

COMPASS



PUBLICATION FOR THE MEMBERS OF THE FLORIDA YACHT BROKERS ASSOCIATION

MAY / JUNE 2014

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CALENDAR OF EVENTS

JUNE	3	Golf Scramble
	11	Yacht Sales Summit — Fort Lauderdale
	19	Brokers Open House
JULY	4	4th of July — Office Closed
	17	Brokers Open House
AUGUST	7	Yacht Sales Summit — Sarasota
	21	Brokers Open House



ON THE COVER

Cherry blossoms by the Capitol Building in Washington, D.C., where FYBA attended ABC in May.

NOTE: The articles and information contained in COMPASS represent the opinions of the authors and editors and should not be construed to be those of the Florida Yacht Brokers Association. Nothing contained herein is to be considered as the rendering of legal advice for specific cases, and readers are responsible for obtaining such advice from their own legal counsel. The articles and information herein are intended for educational and informational purposes only.

FYBA Outlines its 2014 Agenda Items

FYBA's legislative agenda for 2014 features a host of major issues that could provide a boost to Florida's yachting market. That's especially good news for FYBA members who are enjoying better economic times, but are concerned about the industry's long-term health.

Jeff Erdmann, with Allied Marine – Ferretti Group and chairman of FYBA's Public Affairs Committee, outlined a slate of issues, including three at the state and one at the federal level, which FYBA is monitoring aggressively.

STATE ISSUES

- 1.) A proposed exemption for boats imported for sale. Currently Florida law requires a broker to take care, custody and control of a boat in order for the boat to be exempt from Florida sales and use tax. The boat only can be operated for sales purposes and not for personal use.

"We want to change the legal terminology to say when a boat is listed for sale by a Florida-licensed yacht broker it would not be subject to use tax," Erdmann said. "FYBA would like the law to clearly state what the broker's relationship with the seller is and still not impose use tax on boats coming to Florida to do business."

- 2.) Change the Florida Yacht & Ship Brokers Act so an unlicensed out-of-state person may act as a broker or sales person selling or listing a yacht with the co-operation of a Florida-licensed salesman or broker. Current state law forbids out-of-state unlicensed brokers from being involved in a yacht transaction while doing business in Florida.

"This change would allow foreign (out-of-state brokers) to legally co-broker with Florida-licensed brokers in-state," said Erdmann. "This would clarify the co-broker sales process while still protecting consumers."

FEDERAL ISSUE

FYBA is lobbying Congress to change when federal duties are payable from pre-sale to post-sale on the sale of used foreign-flagged yachts brought into the USA.

Currently, non-duty paid, foreign-flagged yachts brought into U.S. waters cannot be offered for sale or charter to U.S. residents while in U.S. waters.



FYBA President Gary Smith, Executive Director Ann Vernon and FYBA Board Members Paul Flannery & Jeff Erdmann attend the ABC in Washington, D.C.

"This policy is a barrier to commerce, keeping boats offshore. It is a job-killer," Erdmann said.

"Encouraging more foreign boats to come to the U.S. to do business creates sorely needed, well paying U.S. jobs through the enormous economic impact these boats provide, not to mention U.S. tax revenue," he said. "Boats could be offered for sale to U.S. residents 365 days a year rather than only for 15 days."

FYBA believes establishing a TIB (Temporary Importation Bond) for used foreign-flagged boats that would allow these boats to be offered for sale to U.S. residents while in U.S. waters is a logical step.

"Currently, other TIB's, are good for one year and can be renewed up to three times," said Erdmann. "We're not looking to reinvent the wheel or get special treatment. We simply want to encourage more job-creating used boats to be brought into the U.S. for sale."

The change will require an Act of Congress, but Erdmann said there is good support for the measure. FYBA has hired an expert in customs and international law, as well as a Washington D.C. lobbyist to assist in the effort.

"We have had good response from the folks that we've presented it to so far," said Erdmann. "It's not necessarily going to be smooth sailing because it is a legislative issue, and we will need the support of our members. Stay tuned for calls for action."

FYBA "Springs" into Action

Washington, D.C. is a pretty impressive place. More impressive is all the activity happening on Capitol Hill. The FYBA sent a strong delegation this year to the NMMA's American Boating Congress (ABC). Gary Smith, Paul Flannery, Jeff Erdmann, our lobbyist Omar Franco, and I all attended. We had no fewer than 19 meetings with Florida Congressmen/women and our two Senators! That does not include all the other breakfast, lunch, and cocktail meetings the FYBA delegation attended during the three-day conference. The FYBA was once again a co-host of the ABC and considering how successful the event was, this will most likely continue next year!

Our main goal for this year's ABC was the continuing effort to lobby for duty paid on foreign-flagged used yachts post-sale rather than pre-sale. Every one of the legislators we met with liked the idea and it seems they will give us their support. I would like to thank all of you who donate to the FYBA PAC Fund as it is one of the tools that help us to funnel needed monies to the legislators who support our industry.

Just when we think things will slow down after boat show season, the FYBA office gets in gear again with the Golf Scramble, East Coast Yacht Sales Summit, and an office move! Yes, by the time you read this issue, the FYBA staff will be settling into our new surroundings in the Harbor Shops off of SE 17th Street on Cordova Road in Fort Lauderdale. Please refer to our address change in this issue of COMPASS.

FYBA members on the Gulf Coast also will be seeing more activity from your association. The West Coast Sales Summit will be taking place on August 14th at the Hyatt Hotel in Sarasota. In addition, we soon will be putting together some Open Houses at Marina Jack in Sarasota due to the positive feedback we received during the Suncoast Boat Show.

