



BOHONNON
L A W F I R M

203-787-2151

100 YEARS
of Legal Excellence



SPRING 2013 NEWSLETTER

The 2013 New England boating season is almost here! Our firm is proud to present its Spring 2013 Newsletter - we summarize some of the current topical issues facing yacht owners in the ownership and operation of their yachts.

Vessel Insurance - Marina Dockage / Vessel Repair or Refit Contracts

Recently, our firm has reviewed a number of marina dockage and vessel repair/refit agreements which have attempted to comprehensively limit the liability of the marina/repair facility for any reason. Further, these agreements would require the vessel owner to hold harmless and indemnify the marina/facility and any of its employees or subcontractors for any and all claims (including property damage and personal injury) regardless of whether such claims are a result of the fault or negligence of the marina/facility. Such exculpatory language is likely in violation of the terms and conditions of the yacht's insurance policy, which can void the policy should a claim ever arise. It is essential that yacht owners secure guidance, both from counsel and their insurance agents, to ensure that their yacht is covered under the terms of these dockage/vessel repair contracts. Further, yacht owners should impress the same caution upon their captains/yacht managers, who have the ability to execute these contracts and bind the yacht/yacht owner accordingly.

Vessel Warranties – Post-Closing of a Purchase of a New Yacht

In representing and assisting our clients for the purchase of a new vessel, securing their full understanding of the Manufacturer's and attendant equipment warranties is paramount. More frequently today we find ourselves assisting parties in post closing warranty claims. We summarize below some of the key issues to keep in mind:

1. Properly complete and file the warranty registration card(s);
2. Transferability – closely review the language of the warranty to determine if the warranty is transferrable to a subsequent purchaser of the yacht;
3. Covered issues – closely review the language of the warranty to fully understand what exactly is covered and not covered;
4. Equipment/Parts Warranties – review the manufacturer warranties for the equipment and parts installed on the new yacht;
5. Vessel modifications – be certain that any desired changes to the vessel (i.e. modification to the vessel's electrical system, or installation of aftermarket equipment) do not void/affect the warranty – this may require written approval/confirmation from the yacht's manufacturer; and
6. Read the fine print carefully and assume nothing outside what you read is covered.

Contracts with Dealer for the Purchase a New Yacht

Our firm has also assisted recently a number of clients in purchasing new yachts from vessel dealers. The dealer purchase contracts need to be carefully reviewed and understood for the following reasons:

1. Title to the Vessel – many times, the dealer is simply passing along the purchaser's money to the vessel builder; it is essential that the purchaser understand exactly which party has title to the vessel and when such title and attendant title documents will be conveyed to the purchaser;
2. Security for Purchaser Payments – for the construction of a vessel, often a purchaser will make installment payments to the dealer as the vessel is constructed; mechanisms must be incorporated into the construction/purchase contract to ensure that the purchaser's payments are properly secured should the dealer default or should an issue occur with the builder;
3. Trade-In – many times a purchaser will be trading-in their current vessel as a credit toward the purchase of the new yacht; depending on the purchaser's desired berthing location of the new yacht, it is essential that the trade-in of their current vessel is properly structured and incorporated into the purchase contract to ensure that the value of the trade-in reduces the tax liability on the new yacht.

Jurisdictional Tax Update – State of Maryland Caution

The Maryland legislature recently enacted a cap on the excise tax on vessels in the amount of \$15,000. Invitations have issued from our Maryland friends suggesting “there is every incentive to purchase and homeport larger boats in Maryland” and encouraging mariners to rush to pay this tax as a benefit before it expires in 2016.

If you will be cruising or berthing your vessel in jurisdictions beyond Maryland and pay this new Maryland tax, we have serious reservations this excise tax will be afforded full faith and credit in other states or taxing jurisdictions as a credit against another state's sales or use tax. While this new tax is a credit for sales and use tax in the State of Maryland, this “hybrid” form of taxation will not likely be recognized by other state taxing authorities. Excise, Sales and Use tax matters must be comprehensively understood for interstate movement of vessels. A surprise sales or use tax audit after a summer of interstate cruising is not the time to learn the nuances of an increasingly complicated taxing matrix. We strive to stay current with local, state and international taxing law and its changes in all jurisdictions our client navigate.

We wish to all of our clients a safe and happy 2013 summer 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.