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Importation of yachts into the BVI

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The primary issues that a person intending to import a yacht into the BVI needs to consider are import duties and satisfaction of any applicable regulatory/licensing requirements, as set out below.

The starting point takes us to the Customs Management and Duties Act, 2010 (the **Customs Act**), which provides for import duties on items imported into the Territory. The Customs Act provides for a duty to be levied where the yacht in question is imported into the Territory. The precursor legislation to the Customs Act established a regime for the importation and re-importation of vessels free of duty if certain conditions were met; this was replaced by the duty exemption regime created under the Commercial Recreational Vessels Licensing Act, 1992 (the **CRVL Act**). The BVI has been the premier charter-boat jurisdiction for many years. The licensing regime encourages this industry by relieving the commercial yacht owner of needing to pay substantial initial import duties (which may be burdensome if there are multiple boats). Instead, the duty is indirectly recouped over time by way of a licence fee.

Import duties

Whether or not import duties are payable in respect of a yacht brought into the Territory depends on the classification of the yacht - whether as a commercial recreational vessel or a non-commercial recreational vessel-coupled with the residential status of the owner of the yacht.

The CRVL Act provides that a commercial recreational vessel is any vessel offered for hire, for payment or reward, with or without crew, for the conveyance of passengers for a particular period of time, and that a non-commercial recreational vessel is any vessel other than a commercial recreational vessel.

Where the owner of the vessel is resident in the Territory and the vessel is:

- (a) a commercial recreational vessel, the owner has the option of suspending payment of import duties and may instead pay an annual licence fee

- (b) a non-commercial recreational vessel, the Customs Act provides for duty to be payable at the rate of five per cent on its value, where the vessel is imported into the Territory

Where the owner of the vessel is not resident and the vessel is:

- (a) a commercial recreational vessel, the owner is exempt from payment of duties and will instead be liable to pay an annual licence fee
- (b) a non-commercial recreational vessel, the owner must apply for and obtain a temporary importation permit where the vessel is to remain in the BVI in excess of 30 days within any 12 month period, unless it is a United States Virgin Islands-registered vessel in which case, the applicable grace period is 120 days. The temporary importation permit is issued for 12 months at a time and is renewable annually. There are no statutory restrictions on the number of times that a temporary importation permit may be renewed

If the owner of the yacht is a BVI company, it would be considered to be BVI-resident for the purposes of the licensing regime, but the BVI Government is considering changing the regime in this regard.

If the vessel is to be used for commercial purposes in the territorial waters of the BVI (three nautical miles measured from the shoreline of the Territory subject to the provisions of the Geneva Convention on the Territorial Sea and Contiguous Zone, 1958), a commercial recreational vessel licence will be required. An example of a circumstance in which the requirement for a licence would apply is where the yacht in question is to be used for charter operations.

On the matter of the available licences, the Government Minister with responsibility for performing the various ministerial powers under the CRVL Act has the power under the CRVL Act to issue:

- (a) an annual licence valid from 1 November in the year of issue to 31 October in the following year
- (b) a temporary licence for a specified cruise

In each case, the licence may be issued with conditions, and the vessel owner must ensure that the licence is carried aboard the vessel and available for inspection by the customs authorities. Any related licence pennants or other proof of registration under the legislation must be displayed on the vessel so that it is visible from the water line.

The following table reflects the charges for the various categories of licence that may be granted under the CRVL Act.

Licence Category	Fee per annum/US\$	Fee per cruise/US\$
vessels < 40ft in length	400.00	25.00
vessels >40ft but <50ft in length	600.00	35.00
vessels >50ft in length	800.00	45.00
any vessel engaged in diving, or day trips but not offering accommodation	200.00	15.00
temporary importation permit	200.00	N/A

As far as restrictions are concerned, no vessel other than a home-based vessel shall be permitted to make more than seven charter pickups which originate in the BVI within any 12 month period. A home-based vessel means any vessel:

- (a) registered in the BVI
- (b) home ported in the BVI
- (c) kept in the BVI when not in operation
- (d) having its charters originate in the BVI

The different elements establishing whether or not a vessel is home based are cumulative. This regime is under review by the BVI Government, and changes are expected that will likely modify the requirements in order to encourage investment in yachting in the BVI.

If you would like to know more about registering your boat in the BVI, please contact Sheila George, Johann Henry or your usual Harneys contact.

For more information and key contacts please visit www.harneys.com/expertise/global/shipping-and-maritime-law.

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