

Northern Exposure – Tax Consequences of Operating in the Northeast States

Much of the allure in owning and operating a sportfisherman or yacht is having the freedom to cruise and explore fishing/cruising destinations at home and abroad. For many East Coast yacht owners and sportfisherman, a popular cruising schedule is one that traces the Atlantic Coast from Florida to Maine with the changing of the seasons/fishing. Yacht owners in numbers are bringing their yachts to their favorite summertime fishing and cruising destinations in Massachusetts, Maine, New Hampshire, and Rhode Island. Many, however, may be visiting these destinations with the misplaced confidence that their yachts are not subject to potential use tax liability in the taxing jurisdictions of the Northeast.

Revenue-starved taxing jurisdictions in the Northeast have become increasingly aggressive in pursuing sales/use tax liabilities from vessel owners. Currently, the legislatures of the Northeast states continue to enact revisions to their respective sales and 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 and fishing in Northeast waters:

1. The taxability of yachts and the applicable tax rate in the cruising jurisdiction of choice: As a general rule, Northeast states asserting tax jurisdiction will seek the amount of sales or use tax which would be owed under their taxing authority, granting credit only up to the amount of taxes that may have been paid in another jurisdiction. In Massachusetts, for instance, a vessel purchaser needs to be careful from whom they are buying the vessel as it may have tax consequences in the form of limited tax exemptions.
2. The amount of time a vessel owner wishes to spend in any of the Northeast states: Yacht owners should appreciate the difference between registration requirements (many Northeast states do not require vessels be registered if used for less than a specific number of days) and use tax liability.
3. Whether the owner of a vessel, either individually or as a beneficial owner/officer of the vessel owning entity, has any connections with any of the Northeast states, such as a home, business, or summer slip/mooring agreements. The more connections an owner has to a state, the harder it can be to assert nonresident/non-taxable status in a tax audit, plus any assets within that state could be at risk.
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. Certain states recognize that if a vessel was previously used in another state, the tax that may be owed in the new state can be calculated on the current (presumably depreciated) value of the vessel, not its original purchase value. Some states also (including Massachusetts) have presumptions of taxability (i.e. if a boat enters Mass waters within 6 months from the date of purchase, tax is presumed to be due).
5. For yacht owners who own their yachts through entities (e.g., corporations or limited liability companies), whether proper corporate formalities have been instituted and legitimate business practices have been followed – a state could seek to pierce the corporate veil against an individual beneficial owner.

Provided a thorough review of the facts and circumstances has been completed, guidance and recommendations can be presented to a yacht owner in advance to help minimize potential use tax liability and possible audit inquiry concerning the ownership and operation of their yacht in the Northeast states. Please give me a call to discuss your specific situation. Tight Lines!

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