

Commercial Yachts

Introduction

Chartering a yacht is one of the best ways to get introduced to superyachting and spend precious time with friends and family. It is increasingly common for owners to consider yacht chartering as a means of ownership too, as it gives them the ability to offset a portion of running costs. It also allows the owner to keep the yacht and her crew active if the owner cannot take advantage of his/her yacht as often as he/she wishes.

Nevertheless, owning a charter yacht must be considered as a business in itself. Gone are the days of simply renting to thirds over the weekend by pulling out the commercial certificate from the closet and setting on with it.

As any business, the charter company must be licensed and comply with the rules imposed by industry, international conventions relating to safety measures on board, crewing and VAT, amongst others.

Vistra Marine & Aviation Ltd.

Vistra is focused on giving private clients tailor-made solutions. Vistra Marine & Aviation Limited provides assistance with registration, asset administration, corporate structuring and services, accounting, payroll, yacht financing, customs, VAT, and tax compliance service.

Using our network, including lawyers, tax advisors, and yacht brokers, Vistra provides assistance with purchasing of your yacht, setting up a company and administering both company and yacht.

Setting up a Company

We recommend that yachts be held in separate limited liability entities, distinct from the person of its owner, so as to protect the owner for any claims linked to the charter business, e.g. unhappy suppliers or crew, or even an accident.

Entities with limited liability, like Limited Companies or Limited Liabilities Partnership, can be set up both offshore and onshore. The most suitable jurisdiction depends on various factors, paramount being the following considerations:

- Residence of the owner
- Area of Charter Activity
- Flag of the yacht

Registration of the yacht

To offer a yacht for charter, the yacht needs to be registered as a commercial yacht and comply with:

- Commercial Yacht Code Regulations in accordance with the chosen registry,
- International Maritime Convention
- Regulations, and
- Tax regulations.

All commercial yachts must be certified for such operation and the registration be made following a survey by a recognized Government/Flag surveyor or recognized classification society.

Being registered as a Commercial Yacht is the most challenging registration option, but necessary for charter operation within the EU. Maritime and customs officials are usually well aware of this type of registration status, and the relative commercial yacht code, and on inspection will look out for proof of compliance.

The need for yacht owners to adhere to the laws, rules and regulations that apply to their yachts is important also for the following reasons:

- Primarily the safety and security of all on-board,
- The proper maintenance and upkeep of the yacht, tenders, machinery and crew,
- Compliance with any insurance provision that may invalidate the yacht's insurance if breached,
- The avoidance of litigation in the event of an accident or incident involving the yacht and its tenders,
- The avoidance of detention by Port State Control in the event of non-compliance.

Tax and VAT

To register your yacht you will need:

- A survey of your yacht to ensure she complies with rules of the major flag states rules, e.g. Cayman Island/UK/Isle of Man (MCA Code), Malta Flag (Malta Commercial Yacht Code) or Marshall Islands Flag
- Certification of your yacht in line with international rules, e.g. MARPOL, ITC and Loadline
- Proper crewing in line with safe manning regulation and STCW
- Licensing in country where operations are undertaken if necessary, e.g. Spain

Before offering the yacht for charter activities you need to realize that each region provides for different rules:

- Caribbean
- South East Asia
- European Waters

There have been many changes in the last years, e.g. implementation of GST in several countries in South East Asia, or VAT on charters in EU-countries. In the EU, VAT is regulated by the Sixth EU VAT Directive. An EU Directive sets out objectives which require Member States to achieve a particular result, but it is up to the individual countries to devise their own laws on how to reach these goals. Indeed the rules are rather complex and it is easy for the inexperienced to fall foul of same, even if traditionally it is perceived that largely commercial yacht activities are VAT exempt. These exemptions concern VAT on the purchase of supplies and services, including fuel and refit, but even these rules are changing fast. In respect of charter fees some countries in Europe, like Malta, France and Italy offer a reduced VAT rate for charter activities in high sea waters. Important to mention is that each country has its own specific requirements for the application of a reduced VAT rate on the charter income. Customs Code in various zones should also be considered as they often provide additional procedures of paperwork for yacht owners to comply with.

Operation of the yacht

The commercial status of a yacht requires proper administration, so at Vistra we seek to support owners and their captain to fulfil this aspect, ensuring paperwork is always in order, such that invoices are checked and payments done in a finely fashion. For yachts over 35 meters it is recommended to hire a Manager for technical matters.

Crewing

The crew on board commercial yachts need specific maritime qualifications to work. All crew members will be required to hold STCW Basic Training Certificates and provide evidence they hold necessary Flag State approved qualifications specific to their position on board. The following points have to be considered as well for the crew working on a commercial yacht:

- Holding proper employment contract and insurance
- Compliance MLC 2016 Conventions (minimum rights for seafarers)
- Payroll and social security

Management

It is beyond the scope of this document to provide a general introduction of the technical, financial and operational implications of the charter activity of your yacht. Nonetheless we would be happy to advise you, also with the help of our consultants (including Yacht Manager and Government/Flag approved surveyors), to set up a tailor-made solution for your yacht and your charter business.

Contact

Dr Anthony Galea, Managing Director

Office address: Vistra Marine & Aviation Limited, 114 The Strand, Gzira GZR 1027, Malta

Telephone: +356 21331040

Mobile: +356 79 618671

Email: anthony.galea@vistra.com