

# YACHTING VAT NOTE

March 2007

## Did you say VAT Planning?

Recent "Big Brother" warnings from some EU tax authorities to the yachting industry have made the case for more, rather than less, specialist VAT planning. This is by no means a perverse result, if VAT planning is understood in its true light.



VAT planning in the context of yachting embraces all sorts of things. It may simply involve an adviser, with no particular specialism in VAT, advising a client setting up a new yachting business that it may be necessary to register. Or it may involve a VAT specialist looking at a particular business scenario, identifying the detail of the relevant legislation and devising special structures to get a particularly advantageous VAT result within the spirit of the system. Either way, it has nothing to do with making raids on the Revenue.

VAT planning's essential characteristic is that it involves a proactive attitude, avoiding problems before they arise or else grasping opportunities that exist, rather than merely reacting to visits or threats from tax administrations. It is as much to do with ensuring that contractual arrangements between counterparties are satisfactory for all concerned, and that VAT consequences are properly factored into business decisions before they are made, as it is with direct relations with Revenue authorities.

Perhaps VAT planning's most important characteristic is that, while it is largely based on a body of tax law, most of the time it is a specialised aspect of ordinary commercial planning and decision-making, rather than being a taxation matter in the traditional sense. VAT planning is particularly critical in yachting because the sector has all the usual triggers for planning. Transactions often involve a large, moveable asset; large sums; cross-border application; related parties; one-off events of lasting impact; and frequent changes in pattern.

Therefore, VAT planning for yachts has a number of key objectives. First is compliance. Compliance with the VAT legislation is a statutory obligation and does not just happen on its own. It requires planning and forethought, even at the very basic level of putting arrangements in hand to collect and retain the necessary information, and evidence such as tax invoices, import documents, etc. Good compliance,

in itself, requires good planning.

Second is business planning, in the sense of analysing the VAT consequences of transactions and structures so as to be able to forecast their impact on the overall position. These can then be incorporated in the overall planning of the business. By the same token, VAT planners need to be brought into the overall business planning, so they are aware of likely events before they happen and can factor these into the VAT planning.

Third is the avoidance of unnecessary VAT costs. Notwithstanding the use of the word avoidance, this does not generally involve trying to get out of liabilities that ought to arise. Often, it is a matter of preventing the artificial generation of liabilities. Also, the purpose of planning to save VAT is not necessarily to affect the amount collected by the taxman. The taxman is just one of at least three parties involved in any contract. Planning here involves thinking about the VAT position before signing the contract. Once a contract has been entered into without thought for the VAT consequences, the damage may already have been done.

Fourth is avoidance of penalty and interest costs. The existence of VAT penalties and interest provide further reasons for planning to achieve proper compliance.

Fifth is improving cash flow. Cash flow is an important element of all business planning. As to VAT, there are ultimately payments to be made, or repayments to be received. Even where it is not possible to affect the overall position, the timing of these payments and repayments can be important.

And, sixth is minimising administration. For a fully taxable business, the administration involved in complying with the basic VAT system should not be underestimated. It involves recording each transaction, preserving evidence, generating VAT-related documents, etc. Often, there are considerably more requirements. Careful planning combined with specific agreements of easements with Customs and Excise can help to reduce this burden without affecting the operation of the VAT system as a whole.

So at a time of even greater scrutiny of yachting, proper VAT planning will become the norm.

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