

YACHT FISCAL

MONACO MANAGEMENT MEETING

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Day 2

OWNERSHIP STRUCTURES & BENEFITS

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Chris Allix	Dominion Marine Corporate Services Ltd

Chairman— Martin Redmayne

Good morning all. We'll give you the extra 10 minutes at the end of the session because we're slightly off our schedule. The final session of the programme — Ownership Structures and Benefits. A little, mini brain trust on the panel—we're going to share their words of wisdom on the ways to properly own a yacht, to mitigate some of the headaches we keep seeing. Over the last 24 hours, we've heard a few interesting stories of ownership structures that have blown the odd brokerage deal. It's all quite interesting stuff. Steve, Chris, Remco. Been here for the last couple of days—let's do a final session that rounds off the event. Thank you. Steve?

Steve Malley Fortis Intertrust UK

Good morning, is it morning still? Just to follow on from what Adrian said earlier on about Fortis—the last I heard about 2 or 3 minutes ago was it's still the same as Adrian said, basically. But you can never tell, the way things are moving at the moment. And I've heard a couple of bad reports coming back from the UK, so touch wood—might have a job when we get back there, we'll see.

My background is also ex-Customs for 16 years—Grant!—and for the last 18 years, I've been working as a VAT and Customs consultant and doing a lot of marine and aviation stuff. So I've seen quite a few changes over the years and just one interesting thing—it may not be interesting to you—I was thinking about leaving Customs in 1985. That was the time where there were a lot of people leaving to go to consultancy firms. And my boss said 'you're not thinking of going, are you?' And I said 'well, they've made me an offer'. He said—you know what they're going to do with you? They'll keep you for 2 years, they'll suck out all your VAT knowledge and then they'll make you redundant. I said 'oh, that's interesting'. He said 'because knowledge is king'. That was in 1985. So 23 years later, we can still have a panel with 3 VAT experts, none of whom can agree. So there's just no such thing as knowing everything there is to know, and I admit that quite readily.

Part of this talk is about ownership structures and meeting clients' needs. I have a very interesting client, he's very astute, he's made a lot of money in property and he buys his properties as purpose vehicles, and he has in fact bought a yacht and he's selling it, and he wants to buy two brand new sailing yachts, one to keep in the Caribbean for commercial use and one to sail round the world. Now, these yachts are about €1.5million each. And he's becoming a non-UK resident and he's sailing off round the world, basically. And then, he'll pop in on the yacht in the Caribbean. So he said to me 'what structures do you think I should use?' I said 'well, you know, you want a non-EU structure because you're a non-EU resident, you're effectively taking the boats, they'll be under temporary importation if you bring them back'— and we

went through all this—protection against anything that might happen to him and so on—he said ‘that’s fantastic. I’ll come back to you for the structures when the yachts are ready’. The next thing I hear, he phones me up and I said ‘oh, you’ve come back to me for the new structures?’ He said ‘oh no, I’ve done the structures for the yachts’. I said ‘well, what have you done then, who have you done it with?’ He said ‘oh, I didn’t do a structure in the end’. I said ‘what do you mean?’ He said ‘I’ve bought the boats in my own name’. I said ‘did you really? And why did you do that then?’ He said *‘well because the bank I was doing it with said there was too much paperwork if I put it into a company and it would mean big arrangement fees. So I decided to do as they told me’*. And I said I give up. You can take a horse to water—and that’s the point I’m making, basically. Having sought advice, got advice, totally ignored it and now he’s sailing around because his bank, who quite clearly are tax advisers—says it’s the best structure for *them*. But it wasn’t the best structure for him. And that’s the point we’re hopefully going to talk about now.

Why do people put yachts or planes into companies? Partly for protection, partly for tax efficiency, and we’ll no doubt cover that again just now. Free movement—in other words, the structure has to allow them to move around Europe and outside without too much hassle. The flag is also included in that. And in many cases, it gives them access to a tax-free regime if they’re entitled to it—non-EU residents and temporary importation for instance—and everyone says this is very complicated. I ask 3 questions when a client comes to me for a structure. First—are you an EU resident or are you not? That determines where we go next. Do you want to use the boat for commercial purposes and generate income and run it properly commercially, or do you just want to use it yourself for private use? And those 2 questions then open up the possibilities of the structure. Really, it’s quite straightforward. If he’s an EU resident and he’s going to use the yacht properly for commercial use, then we put him into SPV, probably Red Ensign, MCA commercial boat, run it properly—and we’ve been through the French exemption today and I say run it properly, not a half hearted attempt. If you’re going to do it, do it properly or don’t do it at all. Or if he wants to use it privately and he’s an EU resident, low risk—pay all the VAT, keep it in a company but pay all the VAT and that’s the end of it. Nobody is going to give you any hassle from then onwards. If you don’t want to pay all the VAT then what are your choices? Your choices are now—I was going to say the Dutch lease but someone earlier on said the Dutch lease was illegal, it’s not. Never was illegal, but is highly aggressive and we don’t do it any more, and I wouldn’t advocate anybody doing a cross border lease of that sort, there’s just going to be too much trouble. Then you’re left with the French, the Italian lease and the Maltese lease. All of which have their own benefits, some are slightly riskier than others, and I would say that if you’re going to operate under the Italian lease you go for low deposit, or low down-payment, run it properly; as Carlo mentioned, don’t have a berth in Italy. If you have a French lease, it’s a little bit more flexible but not high risk. The Maltese lease, we looked at very, very closely—again, there’s nothing really wrong with it although there is the possibility to make it too aggressive in the fact that you can actually own your own leasing company and the lease is a minimum of one, maximum of three, we’re not so sure that’s as safe as it could be. But the opportunities are there. And if you have a non-EU resident client, then I would look seriously at—for private use—BVI company, Cayman flag. It’s as simple as that, it works, they’re easy to set up, easy to run. And I wouldn’t go for anything more sophisticated than that. I wouldn’t even think about strange flags, just Red Ensign, Cayman, BVI or whatever, absolutely no problems at all. Simple, simple stuff. Now, for commercial chartering for a non-EU resident, then clearly we’re outside temporary importation and back into again not necessarily an EU company but a company that gives both the VAT benefits and the tax benefits. And I mean we’ve heard Isle of Man over and over again—it is a good

