Appendix 1 – IATA Comments and Requested Clarification

Consultation Paper – Amendment of the Excise Duty Regulations – Air Passenger Tax

Based on the text of the Consultation Paper issued by Norwegian Customs and Excise, IATA presents below its specific comments and requested clarifications.

1. Section 1 – Introduction and Background

As noted in our cover letter, IATA opposes this highly inefficient form of taxation due to its negative economic impact, its insignificant environmental effects and the fact that it contradicts accepted taxation principles.

In terms of the significant impact of the aviation industry, Avinor AS estimates that of the total number of tourists that visit Norway, 34% arrive by air. Once in Norway, tourists spend an approximate NOK 14bn per year on goods and services.[1]

Aviation is also an enabling sector to the oil and gas industry in Norway, the most significant industry in terms of its contribution to total Norwegian GDP. In this respect, approximately 13% of all domestic flights are connected with the oil and gas sector.[2] Avinor further notes that due to the geography of Norway and the dispersion of its population, aviation is "of great importance to regional growth and accessibility to regional centres."[3]

Consequently, IATA requests that the Norwegian Government actively reconsiders the decision to implement the Air Passenger Tax, and launches an independent evaluation of the impact of this kind of taxation. Pending the completion and outcome of this evaluation, we ask that the Norwegian Government refrain from imposing such a tax and highly encourage the current measure to be postponed.

At a very minimum, IATA requests that the Air Passenger Tax be time limited as part of the respective legislation in order to ensure that the tax is reviewed and analyzed with a view to its future discontinuation. In this regard, the Norwegian Government is encouraged to limit the Air Passenger Tax to a period of no longer than two years following its implementation, whereby the tax would automatically expire or require the Norwegian Parliament to re-introduce the tax after a thorough review of its impacts.

Moreover, Norwegian Customs and Excise readily acknowledges under Section 2.3 of the Consultation Paper that "Aviation is currently subject to a number of excise duties for which the revenues go to the Treasury" and "charges should therefore be considered as payment for a service and, accordingly, have a different purpose than the air passenger tax, which is an excise duty or an indirect tax."

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[1] Available at: https://avinor.no/globalassets/_konsern/om-oss/finansiell-informasjon/gjeldsfinanisering/presentasjoner/investor-presentation-avinor-2015.pdf
[2] *Ibid*
[3] *Ibid*

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As such, time limiting the tax would help to ensure that the aviation sector is not perpetually subjected to excessive and unfair taxation, thus minimizing the long-term negative impacts associated with the reduced economic output and connectivity that the tax will cause.

2. Section 4 – Taxes on Flying in Other Countries

Under Section 4, it is stated that several European countries have implemented aviation taxes, including in the UK and Germany. It is further noted that these taxes were imposed primarily on environmental grounds.

On this latter point, IATA would highlight that none of the countries listed in the Consultation Paper impose environmental taxes on a passenger basis. Consequently, if the Norwegian Government is looking to these European countries as examples with which to justify the imposition of the Air Passenger Tax on environmental grounds, no such justification can be found.

As the Air Passenger Tax appears to be imposed on environmental grounds, this would be contrary to Article 15 of the Open Skies Agreement between the EU and the US and to which Norway is a party. Article 15.2 of the Open Skies Agreement states that:

> "When a Party is considering proposed environmental measures, it should evaluate possible adverse effects on the exercise of rights contained in this Agreement, and, if such measures are adopted, it should take appropriate steps to mitigate any such adverse effects."

It is our understanding that no such evaluation has been undertaken by the Norwegian Government in relation to the tax, nor have any measures been taken to mitigate its adverse effects.

Similarly, and in light of the work currently being undertaken by the International Civil Aviation Organization to reach an agreement on a global market based-measure for carbon emissions, Norwegian authorities should actively reconsider and abolish the tax.[4]

Our observations in relation to the UK Air Passenger Duty (APD) and the German Air Transport Tax are presented below, in addition to commentary on the Dutch Air Passenger Tax and the Irish Air Travel Tax, both of which were ultimately abolished due to their negative impacts.

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[4] Additional information available at: http://www.iata.org/policy/environment/pages/climate-change.aspx

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UK Air Passenger Duty

In relation to the UK APD, it is important to note that this tax is seen as inefficient and would more than pay for itself if abolished. A study by PwC[5] found that the full removal of the APD would generate a positive stimulus to the UK economy of 0.5 percent in the first year, with the overall impact resulting in the economy being GBP 18 billion larger than would be the case if the APD continued in existence.