If you haven't heard already, the FYBA has become a major sponsor of the "Marine Industry Day" being organized by the MIAF and co-host associations. The city of Fort Lauderdale has endorsed the official day, June 11th. A social event to celebrate industry workers and their families will take place on June 14th from 12 to 6 pm at Esplanade Park in downtown Fort Lauderdale. All FYBA members and their families are invited and encouraged to attend. There will be plenty of activities for children and adults, including live music with three fantastic bands!



For charter brokers and managers, the FYBA is supporting you by having a presence at the upcoming Newport Charter Show in Rhode Island on June 23-26th. We are working closely with the Newport Exhibition Group as many of the brokers attending that show are FYBA members and most of the yachts on display are managed by FYBA charter managers. We also will make a push to grow membership in this category during the show.

In fact, I ask that all of you who have companies to encourage your brokers/employees to join the FYBA. I can't stress "strength in numbers" enough, especially after attending the ABC. Local, state, and federal agencies listen when they hear the numbers like "over 1,100 members and counting"!!!

With all the FYBA events coming up, there should be at least one to get you out of the office.

See you there!

Ann

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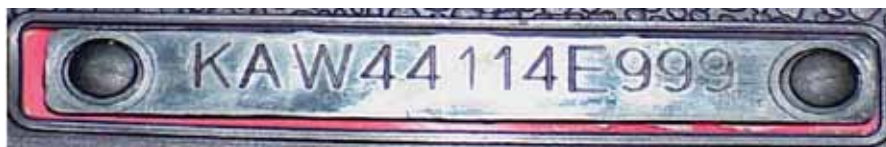
MARITIME LAW

By Cris Wenthur, Wenthur Law Group, LLP

Read This Before Taking A Vessel to Mexico

Before going to Mexico, regardless of whether or not you already have your 10-Year Mexican Temporary Importation Permit (MTIP), make sure the HIN for your yacht is displayed as set forth below. Hacienda (the Mexican IRS) has impounded vessels and not allowed them to leave the marina because they allegedly failed to comply with their interpretation of the Mexican law/MTIPs. The number one problem is not being able to readily match the vessel's HIN to the MTIP HIN.

Make sure the HIN on your MTIP is correct. If you have an old MTIP, it would be a good idea on exiting Mexico to cancel and get a new MTIP.



What do you need in order to take a yacht to Mexico?

1. Original Registration/Certificate of Documentation. If you recently acquired your vessel and do not yet have your Registration/Certificate of Documentation, then you will need an Original Traveling Letter (Letter from the Documentation Officer stating your registration is in process) and an Original Bill of Sale.
2. Proof of Insurance.
3. If your vessel is owned by an entity (LLC, Corporation), you will need your Apostilled Certificate of Formation/Articles of Organization/Articles of Incorporation for the entity. You obtain this from the Secretary of State for the state in which your entity was established. This will take time to obtain, so plan accordingly.
4. If your vessel is owned by an entity (LLC, Corporation), you also will need what we call a VUA (Vessel Usage Authorization) that identifies the boat, how it is owned and who is authorized to operate the vessel in Mexico. This document must be notarized. There should be no handwriting on the document other than signature and date.

Wenthur Law Group can assist you in obtaining the necessary documentation. For more information, please call 619.398.9050 or visit www.wenthurlawgroup.com.

Useful Contacts

In Ensenada: Arnulfo (Fito) Espinoza, Hotel Coral & Marina; 800.862.9020 (hotel), 866.302.0066 (marina); marina@hotelcoral.com, dockmaster@hotelcoral.com; www.hotelcoral.com.

Patricia Trujillo, Ensenada Cruiseport Village; 877.219.5822 (toll-free from the U.S.); VHF 12 and 16; reservations@ecpvmarina.com, trujillo.patricia@enseit.com; www.ecpvmarina.com.

In La Paz: Yolanda Espinoza, Marina de La Paz; +52 612 179 1617 (office), +52 1 612 348 8787 (cell); econaviera@hotmail.com; www.econaviera.com.



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◆ **LUKE BROWN YACHTS** reports that sales were brisk in the month of April. Alan Bernard sold GITANA, the 112' Sparkman & Stephens, Derecktor-built sloop with the assistance of C.A. Hank Halsted of Northrop & Johnson. Bob Offer sold the 110' Lazzara SILVER SEAS with the help of C.A. Chris Daves of Denison and Daves. Ron McTighe's listing, the 103' Westship INEVITABLE, was sold by Joe Majcherek of Gilman Yachts. Steve Deane and Marc Thomas sold UNREACHABLE, the 65' Pacific Mariner. Marc Thomas closed on CARRY ON, the 57' Seaton Trawler. Gary Slatkow sold TROLLEY OUT, the 54' Offshore, and Ron McTighe sold the 52' Viking MY GAL SAL.

Luke Brown President Andrew Cilla, sole stockholder since 1978, announced that Jason Dunbar will assume the position of vice president. In his new role, Jason will assist Andrew in the management of the firm and obtain an equity position.

◆ **FREEDOM WATERS FOUNDATION** was pleased to receive a \$5,000 donation from Joe Majcherek and Gilman Yachts, in the name of their

client, the purchaser of the 103' Westship, INEVITABLE.

In other news, Advantage Services has been named a corporate sponsor in honor of its financial and technical contribution made each year to the organization.

