

7 JANUARY AD 2021

THAI SUPERYACHT CHARTER LICENSE

STATUS

REPORT

TYBA GROUP REPORT

The current legislation and rules regarding the legal operation of commercially registered and foreign-flagged Super yachts of 30m and over in Thai waters have raised concerns and issues.

There is a need for a clear overview and reference to what the solutions are in comparable countries. This report tries to compile this.

This report includes standards from International conventions in place, such as the International Maritime Organization (IMO, Thailand is a member) & Maritime Coastguard Authority (MCA).

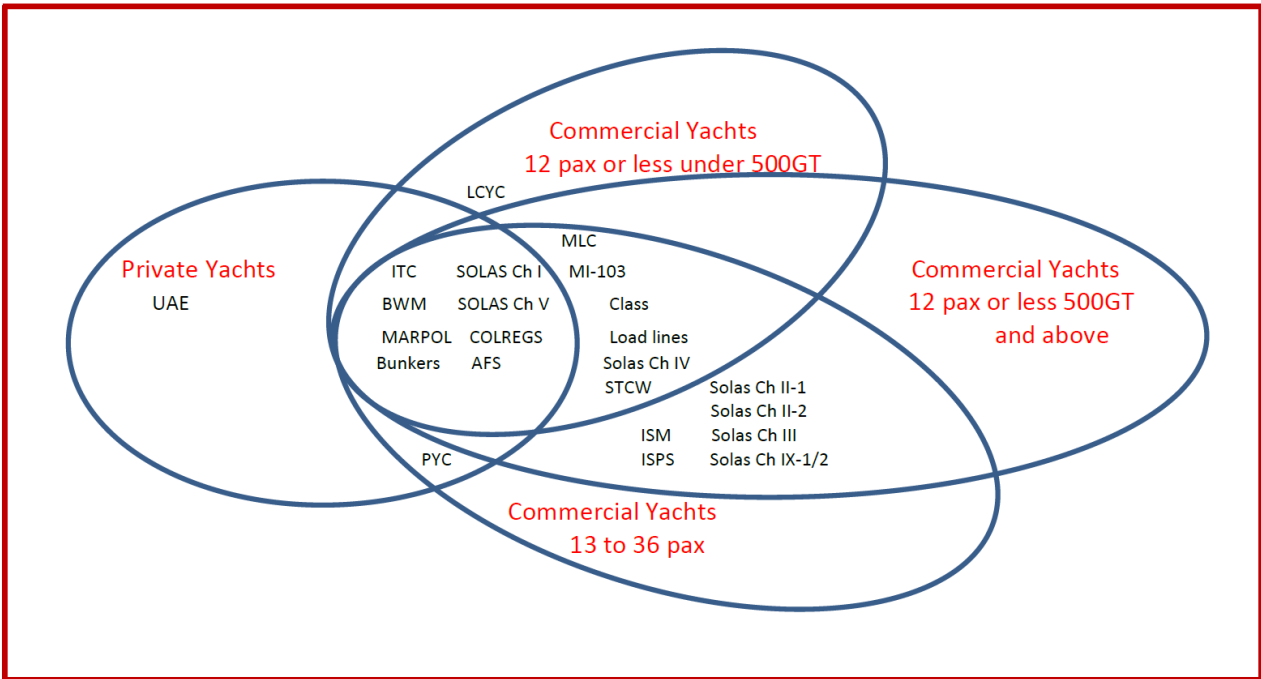
Due to the need to access the compiled information and get other support, this project did not follow the initial discussed phases. However, we want to point out that proper Litigation research done by a Maritime Law office is still recommended.

TABLE OF CONTENTS

01. DEFINITIONS OF A SUPER YACHT	4
02. DEFINITIONS PER COUNTRY	5
03. DEFINITIONS OF YACHT CHARTER	11
04. CHARTER REGULATIONS APPLIED SUCCESSFULLY BY COUNTRY	16
05. MANAGEMENT OF APPLICABLE TAXES IN THAILAND	30
06. MANAGEMENT TAXES OTHER COUNTRIES and exemptions	35
07. LENGTH OF STAY FOR VISITING YACHTS	40
08. OTHER COUNTRIES and length of stay	41
09. CREW VISAS FOR FOREIGN FLAGGED VESSELS	45
10. OTHER COUNTRIES AND CREW VISA	46
11. SUMMARY CREW VISAS	49
12. REVENUE OPPORTUNITIES - AN OPERATIONAL CHARTER LICENSE	50
13. SWOT ANALYSIS THAILAND SUPER YACHT CHARTER LICENSE	56
14. SUMMARY	57
15. ADDENDUM	60

01. DEFINITIONS OF A SUPER YACHT

Super Yachts are a class on their own and a different industry when discussing the Maritime sector in general and specifically the recreational side. The reasons are their length and tonnage that make them stand out from the other recreational vessels.



A definition serves as the coat hanger for the legal framework that affects a super yacht. Even if it is not on an international offshore voyage regulated by the IMO convention, the super yacht must comply with country-specific legislation, combined with flag and class rules.

For this report, we will first show several country-specific regulations. Throughout this report, these countries serve as an example to compare Thai Legislation.

