



Taxing questions: What are the latest tax updates for superyachts?

By Lorna Titley

“There are two certainties in life – the first is death and the second is taxes.” With these words, **Alex Chumillas of Tax Marine & Aviation Spain SL**, introduced a panel of experts who had gathered at Quaynote’s Opportunities in Superyachts conference to discuss at least one of these eventualities.

While the need to pay taxes is a constant, we currently live in a rapidly changing and often unpredictable world, where events on the global stage can shape the fiscal landscape. “Key changes that have impacted yachting include Brexit, the EU Commission Review on enforcement of use and enjoyment provision,” observes Chumillas. Add to the mix the new approaches in Spain on customs procedures, the Italian exemption and the implementation of the transport contract in France and the picture becomes even more complex.”

To help us unpack some of the most recent tax trends, we asked our international panel to focus on the key developments in their backyards.

First up, is **Carla Bellieni, Partner at Piana Illuzzi Queirarolo Trabattoni**. In Italy, the calculation of VAT on Charters and leases and the Italian exemption deserve our attention. After delays caused by a slew of regional amendments and, inevitably, by the impact of COVID, the rules have finally been changed. VAT on charters and leases in Italy is determined by Territorial Condition. This is the rule that governs what percentage of the charter fee is subject to tax depending on the use of the yacht within and outside the European territory. For contracts signed before 1st November 2020, you can continue to use the presumptive flat-rates stated in the past by the Tax Authority depending on the length and the propulsion system to indicate what percentage use you have in EU waters. But for new lease or charter contracts signed from 1st November onwards, this has changed. Now, the reduction follows the actual use and enjoyment of the yacht within EU waters and for contracts with a duration of more than 90 days you must send an electronic declaration to the tax authority with the percentage use within the EU territory that you think you will meet. In January of the following year, you have to check and declare if the percentage of use was what was declared or if it differed at all. The rule is in principle the same for long and short uses, with no more presumptive identification of the European use of the yacht, but for long term contracts the e-declaration is required.

The Italian Commercial Exemption is for commercial use vessels only and allows the Owner to be exempt from VAT where he or she spends 70% of their trips including navigation outside Italian waters. The yacht owner or principle must file an e-declaration certifying that this condition is met. This arrangement is similar to the French exemption, with both built on a common principle stemming from an EU directive. Other EU countries have yet to embrace this concept, however. *"It's a shame we don't have a Spanish commercial exemption,"* notes Alex Chumillas.

Continuing on our fiscal voyage, we land in Greece, where **Jennifer Timinis of Sea Greece** has news to report. A law in the pipeline will introduce a permit where you can charter in Greece annually for 21 days without the need for a charter licence. *"Currently, you need to have a charter licence for charters that begin and end in Greece. This involves setting up a branch office of the yacht owning company and applying for a charter licence,"* she explains. The draft legislation for the new e-charter permit was published online in January and the wish is for it to be passed by Parliament before Easter. There has been some local controversy surrounding this proposed legislation, but Timinis is hopeful that it will be passed, pointing out that the government is committed to *"opening up the market to attract yachts to home port in Greece."*

Heading back to France and Monaco, we hear from **Janet Xanthopolous, Director at Rosemont Yacht Services**, who compares the stance of both jurisdictions towards short and long-term charters with that of Italy. Full VAT is also payable on charters starting from Monaco or France, with the possibility of reducing VAT in accordance with the time spent outside of EU waters on a pro-rata basis. *"The way you apply VAT on charters is the same in Italy & France now,"* she explains, *"The long-term lease works exactly the same."*

Monaco still has its Long Term Lease, which works rather like VAT deferral – and therefore quite similar to what is offered in Malta – the difference being that vessels are fully imported and are therefore in free circulation. Though this agreement is less interesting than before following the change of regulations applicable on short and long term leases as flat lump sum reductions are not available anymore.

In Monaco, the long-term lease can also be coupled with the YET program. The advantage with this is, for instance, that it allows you to extend the usage a YET operating yacht to EU owners and EU charterers.

Finally, APA costs including fuel are no longer considered as a disbursement, but as a second taxable operation. Xanthopolous recommends issuing invoices directly in the name of the final charterer. She points out that in France, it is still possible to buy fuel exempt of VAT, but not duty.

As we double-back towards Croatia, **Maja Ban, Director at MYS Yachting**, ponders the 'YET' question. *"We have quite a few queries about this, because people have heard that it is applicable in Croatia,"* she explains. *"In theory it is available. But to date, we don't have clear instructions on how it can be applied. So, in practice it is still on hold."*

Regarding any tax changes in Croatia, Maja describes her jurisdiction as *"a little bit boring – but in a good way. It makes life for our clients that much easier,"* she adds. The good news in Croatia is that EU yachts of any size can be chartered. Non-EU yachts are also allowed to charter but they do need a charter licence. And since last year non-EU yachts under 24m may not charter in Croatia.

Owners still need to obtain a VAT number, with the owning company paying 13% VAT on overnight charters and 25% on daily charters. The only time that VAT is not payable in Croatia is if a charter yacht comes in to Croatia from another EU country. All charters starting in Montenegro (NON EU countries) and coming to Croatia or beginning in Croatia and cruising to another non-EU country, pay VAT in Croatia on a pro-rata basis for the days spent in Croatia. When starting in Croatia and finishing a charter in another EU country, full VAT will be paid in Croatia. Otherwise, as mentioned above, whenever an overnight charter starts and finishes in Croatia, the rate of VAT is 13%.

Anthony Galea, Managing Director at Vistra Marine and Aviation, is based at our last port of call in Malta. While little has changed on the tax front, he points to the rise in companies set up on the island to deal with crew payments. *"Malta is a good jurisdiction to host these kinds of companies,"* Galea comments. *"It means that more crew are coming within the system and are becoming bankable, rather than receiving their monies offshore where they are less transparent. This is a good development in general for the industry,"* he concludes.

We would like to thank our panel of tax experts who spoke at Opportunities in Superyachts, 9th Annual Conference on 25 March, 2022 at the Corinthia Hotel in Malta.



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