Please note there is an immediate need for owners/captains who are willing to take children with cancer, along with a few friends and family members, for a three-hour boating experience in the Fort Lauderdale area. Please contact Andrew Cilla at Luke Brown Yachts at 954.224.3933 or email andrew@lukebrown.com.

◆ **DENISON YACHT SALES** has announced the opening of its newest office in Naples, Fla., at Naples Boat Club, following the acquisition of Black Pearl Yacht Sales in the fourth quarter of 2013. Six licensed and bonded yacht brokers, formerly with Black Pearl Yacht Sales, represent industry-leading brands, including Monte Carlo Yachts, Greenline, Austin Parker and Pirelli Yacht Tenders.

Denison Yacht Sales recently took receipt of two new Monte

Carlo Yachts on the West Coast of Florida: a MCY65 currently at the Sarasota office location and a MCY76 at the new Naples office. For more information, please contact Don Strong at Don@DenisonYachtSales.com or 239.272.9446, visit www.denisonyachtsales.com, or call Bob Denison at 954.763.3971.

◆ **ARDELL YACHT & SHIP BROKERS** announced it has been chosen by Blue Coast Yachts to represent the catamaran builder's line of models in the U.S: 100' Power Cat, 101' Sailing Cat, and 60m Hybrid Trimaran. Ardell also has been appointed by Dauntless Yachts to represent its full line of Explorer Yachts. Models include 73', 78', 88', 90', 100'. In addition, Ardell has also been selected by X-Yachts to represent its full line of performance sailing yachts ranging in size from 33'-50'.

◆ **CHEOY LEE SHIPYARDS NORTH AMERICA** is pleased to announce the recent sale of the 88' Cheoy Lee Bravo motoryacht, a new inventory vessel. This vessel was sold to an American buyer by in house broker Panu Virtanen. M.S.R.P. was \$6.6 million.

◆ **OCEANSTYLE** announces it has brought the 94' Mulder Voyager new build to market as central agent. Due for delivery early 2015, this vessel presents an exceptional opportunity to acquire a new, Dutch-built, all-aluminum long-range cruising yacht, without lengthy lead times. The Mulder 94 Voyager offers buyers features usually only found in larger yachts: real transatlantic capability, due to a 4,200nm range and low fuel consumption; superb interior volume; cleverly designed accommodations for eight guests, and spacious living areas. For further information, visit www.osyachting.com or email acallender@burgessyachts.com.



◆ **LAZZARA LENTON YACHTS** announces a new listing, OUR TRADE, the 2001 Lazzara 80 Cockpit. This yacht is one of the rare model Lazzaras that not only features a fishing cockpit but also the Cabriolet Skylounge, with a flybridge that can be fully opened or enclosed, affording the best of both worlds. For more information please visit www.LazzaraLenton.com.



◆ HORIZON GROUP

is pleased to announce the launch of CARNIVAL LIBERTY 3, hull #2 of the popular Horizon RP110 superyacht model line. The yacht was showcased at the 2014 Taiwan International Boat Show on May 8 -11 and delivered to her third-time Horizon owner shortly after. For more information, please contact Elise Moffitt of Horizon Yacht USA at 561.721.4850 or elise@horizonyachtusa.com.

◆ **GALATI YACHT SALES** has partnered with Rampage, Prestige and Chris-Craft to represent these outstanding brands (Galati represents Chris-Craft in Western Michigan). Superior in design excellence, reliability, construction and performance, these brands complement Galati's already elite fleet of manufacturers that include Viking, Princess, Tiara, Cruisers, Grand Banks, and Maritimo.

◆ **TOM GEORGE YACHT GROUP (TGYG)** is proud to announce the sale of SERENITY, a 116' Lazzara Motor Yacht, 2008. SERENITY was sold by Rob Wojciechowski, with TGYG representing the buyers and Rich Lazzara and Peter Lenton with Lazzara Lenton Yachts Yacht Sales representing the sellers.

◆ **YACHTZOO** is pleased to announce the recent sale of the 82' 2010 Viking Convertible, IN THE MARKET. Yachtzoo represented the buyer, with HMY Yacht Sales representing the seller. The boat is receiving an interior refit and the new owner has plans for extensive fishing in the Bahamas.

◆ **MARES CATAMARANS** is pleased to announce the sale of a new Mares 45 Yacht Fish at the Palm Beach boat show. This new model features a huge cockpit, walkaround, full-width master bed, guest cabin, and two heads and showers. Powered with 550-hp

Cummins, she will have a top speed over 35 KTs. The boat is due late fall in plenty of time for the Miami show.

◆ **GOLFITO MARINA VILLAGE & RESORT**, Costa Rica's newest world-class superyacht destination and luxury resort property, is scheduled to break ground in June 2014. The first phase of the deep-water marina will include 50 (out of 130 total) slips, featuring private and secure dockage designated for yachts up to 350 feet (100m).

The resort will offer beach residential villas, three unique private floating islands with villas, a Honeymoon Beach Villa, a deluxe hotel, and outstanding accommodations for yacht captains and crew. Amenities include an open-air spa, fitness facilities, swimming pools and an island restaurant with a nightclub, boat service yard, dry dock and 265 feet (81m) fuel dock. For information on marina sales and leasing, contact FYBA member David Johnson at david@golfitomv.com.