02. DEFINITIONS PER COUNTRY

SUPER YACHT DEFINITIONS AUSTRALIA

The current Valid act is the Special Recreational Vessels Act 2019. In this act, it is noted that: special recreational vessel means a vessel that:

- (a) is designed to be used wholly or primarily for recreational or sporting activities; and is over 24 meters in length; and
- (b) (c) is not used wholly or primarily for carrying cargo.
- (c) the number of passengers expected to be carried (which must not exceed 12);

SUPER YACHT DEFINITIONS (RED ENSIGN GROUP)

During 2016 and 2017, the Red Ensign Group (REG) worked alongside the Large Yacht industry to develop the 'REG Yacht Code.' This Code consists of two parts; Part A is an update to the existing Large Yacht Code (LY3), and Part B being an update to the Passenger Yacht Code 6th Edition (PYC). Although combined into a single new Code, the two Parts are still separate entities. However, where there are commonalities between the two new Parts, annexes have been produced, applying both Parts A and B.



The Scope of Parts A and B of the new Code have not been changed and are as follows: **Part A** applicable to yachts which are 24 meters and over in load line length, are in commercial use for sport or pleasure, do not carry cargo, and do not carry more than 12 passengers;

Part B applies to pleasure yachts of any size, in private use, or engaged in trade, carrying more than 12 but not more than 36 passengers and do not carry cargo.

SUPER YACHT DEFINITIONS FIJI

Fiji charter regulations regulates that Yachts over 24m must not carry more than 12 passengers and must have a minimum weekly gross charter rate of US \$ 55,000.

Yachts must have a valid Maritime Coast Guard Agency (MCA) certification or equivalent international recognized commercial survey for the purpose of carrying passengers.

SUPER YACHT DEFINITIONS MALTA

The Maltese Code is specifically intended for yachts engaged in commercial operations and which do not carry more than 12 passengers. This Code covers the following categories of yachts:-

- Yachts \geq 15 m in length overall and $<$ 24 m in length,
- Yachts \geq 24 m in length and $<$ 500 GT,
- Yachts \geq 500 GT.

Commercial Yachts certified in accordance with this Code may be granted one of three Navigation Notations as follows: (a) Navigation within 60 miles from a safe haven (Short Range), or (b) Navigation within 150 miles from a safe haven or (c) Unrestricted Navigation.

This Code is also applicable for Special Category Yachts as defined in Section 18.

SUPER YACHT DEFINITIONS MARSHALL ISLANDS

“Private yacht limited charter” means a private yacht 18 meters or more in length and less than 500 GT registered as per Chapter 2, Part V, of the Maritime Act that is described on the Certificate of Registry as a private yacht and holds a valid Private Yacht Limited Charter Compliance Certificate allowing the yacht to be engaged in limited chartering for no more than 84 days per calendar year and which shall carry no more than 12 passengers;

SUPER YACHT DEFINITIONS NEW ZEALAND

All foreign flagged motor and sailing passenger yachts which do not have SOLAS Convention Certificates issued on behalf of their Flag State will be required to undergo a survey upon arrival by an MNZ approved Safe Ship Management company before being able to operate commercially in New Zealand waters. If vessels have SOLAS Convention Certificates as a passenger vessel Maritime New Zealand: 46.28 Foreign non-SOLAS ships operating commercially on the New Zealand Coast (1)

Subject to rules 46.28(3) and 46.28(4), the owner and the master of a foreign non-SOLAS ship that does not have certificates that can be recognized by the Director in accordance with section 41 of the Act must ensure that the ship undergoes a survey to the satisfaction of the surveyor before the ship commences operations on the New Zealand coast and thereafter as required by the Director.

The Director shall determine the extent of the first survey and the nature and periodicity of subsequent surveys taking into account the circumstances of the operation and the survey requirements applicable to comparable New Zealand ships. (2) On completion of a satisfactory first survey, as referred to in rule 46.28(1), the Director must issue a certificate in accordance with section 41 of the Act in respect of the ship in a form determined by the Director. (3)

The owner and the master of a foreign non-SOLAS ship that does not have certificates that can be recognized by the Director in accordance with section 41 of the Act must ensure that the ship enters and remains in a safe ship management system established under Part 21 of the maritime rules within 2 years of the date of the first survey required by rule 46.28(1). (4) The requirements of rule 46.28(1) do not apply where a foreign ship that does not have certificates that can be recognized by the Director in accordance with section 41 of the Act enters and remains in a safe ship management system established under Part 21. (5)

The owner and the master of a foreign non-SOLAS ship that has certificates that can be recognized by the Director in accordance with section 41 of the Act must ensure that the ship: (a) does not operate on the New Zealand coast unless the certificates for the ship have been recognized by the Director in accordance with section 41 of the Act; and (b) enters and remains in a safe ship management system established under Part 21, if the ship has operated on the New Zealand coast for a period of 2 years in any 3 year period. they will have to carry valid certification under the International Safety Management (ISM) Code.

