights to destinations located in airports and aerodromes in the Autonomous Regions of Madeira and the Azores; (iv) flights to the national territory departing from the airports and aerodromes located in the Autonomous Regions of Madeira and the Azores; and (v) air transport services covered by public service obligations.

**Exemptions and reductions****Transport by Sea**

- **Exemptions:** (i) children under 2 years of age; (ii) passenger ships that enter the port exclusively for crew change or to disembark sick or deceased; (iii) passenger ships that come to port to disembark castaways, crew members or passengers in danger of life or who need to be rescued, not doing any other service operation; (iv) ro-ro passenger ships, as defined under [Decree-Law no. 93/2020, of November 3](#); (v) river transport of passengers; and (v) crew members of passenger ships.
- **Reductions:** Passenger ships making turnaround operations in national ports benefit from a 50% reduction in the value of the tax.

### Air Transport

- The tax is liquidated and charged to the air carriers at the time the ticket is issued.
- The delivery of the tax is made by air carriers to the National Civil Aviation Authority (ANAC), until the 20th day of the month following boarding of the passenger, based on a form to be provided by ANAC.

### Liquidation and charging

### Transport by Sea

- The tax is liquidated and charged immediately after the deliverance of the port use service. This service is preceded by a request to be made through standardized forms and electronic data transmission, being the responsibility of the requesters the payment of the respective tariffs.
  - The movement of passengers must be delivered to the port authority within 3 days after the stopover, under penalty of administrative offence proceedings and the port authority issuing the invoice with reference to the ship's capacity.
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## The special case of air carriers not established on Portuguese territory

- **Non-resident air carriers**, without a permanent establishment in national territory, which do business here subject to the carbon tax and which **have headquarters, permanent establishment or domicile in another Member State of the European Union** may proceed to appoint a representative with residence in national territory.
- **Non-resident air carriers**, without a permanent establishment in Portuguese territory, which do business here subject to this tax and **do not have headquarters, permanent establishment or domicile in another member state of the European Union** are obliged to appoint a representative resident in Portuguese territory.
- The representative must comply with all obligations arising from the application of this regime, and is liable for any fees that may be due for business conducted by the represented party, and air carriers not established on national territory are jointly liable with their representatives for payment of the fee.

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