◆ **THE YACHT BROKER INSTITUTE (YBI)** is pleased to announce that it recently launched a new "Legal & Experts" Section in the YBI Resource Library. The new addition of 72 pages is a great resource that rounds out the curriculum and provides continuing education for graduates and students. If you are

interested and would like to contribute articles or presentations to the library, please contact Rae Whitt (YBI Partner and Co-Founder) at rae@yachtbrokerinstitute.com.

◆ RIVER BEND MARINE CENTER

has been named the official service and warranty center for Maiora, CBI Navi and AB Yachts – all built by the Fipa Group, Tuscany's largest producer of luxury crafted custom & semi-custom motor yachts. For more information, call 954.523.1876 or visit www.riverbendmarinecenter.com.

◆ ATLAS MARINE SYSTEMS

is proud to welcome Vilmond Jacques as an Applications Engineering Manager. Vilmond brings to Atlas over 10 years of professional electrical engineering experience and will assist Atlas in product design, development and technical support operations of switchboard systems. Please contact Vilmond at vilmondj@atlasmarinesystems.com.

Atlas Marine Systems also is pleased to announce that Captain Peter Childs has joined the Atlas team to further develop its business relationships. Peter has served in the marine industry for over 26 years, and currently holds a 500-ton Oceans Master certificate. Peter is based in the Fort Lauderdale office but will be traveling extensively in North America

and the Far East in support of Atlas Marine Systems' continued worldwide expansion. Please contact Peter at peterc@atlasmarinesystems.com.

◆ **DAVID WALTERS YACHTS** is pleased to announce that Lori Goldstein has joined the company. Lori has been a broker in Fort Lauderdale for over 25 years and brings with her a wealth of experience. Her knowledge and expertise about bluewater cruising sailboats is well known and as her loyal clients have begun to move into trawlers and motoryachts, Lori has also acquired a solid background in these yachts. She prides herself on helping her sellers showcase their yachts. Additionally, the buyers with whom she works praise her ability to pinpoint the best boats for their needs at a price within their budgets.

To contact Lori, e-mail Lori@dwyfl.net or call 954.527.0664



◆ **SANLORENZO** has just launched "O", the first SD112 unit – a 33.6-meter semi-displacement motoryacht in composite material, made to measure according to the tastes and style of her owner, like every Sanlorenzo since 1958.

As a testament to a great balance achieved with the SD112 model in terms of design, volume and performance, as of today six SD112 units already have been sold, and the next three hulls are in an advanced stage of production. For more information, please contact Sanlorenzo Americas at 954.376.4794.

In Memoriam

Robert J. Lucas: 12/18/39 – 4/23/14

Known as "Bob" to his friends, Robert J. Lucas graduated from the University of Miami in 1962 with a degree in business, and then joined his family's automobile dealership in Woodbridge, N.J., in the mid-1960s. Twenty years later, Bob took his success in the automobile business and combined it with his love of the sea and sport fishing: He began his own New Jersey-based sport fishing brokerage, called Sportside Marine, in Brielle.

Bob later opened Sportside Marine in Jupiter, Fla. Then, he was a member of the Gilman Yachts team for several years before joining HMY Yacht Sales,



where he worked in the Stuart office.

Well liked and universally respected in the yacht brokerage community, Bob will be missed by all who knew him. His belief was that, "Buyers, sellers and brokers should all feel good and be satisfied at the closing table of a deal." This philosophy paid off: A very large percentage of his business came from referrals and repeat clients.

Bob was a member of FYBA starting in 2002.

In lieu of flowers, please send a donation in memory of Robert J. Lucas

to St. Martin de Porres, 2555 NE Savannah Road, Jensen Beach, FL 34957.

GOING ASHORE

Dear FYBA:

I'm writing to let you all personally know that I've resigned from my position at the Florida Department of Business & Professional Regulation (DBPR) and the State of Florida's Yacht and Ship Broker's Program, effective May 19th. It's been such an honor to be a part of the State's regulation of the yacht brokerage industry, and most especially to be an ambassador of FYBA's efforts to promote professionalism and consumer protection.

Although I'm sad to say goodbye, I've decided to pursue other career endeavors and enjoy quality time with my family this summer. Nonetheless, of the many things I'll miss about FYBA are the interactions with so many of you at boat shows, seminars, speaker dinners, and the daily random phone calls with every type of question imaginable. It's been a great 12 years working with all of you.

Before I end this note, I want to express my heartfelt thanks to FYBA's former and current Board; to Ann, Randi, and Shay, and to all of you members for working so hard to make Florida a great place to conduct yachting business. I've watched FYBA grow over the years, and I've observed the tireless dedication behind your mission. I know firsthand you set the pace for professional yachting in this country.

Please continue to contact Investigator Jennifer Cilar and Licensing Specialist Gwen Banks who stand ready to assist with any licensing or compliance matters, and once my replacement is named, I plan to make proper introductions so my efforts will be continued in the future.

I wish you all the very best, and hope you'll please stay in touch.

Kindest regards,

Vicki Bedford

850.339.9589 (cell)
vjbed60@gmail.com



Vicki Bedford (left) with FYBA staff members Shay Loudenslager, Ann Vernon & Randi Myers



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The second FYBA Brokers Open house of the year featured 21 boats ranging in size from the 161' DESTINATION FOX HARB'R TOO to the 34' VENTURE FS. Over 50 industry professionals attended the event and enjoyed appetizers and drinks provided by Events by Grateful Palate. FYBA would like to thank event sponsors Yacht Controller and AIM Marine Group for their support.

