

A GVZH Guide for British Yacht Owners (as per recent RYA published guidelines)

End of Brexit Transition Planning

It is imperative to note that the location of your boat on 31st December 2020 (11pm GMT), will significantly impact its future VAT and customs status.

- If the boat is in UK waters at the aforementioned time, this would mean that it will no longer enjoy Union status and considered as not being in free circulation within the EU Customs Territory. Consequently, it shall be treated by the UK as 'domestic goods'.
- If the boat lies within the remaining EU27 at the aforementioned time, it shall remain in free circulation for as long as it remains in the EU27, provided this can be proven.

Upon arriving to the UK from abroad from 1st January 2021 onwards, the default position will be that VAT and import duty shall be payable as on the current value of the boat unless entitled to a relief. Despite a lack of legislation in this area, Her Majesty's Revenue and Customs (HMRC) and Her Majesty's Treasury (HMT) have indicated that the law regulating Returned Goods Relief (RGR) will be replicated in UK law.

It seems as if Returned Goods Relief (RGR) rules shall stipulate that for relief from both VAT and import duty to apply:

- goods must have been exported from the UK and returned within 3 years of export;
- the exporter and importer must be the same person;
- the boat must be in the same condition as when it was exported; and
- any VAT due must have been previously paid in the UK.

Therefore:

- If you are not resident in the UK and your boat is registered outside the UK, it seems as if you will be eligible to visit the UK for recreation and pleasure purposes under temporary admission.
- If a UK resident, whose boat was lying within EU27 on deadline day, would like to enter the UK without paying VAT and import duty, they need to be eligible for RGR (as above).

The UK Government has recently announced that it has delayed plans to force British yacht owners to pay a double tax bill on their vessels after Brexit. In a nutshell, these complex customs rules would have meant that British yacht owners moored in the EU for at least 3 years would have to return to UK waters before 1st January 2021. However, this has now been extended to 31st December 2021, despite pressure from the RYA to have a 3-year extension to the relief.

How would the above process work in practice?

Well, if the RGR is not applicable to certain British yacht owners, this would mean that they could face thousands of pounds in VAT since its calculation depends on the market value of the vessel when it returned to the UK. For instance, a yacht costing £500,000 which would have already paid VAT in the past in the sum of £100,000, would be faced with another tax bill of £80,000 on their return to the UK, if the boat was now valued at £400,000.

There are 3 main issues facing British yacht owners:

1. Not making it back to the UK in time due to certain Coronavirus travel restrictions and winter weather which might affect certain yacht owners to not be eligible for RGR and thus having to pay VAT twice;
2. British yacht owners leaving their boat in EU waters come deadline day could cause EU tax liabilities since they would no longer enjoy their current EU VAT-paid status which only applies to EU-flagged craft. The UK flag will no longer enjoy such status and will therefore be treated as a Third-Country jurisdiction from a VAT and Customs perspective; and
3. The loss of the UK flag's EU status might also

have other general consequences on the operation of yachts, such as unaccepted charter licences by some of the EU27 as well as employment and social security regulations for seafarers in the event of a no-deal Brexit.

Amidst these incalculable uncertainties, British yacht owners ought to plan ahead in order to ascertain a fiscally attractive result, especially in such precarious times where cashflow has taken a considerable hit. A number of yacht owners have been exploring the option of reflagging in an attempt at averting double taxation. While in no way trying to steer business away from the UK, British yacht owners may want to consider Malta as their ideal European gateway, providing them with a golden opportunity to retain their EU VAT paid status and ensure peace of mind, whatever the Brexit outcome.



Why Malta?

“The UK itself will be the best location for nearly all UK companies, however some UK firms have understandably decided, particularly in a period of uncertainty, that they will need a base in the EU in future. At first glance, Malta might not seem a natural rival to such well-established financial centres. However, from what I have seen at first-hand from my regular visits to the island, Malta can match, or even better, other European countries in terms of what the island can offer to UK firms and its employees.” - Lord Ashcroft.

There are many benefits as to why British yacht owners ought to think about registering their boat under the Maltese flag, ranging from tax implications and a retained EU status to having the right ingredients to facilitate as smooth a transition as possible. Some of these reasons are:

- It is located at the heart of the Mediterranean and has become a convenient port for a plethora of yachts and superyachts alike;
- A full EU Member which would allow UK flagged yachts to retain their VAT paid status, even after Brexit;
- Aside from being widely spoken (88% of its population), English is the island’s second official language so much so that all official documents are drafted in English thereby facilitating any related registration procedures;
- A corporate tax of 35% which may be effectively reduced to 5%;
- A fast-growing and stable economy;

- Effortless ship registration procedure;
- A single meticulous yet accessible regulator offering exceptional administrative services with around the clock service as well as low-cost registration fees;
- A mixed legal system which is able to provide the best of each to both common and continental law systems;
- On the 2020 white lists of both the Paris and Tokyo MoUs;
- A number of mutual maritime and double taxation agreements with other maritime nations;
- A lucrative financial services industry; and
- A long-standing relationship with the UK including a number of bilateral agreements signed to mitigate any negative effects of Brexit, one of which encompasses free health care to all British citizens currently living and paying social security in Malta.

Seeing that the end of the transition period is fast approaching, British yacht owners, are advised to cautiously assess the consequences that the end of the Brexit transition period would have on their current VAT paid status, and further ensure that their housekeeping needs are covered.

If you require any further information on the above or on any other general yachting-related issues, please contact us on transportation@gvzh.mt.