SUPER YACHT DEFINITIONS IN SAFETY OF LIFE AT SEA REGULATIONS (SOLAS)



A SOLAS ship (as defined in Maritime Rule Part 21) is any ship to which the International Convention for the Safety of Life at Sea 1974 applies; namely:

- a passenger ship engaged on an international voyage, or.
- a non-passenger ship of 500 tons gross tonnage or more engaged on an international voyage.

SUPER YACHT DEFINITIONS SRI LANKA

Large Yacht Code (Yachts, Sports and Leisure Vessels over 24m in length)

Non-Convention Vessels: Vessels for which the IMO conventions do not apply, and/or vessels operating solely on domestic voyages for which the Director General of Merchant Shipping has granted exemptions from the applicable IMO conventions that apply due to the vessels GT. Where due to the GT of the vessel or area of operation parts of IMO conventions are applicable they would apply unless exemption has been granted by the DGMS

This code applies to yachts and pleasure craft over 24 metres in length, registered and operating in area categories 0 to 5, as categorised in the "Merchant Shipping Categorisation of Waters Regulations 2019" published by the Ministry of Shipping.

Passenger vessels over 24m in length are required to meet the requirements of the IMO SOLAS Convention. No vessel to which the Code applies should carry more than 12 passengers on a voyage or excursion. The following meanings apply:

"Passenger" means any person carried in a ship except:

- (a) a person employed or engaged in any capacity onboard the ship on the business of the ship;
- (b) a person onboard the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstances that neither the master nor the owner nor the charterer (if any) could have prevented; and
- (c) a child under one year of age; and "a person employed or engaged in any capacity on board the vessel on the business of the vessel" may reasonably include:

1. bona-fide members of the crew over the minimum school leaving age (about 16 years) who are properly employed on the operation of the vessel;
2. person(s) employed either by the owner or the charterer in connection with business interests and providing a service available to all passengers; and
3. person(s) employed either by the owner or the charterer in relation to social activities on board and providing a service available to all passengers.

PROPOSAL SUPER YACHT DEFINITION THAILAND

The term "super yacht" is applicable for pleasure crafts which are 24 meters and over in load line length, are in use for sport or pleasure, do not carry cargo and do not carry more than 12 passengers.

The term "commercial super yacht" is applicable for pleasure crafts which are 24 meters and over in load line length, are in commercial use for sport or pleasure, do not carry cargo and do not carry more than 12 passengers.

This is divided by vessels less than 500 Gross Tonnes and vessels of 500 GT and over.

It must be noted that Thailand is a signatory of the IMO Convention.



03. DEFINITIONS OF YACHT CHARTER



Yacht chartering is the practice of renting, or chartering, a sailboat or motor yacht and traveling to various coastal or island destinations. This is usually a vacation activity, but it also can be a business event.

There are two main kinds of charter: bareboat and skippered. **Bareboat charters** involve a person renting a boat and skippering it themselves. The other way is gathering up a group and renting the yacht with them. Most bareboat companies also offer courses to teach basic seamanship and prepare people for bareboat chartering. These companies also sometimes provide skippered charters, meaning that boat comes with a skipper but no additional crew.

Skippered charter means the yacht comes with a crew. This can be anything from a 35-foot boat with a two-person team serving as captain and chef to a 300-foot boat with a squad of 30 or more crew members including stewardesses, engineers, mates, deckhands, scuba dive masters, and the like.

SUPERYACHT CHARTER AND MYBA

Almost all super yacht charters are signed and done using the MYBA CHARTER AGREEMENT.

When the MYBA Agreement is used, it is signed by four parties who are involved in the transaction:

1. Client
2. Owner
3. Booking broker
4. Charter manager



In the agreement, the following fees are agreed upon, with their payment terms:

- Charter fee (rental fee for yacht, crew, insurance)
- VAT (if any) as percentage of the charter fee
- APA = Advance Provisioning Allowance, a percentage of the charter fee, usually between 25-30%
- Relocation fee, a fixed amount, to move the yacht to a different embarkation place
- Security Deposit, to be held in escrow, and refunded after the charter as appropriate.

For a clear understanding, the APA is used as a sort of 'petty cash' and paid in advance, to cover all expenses made for the charter from marina fee, provisioning (food and all beverages), fuel for yacht and all other equipment (generator, tender, water toys), any request of the charter guests such as the hire of additional equipment or any extra people for the charter (massage therapist, personal trainer, dive master). During the charter, the captain will keep record of the expenses against the APA and will inform the charterer in time on additional funds needed.

PAYMENT TERMS SUPERYACHT CHARTER

The first 50% of the charter fee is paid upon booking to confirm the charter. The Charter client pays to booking charter broker, then booking charter broker deducts their commission (standard 15% of the charter fee) and transfers the balance to the charter manager.

The charter manager keeps his 5% commission and remaining funds in escrow.

The balance 50% of the charter fee is paid about 4 weeks before the charter date:

Charter client pays to booking charter broker, then booking charter broker transfers this to the charter manager (the stakeholder on the MYBA agreement). The charter manager keeps the funds in escrow.

The yacht owner gets paid a total of 80% of the charter fee. 50% of this amount is paid on the first day of the charter (after guests have stepped on board and confirm all is ok (yacht/crew/accommodation). The remaining 50% on the last day of the charter (if all went well).