1. Host Boat SAFIRA
2. Bianca Nestor and Wes Sanford
3. Sponsors Chris Willits & Julian Rasolo with Yacht Controller
4. Members enjoy networking on the host boat
5. Gary Smith and Sponsor Cindy Sailor with Power & Motoryacht/AIM Marine Group



YACHTS IN ATTENDANCE

DESTINATION
FOX HARB'R TOO
SEA FALCON
SAFIRA
CHARISMA
MAXIMUS II

EVELYN
CURRENT ISSUE
MIGLIORI AMICI
LYONS PRIDE
AZURE
TASMAN

ELEVEN-ELEVEN
TAURI
BINA
JUS CHILL'N
NO DRAMA
FELICIA

AN DICK RO
ENDEAVOUR 42
ENCHANTER
34' VENTURE FS

Despite the rainy weather conditions, the May Open House went on as planned at Bahia Mar. Over 30 FYBA members attended the event and had the opportunity to view the 27 boats that participated, ranging from the 139' SOTAJ to the 24' YUKA CLASSIC 700. FYBA would like to thank Mayra's Personal Touch Catering for providing the food and drinks and Yacht Controller & AIM Marine Group for sponsoring the Open House.

1. Jeff Delmay, Natalie Owens, Pam Creagan & Tom Gresh
2. Kathy Azuma & Chuck Royhl
3. Brian Coleman & Michael Hartman
4. Host Boat MONI
5. Jeff Erdmann, Cindy Sailor & Steele Reeder



1.



2.



3.



4.



5.

YACHTS IN ATTENDANCE

SOTAJ	GOLDEN TOUCH	KOPKAPY	JUS CHILL'N	NO NAME
NORTHLANDER	AKU AKU	PRESS BUY	RING-N-WET	HOOK N' RETRIEVE
M/Y SENSATION	MISS LISA	ORCA EXPLORER	BESILU	YUKA CLASSIC 700
MONI	M/Y THAT'S AMORE	BINA	MARLENE SEA	
PREMIUM	ROAMIN HOLIDAY	DOLCE VITA	ANDIAMO	
TRIPLE ATTRACTION	ELEVEN-ELEVEN	BEAUCASTEL	AN DICK RO	

Yacht Ownership, Charter Operations and the IRS

For some, the allure of tropical breezes, calm waters and retirement aboard a beautiful new yacht traveling the world seems satisfying. For others, the slow boat to nowhere may not be enough, and to offset the restless pursuit of tranquility, as well as expense, a charter strategy is introduced to yacht ownership and operations.

Over the years, we have seen many seasonal and full-time charter programs operated by clients around the world meet with success. In some cases, they experience frustration.

Recently we have seen an increase in IRS scrutiny and audits of yacht charter operations in which the IRS challenges business expenses and depreciation claimed by taxpayers. There are many regulatory challenges to a charter program for a yacht, which include complex domestic and international law, regulations, safety and insurance considerations. If all of this is not enough, federal and state tax treatment of such operations is additionally tricky for anyone not up on the law.

HOBBY LOSS

For any new business, and specifically yacht charter, it is not unusual to generate a loss in the first several years of operation. Before applying your charter losses against your income, it is essential that you understand how the IRS might evaluate your business. In addition to the IRS code and any applicable state law, there are numerous tax court cases on this issue of yacht chartering and so-called "hobby loss". The facts of these cases widely.

Fundamentally, if you are trying to make a profit in an endeavor, it may be considered a business by the IRS. In this case, generally, you can deduct the full amount of expenses relating to the business operation. Again, typically, you might show losses in the early years of ownership. These losses can conceivably be used to offset other income, such as investment earnings or wages from a full-time job – yours, your spouse's, or both.

On the other hand, if the IRS treats the activity as a hobby, the tax benefits are more limited. Expenses can be deducted only up to the amount of the income received from the charter activity. Thus, you can't apply your charter losses against non-charter income and claim an overall tax loss for the year.

Even more punishing, hobby loss expenses must be deducted as miscellaneous expenses. Miscellaneous expenses are deductible only to the extent that the annual total exceeds 2 percent of your adjusted gross income. So you may derive little or no tax benefit from your losses.

BUSINESS OR HOBBY?

How can one distinguish a business from a hobby?

A number of factors must be considered, but in general, an activity is treated as a business only if you are operating it with the actual intention of turning a profit.

Though IRS regulations itemize nine factors, determining whether a particular activity is a business or a hobby is an art, not a science. Courts and the IRS will consider:

- *The manner in which the taxpayer carries on the activity.*
- *The expertise possessed by the taxpayer and any advisers.*
- *The time and effort spent on the activity.*
- *Any expectations the taxpayer has that assets used in the activity will appreciate in value.*
- *Prior success in carrying on other activities.*
- *The history of income or losses with respect to the activity.*
- *The amount of profits, if any, that are earned.*
- *The financial status of the taxpayer.*
- *Any elements of personal pleasure or recreation.*

No single factor by itself is conclusive, but a preponderance of factors can tip the scales in your favor or against you. If you operate your yacht chartering profitably, a tax presumption may be on your side. If you showed a profit in any three out of the last five consecutive years, the IRS may agree that you are carrying on a business.

The IRS can rebut the tax law presumption by providing evidence that the activity is actually a hobby. For example, personal use and enjoyment of your yacht exceeding charter use compounded with consistent losses may present an issue. In addition, depreciation conventions and bonus depreciation programs all shift with the political winds and the economy, and offer a matrix of very complicated regulations and trappings for the uninformed.

