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SPRING 2011 NEWSLETTER

The 2011 New England boating season is almost here! Our firm summarizes below some of the latest changes, legislative proposals and updates in the jurisdictional tax or regulatory arenas applicable to vessel ownership and operation.

Northern Exposure – Tax Consequences of Cruising the Northeast States

Much of the allure in owning and operating a yacht is the freedom to cruise and explore cruising destinations at home and abroad. For many yacht owners, a popular cruising schedule is one that traces the Atlantic Coast from Florida to Maine. Yacht owners in numbers are bringing their yachts to their favorite cruising destinations in NY, CT, RI, MA, and ME. Many of these yacht owners, however, may be visiting these ports with the misplaced confidence that their yachts are not subject to potential use tax liability.

Revenue-starved taxing jurisdictions in the Northeast have become increasingly aggressive in pursuing use tax liabilities from vessel owners with foreign flagged yachts and yachts registered in other states only briefly visiting these states. Last summer marked an increase in state revenue agents, local marine patrollers and US Customs inspectors acting in concert to detain foreign registered pleasure yachts in high profile New York ports. Reports revealed that the inspections were thorough, bringing to light any number of issues in addition to use tax and state registration matters, including the immigration status of foreign crew, handgun permits and vessel safety concerns.

Currently, the legislatures of Northeast states continue to enact revisions to their respective sales/use tax statutes concerning yachts, many of which from a tax perspective could be very expensive to yacht owners who unknowingly establish taxable nexus by their presence in these states. As such, the following considerations must be made prior to cruising into Northeast waters:

1. The taxability of yachts and the applicable tax rate in the cruising jurisdiction of choice.
2. The amount of time the vessel owner wishes to spend in any one state. Yacht owners should appreciate the difference between registration requirements and use tax liability.

3. Whether the owner of the vessel, either individually or as a beneficial owner/officer of the vessel owning entity, has any connections with any of the Northeast states (e.g. home, business, or summer slip/mooring agreements).
4. The amount of time that has passed from the date of the yacht purchase to the yacht's first entry into any of the Northeast states.
5. For yacht owners who own their yachts through entities (e.g., corporations or LLC), whether proper corporate formalities have been instituted and legitimate business practices have been followed.

Provided a thorough review of facts and circumstances has been completed, guidance and recommendations can be presented to a yacht owner to help minimize potential use tax liability and possible audit inquiry concerning the ownership and operation of their yacht in the Northeast states. With informed tax planning, the Northeast cruising destinations can be remembered for their beauty and not for any consequential tax or regulatory nightmares.

Legislative Proposals in Connecticut

Connecticut's new Governor, Daniel Malloy, has proposed two new bills which could significantly affect the marine and aviation industry in the state. Under Governor's Bill Nos. 1007 and 6387, the following is proposed:

- an increase in the general sales and use tax rate to 6.25%
- sales tax on vessels over \$100,000 will be taxed as follows:
 - 6.25% on the first \$100,000 of the sales price
 - 9.25% on the portion of the sales price exceeding \$100,000
- removal of the exemption from sales tax of vessel repair and maintenance services
- the institution of a personal property tax on vessels and aircraft in the state

Legislative Proposal in Rhode Island

A bill has also been introduced in the Rhode Island Senate to repeal the sales and use tax exemption for the sale, storage and use of new and used boats in the state.

Our firm will be monitoring closely these bills in Connecticut and Rhode Island. If you have any questions or concerns, please contact our offices.

We wish to all of our clients a safe and happy 2011 summer cruising season!



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