The charter client pays VAT with the balance payment of the charter fee 1. b) to the booking broker, who transfers to the charter manager. Please note that all payments are in the agreed upon currency. If in Thailand VAT will be charged, an appropriate Exchange rate agreement needs to be made.

The Charter manager pays to Owner/Captain's boat account before the charter. The Captain transferred to the yacht's tax agent. Tax agent approved charter agreement beforehand to ensure the correct tax was charged.

Ultimately, the yacht owner is responsible for the tax payment (not the charter manager, charter guest or booking broker).

The APA is paid one month (or up to 6 weeks) before the charter date, usually with balance charter fee. Charter client pays to booking charter broker, then booking charter broker transfers this onwards to the charter manager (the stakeholder on the MYBA agreement). The charter manager transfers this to owner/captain's boat account.

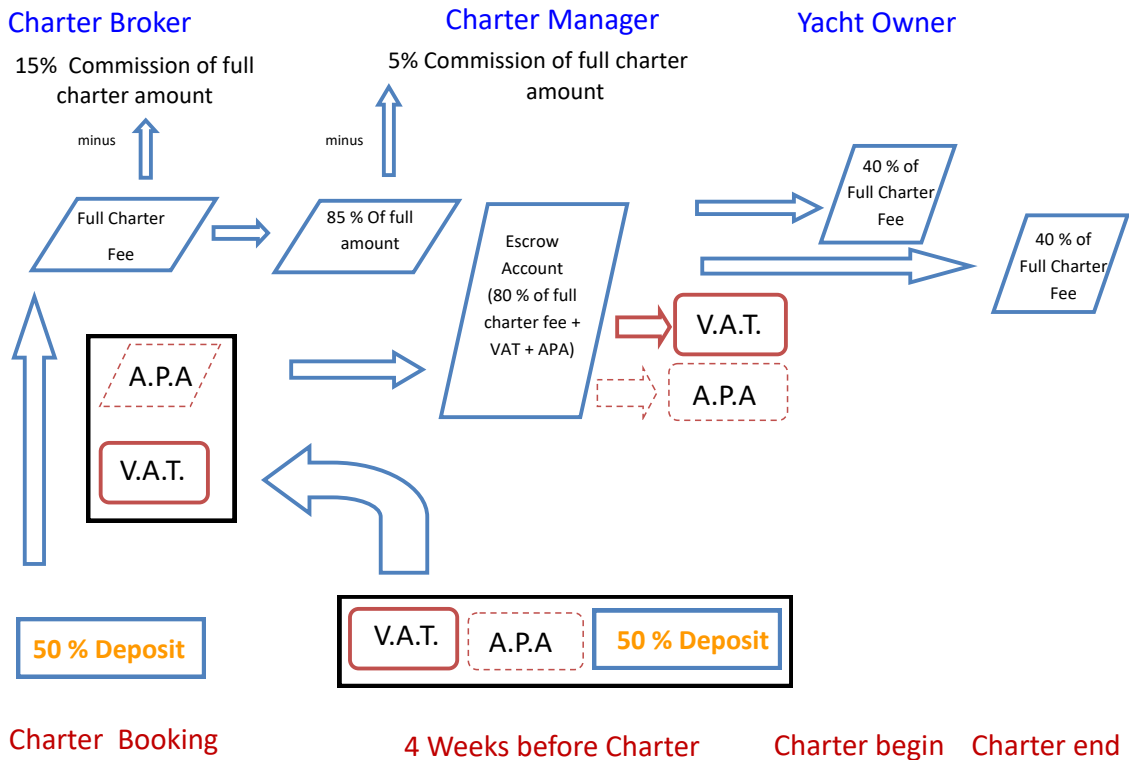
SUPERYACHT CHARTER LICENSE

The Relocation fee is paid at a mutually agreed date, such as upon booking, with balance payment, or other date before the charter.

Charter client pays to booking charter broker, then booking charter broker transfers this to the charter manager (the stakeholder on the MYBA agreement). The charter manager transfers this to owner/captain’s boat account.

Security Deposit is paid at a mutually agreed date, such as with the balance payment, or other date before the charter.

Charter client pays to booking charter broker, then booking charter broker transfers this to the charter manager (the stakeholder on the MYBA agreement). The charter manager deducts charges for damages (if any) and refunds the whole amount or the remaining balance to the charter booking broker or directly transfers to the client.



PROPOSAL THAILAND:

The Proposal for Thailand is to let the VAT payment be arranged by the local agent and follow the MYBA agreement and payment terms as per above.



04. CHARTER REGULATIONS APPLIED SUCCESSFULLY BY COUNTRY

The Caribbean, most of Europe (The Mediterranean) and the following countries have seen massive financial benefits from the allowing of foreign flagged yachts to charter within their territorial waters.

Please read the Report of [The Economic Impact of Large Yacht Charter in the Balearics 2019](#)

The standards and codes currently in place, set via the various International administrative bodies previously mentioned, ensure that Best Practices and Standard Operating Procedures are in place, at various levels and therefore should be of a level to mitigate any relevant issue for countries allowing charter operation.