Simply stated, you may fight an uphill battle when an activity involves entertainment or recreation. The IRS tends to give less leeway to these types of endeavors.

However, there is some good news. The tax court makes this point in many cases: A business will not be deemed a hobby merely because the owner enjoys the activity.

Before commencing a charter, securing the advice of a seasoned tax advisor familiar with this specific area is equally as important as hiring competent charter management and marketing the vessel for charter.

David M. Bohannon is a partner in the Bohannon Law Firm, LLC, which practices extensively in Marine and Aviation Law as well as tax matters. For more information, visit www.bohannon.com.



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New England: Home of American Yachting



The Pilgrim settlers really struck gold when they hit New England – no wonder they stayed. These six states have something for everyone: drop-dead gorgeous scenery, charm in abundance and great sporting diversity. Whatever route you trace, you can just about



guarantee a national landmark or attraction will mark every stop. Fondly considered to be the home of yachting in North America, New England's colorful hues and quaint towns provide charming cruising grounds. The history and hospitality ashore, the stunning coastline and off-lying islands offer diverse possibilities. With that in mind, planning an itinerary can be a tough call, but Newport, Rhode Island, known as the Yachting Capital of the World, is surely a must-see stop.

Here is a sample seven-day coastal itinerary from Boston to Newport that will give charter guests a gilt-edged holiday.

Day 1: Join your yacht in Boston, capital of Massachusetts and a vibrant college town. Boston is rich in tradition yet thoroughly modern, offering something for everyone. Soaking up centuries of history is an easy feat, and the city is conveniently 'weekend-sized' — which makes exploring on foot a cinch. With thriving arts, food and music scenes, the city is well worth discovering for few days even before you start your charter vacation.



Lighthouses, beaches, rocky coastlines, historic ports, and cityscapes make up the varied backdrop to a New England charter itinerary.

Day 2: Wake up to the hustle and bustle of Boston Harbor. Cruise south to Plymouth, the Birthplace of Modern America. Enjoy a relaxing alfresco lunch on board, followed by a round of golf at one of the award-winning local courses with their scenic backdrops.

Day 3: Cruise across Cape Cod Bay to Provincetown, which is poised at the tip of Cape Cod, jutting far out into the Atlantic. Anchor off the town, surrounded by vast stretches of open dunes, pine and scrub oak forests, beaches and open sea.

Day 4-5: Take an early morning cruise 26 miles across the open ocean to Nantucket Island, a stop that is worth lingering over. Anchor off Nantucket Harbor and swim in the still, sparkling waters. Try your hand at surf casting for stripers and bluefish or go deep-sea fishing along the island's southern shore. Tour the crescent-shaped island by bicycle, taking in its beaches, lighthouses, stately period homes and acres of conservation land.

The next day, Stroll the ancient cobblestones of Nantucket Town and visit the Whaling Museum, which will capture your imagination for hours with its fascinating memorabilia, including captain's diaries and whale skeletons. As the

Whaling Capital of the World, Nantucket was once a bustling international port.



Day 6: Discover the charming villages, sandy beaches and rolling hills of Martha's Vineyard. Pay a visit to picturesque Menemsha Harbor, then enter the harbor at Oak Bluffs and see history unfold as the 19th century ship captains' mansions and gingerbread cottages come into view.

Day 7: Watch the sun rise over the Atlantic as you cruise to Newport, the longtime home of the America's Cup. Dating back to 1639 and home to fabulous mansions, Newport is a microcosm of colonial and Gilded Age history. It also is full of great boutiques and restaurants where you can savor your final lobster dish of the trip.

Among the yachts available for luxury charters in New England are SAVANNAH, GOLDEN COMPASS and LE MONTRECHET. For more information, contact Camper and Nicholson's International at 954.524.4250 or visit www.camperandnicholsons.com.

For more information about luxury charters in New England please visit www.camperandnicholsons.com



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MARITIME LAW

By Bruce A. McAllister, Esq*.
and Robert D. McIntosh, Esq.**

Vessel Arrests And How to Avoid Them

There was an interesting article in the last edition of *Compass*, stating how a claimant can enforce a lien against a yacht owner and collect on a claim by obtaining a court order empowering the U.S. Marshal to seize the yacht.

The article did not explain that the warrant of arrest need not require that any notice be given to the yacht owner prior to seizing the yacht. Such arrests, which require that the owner hand over immediate possession of the yacht to the U.S. Marshal or a designated (and expensive) custodian, are often used to pressure a yacht owner into a settlement of a claim, which might otherwise be negotiated more equitably.

Upon perceiving a specific threat, a vessel owner may be able to protect his vessel from being arrested by filing a complaint in the U.S. District Court where the vessel lies, or where the threatened arrest would take place, and posting a bond in that court in the full amount of the claim plus 12 percent. The complaint would refer to the threatened arrest as a "cloud" on the title of the vessel. The bond would stand as security for the claim, and the court then should refuse to order the arrest of the vessel.

While the procedure may strike a vessel owner as needlessly expensive, it may be cost effective in cases where the yacht is about to be engaged in a cruise or other activity and an arrest on a questionable claim is threatened.

The complaint should be filed in the U.S. District Court under Supplemental Admiralty Rule D and the relevant local U.S. District Court Rules, and with reference to 46 USC Sec. 31343(c)(2). Although the statute refers to a U.S. documented vessel, this filing was effective in a case where the vessel was foreign flagged.

*Of Counsel, Alley, Maass, Rogers & Lindsay, P.A.

