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### VAT and the Flag

"A registration document on its own does not prove the VAT status of a vessel, as there is no link in this country between the registry of the vessel and the payment of VAT."



The quote is from *UK Guide for Yachts* in which UK and

Isle of Man Customs define their attitude to the VAT status of yachts cruising in the EU or returning from outside the EU. So they caution that documentary evidence supporting the VAT paid or 'deemed' VAT paid status of the yacht be carried at all times.

However some Member States' tax administrations are structuring their systems to ensure a definite link between VAT and flag. Therefore payment of VAT may be enforced at the time of registration of the yacht or specified as a precondition in these States.

But registering a yacht under a particular flag raises issues beyond just tax status. Some flags are considered a mark of high quality and proof of adherence to international maritime laws. So the registry of a yacht may have wider commercial implications for the yacht's charter business. It needs to be considered carefully.

### VAT Relief for Temporarily Imported (TI) Yachts

All vessels "designed or adapted for recreation or pleasure use" are liable to VAT. This includes all yachts to be kept in the EU.

But under TI rules, yachts from outside the EU that are temporality imported for **private or commercial** use may qualify for VAT relief if they get Customs' approval and meet certain conditions. A key condition is that the yacht is used exclusively for transport that begins or ends outside the EC.

By definition TI approval can only be granted to persons established **outside** the EU. But a yacht charter broker (a "professional hire service") established **within** the EU may also be granted approval in some circumstances. However, the restrictive nature of TI rules makes such approval unattractive to EU-based brokers seeking a more permanent VAT status for their client's yacht.

### The IOM Demise Charter Register

Under the provisions of the Merchant Shipping Registration Act 1991, vessels registered elsewhere can re-register on the Isle of Man register. Vessels (including yachts) registered in this manner will be required to comply only with the aspects of Manx regulations that relate to their registration. For example, regulations relating to ownership will not apply unless a Manx individual or company owns the vessel.

Such dual registration allows foreign registered vessels to enter the register and so fly the British flag. As the British flag is widely accepted both in and outside the EU, Isle of Man registered vessels face far fewer legal restrictions around the world. And vessel owners can effectively separate their financial and operational jurisdictions to advantage.

### Origin v Destination Principle

The present EU VAT regime is a mixture of the Origin and the Destination principle. Some goods are subject to VAT in the Member State of departure (origin principle). Other goods (e.g. yachts) will be taxed in the Member State of destination.

The same mix of the two principles similarly determines the taxation of services (e.g. yacht hire and passenger transport). But the European Commission has expressed worry about the adequacy and unwieldiness of the current services rules. They note that increasingly services are provided remotely – e.g. electronically. So the preference now is for the **destination** principle for all services, because it has a greater potential of ensuring that VAT revenues accrue correctly to the Member State where consumption takes place.

### Use and Enjoyment Override

This rule enables a Member State to override any of the place of supply rules that apply if there is a need to avoid double or non-taxation or address distortions of competition. It ensures that non-EU suppliers that hire yachts out to EU parties not registered for VAT would themselves become liable to register within the EU. And, where there is variance on the basis of taxing the same transaction between two EU member states (e.g. 'hire' and 'passenger transport'), either of the States may decide to tax regardless of the applicable rules.

*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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