THAILAND in June 2015 approved a “Charter License for Foreign Flagged Yachts”, under Section 47, bis 12 of the Thai Vessel Act 2481

Criteria to obtain this License are for the vessel to be:

- 30m +
- Weekly charter cost of 60,000 USD and over
- Application to be via a TYBA registered & approved agent
- Cost of 40 THB per Ton (anticipated to increase)
- Valid 365 days

However, it is not possible to operate due to the following barriers:

- lack of clarity regarding VAT
- Import Duty on yacht
- Crew operational concerns.

Due to these barriers, only Thai Flagged (registered) yachts operate commercially in Thai waters. This means a Thai company will be created and the yacht imported at 7% the yacht value.

Currently, SY “*Silver Lining*” at 31.6m is the only commercial Thai flagged sailing yacht of 30 m and over (built in Satun), and Motor Yacht “*Mia Kai*” is a close second at 30m and the only commercial motor yacht in this criteria.

www.fraseryachts.com/en/yacht-for-charter/silverlining/#:~:text=SILVERLINING%20was%20launched%20in%202011,around%20Phuket%2C%20Langkawi%20or%20Myanmar

www.oceanindependence.com/yachts-for-charter/yacht/mia-kai

As the following should demonstrate, there is no doubt of the economic benefit to countries allowing foreign flagged yachts to charter but please note, the various countries collect different data so exact comparisons need a level of assumptions.



CHARTER REGULATIONS AUSTRALIA

Australia in 2016 completed a full economic Impact study, also highlighting “critical policy and legislative constraints” (ref 09.5 chapter 09). This was key to their current achievements highlighting the path forward. They first addressed interstate continuity, then the crew visa and finally the taxes and yacht operations.

LEGAL

The Special Recreational Vessel Act 2019/46 allows for “Special Recreational Vessels” or “Super yachts” to be temporarily imported into Australia for commercial usage without being regarded as imported under customs legislation. This comes under “The Coastal Trading Act”

“The SRV Act achieves this by establishing a condition for qualifying special recreational vessels to ‘opt in’ to the coastal trading license scheme established by the Coastal Trading (Revitalizing Australian Shipping) Act 2012 (Coastal Trading Act). The Department of Infrastructure, Transport, Regional Development and Communications administers both the SRV Act and the Coastal Trading Act”

This mandate was approved 18th December 2019. During that time Australia was dealing with massive fires which was discouraging all forms of tourism, including yachts. Covid 19 then happened leading to the cancellation of key events in the area including the Olympics & The Americas Cup. These key events were predicted to have created an influx of super yachts in the area, in fact around 150 visiting yachts. This influx has not happened.

Penalties: If a crew and yacht does not meet the legal requirements, The biggest issue would be the crew would be in breach of their visas, See [Visa Link](#)

For the vessel, it would be in breach of the [Conditional Control Permit](#).

“11. Any breaches of the conditions outlined herein will result in automatic revocation of the Conditioned Control Permit. Revocation of a Conditioned Control Permit will mean that the craft must depart Australia or may be required to be formally entered and duty and GST paid.”

SUPERYACHT CHARTER LICENSE

Ultimately the vessels could be detained until the owner has paid the duty and GST (10%) on the value of the vessel.

Note: See Superyacht Australia and Government Information on Entering and Leaving Australia by sea

YACHT COMPLIANCE AUSTRALIA

24m +, MCA compliant or equivalent.

Australia operates a very strict system to check on credentials of all visiting yachts

VISAS AUSTRALIA

In 2016 the “Superyacht Crew Visa” subclass 408, was made available under the “Temporary Activity Visa Act”. This allows for crew, with contracts with the relevant yachts, to obtain multi entry visas valid up to 1 year, extendable while in Australia.

COST FOR LICENSE AUSTRALIA

400 AUD for 1-year charter license, the yacht can apply for extension.

Obtained & Managed via a “*Superyacht Australia*” recognized yacht agent. These are the agents that manage the yacht port clearance, permits, victuals, bunkering etc as well as the VAT revenue due on the value of a charter. These agents are also accountable for relevant data sharing & gathering.

TAX ON VESSEL AUSTRALIA

No Tax. Refer to “Special Recreational Vessel Act” The Tax on charter revenue is:

10% GST.

This is managed by the designated “Superyacht Agent”

Available Statistics / Information Australia:

Number of Commercial Super yachts in 2020: 3

Length of yachts: 45m, 60m, 85m

Average length of stay: 141 days

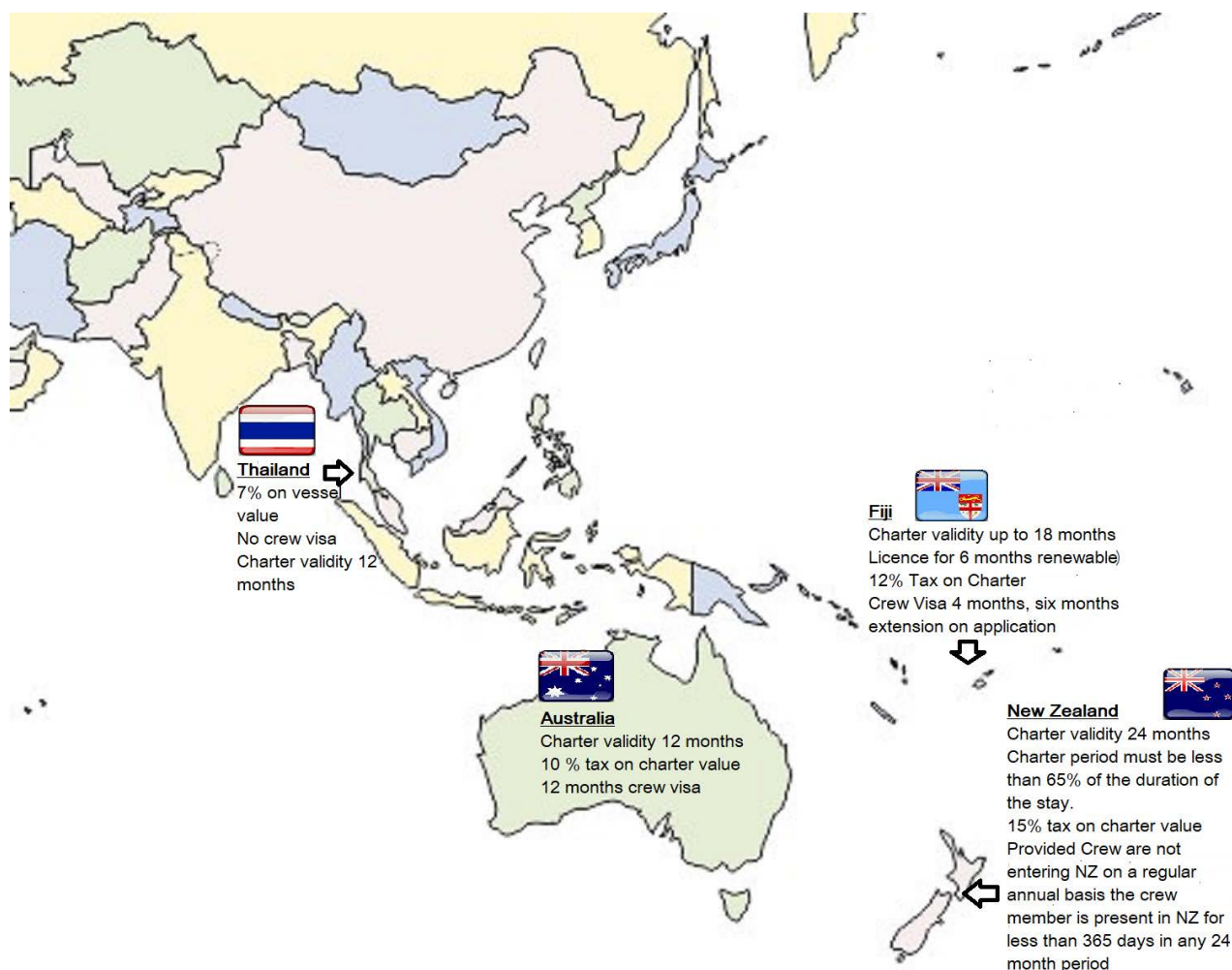
Revenue @ 10% GST on Charter: 621,000 AUD

Estimated vessel and crew spend: 4.73 Million AUD (based on 10% of the vessel values)

Advanced Provisioning Allowance (APA) Spend: 1,509,500 AUD

Refit & Repair: 2,599,553 AUD

(Source: David Good, Chief Executive Officer, Superyacht Australia)



CHARTER REGULATIONS IN NEW ZEALAND

LEGAL

New Zealand operates foreign yacht charter on a trust basis; An MOU has been signed between Customs and key Superyacht Agents to circumvent the need to import the yacht in order to charter. Under the MOU Yachts can operate commercially for a maximum 65% of their stay, up to 2 year stay in New Zealand.

Yachts are temporarily imported under the NZ customs Temporary Import Entry (TIE)

YACHT COMPLIANCE NEW ZEALAND

24m +, MCA or equivalent or a locally approved surveyor can approve or not.

VISAS NEW ZEALAND

Crew Visa available, up to 2 years for charter or refit, multiple entry.

Since Covid 19 New Zealand have temporarily pulled many types of visa and finding up to date information is difficult.

You can find through the links what is currently on the Immigration website on Visa's for owners and crew of super yachts and for Special Visitors.

COST FOR LICENSE NEW ZEALAND

This is depending on the Yacht Agent used. The designated Yacht agent manages the application, the payment of 15% GST. No data sharing is required.

TAX ON VESSEL NEW ZEALAND

No Tax. Temporary Import Entry (TIE) is without Tax.

TAX ON CHARTER REVENUE NEW ZEALAND

15% of the value of the advertised charter. Operate under the MOU.



Available Statistics / Information New Zealand:

- 2019 Estimated 250,000 NZD GST revenue
- “Several Yachts” – no detail shared
- Charter values up to 500,000 USD / week
- APA estimated at 20 – 25% the value of the charter

(Source: Duthie Lingard, Catalano Shipping NZ and Peter Busfield, Executive Director of New Zealand Marine Industry Association)

CHARTER REGULATIONS IN FIJI

LEGAL

Approved in 2010 “The Superyacht Charter Decree 19 of 2010” and is called the “Short Term charter Permit”

- Yachts are permitted to charter 6 months, extendable up to 18 months
- Yacht Compliance: 24m+ MCA or equivalent.
- Charter value must be 55,000 USD+
- Marine Safety Authority of Fiji (MSAF) will survey the yacht.

