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FALL 2012 NEWSLETTER

The 2012 New England boating season is winding down! Our firm wanted to highlight below some of the latest changes and updates in the jurisdictional tax & regulatory arenas applicable to vessel ownership and operation.

Uniform Certificate of Title Act for Vessels

Current federal law prohibits states from issuing state certificates of title for documented vessels and requires the surrender of any state certificate of title previously issued for a documented vessel. Although all states now comply with the federal regulations on the numbering of vessels, there is far less uniformity with respect to state certificate of title laws for undocumented vessels. Thirty-three states and the District of Columbia require certain undocumented vessels to be covered by a certificate of title. Sixteen states have no certificate of title law for vessels, including our home state of Connecticut. Even among the states that require a certificate of title for undocumented vessels, the variation in the scope of those laws is substantial; they vary with respect to the size and type of the vessels covered, as well as the location or use of the vessel subject to the law.

Many of the state titling laws also do not clearly delineate how compliance or failure to comply affects the rights of the owner and/or others claiming an interest in the vessel. Many of the marinas and marine trade clients we represent here in Connecticut annually suffer great expense and loss from collection efforts that are marred with title and ownership conflicts caused by current conflicting laws and regulations.

The Uniform Law Commission (ULC), also known as the National Conference of Commissioners on Uniform State Laws (NCCUSL), provides states with well-conceived and well-drafted legislation that attempts to bring clarity and stability to critical areas of state statutory law. After many years of dedicated work, the ULC, in concert with the United States Coast Guard, the American Bar Association (ABA), the Maritime Law Association (MLA), and various law school professors and industry experts, has drafted a proposed Uniform Certificate of Title Act for Vessels which has been presented to all fifty states as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands.

The UNIFORM CERTIFICATE OF TITLE ACT FOR VESSELS (“UCOTAV”) seeks to remedy the inconsistent state-to-state vessel titling system by providing uniform statutory guidelines as to the information all states shall make available regarding the ownership and history of a vessel.

The Act should serve to:

- 1. facilitate vessel transactions and safety by:
 - a. requiring title branding of vessels that have sustained severe hull damage; and**
 - b. deterring and impeding vessel theft.****
- 2. facilitate vessel financing in that security interests perfected pursuant to the Act will be noted on the title.**
- 3. impose minimal burdens or additional costs to state titling agencies.**
- 4. minimize potential complications from a vessel's transition in or out of federal documentation;**
- 5. provide clear rules on the consequences of compliance or noncompliance.**

It should be noted, however, that full adoption and implementation of the Act will likely take place many years down the road, and moreover, the Act will likely only apply to new boats and boats that are already federally documented or the subject of title requirements in those states that presently have some form of titling. Retroactive application to all used boats (that are not currently titled or documented) would be extremely difficult and impractical. Connecticut is one of the first states to initiate an Advisory Committee analysis and review of UCOTAV. This review is the first step in a long and likely arduous journey in the continued analysis, progression, and hopeful adoption, of the Act across the fifty states. We wanted to advise our Clients of this important legislation and will keep you apprised of any major updates.

Legislative Changes in Connecticut

In case you missed our last newsletter, we summarize below the changes that were enacted into law by the State of Connecticut, effective July 1, 2011 (Connecticut Public Acts 11-6 & 11-61):

- an increase in the general sales and use tax rate to 6.35%**
- sales tax on vessels under \$100,000 is now 6.35%**
- sales tax on vessels over \$100,000 is now 7.0%**

The exemptions from (1) sales tax on vessel repair and maintenance services and (2) personal property tax on vessels have been maintained.

We wish to all of our clients a safe and happy fall cruising season!

Please contact our offices with any questions or concerns – (203) 787-2151.



The information offered in this newsletter is a summary in nature and should not be considered a legal opinion.