structure for the simple reason that it's within the Customs territory and it is in terms of taxation, these are resident companies that pay corporation tax on profits at zero % for the time being. So it is slightly tax-aggressive, but I would say the majority of the big yachts under commercial charter will be using some sort of Isle of Man connected structure, whether flagged Isle of Man or Isle of Man ownership structures. So, robust. Now, I've talked to Chris earlier on about risk. Having been a VAT man, a Customs man, for so many years—when I left Customs, I was probably one of the worst poachers and the firm I worked for before I joined Fortis—we were very, very aggressive in terms of tax planning. And we kept that going until I joined Fortis—but Fortis being a very conservative bank (if it still exists—does it?) didn't really like tax-aggressive structures. They'd got burned once and increasingly became more and more cautious. And as Adrian will tell you, I didn't like that very much in the beginning. My view is, if it's legal, we'll do it. But Fortis looked at it from a different point of view. Is it reputationally acceptable to do it? If something does go wrong, your boat is boarded, there's a tax issue, maybe that tax issue will spin across countries, as did happen. Is it too aggressive? And I'm gradually, maybe it's old age, moving away from the more aggressive structures to ones that are solid and will stand up to scrutiny. And it's not just the setting up of the structure. It's the implementation of the structure. Now I'm a director of I don't know how many companies—I should know how many, say 70 or 80—yacht or aircraft owning companies. And sometimes, I really, really worry that I don't know on a day-to-day basis where my boat is, I don't know who's on board, because obviously they're all commercial, they're under charter, and I wonder about my director's responsibilities. And the problem with—not making any accusations—but when I'm a director of the company, I'm running that company on behalf of the beneficial owner, I'm protecting him. And very often in this industry, there's a lack of recognition of that fact. These companies are set up to protect the clients, to give them a corporate veil, to give them a shell of protection. And if skippers, yacht managers, charter brokers, project managers break that shell, not only do they damage me but they damage the client as well. So those sorts of issues are really, really important. And it happens all the time—you get a phone call from someone—*the owner is here and he says this, that and the other*. And I say, you could ask the owner where his name appears on any of the documents. And it won't. His name does not appear. No public document will show the owner's name. And that's for a good reason, it's to protect him. So when you start identifying the owner, then you start breaking down that shell of protection. And that's something that's pretty important, not just because I'm a director of the company. But I feel I am protecting the client and, by allowing these things to happen, then directly or indirectly I'm letting the client down. So that's the reason for having the structure—to protect the client. The tax issues obviously fall from that. But my last point, before I pass on to Chris, is that if we're going to do these things we have to do them properly. The EU VAT and Customs authorities—I'm not saying they're gearing up, but they're a lot more organised—*'them chickens is organised, Mrs Tweedy'*—do you remember that? *That's gone over the head of the French people, sorry*. They are organised, and they are talking to each other, and they're not stupid and we have to, if we're going to run this industry, because basically the industry is in this room now—if we're going to run this industry properly and protect our clients, then we've got to do it the right way.

Martin

Thank you Steve. Chris?

Chris Allix Dominion Marine Corporate Services Ltd

I agree with virtually everything Steve said. In fact, I agree with everything he said.

Tork

That's a first. Scary!

Martin

That'll bring Ayuk back on the panel.

Steve

We haven't got enough time! Sorry, Ayuk.

Chris

There's one additional structure for pleasure yachts that Steve didn't mention. That's an Isle of Man lease rental structure. It's VAT deferral, VAT is paid in full. In fact, if the client owns it for more than 20 years, he pays more than the full value. The VAT is paid on the lease payments to the tax man and if the boat—there is no cheap options to buy—if the client takes it back or it's sold, then VAT is due in the country where it's sold or option is exercised at the full value of the boat, so there's no avoidance whatsoever. It's a very, very placid structure. But enough of that.

When you're dealing with corporate service providers—as we call them, CSPs—there are some fantastic CSPs in the market who are great at CSP work. And now, a lot of them are jumping into the yachting side and they really don't know what they're doing. It's very, very important when choosing your CSP to make certain they are experienced in the yachting industry and have been around for more than one or two years. I think Steve would agree with me on that one. There are too many people who have seen the industry, it's glamorous, there's a lot of money in it, and they think 'oh, we want a piece of this business'. And it's dangerous. They can cause more problems than they solve. Always worthwhile checking that the service provider has been working with the industry for 5 or 20 years plus. There are plenty of them out there that do it—I'm not saying you should work with Steve or I—there are plenty of others out there. But check with the provider who might be giving you an alleged cheaper price — price should not be the main be all and end all. But at the same time, there are some people out there who are well and truly overcharging, and the corporate service providers have got to be responsible in their fees and their service. If they give bad service to the client or overcharge, the client will find out and the industry could lose another yachtsman. They're not stupid—we say the VAT men aren't stupid—neither are most of the owners. Steve mentioned everything else I was going to raise!

Steve

Sorry. Only superficially.

Chris

There are other structures—limited liability partnerships, which have had great use in the past. I heard in Monaco this year—although again, I've not got any confirmation of this—that there's been a change in the UK rules on LLPs whereby an LLP at one stage they were allowed to reclaim all the losses against the UK companies for tax

purposes, I believe this has now been limited to about £30,000 per annum which, if that is the case, has taken away a lot of the benefits of a UK LLP anyway. They are very complex but a very good structure as well. I think that's all I can say for the moment—I'm waiting for Ayuk's questions.

Martin

Adrian—do you want to ask a question first, and then we'll move over to Remco?

[From the floor] Adrian

Yes, it's not my particular area. It's more a direct tax area. But certainly I'd echo what you said about choosing a CSP, not necessarily one on the panel there, but a CSP that has experience in the industry. There are issues of substance, I believe, where it can be quite dangerous if you are pretending to have a yacht owning and chartering company and the directors are just people who happened to live on that particular island, they don't know about the business, they're not adding value, they're not participating in that business. If you go for a CSP who's got directors who fully understand the business and are adding value, then that's got to be the way to go. Otherwise you can fall foul of issues of substance, about which others know more.

Martin

Invariably who chooses the CSP?

Adrian

It can be a mixture—owners, sometimes they already have relationships, sometimes it's recommendations. A lot of word of mouth—

Steve

It can be the skippers, and the yards have relationships with certain CSPs around the place.

Chris

The owner part is sometimes the most dangerous. Because yes, they've had a long term relationship with the CSP who's been superb at doing the business they're doing. But have never actually handled a yacht. And then they ask 'oh, can you do the yacht?' 'Yes, sure I can do that'. And that's when the problems can start. I'm not saying it always happens, but it can start. And I think the other side of it as well with CSPs who offer services that are very difficult to provide from the Isle of Man. 'Oh, we'll do anything, we'll run your boat, we'll do everything on your boat', and they're on the Isle of Man. It's very dangerous.

[From the floor]

Chris, the limitation on losses of LLPs for UK partners is actually per partner, not the whole partnership. So if you've got a group of guys, you can have £125,000 loss relieved against their personal income per annum.

Chris

Thank you.

