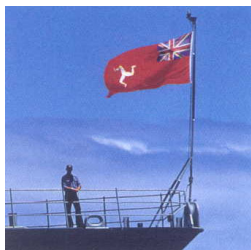


December 2003

The Isle of Man/UK VAT System



What is the nature of the relationship between IOM and UK in the context of EU VAT? The 1979 Customs and Excise Agreement between the UK and IOM constitutes the legal framework for the relationship, with the

following overall effects:

- The IOM is part of the VAT, Customs and Trade Statistical Territories of the EU.
- For Customs and VAT purposes IOM and UK are one single accounting area.
- Both IOM and UK VAT registrations have the same "GB" identifier for EU purposes. So a trader is only required to VAT register once, either in IOM or UK. Where a company is administered and controlled determines where it is VAT registered.
- Except for specially agreed localised differences, all VAT rates and regulations in IOM are identical to UK and change in line.
- UK VAT registered traders operating on the IOM are required to provide their local VAT Office with separate tax figures for the IOM operation. HM Customs & Excise account for the VAT to the IOM Government in accordance with a Revenue Sharing agreement. There is no such requirement for IOM traders operating in the UK.

The "Lennartz Option" for Yachts

"Lennartz" is after the 1991 European Court of Justice case. But the option itself derives primarily from Article 6(2)(a) of the Sixth Directive, transposed into UK/IOM VAT law as paragraph 5 of Schedule 4 to the VAT Acts. The Lennartz option is suitable where a business purchase is to be used partly for private or other non-business purposes. Under Lennartz, businesses are allowed full input tax recovery even where the business use is small. They then pay for private use by an output tax charge over the lifetime of the asset.

This is the basis of the Isle of Man scheme for owner-users of yachts. The beneficial owner of a yacht-owning limited company is allowed to be the yacht's principal "charterer". And he pays VAT on

this private use over the lifetime of the yacht. The VAT burden is thus alleviated.

However, the Lennartz option is only acceptable where there is no risk of VAT avoidance. Where there is such a risk, Customs may either insist that the VAT incurred is apportioned at the time of the purchase of the yacht (so that only the VAT which relates to the business element is recovered as input tax), or else exclude the yacht from the Lennartz option altogether. For more on this subject please see our article in the January 2004 issue of *The Yacht Report*.

Whose VAT Paid Certificate is it?

The VAT Paid Certificate that is issued to a VAT registered yacht owner/operator is the property of that taxable person alone. It is generally not transferable (except with the owner), and is therefore void if the vessel is sold or otherwise disposed of. IOM Customs & Excise have a policy that requires the Certificate to be returned.

Passenger Transport or Hire of a Means of Transport?

The distinction between the two is crucial, as it determines whether you account for VAT in IOM or in the EU Country where your yacht sails. But the choice is to account for VAT somewhere, not to avoid accounting for VAT anywhere.

Exchange of Information with other EU Tax Administrations

In the New Year, the UK tax authorities are introducing strengthened arrangements for the exchange of information with other EU States' tax administrations. VAT registered businesses trading across the EU will be affected. Current UK legislation empowering UK authorities to "assist other Member States to ensure compliance with tax legislation and to counter fraud" is spread across a number of Finance Acts. The new measure will consolidate this legislation.

New EU Member States in New Year

So what's in each of these for you? From May 2004: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

This bulletin is prepared by Moore Stephens Consulting (Isle of Man) Limited. Yachting VAT Note is designed to keep readers abreast of current developments. But it is a general guide only and is not intended to be comprehensive. No liability is accepted for the opinions it contains, or for any errors or omissions. In all cases you should seek professional advice specific to your circumstances.

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