** Partner, McIntosh Schwartz P.L.



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SPECIAL REPORT

By Gary Beckett,
Turnkey Communications & Public Relations

YachtWorld Reports Brokerage Sales Up in Florida; Down Nationwide In 2014 First Quarter

It's one more reason why we live in Florida. While bad weather contributed to a nationwide brokerage sales decline in the 2014 first quarter, ending March 31, the Sunshine State bucked that trend posting modest sales gains, according to YachtWorld. Total brokerage sales across the country fell by 6.7 percent to 5,681 boats from 6,092 in the 2013 quarter, while the total value of boats sold declined by nearly 22 percent to \$724,024,044 from \$926,582,044, according to dealers reporting to YachtWorld's Soldboats.com sales tracking system.

Dollar sales nationwide actually were higher in January and February as compared with the same months in 2013. However, they fell by just over 44 percent in March to \$267,947,112 from \$481,827,555 a year earlier.

Brokers in the Southeast took the brunt of the decline; a clear indicator that a round of steady winter storms hitting the region took a heavy toll. However, sales in Florida, the leader in brokerage sales, rose by 3 percent in January and February.

The number of boats sold in the 25-45 foot size category also declined in the Southeast overall, especially in Georgia where unit volume was off by more than 40 percent from the 2013 first quarter. Sales in this size category in Florida largely were flat.

The bad weather also impacted the time it took to close deals. Average Days to Sale increased to 272 in the 2014 first quarter from 257 a year earlier.

While Florida posted modest growth in the first quarter, some brokers did notice a slight slowdown in March. "We had a great January and February, but March was a little disappointing," said Jon Burkard, president of Allied Marine, based in Stuart, Fla. "It's been a rollercoaster, and it's hard to say if it's because it's tax time or something else."

In general, Burkard said the brokerage market remains healthy, and pricing actually is increasing, especially for newer used models. "We are seeing some boats sell for 10 to 15 percent more than a couple of years ago," he said.

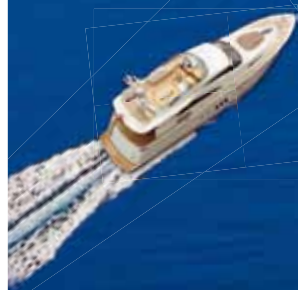
Editor's Note: This story is a summary of the full report appearing in YachtWorld's First Quarter 2014 U.S. Market Index, which can be viewed at: <https://s3.amazonaws.com/dmm-cdn-test/yachtworld/YW-US-Q1-Market-Index-Final.pdf>.

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The May 14th Charter Open House at Bahia Mar attracted more than 50 industry professionals. There were 5 participating yachts that ranged from 160' to 65'. Attendees sampled each yacht's selection of hors d'oeuvres and beverages as well as networking with their peers. Thank you to all the participating yachts and members that attended this successful event.

1. Beautiful food display on M/Y FIRST HOME
2. M/Y AUDACIA
3. Daphne d'Offay & Patti Trusel
4. Martha Lukasik & Susan Harris
5. Host Boat M/Y FIRST HOME
6. M/Y PRIMETIME



YACHTS IN ATTENDANCE

AUDACIA	PRIMETIME
MS B HAVEN	CHERIN III
FIRST HOME	



CHARTER NEWS

◆ LUXURYDAYCHARTERS.COM

is expanding private, luxury yacht Day Charter options to the New England this summer to include Newport, Rhode Island; New York City; The Hamptons; Nantucket; Cape Cod, etc. A gorgeous 70' Hylas sailboat will be available for Day Charters in New England. Luxury Day Charter options are now also available on the West Coast in California and Cabo San Lucas, Mexico, and in Hawaii. Book early for best availability by contacting Dhardra Blake at dhardra@LuxuryDayCharters.com.

◆ NEPTUNE GROUP YACHTING

is pleased to announce the addition of the Hatteras luxury motor yacht NO COMPLAINTS to its charter fleet. Built in 2004, the 80' (24.4m) NO COMPLAINTS underwent a complete refit this year, including the addition of



M/Y NO COMPLAINTS

a Jacuzzi on the flybridge. Two personal watercraft and a towed tender soon will be added. She features a spacious master cabin with king-size bed ensuite, as well as VIP, starboard and bow cabins with full amenities. She offers comfortable accommodations for up to eight guests.

This versatile yacht is ideal for

entertaining family and friends or for couples looking to escape on a romantic getaway. NO COMPLAINTS is available in Fort Lauderdale for charters in Florida and the Bahamas at the rate of \$31,000 per week, or \$5,000 for 8 hours, plus expenses. Please contact Neptune Group Yachting at 954.524.7978 for more information.

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UPCOMING SEMINARS

West Coast of Florida Yacht Sales Summit

Thursday, August 7, 2014 | Hyatt Regency Sarasota

Time: 8:00-4:30 followed by cocktail reception

\$60 for members, \$150 for non-members

Registration fee includes: continental breakfast, summit, breaks,
lunch and cocktail reception

Sponsored by: Robert Allen Law, Yachtworld.com & Total Dollar Insurance

19th Annual Yacht Sales & the Law Seminar

Wednesday, October 1, 2014 | Hyatt Pier 66 – Fort Lauderdale

Time: 8:00-4:30 followed by cocktail reception

\$60 for members & \$240 for non-members

Registration fee includes: continental breakfast, seminar, breaks,
lunch and cocktail reception

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and Willis Marine; Cocktail Reception sponsored by: Bank United

Charter Seminar

Wednesday, October 8, 2014 | Bahia Mar – Fort Lauderdale

Time: TBA

Charter Brokers Open House to follow

Sponsored by: IGY and Boat International

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◆ **YACHT BROKER/SALESPERSON: FLORIDA YACHT GROUP/EASTERN YACHT**, with locations in Palm Beach, Miami, St. Petersburg and Key West, has created a compensation plan that rewards producers. If you are ready to earn a good living, with a potential for earning a great living, helping people fulfill their dreams, contact us at hireme@floridayacht.com. Sales and sales management positions are available.