Steve

Now that we've mentioned LLPs and Isle of Man LPs, the structure is particularly relevant for UK resident domicile individuals. Where perhaps there is an exposure to benefit in kind. Now this goes back to this complex discussion on commerciality—my view is that a yacht is either private or it's 100% commercial, there shouldn't really be anything in between. Unfortunately, the UK Revenue rules on benefit in kind can be quite harsh and intractable, and my view is that if you have a yacht that's owned by a UK LLP or an Isle of Man LP that is commercially registered and commercially chartering, including to the partner, of course the partner would be one of the beneficial owners, and he should still continue to contribute at the open market value to the company through charter agreements. Now I think under the UK tax rules, and I'm not a tax man, there is actually no requirement under an LLP to make a payment. But of course, that gets you into all sorts of other problems with the French Douane if you're not seen to be chartering properly, and of course with HMRC who might then decide that they want to disallow some of the costs relating to the operation of the yacht in the proportion to the overall use. So again, these issues are quite important—and I did say EU or non-EU client earlier on—I think we have to be very careful about UK clients because of our connection with the UK. As I say, the Isle of Man isn't in the EU apart from the Customs and VAT area but we are, shall we say, there's a watching brief over us. Anything that we do on the Isle of Man in respect of VAT, the UK authorities like to look at it. Perhaps more than we like, but these are the sort of issues we have to be careful of. So UK clients are to us—I was going to say a pain in the neck, but that's not the right words—they are of more concern, not as much concern as U.S. clients, who really do cause us problems, and we'd rather not have them, it's nothing personal, to any Americans here—it's just that they're very difficult to look after from a CSP point of view because of the issues with the IRS and so on.

Tork

Speaking of being fully commercial all the time, one strategy which is actually necessary often for fully commercial yachts entering the United States is they actually change their registration on entry to private. To avoid problems. Would that cause other problems elsewhere?

Steve

That's a good point and we always say to our clients at the very beginning—tell me when you're going anywhere near Spain, and tell me when you're going anywhere near the U.S. Because in those two circumstances, we're opening up a whole can of worms in respect of operation. If a client wants to go into the U.S., the first thing I'd say is, well, why? And I mean, you can get perfectly good cruising waters without going to U.S. but if he has to go—

Tork

But there may also be—because the Americans are trying very hard at the moment to take advantage of the weaker dollar and offer services in terms of refit and repair—so I think that may also be the motivation for going, and not the cruising at all.

Steve

Well, one particular client wanted to actually race the yacht in the U.S. The boat is currently commercial and we gave him the choice—you're going to have to put it onto private if you want to do that and race privately, because the thought of having a commercially registered yacht in U.S. waters just doesn't bear thinking about. So we had to change the flag. We've done that on a couple of occasions—now the boys from the Cayman are here and they're very accommodating when it comes to the change between private and commercial as are the Isle of Man, although there have been one or two problems as some of you may know—these are the sort of issues that, as when Chris says, choose your CSP—there are some CSPs in the Isle of Man that will not touch yachts because they think they're too risky. And it's a justifiable position. It's a big asset, there can potentially be a lot of problems. So my view is, as Chris said, if you're going to go through a CSP in the Isle of Man, choose one that knows what he's talking about.

[From the floor]

And how do you know that you're speaking to one who knows what he's talking about?

Steve

Yes, well, the Isle of Man has a marine forum and the Isle of Man Government itself is actually very good at promoting the island, and they will give you a list of those CSPs that are very active in the yacht area. And probably, there's half a dozen on the Isle of Man that are reputable and know what they're talking about, and then about 454,000 one man and his dog who don't know what they're talking about. And these things are really important. Not just for the owners, but for the Isle of Man as well. We do not want to devalue the strength that the Isle of Man has in a number of areas, particularly with the aircraft and yachting industries.

[From the floor]

What we see from a client perspective is that, what we also saw this morning in the session—and what is still going on in this session. And probably for the rest of this year. Is a lot of confusion and different interpretations and that's the experts and Customs, and it doesn't surprise me that it's also happening with the client. It's very difficult nowadays to advise a client where to go and to whom he should listen and what would be a good option. And even if you manage to give him good advice or to bring him in contact with good service providers then setting up the structure, then only the whole game has just started. Because owners have at the moment quite often the wrong reason to choose for an owning structure. It's still driven to avoid the payment of the VAT. But I think that, now the industry market is becoming more professional, more mature, that we will end up in a couple of years that we have to accept—the brokers, the salespeople, everybody, that you simply have to pay the full VAT. But even if that is the case, there are still a lot of reasons why you could set up a special purpose company, as just said. But the question is, what is the owner facing when he has his yacht in an owner structure, and there quite often the problem starts, because setting up the company can be done, the question there is can it be done in time, when will be the VAT number available, when can the invoice be raised, etc. You can agree on a front pricing. That's also fine. But then, he starts travelling around in the Med and he's doing that for one year, or two years, but the client then forgets everything what was told up front. He's forgotten the rules of the

game, because he likes to sail around and he doesn't like these rules. He has had this up front advantage, what was the main thing, ownership and VAT, and now, well, he'll take his chances and deal with it when it comes. Well, will it come? It will come when he is trying to sell his boat which is owned by a special purpose company. Because the broker is selling the boat, and not sure it was VAT paid, yes or no, but the yacht is owned by a company, it has a VAT certificate, it might well be VAT paid. Correct, as long as it is in the company. But are we now selling the company or are we selling the yacht? If you're selling the yacht, it's pretty straightforward. You can agree on a price of the yacht, you sell it, the new owner sets up his new owning structure, and fine. And he can dismantle his existing company or use it for his next yacht. But quite often, they say 'well, I stop for a couple of years' or 'I do something else' or 'I want to sell everything' included, crew, management, etc. Then you have to figure out what the price is for the shares of the special purpose company. Because you are then not selling your yacht, you're selling the special purpose company. So then you have to do a due diligence on the special purpose company. So what is the price of these shares? To do that, you do at least need annual accounts and up to date management accounts to see where they are. And then, surprisingly, if you ask for these for the least 5 years because he has been sailing for 5 years, they are not there. And please comment on it, but quite often they are not there. And then, you end up with the first problems because the seller wants to sell, the buyer wants to buy and the owner says 'hey, listen, I've paid you a fee, I've paid an upfront fee, I've paid an annual fee, where are my annual accounts?' Then the service provider says 'well, it was not included'. Because for a lot of companies, it's not needed that you produce these accounts. But the owner, who was probably told at the beginning but has forgotten, he says 'well, I have my own businesses, I have Price Waterhouse Coopers' or whatever, and 'they are producing my company accounts every year on a monthly basis'.

