

# YACHTING VAT NOTE

November 2006

## That Old “VAT Paid” Chestnut!

You’ve heard this one often enough – about the VAT Paid Yacht. And you most probably thought of a yacht that owes no further obligation to the VAT man because all of its VAT liabilities have been fully discharged. You are not alone. Like all glibly-told and oft-repeated folklore, “VAT Paid” has acquired a mystique beyond its actual substance. But the story of most yachts rarely ends with the VAT paid on purchase.



In truth, “VAT Paid” is not a discrete concept in law. The VAT status of an asset is determined by the interaction of any number of principles inherent in the EU common system of VAT. The law also contains various provisions that enable and manage the fair functioning of these principles, by allocating compliance responsibilities according to the status of the parties involved and the nature of the transactions they undertake. Therefore what is seen as a VAT Paid yacht will often mask the complexity of how that status came about and the obligations or liabilities attaching to it. And strange will happen, too.

Witness, for example, the principles of “final consumption”, “fiscal neutrality” and “double taxation” as they would affect a yacht emerging from the EU VAT system. The VAT framework is designed to tax the “final consumer” (the yacht user), but to do so only through a “taxable person” (e.g. a yachting business). It is the taxable person who must comply with the formalities laid down by the legislation. So in order to ensure that the system functions and, in particular, that the taxable person does not bear the burden while collecting the VAT from the final consumer, a mechanism of charging and deductions was set up to make the tax “neutral” to the taxable person. Under that mechanism, a direct link subsists between the deduction of VAT on the taxable person’s business purchases and the charging of VAT on his sales. So, no double taxation - the taxable person would normally only charge VAT on the disposal of a yacht on which he’d deducted VAT at the time of its purchase. As to the final consumer, he cannot make use of the payment and deduction mechanism at all, so he may resell his yacht without charging VAT. So far, so ordinary.

Now, if as a purchaser you are faced with two EU

yachts, one from a taxable person and the other from a final consumer, both yachts will be by definition VAT Paid, in the sense that either owner paid VAT on his yacht when he purchased it. But how else would you tell what the VAT impact would be on you without considering the history of either yacht? Perhaps you would just trust the seller to get it right and tell you. (But buyer beware!) Or, more likely, you will do your own due diligence?

In investigating the taxable person’s yacht, you would bear in mind that the VAT system gives him freedom of choice in allocating his yacht either to his business assets (i.e. keep it within the VAT mechanism) or his own private assets (outside). You will often find that the taxable person had indeed chosen not one option but both – and then only after having exercised his legitimate right to deduct all of the VAT he paid at the time of purchase of the yacht. In such circumstances of mixed (business and private) use, the law provides that the taxable person should compensate the business (and therefore the taxman) proportionately for the private use. But has he? And if he hasn’t, how will that impact on you as purchaser?

What if the taxable person had acquired the yacht in his private capacity (not deducting the VAT), but had subsequently used the yacht for his business and thereby enjoyed the legitimate benefit of deducting the VAT incurred for its use and maintenance? Maybe he deducted VAT on refit costs too. To what extent is the yacht still “VAT Paid”? Should he charge you VAT on disposal of that yacht?

And the final consumer’s yacht. Typically, he’d “sold” the yacht to his VAT registered limited company, which has been using it as part of its business assets for commercial charters. His company is now selling the yacht, with VAT, at the insistence of his tax authorities. Double taxation, you might think, given that he has to pay VAT both when he purchases the yacht (as it cannot be deducted from the consideration) and when he disposes of it (as he must pay the amount contained in the sale price). And yet these circumstances would warrant a VAT charge! So what to do? The law envisages get-outs, but the “VAT Paid” mantra will not be one of them.

So next time you hear of “VAT Paid” as a benefit or a unique selling point of a yacht, it would be entirely appropriate to look behind the punchline.

*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.*

*If for any reason you would prefer not to receive Yachting VAT Note, please reply to this email with "Yachting VAT Note - Remove" in the subject header.*

### Moore Stephens Consulting Limited

26 -28 Athol Street, Douglas, Isle of Man IM99 1BD.

**More Information?** If you have any queries concerning our services then please contact us by telephone on +44 (0) 1624 662 020, or email:

**Ayuk Ntuiabane:** [ayuk.ntuiabane@moorestephens.co.im](mailto:ayuk.ntuiabane@moorestephens.co.im)  
**Clive Dixon:** [clive.dixon@moorestephens.co.im](mailto:clive.dixon@moorestephens.co.im)  
**Anthony Cashen:** [anthony.cashen@moorestephens.co.im](mailto:anthony.cashen@moorestephens.co.im)