RATING ON INDIVIDUAL MOORINGS AND COUNCIL TAX

There are four essential ingredients for rateable occupation:-

- There must be actual occupation or possession.
- Occupation must be exclusive for the particular purposes of the possessor.
- Possession must be of some value or benefit to the possessor.
- Possession must not be for too transient a period.

Before rates can be levied on the occupation of land, it must be established that the land lies within the local authority rating area. In most cases the local authority boundary will stop at the low water mark, but in a number of places, including Brighton, Torquay, Lowestoft and Southwold, areas below the low water mark have been added by a private Act of Parliament.

Similarly where a tidal creek or river lies within the area of a local authority it will be part of the jurisdiction of the authority unless the river is so wide that (in the words of the ancient test) a man cannot see what another is doing on the far bank.

Rating Exemption:

In the course of the debate on the Rates Act 1984, the RYA successfully lobbied for a codification and amendment of the law affecting the rating of moorings. The result is that moorings are now exempt from rates provided they are:-

- used or intended to be used by a boat or ship; and
- equipped only with a buoy attached to an anchor, weight or other device resting on or in the bed of the sea or any river or other waters when in use and designed to be raised from the bed from time to time.

The provisions were re-enacted in the Local Government Finance Act 1988 which in effect means that all singing moorings of the conventional type are exempt, whether secured by a single block, anchor or weight, or attached to a ground chain, or to a series of anchors, provided that they are designed to be raised for renewal or inspection from time to time.

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Also exempt are fore-and-aft moorings of the same general design as the swinging moorings, where the yacht has a buoy at each end. Not exempt, clearly, are driven-pile and screw-pile moorings, other permanently fixed moorings and bankside moorings.

Calculation of Multiple Moorings:

The Non-Domestic Rating (Multiple Moorings) Regulations 1992 enable Valuation Officers to assess individual moorings collectively so as to allow Local Authorities to serve rate demands on the authority controlling and receiving the fees for moorings. This will only apply to fixed moorings (e.g. piles, marinas, river bank moorings etc.) but will transfer to the authority controlling the harbour or other stretch of water responsibility for collecting a contribution to the total assessment from each of the mooring holders.

This method of collection should result in lower rates liabilities than would otherwise arise through individual demands. The authority responsible for the payment of rates must, if requested by the occupier of a mooring, supply information to enable the occupier to calculate his proportion of the total rate liability based on information provided by the Valuation Officer

Council Tax on Vessels

Rates are payable on commercial (i.e. all non-domestic) property and Council Tax is payable in respect of homes or domestic property. If a boat is, in the opinion of the Listing Officer, a chargeable dwelling, and is the sole or main residence of any person, then a Council Tax liability will arise in respect of that dwelling, and it will be treated as a domestic dwelling.

Some difficulties arise in relation to the application of Council Tax on vessels. The first arises because a boat is a chattel and is not rateable unless it has remained in the same location for a sufficiently long time to become annexed to the land on which it sits. This would include for example the traditional houseboat occupying a mud berth. Many fulltime residential live-a-boards consist of vessels that retain the ability to move under their own power. The Parliamentary draughtsmen foresaw this possibility and made it clear that '*a mooring occupied by a boat which is the sole or main residence of an individual is domestic*.' The condition to be met is therefore not whether the boat is ocean-going, capable of being used on the canals or tied up to a marina mooring where it

moves infrequently but rather whether or not the boat is being used by the occupier as his sole or main residence.

It is clear that for both Rating and Council Tax purposes it is the mooring not the boat which has to be valued. The definition of what should be included if it is to be valued for Council Tax purposes is clarified by the legislation which goes on to say that where a mooring is domestic it will include *'any garden, yard, out-house or other appurtenance belonging to it or enjoyed with it.'*

Further difficulties can arise because most marinas reserve the right in berthing agreements to move the berth-holders at will, even though in most cases they do not do so. It is clear that where a live-aboard tenant has the right to occupy a specific berth then if it can be shown that the boat is his sole or main residence, his mooring should be assessed to Council Tax. Where, however, the marina operator reserves the right to move berth-holders at will, and actually does so on a regular basis the mooring occupied by the live-aboard should not be separately assessed. A technical reservation of a right to move a boat that is not in reality implemented is insufficient to prevent separate assessment, actual regular movement is required.

The marina is under these circumstances a 'composite hereditament' in that it comprises both domestic and non-domestic property within a single unit for valuation purposes. There will be a Rating assessment for the non-domestic element and a Council Tax assessment for the domestic element. The two are, however, indivisible and the marina operator, as the person in paramount control of the hereditament (unit of valuation) is liable for payment of both taxes. It is quite possible that under the circumstances outlined above there may be more than one live-aboard or domestic occupation within the marina, in which case the Listing Officer is required to value all the domestic moorings together with their gardens etc., at their open market capital value as at 1 April 1991 and placed in the appropriate Council Tax band A-H whilst the rest of the marina (excluding the moorings occupied domestically) must be valued at its rental value as at 1 April 2003.

For more information kindly contact the RYA Legal Department on 0844 556 9519 legal@rya.org.uk

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