Chris

Can I say something? Firstly, I would never recommend anybody take over someone else's special purpose vehicle, because even as directors we do not know—there could be debts that we weren't a party to, problems that we've not been told about, particularly in the yachting industry where the yachts are sailing around—who knows, you can always get confirmation that all the crew are paid but even the captain might not know about a debt that could have occurred some time in the past that could be attached to the yacht, or the company. So we always recommend a new structure. On the accounting point of view, as of about 2 years ago, it became a legal requirement in the Isle of Man that you have to prepare accounts even if the client doesn't want to pay for them, they still have to have them. As directors, you are still responsible for preparing accounts. You can try and charge the clients, and we usually do, but it's not always that they're going to pay. But, as directors, we are responsible for ensuring accounts are prepared.

[From the floor]

I agree with what you're saying—it's best to sell the yacht and to dismantle the company. But in practice, that's what we see and the owner didn't know, the Big 4 advisers didn't know or didn't tell him, and then they get frustrated because it's frustrating, the sale process at the moment.

Chris

I've been asked by clients who've sold their yacht out of their company—'now can you sell my company?' And you say 'well, actually, it's got no value'.

Tork

Remco—a question for you. John Leonida told us yesterday in very broad brush about a deal which had collapsed because of the complexity of the structure of ownership. Not the details of that in any way but that it could cause a circumstance like that, and therefore what sort of structures should you be avoiding if you ever want to sell your yacht?

Remco

Well, what you should, and what Chris is also telling you, you should simply sell your yacht directly out of that owning structure.

Tork

But there was something clearly in this deal that didn't allow that to happen?

Steve

I'd love to have seen the structure actually.

Chris

Ditto.

Remco

I don't know. But I do know—

Tork

I'm just generally sort of asking what are the sort of things we should be careful about, generally, that might cause something like that.

Martin

Can you give Jay the microphone please? Ayuk, can you pass it across for just one second, I'll come back to you.

Jay

I had one deal that foundered because it was really Chris' point, why you shouldn't sell the company—and this was a case where owners had the yacht in a UK company which was perfectly OK because they were all tax resident in the UK, so there was no benefit for them to be had in setting up a company offshore because the UK Revenue would simply trace everything back to their tax residence in the UK in any case. So it made sense for them to have a UK company. But then, my clients had agreed with them to buy the owning company and they seemed to believe that this was a sensible thing to do, and I was just asked to paper it up. The deal had been agreed. And I just had a feeling that there was something wrong—it was a little while before the penny dropped but the problem with that is the sellers had bought

the yacht for X, let's say they'd bought it for £10million, and they were selling it to my clients for, let's say £15million, so there's a capital gain there of £5million on the yacht. But my clients were buying the shares, and the shares had originally been subscribed for at £1 each and there were a hundred of them. So what was going to happen to the buyers of this company is that when they eventually sold they were going to have an enormous capital gain which was the difference between what they were paying for the yacht, but in fact for the shares, and the £100 that had originally been subscribed. Fortunately, the penny dropped in time.

Steve

It is a general rule, certainly in the Isle of Man, that you don't buy the company, you buy the yacht. And the VAT rules around Europe allow this concept of transfer of a going concern, so if it's a charter yacht business and you're selling it to another charter yacht business, then there's nothing for VAT purposes, it's just as easy to set up a new company and then kill all the inherited nonsense and trouble you've got in the old company. So, I mean, we've never, as far as I can remember, ever taken over a company with the yacht. We've taken over companies with yachts in them but that's a different thing. But we've never bought the company and kept it. Because you just don't know what might be lurking in there.

Tork

But why did the seller want to do it that way rather than selling the yacht?

Jay

We never quite got to the bottom of that. But I think the sellers knew exactly what they were getting into. The real problem was that they had bought the yacht for £10million say, they were selling it for £15million, what it meant was that the buyers were ending up paying the difference between the subscription price for the shares and what they were paying for them. I think the sellers wanted to minimise their own capital gain. And they knew exactly what they were doing and were just hoping the buyers wouldn't realise.

Tork

Sneaky.

Steve

I think that's a sort of direct tax question, isn't it?

[From the floor]

Is there still a capital gain on the shares?

[From the floor]

What they're trying to avoid is crystallising tax without the vessel moving, so if the company sold it, the £5million gain that you're talking about would be taxable in the company. If for example the individual shareholders were not UK tax resident, they could sell the shares for £15million and not pay a penny in capital gains tax in the UK. But it then leaves the buyers that they've paid a whacking great price for those shares—if the boat value subsequently falls, they probably won't get their loss

allowed in any shape or form because they'd have a depreciatory transaction company.

[From the floor]

And if they then sell the boat out of the company, then the capital gain the company makes will be the difference between what they sell it for, which is say £20million, and what the company originally bought it for, which is say £10million.

Martin

Is that clear? Please pass the mic' to Ayuk—I think he wants to challenge Chris.

[From the floor] Adrian

My comment was just to reinforce the notion that, if you go into any kind of structure, you want to think about how you're going to come out of it at the point you go in. Ideally, you want some kind of exit strategy, whether it's a lease or whether it's a company structure, you want a kind of—it could be as straightforward as, if it's a run of the mill Sunseeker and you go into a lease, you get a VAT paid boat at the end. Now that's better if you're selling, than a non VAT paid boat. If you've got a very bespoke boat at £20million or £30million, you could probably put it in to an SPV. And at that price point the VAT becomes less relevant because somebody will either really want to buy the boat or not. Based on what the boat is. So it's kind of '*know your second-hand market*' in a way. Talk to your broker about how it might sell at the end.

[From the floor]

But do you advise your clients up front about it? Exit strategy?

Adrian

Yes, we do. We have a whole information sheet dedicated to how they might exit, and the consequences.

Steve

Yes, it starts off how you get in, and the next page is how you get out. In fact, I have—

[From the floor]

It is of course updated?

Steve

In fact, on that very point—

Adrian

There is a quote, and I'd love to know who said it—but 'the two happiest days of a yacht owner's life are the day they buy it and the day they sell it'. Who said that?

Steve

Again, I have a client who asked the question—he has a 50-metre boat, operating commercially—he uses it, he pays for it, but the rest of the time it's out there in the market. And he asked me, he said 'I don't really want to charter it any more, I just want to use it myself'. He's EU resident. 'What should I do?' And of course, this is effectively exit from the structure. And he said 'well, could I pay VAT on it?' I said 'well, you could, in a variety of ways. But the problem is it's when you come to sell that boat—and that's in his mind for next year—and you sell it with VAT included, the next owner will probably want to use that boat commercially, but he can't get that VAT back because once it's been paid to the authorities, it's effectively anchored there. So he's effectively charging 20% or 19.6% as the case may be—more than he needs to'. So he says 'but I don't want to charter it any more, I just want to use it myself'. So it's a kind of dilemma that we've got—how do we help him out so he doesn't charter but not pay the VAT? I said 'well, you could put it into a French or Italian lease', but then again, he's still going to have either 6% or 8%, which again is lost to the new owner who will potentially take it over. And we're then going to go through—I know what's going to happen—we're going to go through this situation through the next part of 2009 where he really doesn't want to charter it. And there's me saying you have to do it properly, you have to be 100%, and I know he doesn't want to do it. But I still don't want to pay the VAT on the boat because it's lost then. And if anyone else could think of something—it is a bit of a dilemma and I'm thinking 'what do I do that's best for the client, he's a very good client and I want to do what I can for him. But he's going to put us in quite a difficult situation. Because the boat is well-known, the French Douane know it and they obviously know him as well and it's a case of, if we don't charter, we're going to have a problem but he just doesn't want to do it'. So I'll have to work on that over the winter.