Please note: if you get caught with illegal charter in Fiji, Customs can seize the vessel, however, most of the time they make you import the vessel at full duty and vat.

VISAS FOR FIJI

Tourist visa, Valid up to 6 months. Can leave and renew immediately. Multiple entry

COST FOR LICENSE FIJI

1,560 USD for the “Short Term Charter Permit” Plus 1,500 USD for the MSAF

Obtained and managed via the designated Yacht agent, who manages the application and the payment of 5% Environmental Tax. Data sharing is required.

TAX ON VESSEL FIJI

No tax is applied. “The Superyacht Charter Decree 19 of 2010” allows temporary import for commercial reason

TAX ON CHARTER REVENUE FIJI

5% of the value of the advertised charter. This started as 15%, moved to 10% and is now reduced to 5%

The revenue from APA, crew spending etc is considered more significant.



Available Statistics / Information Fiji:

- Various reports have been supplied (see chapter 09, REVENUE).
- 2018 example:
- Number of Commercial Super yachts: 6
- Length of yachts: of charters: 7
- Total days of charter: 70
- Vessel Permits: 18,000 FJD (approx. 263,500 THB)
- MSAF fees: 21,686 FJD
- Revenue @ 5% TAX on Charter: 348,527 FJD (approx. 500,000 THB)
- Estimated vessel and crew spend: Avg spend per visitor is 8,192 FJD
- Advanced Provisioning Allowance (APA) Spend: 1,003,500 FJD (approx. 14,700,000 THB)
- Refit & Repair: No record

(Source: Cynthia Rasch, CEO Port Denerau Marina and David Jamieson, MD Yacht Help Fiji.)

CHARTER REGULATIONS IN MALDIVES

LEGAL

Charter is operated under: “an amendment of the “Regulation governing Foreign Tourist Vessels cruising and harbouring in Maldivian waters” implemented on 01 March 2008. This Regulation is enacted by the Ministry of Tourism, Arts and Culture pursuant to Section 24 of Law No. 2/99 (Maldives Tourism Act) in order to regulate Foreign Tourist Vessels cruising and harbouring in Maldivian waters.” (<http://www.boating.mv/regulations/8.pdf>)

Yachts can stay for up to 180 days for non IMO and up to 270 days for IMO vessels.

YACHT COMPLIANCE MALDIVES

Yachts must have IMO compliance for charter permits

Yachts must comply with individual flag regulations

VISAS MALDIVES

Crew gets 90 days on arrival by yacht. This can be renewed, without limit, by exiting and re-entering the Maldives.

COST FOR CHARTER LICENSE MALDIVES

Starting at 200 USD for LOA up to 35m

Up to 600 USD/day for LOA 75m +

Obtained and managed via Maldivian Superyacht Agent. No records are required.

TAX ON VESSEL MALDIVES

No Tax. See Section 24 of Law No. 2/99 (Maldives Tourism Act)

TAX ON CHARTER REVENUE MALDIVES

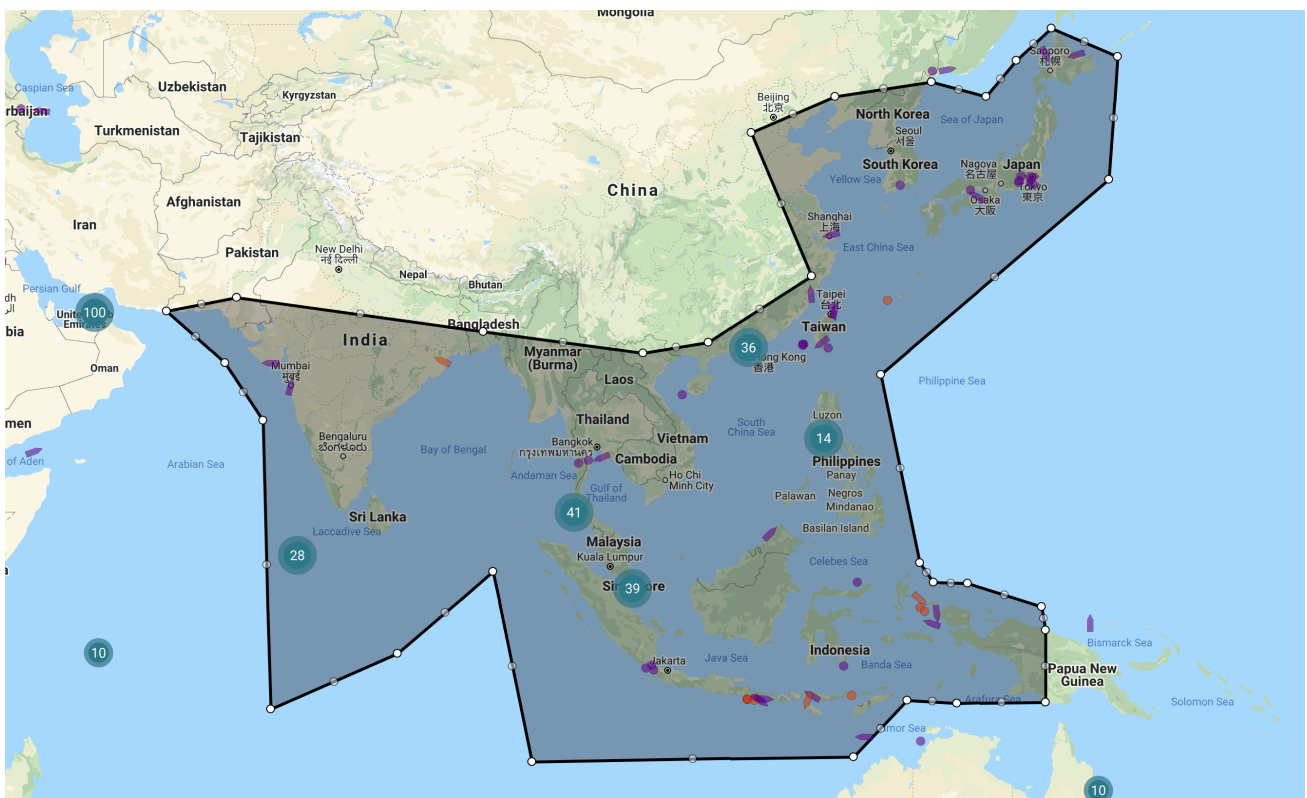
Zero. Maldives recognizes the charter revenue is made offshore, outside of Maldivian Territory and therefore has no right to charge tax on the charter

