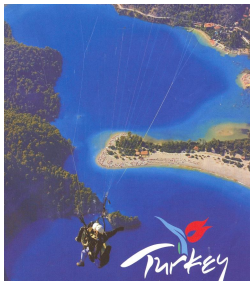


# YACHTING VAT NOTE

April 2008

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## Turquoise Calling



Turkey's beckoning to the world's footloose tourists is pithily captured in 'Turquoise calling', the catchphrase that country's *Culture and Tourism Office* is now using in high-profile print media advertisements. It is a pun on the country's name, which ostensibly holds out its deep blue seas to the world to good effect.

Not that the yachting community needs any calling. After all, their choicest European cruising zone already extends beyond the farthest reaches of the South Eastern Mediterranean to Turkey's Aegean coast and even to its inner seas in the Marmara Region.

And when it comes to large yacht building, well, it is not Turkey that is calling yacht owners. Quite the opposite - it is yacht owners that are avidly knocking on Turkey's doors. According to recent statistics, one in two of the large yachts built outside the traditional Euro-centric yacht-building belt of Italy, Germany and the Netherlands is built in Turkey. There is no doubting that Turkey's appeal is irresistible. And yet in the midst of this pull-and-shove, it is easy to forget that Turkey is not (yet) part of the European Union (EU).

Despite a long-standing association agreement with the EU and, since 1995, being linked by an ambitious Customs Union agreement aimed at promoting trade and economic relations, the EU's trade arrangements with Turkey do not cover essential economic areas. For example, in the areas of public procurement and agriculture, the EU operates a rather limiting regime with Turkey based on what urbane EU officials like to call 'bilateral trade concessions'.

As for trade in services - the area that perhaps would interest the yachting industry most - there are no formal links at all between the EU and Turkey. Nor is that about to change anytime soon. Turkey has been a candidate country to join the EU since 1999, but negotiations so far look open-ended.

Consequently, for regular cruising yachters as well as yacht owners that have just taken delivery of their yacht from a Turkish shipyard, bringing their yachts North West into the EU fiscal territory poses the same challenges as for other non-EU yachts. The most obvious of these challenges is EU Value Added Tax (VAT) - on the yacht itself or on any chartering activity undertaken with it. And dealing with this potential liability can mean a choice between managing your risk outside or inside the EU VAT system.

## Controlled Routes

The French 'commercial exemption' offers some relief. Currently this regime ensures that a yacht that holds a commercial registration certificate, has a permanent crew and is used exclusively for commercial charters is exempted from TVA (VAT) in France. But while most yachts would meet the first two of these conditions, only very few actually meet the last one concerning exclusive commercial charters. And the toughening stance against non-paying private use that French Customs are now reported to be taking suggests that it may not be totally plain sailing under this regime for much longer. Indeed, with the EU's adoption on 12 February 2008 of legislation to implement new VAT rules on the place of supply of services with effect from 1 January 2010 - which rules require hiring of means of transport to be taxed at the place of consumption - some analysts are already suggesting that France might find it hard to maintain a totally tax-free regime for a flourishing yachting industry.

Then there is the alternative VAT relief route of Temporary Importation (TI). TI allows non-EU owned yachts to sail in EU waters for a prescribed period of time without import VAT needing to be paid. The VAT is conditionally suspended and could crystallise in the event of a breach of the conditions. However, TI relief is not generally available to EU residents or to EU registered yachts - the non-EU yachts must be directly and beneficially owned outside the EU. Also, the relief is intended mainly for yachts imported for private use, although commercially used yachts may be permitted in very exceptional cases. But whether privately or commercially used, because the yachts will not have borne any import VAT, it is a breach of the rules for TI yachts to be lent, hired, chartered or sold whilst in the EU. Breaching these conditions exposes the yacht to seizure and immediate liability to VAT on the yacht's value.

So for somewhat different reasons neither the headiness of the French commercial exemption nor the conditionality of TI entry may suit the absolute safety needs of the non-EU yacht operator desiring full EU access. What to do?

## Free Circulation

The solution for the risk-averse is to bring the yacht definitively into the EU, either as a private asset kept entirely outside the EU VAT system with VAT paid; or else to place the yacht within the VAT system in a business context, so as to operate within that system's mechanism of impositions and deductions of tax. Either way would give the yacht free circulation within the EU without any liability to pay further VAT on its hull. And no qualms too in sailing EU-ward, after answering Turquoise calling.

*This bulletin is prepared by Moore Stephens Consulting Limited. Yachting VAT Note is designed to keep readers abreast of current developments and trends. 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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