Martin

Ayuk please?

[From the floor] Ayuk

I think what that underlines, and the question as to accounts, or entry into the structure or exiting the structure, and the period in between, I think what that means is just to—you'll be surprised—emphasise Chris' point. A choice of a CSP is terribly important. There are several who don't have those skills, basically set up a company and the yacht is put into the company and the directors—some don't even bother to sign the charter contracts, and it's all a very passive relationship. Quite a few of the CSPs on the Island cannot provide these services in a comprehensive way. The wise ones would outsource accounting, the preparation of accounts, because they haven't got the skills in house. And in many cases, when it comes to VAT, they will use people who are trained to do that job outside their firm, they effectively outsource that work. There are some providers though who have a comprehensive range of skills, from the company formation throughout advising on the ongoing tax affairs, whether it's direct tax or VAT. They know exactly what should happen when the client is ready to exit that structure or when they sell their yacht. A lot of these things are flow through thinking, and unfortunately, not many providers actually have those skills. I am not allowed to advertise, we happen to be an accountancy firm and that happens. But there are a lot of people who don't have these skills united within one roof. And they're wise enough to outsource that. So the choice of CSP is terribly important.

I want to comment secondly on the U.S. case, which was the original question—sailing in the U.S. The East Coast of the U.S. is irresistible to some clients. And we actually talk to the Customs there, they're quite helpful, and that's the only case where we recommend to clients that they should go in as a pleasure yacht. It's the one exception. There are very sound reasons for that—if you go in as a commercial yacht, you queue up with all the tankers. It's literally that. You have to clear—there's a liability to charges—first of all, you need a charter licence, there's a liability to charges depending on which state you're in and if you move from one state to the other along the East Coast for example, there is a host of problems which are due to just being commercial. But when you talk to the Customs people on the coast and establish a relationship, you can actually get everything from visa clearance in terms of understanding what visa the crew would need to get there, and once they're there, what exactly to do. So that's just my contribution to this.

Chris

I agree with Ayuk!!

Tork

What I was wondering is what the European authorities' view would be of the fact that you're claiming to be fully commercial and you spent 6 months in the U.S. being private.

Steve

That was your point, and I missed it completely. The whole concept of commercial is this issue about where does the EU Customs and VAT jurisdiction end and so on. And we had this discussion earlier on with paying VAT in the Isle of Man when perhaps the Isle of Man weren't entitled to collect it. When the boat sails outside the EU, it's still operating commercially in many cases. Or you might move it on to private. Now, in the Isle of Man, the VAT authorities there have very distinct rules on what they consider to be commercial. And this is this 1/20th rule, which I don't necessarily agree with but once the boat goes outside the EU—

Tork

Sorry, could you clarify that rule?

Steve

Yes. The 1/20th rule. As long as you pay over effectively 5% of the vessel's value per year into the charter structure, the Isle of Man authorities will accept that. I prefer to do it slightly differently, and on a bit more of a scientific marine basis. I'd say the value of the yacht times 20%, which is effectively a very good return on capital, divided by 365 (number of days in the year), times 90 (which is a 13-week charter period) effectively gives you the same charter amount. Now that's the Isle of Man's definition of commercial. That's not the French Douane's definition of commercial. But to follow on from what Tork has asked, once the boat sails outside the EU, you can in theory issue a block charter to the beneficial owner, and as long as he pays in to that, the Isle of Man authorities are happy, it's a zero rated charter because it's outside the EU in any case, the French can't touch it, neither can the UK because it's not in EU waters. So, as far as we're concerned, as long as the figures look good on

the VAT returns, and as long as the figures show on the annual accounts, then no one can really worry about it.

Chris

It is important though that the yacht leaves EU waters as a commercial vessel and switches somewhere mid-Atlantic to private, because if it switches to pleasure whilst it is in French waters or Spanish waters, technically there's a charge to VAT on change of use. So you've got to go out as a commercial and come back in as commercial. And that's where the Cayman Islands and the Isle of Man twin-certification is useful. We had one that went into America, a small Sunseeker, well, not that small—and it was commercially registered out of London. And fortunately, he spoke nicely to the Customs officer in Fort Lauderdale and was told 'we'll give you a couple of weeks but we really recommend you get this switched from commercial to pleasure'. And we did that. But going back to Ayuk's comments, if you are on a cruising permit, you've got to be very, very careful along—if we think we've got problems with VAT or Customs in Europe, America has an under-the-table problem in that each state has their own rulings on cruising permits and how long you can be and what you can do. And if you're going through 3 or 4 states, you've really got to know what each state is doing.

Martin

Thank you. A Maltese perspective?

[From the floor]

Actually, it's not really a Maltese perspective. I just wanted to add on something. You mentioned 2 jurisdictions which aren't too yacht-friendly, which is the U.S. and the other one I can't remember—Spain? I'll add on Greece to that, and I'd like to know the panel's views on the situation in Greece, because as a lawyer, I must remind everyone that we have to be careful because you can't have a dual registration, you can't flip flop from one to the other.

Chris

It's actually not a dual registration. Only one exists at any one time.

[From the floor]

Yes, but crossing the Atlantic, I agree with you there. It's easy because you have the time to do it. But when you enter Greece, it's a different issue, and I'd like to know the panel's observations on that.

Chris

You'd have problems switching from commercial to pleasure in Greece because they're an EU country, and technically if you went into Greece non VAT paid under whatever structure you'd had, and you go into Greece as a pleasure boat, the Greeks could quite comfortably turn around and say 'ah, where's your VAT—you've obviously switched from commercial to pleasure. And now that's a change of use'. Very dangerous.

[From the floor]

Have you solved it?

Chris

We tend to—the trouble is again the flagging—you can't use Isle of Man, Cayman Islands, or any non-EU flag. We tend to use London, Malta and Madeira. We tend to use an Isle of Man company over the top of them for the benefits of the fiscal side of things, but using an EU flag, and the 3 flags we tend to use are either UK, Malta and Madeira. Then they're allowed to get a Greek charter contract and charter.