The abolition of the APD would also generate 61,000 additional jobs between 2015 and 2020. At the same time, the benefits to the UK Treasury from the APD's removal (i.e., increased personal income tax revenues, additional corporate tax revenues, etc.) would more than offset the loss in APD revenue.

Furthermore, a study by Oxford Economics (2012) for the World Travel and Tourism Council reports that abolition of the APD at that time would result in an increase of up to GBP 4.2 billion in GDP and the creation of 91,000 jobs.[6]

German Air Travel Tax

A study on the potential impact of the German Air Travel Tax[7] indicated that the tax would reduce the number of passengers by 5 million, of which 1.8 million would cross the border and depart from non-German airports. The resulting job losses in Germany, estimated using input-output modelling, totaled 13,000. This study also estimated that half of the gross income for the government of EUR 1 billion would be lost as a result of high unemployment and government social insurance expenses, as well as lower tax revenues on profits and turnover.

IATA also estimated in 2014 that the immediate annual impact of removing the German Air Travel Tax would amount to an increase of EUR 1.2 million in GDP, 19,800 additional jobs and EUR 1.5 million in consumer benefits to travelers.[8]

Dutch Air Passenger Tax

The Dutch Government implemented an Air Passenger Tax, similar to the Norwegian Air Passenger Tax, in July 2008. The Dutch tax entailed a fee of EUR 11.25 for departing passengers from Dutch airports to European destinations and a fee of EUR 45 for departing passengers from Dutch airports to intercontinental destinations.

Prior to the introduction of the tax, the Dutch Government estimated that it would generate approximately EUR 350 million per year in revenue from the Air Passenger Tax based on an analysis that indicated that passenger demand would decrease between 8% to 10% at Schiphol Airport and decrease between 11% to 13% at regional airports as a result of the tax.

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5 The PwC 2015 study is an update of its 2013 study. Available at: http://www.bata.uk.com/wp-content/uploads/2015/06/The-economic-impact-of-APD-analytical-update-PwC-May-2015.pdf
6 Available at: http://www.wttc.org/research/policy-research/taxes/air-passenger-duty/
7 Study completed by DLR and SEO, 2010
8 Available at: http://www.iata.org/publications/economic-briefings/germany-impact-att.pdf

However, the reality of the Air Passenger Tax once implemented was significantly different. By October 2008, easyJet announced that the tax had resulted in 200,000 fewer passengers and by November 2008, KLM estimated that the tax had cost it approximately 400,000 passengers at Schiphol Airport.[9] A study completed by SEO indicated that the loss of business for airlines, airports and tour operators in the Netherlands from the Air Passenger Tax was between approximately EUR 1.2 billion to 1.3 billion.[10] Moreover, the actual revenue generated by the Dutch Government from the tax was EUR 267 million, far lower than the EUR 350 million originally estimated.[11]

In the end and not unsurprisingly, Dutch authorities reduced the rate of the Air Passenger Tax to zero in July 2009 and fully abolished the tax in January 2010.

Irish Air Travel Tax

The Irish Government introduced an Air Travel Tax in March 2009 at the rate of EUR 10 per passenger on all flights from Irish airports to airports situated more than 300 km from Dublin. For flights from Irish airports to airports below this limit, a reduced rate of EUR 2 applied. This two-rate scheme was changed to a uniform rate of EUR 3 applicable for all passengers in August 2011.

While the Irish Government forecasted to raise EUR 130 million annually from this tax, a study by SEO in 2009[12] concluded that the tax would in fact result in a reduction in passenger demand of between 0.5 million and 1.2 million over the first year. On this basis, the tax revenue would be between EUR 117 million and EUR 124 million, which was below the forecast of the Irish Government. More importantly, the tax was anticipated to result in a net revenue loss, as total revenue losses for airlines, airports and the tourist sector were forecasted to be in the range of EUR 210 million to EUR 465 million, depending on the price elasticities of demand assumed.

In the end, and similar to Dutch Air Passenger Tax, the Irish Government decided to cancel the tax with effect from 31 March 2014 given its detrimental impact.

Based on the four examples above, it is clear that taxes on passenger air travel do more harm than good to their respective economies in terms of their negative impacts on GDP, growth and employment. As such, it is crucial that the Norwegian Government fully examines the broader economic impacts of the Air Passenger Tax by launching an independent evaluation so as to avoid the negative effects of similar taxes in the UK, Germany, Ireland and the Netherlands.

