

Insights

Cyprus as a Jurisdiction for the Registration of Yachts

Authors: Thomas Keane & Christina Vgenopoulou

© KVLaw December, 2019

Introduction

The purpose of this memo is to briefly set out the legal requirements for and the benefits to be obtained from, registering a yacht in Cyprus. The Department of Merchant Shipping is the relevant regulatory body and it maintains in accordance with the provisions of the Merchant Shipping (Registration of Ships, Sales and Mortgages) Law of 1963 (as amended) (**Merchant Shipping Law**), the Cyprus ships registry.

Requirements for Registration of Vessels in the Cyprus Registry

The Merchant Shipping Law sets out the conditions to be satisfied in order to register a vessel in Cyprus, which requirements are:

- (1) more than fifty per cent (50%) of the shares of the vessel are owned:
 - (i) by Cypriot citizens, or
 - (ii) by citizens of the EU/EEA, who if they are not permanent residents of the Republic of Cyprus will have appointed an authorised representative in the Republic of Cyprus, or
- (2) 100% of the shares of the vessel are owned by one or more corporations, which have been established and operate:
 - (i) in accordance with the laws of the Republic of Cyprus and have their registered office in the Republic, or
 - (ii) in accordance with the laws of any Member State of the EU/EEA and have their registered office, central administration or principal place of business within the EU/EEA and which will have either appointed an authorised representative in Cyprus or have entrusted the management of the ship to an EU/EEA ship management company having its place of business in Cyprus, or
 - (iii) outside Cyprus or outside any other Member State of the EU/EEA but controlled by Cypriot citizens or citizens of Member States of the EU/EEA and have either appointed an authorised representative in Cyprus or entrusted the management of the ship is entrusted to an EU/EEA ship management company having its place of business in Cyprus.

The corporation is deemed to be controlled by Cypriots or citizens of any other Member State of the EU/EEA when more than fifty per cent (50%) of its shares are owned by Cypriots or citizens of any other Member State of the EU/EEA or when the majority of the Directors of the corporation are Cypriot citizens or citizens of any other Member State of the EU/EEA.

An authorised representative may be a Cypriot citizen or a citizen of any other Member State of the EU/EEA, who is resident in Cyprus, or a partnership/corporation/branch established in accordance with the laws of Cyprus, which has its place of business in the Republic of Cyprus.

Types of registration

The following are the available types of vessel registration in Cyprus:

1. **Provisional Registration:** Provisional registration of a vessel may remain in force for up to nine months, including a three-month extension.
2. **Permanent registration.** The permanent registration of a provisionally registered vessel must be effected within 6 months (or 9 months if the 3 month extension has been obtained) from the date on which she was provisionally registered. It is not necessary for the vessel to be present in a Cyprus port at the time of permanent registration.
3. **Parallel Registration:** The Cyprus legislation provides for the two forms of bareboat (charter) registration internationally accepted e.g. the “Parallel-in” registration and the “Parallel-out” registration of vessels, provided certain prerequisites are fulfilled.

We will not consider further the types of registration for the purposes of this memo as in the case of yachts the practice is to permanently register under the chosen flag.

Yacht leasing scheme

Cyprus has with effect from 22 March, 2019 amended its Yacht Leasing Scheme with the adoption of new guidelines which clearly set out the basis upon which the leasing of pleasure yachts will be subject to VAT and the process and procedure for registration for VAT for leasing entities.

The old regime is no longer of application and the new defining criteria are distances travelled (i.e. use and enjoyment) rather than the type and size of the yacht.

Use and Enjoyment of the Yacht

As the distances travelled is the defining criteria, it is necessary to make a determination of the use and enjoyment of the yacht. If this cannot be provided at the time of registration for VAT then the Commissioner has the discretion to make a determination as to use and enjoyment within the EU. This can of course be later changed by a specific statement of a director of the company. Where these details are known then the specific statement must confirm the

predetermined rates of use and enjoyment, as well as the terms applicable during that period of lease being not less than 6 months. If the yacht is longer than 20 metres, the specific statement must be provided every 6 months.

VAT on leases that are deemed to take place in Cyprus is calculated on the basis of the yacht's effective use and enjoyment within EU territorial waters. This means that no VAT is chargeable on the portion of the lease attributable to effective use and enjoyment of the yacht outside the EU territorial waters. The supply of services (under the lease) is taxable at the basic VAT rate (19%) but only to the extent that the leased yacht is used within the territorial waters of the EU.

Registration for VAT

In order to benefit under the Scheme, the owner/lessor must register for VAT in the normal course and must submit the statutorily prescribed application form supported by the relevant documentation including the lease agreement (charterparty) together with a description of the procedures for maintaining the logbook or geotracking system for the vessels voyages.

The conditions for registration which need to be satisfied are:

- (i) guarantee payment must be made on the date of registration calculated at 3% of the value of the yacht;
- (ii) documentary evidence of the value of the yacht at the time of registration. If the yacht is new the value will be determined by reference to a purchase invoice, otherwise there must be a valuation certificate;
- (iii) the owner/lessor must remain registered for at least 6 consecutive years and regularly submit VAT returns in accordance with applicable laws and regulations;
- (iv) the yacht should be made available to the lessee in Cyprus and the lessee shall be a physical person that leases the yacht for non-business purposes.

Levying VAT on the basis of effective EU use and enjoyment

In accordance with standard VAT rules, the lessor would be obliged to charge VAT to the lessee on the lease fee and declare and pay same to the VAT Department upon submission of the VAT returns. VAT returns are filed on a quarterly basis. In this context and given that generally yacht lease fees are paid in advance and use and enjoyment of the vessel is known in advance, there is an adjustment mechanism to ensure that the ultimate VAT charge reflects the actual effective use and enjoyment of the yacht within the EU.

In essence, the Guidelines require that on the monthly lease fees charged in a year, VAT is levied provisionally based on the actual percentage of effective EU use and enjoyment of the

yacht in the prior year. Such provisional VAT must be adjusted for annually to reflect the actual ratio of effective EU use and enjoyment in that relevant year. No penalties or interest would apply for VAT adjustments. In this manner, over the term of the lease, VAT would only be charged on the portion of the lease reflective of the effective use and enjoyment within the EU.

This memo is purely a guidance on the applicable legislative regime and is not to be interpreted as legal or tax advice. For specific advice please contact us as per the below.

Keane Vgenopoulou & Associates LLC

For further information, please contact:

Thomas Keane

Partner

Tel: +357 25 25 7900

Email: tkeane@kvlaw.eu

Christina Vgenopoulou

Partner

Tel: +357 25 25 7900

Email: cvgenopoulou@kvlaw.eu

Aphrodite Loucaidou

Associate

Tel: +357 25 25 7900

Email: aloucaidou@kvlaw.eu