Steve

And for non-London flag boats, we basically say 'don't start the charter in Greece, start it in Bari or Brindisi and transit through to Turkey and vice versa'. Touch wood, in all these years, we've never had a single problem in Greece. Apart from the stupid rules you get in some of the islands. But they're not necessarily real VAT issues.

Tork

So is that actually the case that you can charter in Greece provided you're EU flagged?

Chris

And you have a charter permit.

Tork

Do you know what that permit costs?

Chris

I've no idea what it costs.

Steve

It's not that much.

Chris

It's more hassle than cost.

Steve

As far as we're concerned, it's a commercial exemption and we've never had a problem. And we've had a lot of boats boarded over there as well, and we've never had a problem in Greece.

I'm just looking back at the itinerary for this particular session, about ownership structures that have been sold that don't meet the client's needs. I was in Dubai last year and dealing with some yacht builders down there, and they had a number of Dubai clients, so they could be a combination of Indians, there were a couple of Brits, that were actually buying boats down there, and the yacht company wheeled in someone from an Italian leasing company. Who proceeded to flog them the Italian lease. Now, the boats were going to be in EU waters but the people were all non-EU

residents. So they were going to end up paying 10%— because the boats were under 24 metres— VAT on these Italian leases when, in fact, they didn't need to pay VAT at all. And looking back, over the last few years, at some of the structures that have been sold by my previous colleagues, I've picked out 3 or 4 where Russians and Swiss residents have been sold leases that didn't need them. They needed the finance, but they didn't need the Italian lease. So they ended up paying VAT when they didn't need to.

Remco

Well, it's what's happening with clients who are entering into such kinds of leases, is that they plan to stay in Europe permanently with the boat. They don't have the intention to make use of temporary importation. And that's what's driven them to go into a lease or go into one of the other schemes.

Steve

I mean, I think on some of these bigger boats, even paying 6% VAT when you don't really need to, and I know what Remco is saying, when it comes up to the 18 months they can't be bothered to take the boat down to Tunisia, or North Africa or wherever, just to start a new 18-month temporary importation. Which brings me on to another thing. This morning, we were talking about the paperwork for temporary importation. About making an actual declaration that you've imported the yacht under temporary importation to start the clock. Try and do it, try and get the Customs documentation, because most members States will say 'well, you can use the verbal or oral authorisation method', which means you don't, or can't, do a Customs declaration. And it's really, really hard to get that paperwork done.

Chris

We had a yacht that was actually in temporary importation in Europe, and some people made the mistake of visiting the UK for a few weeks. As soon as it arrived, they wanted the temporary importation documents. And the Customs officer couldn't understand why they hadn't done it before. Fortunately, they were pragmatic about it and let them just do one for under the UK rules. But as far as I'm aware, the UK is the only one that actually has the forms.

Steve

We took a boat into Spain under temporary importation this summer, and we went to Palma Customs and said 'the boat is coming in on this date, we want a full set of Customs documents stamped'. 'Sorry, can't have one'. In the end we had to have a notary go on board and notarise all the documents—the berthing and whatever. Just to notarise it, to say 'this is when your 18 months starts'. Because the boat is going to sail around Europe and we don't want a situation where people say 'oh well, you can't prove when you came in'.

Remco

Steve, regarding temporary importation, is it correct that you're not allowed to charter? And to sell, and these things we've heard? And is it also correct that you cannot invite European friends on board, with European passports and nationalities?

Steve

Ah. The restrictions. Temporary importation is a Customs regime, and it's a Customs relief from VAT. Which has a set of conditions. There are several, you can't charter, hire, lend the boat or allow it to be used by other parties. When the non-EU beneficial owner is on board and the company is a non-EU company owning the yacht which has a non-EU flag, all of those are conditions, and as long as the owner is on board then guests can come on board. Where we get to the stupidity of the situation is the unwritten rules, which say if there are 5 EU residents on board, there must be 5 non-EU residents on board. This is the unwritten 50% rule. Now, it's never been tested, in my experience. But I wouldn't like to leave a boat with EU residents on board and the owner gets off and goes back to the UK or whatever—so we always say to our clients 'you stay on board, don't leave anyone on board when you're not there'. Just in case there's the possible infringement. Because it's serious stuff if it does happen.

[From the floor] Carlo

I think it's under Article 560 of the implementation rules of the Customs code—that says that if the user, which we assume is a legitimate non-EU person, authorises in writing that the EU national persons using the yacht at any given time while he or she is within the European VAT territory, that is allowed under TI rules.

Chris

Just as well we have experts here, isn't it.

Carlo

It's either 560 or 561. But that's how we got a yacht released—it had been detained because there were EU residents on board. And that was a structure where we were not obviously relying on the owner, it's a BVI company, it's a non-EU. There was a fully disclosed structure with a Swiss ultimate beneficial owner at the end of the chain, and this person was in writing authorising the captain to host this and that person that were EU residents.

Steve

So the bit that says *in writing* is important. Because if you have a TI yacht sat out here, and then you have a party one night and the owner gets off the boat and there are EU residents on board, none of which have any authorisation to be there, I think you'd have a big problem.

Carlo

I mean, I come from a country where, if it is not in writing, it does not exist. So *in writing* comes absolutely natural. But the idea behind this rule is 'look, I am just off for a short absence'. 'I' being the non-EU person. 'And while I'm away, I shouldn't be bothered by my EU guests being on board'. This is one of the relaxations that was introduced in July 2001 when the regime was reformed.

Steve

Now that would be interesting to see if that worked in Spain and in France.

Chris

Once again, going back to the aviation industry, and I found this out myself through Martin Fiddler, if you have an aircraft under TI, correctly under TI, it's done nothing wrong there, and one EU guest goes on board that aircraft, then it takes off and goes into another EU state, that's a taxable situation and the aircraft will probably be arrested. And also, another scary part is that, with aircraft, you're not allowed to keep taking in and out of EU air space. Temporary importation is a one-off, it's not there for go down to Tunisia, spend the weekend, come back, start again. You get it as a one-off. They may extend it to two, but it's not an in and out job.

Steve

The French are particularly hot on that.

Chris

Yes, very hot.

Steve

A lot of planes have been arrested.

[From the floor] Barbara

I wanted to ask another question. When a non-EU commercial vessel is sold to an EU commercial client and company, it has to be anyway imported into the EU waters. So it's sold outside the international waters, and then imported. From your experience, which is the best country actually that is doing the paperwork for importation in the Med?

Chris

Personally, I think it's the French.

Steve

Provided it's commercial.

Chris

It's commercial and satisfies all the French rulings. I mean, Maltese do what is called 4200, which is a hell of a journey just to go and do that, when you can do exactly the same in France.