◆ **YACHT SALES BROKER: OCEAN INDEPENDENCE** is seeking an experienced yacht sales broker, with a seasoned knowledge of the yachting industry, to join our team in the Fort Lauderdale office. Ideal candidates must be highly motivated and professional with a proven track record in yacht sales. OCEAN Independence provides exceptional support to our team throughout our 16 worldwide offices. Please forward resumes to: marcelle@ocyachts.com. All inquiries are kept strictly confidential.

◆ **SALES REPRESENTATIVE: STERLING ACCEPTANCE CORPORATION**, an established yacht finance company for over 25 years, is looking for a Florida East Coast sales representative to originate boat loans via broker/dealer relationships and direct consumer contacts. The individual should be self-motivated, comfortable with cold calling, have strong attention to detail, and most important, high ethical standards. IT experience, social media marketing expertise, a financial services background and a boating background would all be pluses. Please send all inquiries and resumes in confidence to dave@sterlingacceptance.com.

ON THE MOVE

◆ **LON MCCLOSKEY**, 2012/2013 FYBA president, has joined the dynamic team at Worth Avenue Yachts as a sales executive. He can be reached at 561.833.4462; on cell at 561.758.2628, or by email at Lon@worthavenueyachts.com. www.worthavenueyachts.com.

◆ **JEFF ERDMANN**, formerly with Bollman Yachts for 26 years, has joined the Allied Marine/Ferretti Group in Fort Lauderdale, to focus on selling large motoryachts. Contact him by cell at 954.494.4320.

◆ **MAGGIE HINESLEY**, previously with Camper & Nicholsons, is now with Sanlorenzo. Call 954.607.1375 or email Maggie@SanlorenzoAmericas.com.



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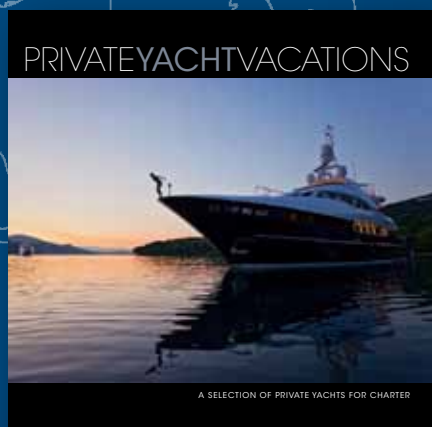
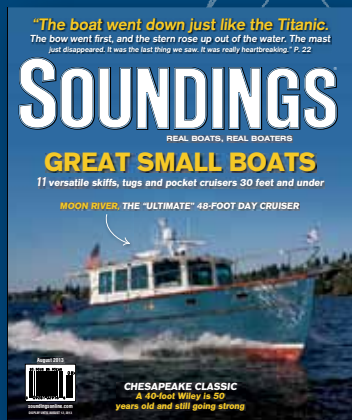
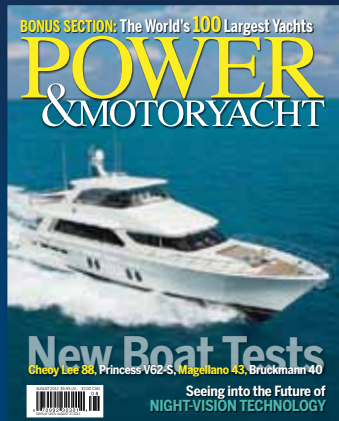
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WHAT'S THE SECRET TO SELLING NEW CONSTRUCTION?

Did you ever notice when you read the morning sales email reports from Malcolm at Boat International the same broker names keep popping up over and over every time they announce the signing of a major new build contract? A generation ago I noticed the exact same pattern in yacht donations when the same broker names were always in the announcement whenever a nonprofit announced the donation of a substantial quality yacht.

The real secret is the top brokers don't "sell it" they just "present it". In the world of yacht donations, no owner even thinks about "giving his boat away" in the beginning, but the leading broker ALWAYS present that option early in the process, and explain the advantages and disadvantages, run through the math and then they let it go. As time goes on, if the boat hasn't sold, the expenses begin to mount, and the owner is itching to move on with his life, suddenly the owner says, "Let's take a look at that donation thing again."

We have one broker here in Florida who has signed five new builds with Hargrave and we see the same pattern in our world. When the broker has a client looking for a late model used boat in our size range they just stop in with the client, they "meet the family", we explain they can get a new custom boats for about the same price as a late model brokerage boat and why they might want to consider that option, and then they let it alone.

Almost all their clients go on to buy a brokerage boat, but on occasion, there is one buyer who realizes he can't find exactly what he wants and digs in his heels and say, "I'm not paying that kind of money and getting anything less than what I want."

So there's your answer, if you want to be involved with new builds you just need to make it a regular part of your presentations and eventually the law of averages will kick in. Remember this advice from hockey superstar Wayne Gretzky – "I missed 100% of the shots I didn't take."

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