

## Jersey Maritime Administration

### Memorandum

#### To whom it may concern

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#### Subject : Register of British Ships in the Port of Jersey

#### Advice – Temporary importation into the EU

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Following advice received from HM Revenue and Customs (HMRC), it is our understanding that EC VAT and Customs legislation should be applied as described below. However, it should be noted that whilst Community Regulations have direct legal effect within the various countries of the EU, Directives do not. Thus, the way in which the principal VAT Directive is interpreted by local legislation will differ between countries<sup>1</sup>.

The principle legislation used in reference to this issue is as follows:

1. Principal VAT Directive 2006/112/EC, articles 6(1)(e), 70, 71, 274, 275 and 277
2. Commission Regulation 2913/92/EEC, article 4
3. Commission Regulation 2454/93/EEC, articles 555, 558-562

[over ...

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<sup>1</sup> Since circulating the original note on 4 November 2008, the Customs authorities in the Netherlands ruled (in August 2009) in favour of the Jersey & HMRC interpretation for a particular yacht registering in the Island.

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## Memorandum

### 1. Pleasure vessels (including those on commercial charter – see note 2 below)

*For free movement within the EU and entitlement to VAT relief under Temporary Import (TI) provisions for up to 18 months at any one time:*

- i. if the vessel **is registered**, it must be registered outside the EU in the name of the person (private individual or company) established or normally resident outside the EU
- ii. if the vessel **is not registered**, it must be owned by a person (private individual or company) established or usually resident *outside* the EU
- iii. the person using the vessel must also be established or usually resident *outside* the EU

TI relief must be claimed in the Member State where the vessel is first used in the EU.

### 2. Vessels in commercial use for trade

*For entitlement to VAT relief, an eligible vessel must be used:*

- i. for carrying passengers to/from a non-EU port; or
- ii. transporting industrial or commercial goods, irrespective of any remuneration

### Notes

1. For the avoidance of doubt, it should be noted that Jersey is outside the EU VAT territory as are, *inter alia*, Bermuda, BVI, the Cayman Islands, Gibraltar and Guernsey.
2. For the purpose of the VAT Regulations, if a vessel is not carrying passengers between the EU and a non-EU port, nor transporting industrial or commercial goods, it is deemed to be a pleasure craft, even if it is coded as a commercial charter yacht. This definition is thus clearly **not** the same as that used to decide whether a craft is subject to the Jersey Code for commercial vessels under the Shipping (Safety Code – Yachts and Small Ships) (Jersey) Regulations 2013.
3. Where the owner or user is an EU resident, the best solution is for the vessel to be VAT – paid and for documentation to be retained. The simplest way to do that is to purchase the yacht in the EU or officially import it into the EU, via the jurisdiction that has the lowest relevant rate. The vessel should then be free to be based in and remain in the EU waters **and** simultaneously retain Jersey registration.
4. This note does **not** constitute formal legal advice. If in doubt, yacht owners and managers should always be prepared to seek their own independent counsel.
5. Please refer to the Registrar concerning individual situations.