[From the floor] Barbara

And it is usually carried out by the Customs, the French Customs? So you bring the papers at the French Customs and they do it?

Martin

Carlo has another view I think?

[From the floor] Carlo

No, no, I have exactly the same view, and that's exactly what we are doing for a yacht because it is commercial registered but non-EU: the Italian tax authorities, Customs authorities, have refused to let it in under commercial exemption, so we are going to France. And my question was a very commercial question. Do you have an idea of what that will cost? Because we have been asked 50 business points on the value of the hull.

Chris

The person who does most of ours and most of Steve's is a chap who charges about $\frac{1}{2}$ of 1% with a maximum of €20,000.

Steve

Which is expensive.

Chris

But when you look at what you're getting?

Steve

But it is worth it in the end.

[From the floor] Barbara

And what about Malta?

Chris

Well, you'll spend about €20,000 taking the yacht to Malta.

Steve

There is another Customs regime, which some of you will know, and that's the 4200 procedure. Where you import into one member State for onward movement to another. So in other words, the boat comes into Italy, you prepare the Customs documents, and then the boat goes on to France, or whatever. Now, this was used a lot in the early days, but it got quite difficult. Malta will still do this, you can take your boat into Malta under 4200 and say it's going to another member state, and you actually don't pay VAT in Malta. There's no Customs duty on yachts anyway, but you do a Customs declaration under 4200, and then the boat leaves Malta and goes to, say, Italy or France, but you can actually pay the acquisition VAT in the Isle of Man and that's an accepted procedure. It used to be accepted in Spain, it used to be accepted in France, but it's now got a lot more difficult to do that and we've actually done it in Greece as well, import into Greece for onward transmission to the western Mediterranean. So that is a slightly different procedure. The procedure that Chris is mentioning, importation into the commercial exemption, is a proper importation, no Customs duty, no VAT in France because the boat is commercial. Now, if you have a boat that is not commercial, you can't do that in France, but you can do it through Malta. So you've got to take to Malta, do the full Customs procedure, the boat has to stay there for anywhere between 3 to 7 days, but at least the procedure works. And there's a small deposit you have to leave, of £10,000 Maltese.

[From the floor]

€22,000.

Chris

But the Maltese agent is actually responsible for the tax. If you don't do it properly through the Isle of Man, or you don't take it out of Maltese waters, the agent is the chap that the Maltese VAT office says must pay the money.

[From the floor]

I just would have liked to have given everyone here another alternative. Because, yes, the systems you've mentioned are correct, but there's also a possibility of switching to a European flag, which is a valid opportunity as well. If obviously the yacht is technically in compliance with European code. I mention the Dutch one, or the Maltese commercial yacht code, which does have a lot of interesting and EU compliant VAT exemptions as well, and which would allow the yacht to be used—

Chris

But you'd still have to import the boat even if you switched the flag. You've got to have an importation document.

[From the floor]

Yes, yes, but that's the idea at the end of the day, to have an importation document, bring her within the EU system, the VAT system, get a VAT number not doing anything out of this world, as long as the yacht technically complies you don't even have to get the yacht moored, because there's no reason for that.

Chris

The trouble there is, if you've got a boat through either the importation structure and it's purely pleasure, and there's no commerciality, the Italians are going to turn round and say 'change of use, pay the tax'.

[From the floor]

Yes, yes, of course. But we're speaking about a commercial yacht, obviously pleasure considerations are—

Steve

Yes, sure. But you can import a private yacht which is owned by, say, an Isle of Man company, which is VAT registered, you can still do that importation through Malta under 4200.

[From the floor]

Yes, yes, of course. I just added something to that. Giving you another alternative rather than—

Chris

Talking about importation, there was another aspect that I actually found out about a couple of months back. And that is, believe it or not, there is a *temporary exportation* document as well. If you've imported your yacht absolutely strictly correctly, through whichever method, and you actually want to take it out of EU waters, if it goes on its own bottom, then there's no exportation. But if it goes on a cargo ship, like the ships that—Dockwise and so forth—it becomes cargo, and as soon as a yacht becomes cargo, it's exported. So you have to actually—there is a form in the UK which actually temporarily exports the yacht, and then when you bring it back, you fill in the second part which re-imports it with no tax.

Steve

It's called Returned Goods Relief, just in case anybody wants to—

Martin

Do Dockwise know about that?

Chris

Probably not.

Martin

Carlo, thank you?

[From the floor] Carlo

Just to share with you that we did an onward supply procedure between France and Italy, but we had a yacht owner which was an Italian company that was registered for VAT in Italy and in France. So it was quite cumbersome from an administration perspective. And another thing we achieved was importation through Customs warehouse, where the yacht was coming straight from outside the EU, possibly through Dockwise, and then being imported into a Customs warehouse free of VAT, and then brought out of the warehouse into a commercial company free of VAT. The problem with that is most Customs warehouses are onshore. So you have to take the yacht out of the water and that's not always easy.

Steve

Whereas in the UK, under the simplification rules, you can designate literally anywhere as a Customs warehouse under the simplification procedures. So we could say this is a Customs warehouse, in effect. But, obviously the Italians haven't got round to that yet.

Martin

OK. Any more questions?

Tork

I was going to say, there is also another EU flag for commercially operated yachts which is interesting—it's the French RIF registry, which follows all the exemptions that we're talking about but also it's a very interesting regime for social payments,

both for mariners and owners at an insanely reduced rate, which is far less than you would expect under those circumstances. And with ILO coming up, that's actually quite significant because what they've got in place is something that is actually, or will be, compliant under the social protection aspects of ILO when it become ratified in 2010 or whatever.

Steve

I think that mirrors the Italian system, the Italian commercial?

Tork

I'm not sure.

Steve

Adrian's nodding.

Carlo

It mirrors the good part of it.

Tork

Except that if people want to use the reef, you tell them not to use the Italian flag.

Carlo

Just one question. Nobody mentioned Luxembourg. Has that fallen completely out of glory?

Chris

You mean Luxembourg by the sea?

Steve

Yes, Luxembourg, yes. Lovely Luxembourg. It's kind of gone out of fashion actually. A lot of boats were registered there because they wouldn't go through MCA safety coding, particularly Mangusta's Leopards and so on. So you used to see a lot of those on the Luxembourg flag. Still operates, I don't know about Trimar, but Marilux and Navilux are still operating. It has its advantages, obviously the fact that your boat is not safe enough to go through British MCA so you put it on a Luxembourg flag. It has heavy social security because your crew are registered under the commercial shipping register and have to pay employees and employer's National Insurance, but they say that in terms of crew manning it's probably one of the best for crew. Because you get all the social security benefits. But if you say to a crewman 'do you want to pay National Insurance?', the chances are you'll get the answer no.

