



SPANISH CHARTER

The charter activity in Spain developed from a Spanish Marina or harbour, which will be considered the base of that activity in Spain, needs to be authorized by the Spanish Maritime Authority (DGMM). These authorizations are compulsory for Spanish, EU or third countries flag boats. The Capitanía Marítima of the area where the port base is located is the responsible for issuing the authorization. However, those regions in Spain with its own government are those governments the responsible for issuing the mentioned authorizations. Balearic Islands would be among those regions where the permission is issued by the local government, while in Cataluña it would be issued by the Capitanía. It is important to remark, that the authorizations enable the holder to develop the activity in a certain region of Spain but not in others.

Moreover it is necessary to comply with all the technical, administrative, labour and tax requirements before starting the activity.

If the boat developing the activity is Spanish flag, she has to be registered in a registration section called Lista 6ª for commercial boats. Foreigner boats should be registered as commercial in its own country and comply with the legislation established by its own country. Beside that they have to comply with the safety requirements established for the lista 6ª boats, which are established in the Ministerio of Fomento act 1144/2003. These safety equipments have to be checked by an appointed agency called ECA. The ECAs are agencies appointed by the Spanish authorities to carry away inspections on behalf of the Maritime Authorities.

The boat has to be insured for the development of charter activity (bareboat charter). In the case of boats chartered with the crew included, additional passenger insurance is required.

If the charter includes the crew on board, all the crew has to have the necessary professional qualification for the activity. If the boat is Spanish the requirements will be the ones required by the Spanish legislation, whereas if it is a foreigner boat, the crew will have to comply with the requirements of its country. We want to remark, that Spanish flag boats have to be skippered by Spanish or EU captains.

Spanish charter boats have to be registered in the social security system as well as its crew.

If the charter is carried away under the bareboat option, at least one of the passengers on board must be entitled with the necessary qualification to skip the boat, Spanish or foreigner, to according to the boat's dimensions and the navigation area where the navigation is going to take place.

With regard the tax obligations, it has to be said that those boats which final destination is going to be exclusively the charter activity and with a total LOA under 15m, are exempted from the payment of the Matriculation Tax (12% of the boat's value). That exclusivity involves that other commercial activities or private used are not allowed.

On one hand, if the activity is carried away through a foreign flag boat, it is necessary that the foreign boat applies as well for the matriculation tax exemption or payment, as Spanish boats have to. On the other hand, the Maritime Authorities are not demanding the foreign boat to be re-flagged under the Spanish, one. This situation is a contradiction, because the final purpose of the Matriculation tax (exempted or not) is to register the boat under the Spanish flag.

The charter company has to be registered in the tax agency under the chapter of charter activity according to the classification established in the Economic Activity Tax (IAE). The activity's profit will be taxed through the corporation tax (ISOC) or the personal income tax (IRPF), depending on who develops the activity (a company, a branch of a foreign company or an individual).

Finally regarding VAT, the charter activity will be submitted to a general tax rate of 16%. However, recently some interpretations from the tax authorities allow the application of a reduced tax rate of 7% in some cases.



SUMMARY:

1. It is necessary to obtain a special authorization to develop the charter activity in Spain.
2. Boats have to be registered under Spanish or EU flag. If the boat is longer than 14m LOA they can keep a non EU flag as well.
3. Foreign flag boats have to have on board the same safety equipment than the Spanish ones.
4. It is compulsory to contract civil responsibility insurance. Additional passenger insurance if the activity is developed with crew on board.
5. The crew has to have the necessary qualifications.
6. Spanish boats and crew have to be registered in the Social Security system
7. Boats to be rented to Spanish residents or managed by established companies in Spain have to be registered in Spain and pay or apply for matriculation tax exemption.
8. The Maritime Authorities have not enforced the registration of foreign flag boats under the Spanish.
9. Boats with a total LOA under 15 meters and exclusively used for charter activity are exempted from Matriculation tax.
10. The charter company has to be registered according to the classification established in the (IAE).
11. The company's profit could be submitted to corporation tax or personal income tax.
12. VAT applicable is a 16% rate; in some cases a 7% rate could be applied.