

I. Tax rules regarding charters in French Overseas Territories

There are two separate sets of French Islands in the Caribbean, those who are part of the EU customs territory (A) and those who are not (B).

A. **French Islands that are a part of the EU customs territory**

a. Martinique and Guadeloupe

To charter a yacht to a third party, it is to be noted that there is a specific tax exemption regarding charters starting from Guadeloupe or Martinique.

Indeed, article 295 of the French tax code provides that short-term charters starting from these two islands are **tax exempted** if the yacht is over 24 meters and under 3000 gross tons. To be exempted, these charters must include a portion outside of Martinique or Guadeloupe, and also, they cannot be static.

In the case of a departure from Martinique or Guadeloupe for a yacht with a gross tonnage of more than 3000 or less than 24 meters, she will have to pay the VAT pro rata temporis (time spent in Martinique or Guadeloupean waters compared to the total duration of the charter). The applicable VAT will be the rate of **8.5%** on site.

b. Saint-Martin and French Guiana

Despite being a part of the EU customs territory, no local VAT is applicable.

B. **French Islands that are not part of the EU customs territory**

Except Guadeloupe, French Guyana, Martinique, and Saint-Martin, the other French overseas territories are not part of the EU customs territory and not part of the EU VAT territory.

These Islands being totally excluded from the EU regulations, there will be no liability incurred by the vessel for cruising and chartering in these areas.

As a reminder, the EU VAT territory includes Portugal, Spain, France (including Monaco), Ireland, Germany, Belgium, Luxembourg, Netherlands, Italy, Poland, Malta, Slovenia, Croatia, Greece, Slovakia, Austria, Sweden, Finland, Denmark, Estonia, Latvia, Lithuania, Hungary, Cyprus, Bulgaria, Czechia, and Romania.

II. Question about the 70% rule

The §20 of the BOI-TVA-CHAMP-30-30-10-20190109 states that: « *The percentage [the 70% criterion] above results from the ratio between, on the one hand, the number of trips during which the vessel leaves French territorial waters during the calendar year preceding the year of application of the VAT exemption and, on the other hand, the total number of trips carried out during the same period.* »

The notion of French territorial waters covers not only the French waters of Metropolitan France but also the French waters located overseas.

Article 55 of TITLE V (Provisions relating to the Overseas Territories) of Ordinance No. 2016-1687 of December 8, 2016, relating to maritime areas under the sovereignty or jurisdiction of the French Republic provides, in effect, that: *"The provisions of Title I of this Ordinance are applicable throughout the territory of the Republic."* Title I of the same ordinance defines French territorial waters.

Therefore, a trip made in the waters of a French overseas territory **will not be considered as an international trip** within the meaning of BOI-TVA-CHAMP-30-30-10-20190109.

For the calculation of the 70%, these trips are to be considered and constitute qualifying trips as soon as they include a part outside the French waters and/or within the waters of another country.

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