Chris

Also the yacht managers basically just hand their client over to Luxembourg, because Luxembourg will manage the boat almost totally.

Remco

If you speak to some owners who have had their yachts under the Luxembourg flag you will figure out why they only do it once. Because there's a lot of hidden fees and costs which they only figure out when they're in and want to get out.

Steve

Does that answer your question? Anybody here from Luxembourg?

Martin

Any further comments? So, Steve, what is the perfect structure?

Steve

A legal one! For commercial, we've got a very high Isle of Man content here, and I would say that, wouldn't I. But the Isle of Man is pretty entrepreneurial and commercial—I'm talking about the Government, and the VAT authorities, and the marine authorities. And that certainly does help. You've got a jurisdiction that actually works with the business rather than, like the UK, working against it, I mean the Spanish, I've no clue what they're up to, they could have a fantastic yachting industry and make themselves loads and loads of money, increased tourism and so on, but they just seem to be anti-yachts. The UK—once that one man has retired, and I won't mention his name, then perhaps things will get a bit better. But the UK could have done so much better, if they'd adopted some of the suggestions that we put to them over the last god knows how many years, a lot more VAT could have been paid into the UK than is currently being paid. But they just weren't interested. There's a total blinkered attitude. It may come from Customs training. When you're a young Customs or VAT man, people in business are seen as the enemy. And they're all smugglers. And I don't know what the training is now, because it's been such a long time, but everyone was potentially a smuggler.

Tork

I doubt it's changed very much.

Steve

I did a lot of Customs training, I taught people, and the ethos was they've got to prove to you that they haven't done anything, and that's the way it is. I never thought it would get any worse than it was in the late 80s, early 90s. But since they joined with the other lot—

Chris

They've all become compliance officers!

Steve

But to join those two departments together, to give the attitude of Customs with the power of the Revenue, it's an absolute nightmare. I'm glad I left the UK and went and lived somewhere else. But my view of the whole thing is that, within 20 odd miles of the UK, we have a jurisdiction that supports the marine and aviation industry as well as being within the constraints imposed on them by the UK. And it's a breath of fresh

air just to see how people in the Isle of Man can be so helpful to make things work. And it brings huge amounts of business into the Isle of Man. Quite frankly, we need it, but that's another story.

Chris

People say to me—well, can we do this? And I say 'well, I'll phone the VAT office and just get confirmation. My view is this, but I'll just double-check it'. And they go 'oh, you speak to the VAT office?' 'Yes'. And you get an answer from them. They will talk to us. Steve must have the same thing. It's so refreshing. And you go back to the client later the same day and you give them the answer. People who are used to dealing with the UK and the other VAT jurisdictions find it amazing that we can actually get answers as simply as that.

Martin

Here ends the commercial break. Jay?

[From the floor] Jay

There was a point in Steve's last comment which I think is very important, when you're setting up any structure. And that is the attitude of the Inland Revenue in the UK, and I think it's true of Customs anywhere, is an attitude that they're there to catch you out doing something, on the assumption that you're doing it. And their modus operandi is to challenge you, say 'this is what we think you're doing, what are you going to do about it?' And to my mind, that means you should always be both simple and conservative in whatever structure you're setting up. Assume that everything will come to some official's knowledge, because you're going to have to put your hand on your heart and make a declaration about it. And bear in mind that they will challenge you if they think they can. They can shoot from the hip and they don't have to prove anything.

Tork

Did you say simple or sinful?

[From the floor] Jay

Simple and conservative. If you're challenged, you may have a perfectly legal structure, you may eventually win the challenge. Take it all the way through the courts and win. But that, in itself, is a deeply unpleasant, not to mention expensive, process. So you really want something that is going to stand up to scrutiny and then be passed over.

Steve

I heard, just a couple of days ago, that they're now starting another round of looking at high net worth individuals in the UK and particularly looking at yacht ownership.

Martin

They were going to bomb the Isle of Man.

Steve

Well, the old problem is, you know, the UK has always regarded the Isle of Man as a bunch of smugglers anyway, and because for 500 years it was a bunch of smugglers. And I still think they look at the Island in the same way. And I think a lot of other people look at the Island in the same way, and we're not going to get away from it. We've just got to make sure we're cleaner and whiter than white. And make sure everything we do is perfectly legitimate.

Martin

So, three-legged trousers for smuggling.

Remco

I have to reply to what Ayuk was saying this morning. It all starts with the owner, and it also has more and more impact what other VAT affairs he has. And we see, well, around us, we see a lot of clients who now prefer, not to challenge to what is possible, but prefer to pay some VAT on their pleasure yachts and avoid a lot of VAT freedom elsewhere in the business where they really make money.

Martin

So how do we get that across to owners? Are they now more educated?

Chris

Only a couple of weeks ago, I had an owner who wanted to do charter, proper charter, so we explained how the commercial registered works etc and the following day he came—I've been talking to the guy next door. He's got a yacht on the BVI with Cayman, and he just charters and he's not VAT registered, and he's never had a problem. And you go, fine. He hasn't been caught, is what you're saying. But they listen to each other. I often find that too many of the owners want to hear the easy route that is probably wrong, but they're all too willing to listen to the bar room gossip.

Steve

Funnily enough, that just reminded me of a quick story. EU resident, again, had his yacht under BVI company, Cayman flag, for 10 years. Was never boarded. And he said 'I've never had a problem before'—I said 'because you've never been caught'. I said 'you've managed to smuggle that yacht for 10 years'. He said 'what do you mean, smuggle?' So I said 'what's the difference between a yacht and a watch? It's exactly the same thing. Same rules apply. You smuggled it for 10 years. And you got away with it'. But you just never know what might be around the corner. I think those days are gone now—the old days of putting yachts in offshore companies for EU residents, I say they've almost gone anyway.

Martin

Final comment from Ayuk?

Ayuk

I think, on the positive side, what we're finding increasingly is that, in the industry, most owners now would actually seek advice before they set up a structure, and by advice, I don't just mean the sort of thing we're talking here, oral advice, you ring

someone up. It actually means someone writing their VAT opinion or a letter of advice that they put their name to, they're ready to stand by what they say, and issue that to their client. And that approach is increasingly the case in the industry, and some of the owners—you may find the isolated cases now where they don't take any advice at all, and the next thing you know they've set up a structure, but I'm pleased to say, certainly from what we see, that increasingly setting up a structure is what follows a letter of advice. To which someone has put a name and signed it up so that the client has it for future reference in case things go wrong.

Martin

OK. Any final comment? No? Thank you very much everyone. Thank you panel. I've learned a lot, I can't wait to read the transcripts. They will be available on the website in about a week's time or so, Georgina, do you reckon? Sure. So thank you very much everyone. Lunch is now served. See you later.