3. Section 5.1 – Tax Rate

[9] Available at: http://www.kimnet.nl/sites/kimnet.nl/files/effects-of-the-air-passenger-tax.pdf
[10] *Ibid*
[11] *Ibid*
[12] Available at: http://www.seo.nl/en/page/article/the-implications-of-the-irish-air-travel-tax/

Under Section 5.1, it is noted that the implementation date of the Air Passenger Tax is currently scheduled for 1 April 2016.

Further to the points raised above in relation to postponing the tax, it is vital that the implementation date of the tax be communicated well in advance to all affected stakeholders.

Such advanced notice is required in order to ensure that all affected airlines (both foreign and domestic) have sufficient time to make the necessary revisions to their revenue management systems and reporting procedures for tax compliance purposes. As part of this process and to ensure the Air Passenger Tax is accurately reflected in the ticket, a new tax code can be created only once the legislation is approved and officially published. This first requires that finalized versions of the respective tax legislation and regulations be issued by Norwegian authorities. Further, it requires that the aviation sector be given sufficient time to integrate the new tax into their systems.

In the event the Air Passenger Tax is not repealed, IATA strongly requests that the implementation date be postponed in order to facilitate the efficient and orderly implementation of the Air Passenger Tax. At a minimum, the implementation date of the Air Passenger Tax should be clearly stated as applicable to "tickets issued on or after [*implementation date*] for travel commencing on or after [*implementation date*]" so as to ensure that the tax does not inadvertently create unnecessary expenses as airlines cannot collect the tax on a retroactive basis once the ticket has been sold.

Additionally, IATA notes that the Air Passenger Tax on applicable domestic travel will be subject to VAT at 10%, whereby the VAT rate was recently increased from 8% to 10%. This tax on a tax treatment of domestic air travel not only unfairly increases the passenger cost of air travel, but is contrary to the principles of efficient taxation. IATA therefore requests that the Air Passenger Tax on domestic air travel be exempt from VAT.

4. Section 5.4.3 – Exemption for Individual Passengers – Transit and Transfer Passengers

Section 5.4.3 details the exemption for transit and transfer passengers by providing several examples of both domestic and international legs being subject to the Air Passenger Tax. Of note is the fact that unlike international round trip journeys (regardless of point of origin), domestic round trip journeys are subject to the Air Passenger TAX (including VAT) on both the outbound and returning legs. The imposition of the Air Passenger Tax (including VAT) will represent an increase in the roundtrip cost of domestic air travel of approximately 5.5% and when combined with existing passenger charges, total taxes and charges will account for approximately 12% of the total cost paid by domestic air passengers in Norway. The resulting increase in the overall cost of domestic air travel will unfairly disadvantage aviation over other forms of domestic transport that are not subject to such a tax.

In this regard, significant consideration and analysis should be undertaken to reduce the significant cost impact on domestic air passengers by only levying the Air Passenger Tax on a single leg of a roundtrip domestic air journey or by reducing the rate of the Air Passenger Tax applicable on each domestic leg.

Furthermore, we note the possibility of the double imposition of the Air Passenger Tax for transit and transfer passengers traveling on airlines that do not have interline agreements in place. This will very likely have negative impacts in terms of the future development of air transport and connectivity in Norway.

Such a situation would clearly contradict the provision under Section 5.4.3 which states the following:

> "The object of the exemption is that the tax should be paid only once for each journey, even if the journey consists of legs, whereby the passenger lands on one or more occasions and potentially changes aircraft before the journey continues."

IATA therefore requests clarification as to how airlines that operate in Norway without interline agreements with other airlines are to ensure that passengers are not levied the Air Passenger Tax twice on a journey in compliance with the provision noted above.

5. Section 5.5 – Obligation to Register

Under Section 5.5, the following is stated: "It is proposed to place airlines, i.e. enterprises which undertake flights from Norwegian airports, under an obligation to register; see the proposal for Section 5-1 new letter h below. These will therefore be liable for tax."

Please confirm that while the Air Passenger Tax is levied on a per passenger basis, it is the responsibility of the airline in question to levy, collect and remit the tax to the Norwegian revenue authority and as such, airlines are required, where necessary, to register for tax purposes.

Moreover, IATA notes that airlines will incur significant expenses with respect to the collection and remission of the Air Passenger Tax that is levied on air passengers. As such, airlines with operations to/from Norway will act as collection agents with respect to the Air Passenger Tax, thereby providing a valuable service to the Norwegian Government. In order to ensure airlines are not burdened by the expenses associated with the collection and remission activities they will undertake on behalf of Norwegian authorities, IATA highly recommends that airlines be fairly compensated financially (e.g., on a commission basis) for the tax collection services they will provide.