Available Statistics / Information:

Based on 2018:

- 25 Yachts
- Average length of stay: 90 days
- Average spend per yacht 62,500 USD via the agent (additional spending direct to local business)

(Source Asia Pacific Superyachts Maldives, Mohamed Hameed, MD.)



SUMMARY CHARTER REGULATIONS

All the countries mentioned above allow yachts to enter, without payment of Import Tax or Duty, to operate commercially or privately. They specify time limits to maintain the duty-free status. Each country also considered the implications of a crew working onboard and created regulations, alongside time restraints, to allow this, i.e., the complete “package” has been considered and applied in operation.

Each country has recognized Yacht Agents manage all taxes due by working directly with the Yacht representative.

Maldives is the only country that recognizes the monetary transaction as Offshore and therefore does NOT charge local VAT on the charter revenue.

CHARTER REGULATION COMPARISON

Nov-20

	THAILAND	AUSTRALIA	NEW ZEALAND	FIJI	Maldives
Charter License	Approved 2016	Approved 2020	MOU*	Approved 2010	Always
Law Reference	Thai Vessel Act Section 47 Bis 12	Coastal Trading Act 2012	N/A	Superyacht Charter Decree 19 of 2010	Section 24 of Law No. 2/99 Maldives Tourism Act
Cost of charter Liense	40THB/GT	400 AUD (8,800 THB)	N/A	54,000 THB (1,800 USD)	200- 600 USD/day
Vessel regulation	30 meters plus	24m + MCA or equivalent	24m+ MCA or meet local survey	MCA or Equivalent	IMO recognised
Number of passengers	12	12	12	12	Dependant on Flag
Length of validity	6 months	12 months extendable	65% of 24 months	6 months extend to 18 months	180 - 270 Days
Min Charter rate to apply	60,000 USD	N/A	N/A	55,000 USD	N/A
Tax on Vessel	Want 7% for Temp import Ministry of Finance	Zero Special Recreational Vessels Act 2019/46	Zero Temporary Import Enytry (TIE)	Zero Superyacht Charter Decree 19 of 2010	Zero Section 24 of Law No. 2/99 Maldives Tourism Act
Tax on Charter Fee	7%	10% GST	Zero	5% (to environment)	Zero
Local handling of admin/Vat	(Superyacht Agent)	Yacht Agent	Yacht Agent	Yacht Agent	Yacht Agent
Breach of Law		Must depart or import and pay duty **Conditional Control Permit	Must depart or import & pay duty	Must import & pay duty Customs requirement code 228	

*MOU between customs and qualified agents bypasses the Customs law, enabling foreign flag charter

** This form allows & sets the rules of temporary import

Appendix:

04.1 Country Comparison

04.2 Act on Navigation in Thai Waters 2456

04.3 Superyacht Charter Summary (Thai)

04.4 Thai Vessels Act 2481

04.5 Thailand charter License Declaration

04.6 ACN - Australian Special Recreational Vessel Act 2019-46

04.7 Superyacht Australia information Guide

04.8 Chartering in Australia - Superyacht Australia

04.9 Australian-national-annex-to-large-commercial-yacht-code

04.10 New Zealand Superyacht Visas and Law (refer to part 46, highlighted)

04.11 New Zealand Guide to Regulations from 37 South

04.12 New Zealand Customs

04.13 TIE (Temporary Import Entries)

04.14 Fiji Charter Decree 2019 #18

04.15 Fiji Superyacht Charter Permit Form

04.16 Fiji Vessel permit Form

04.17 Fiji Superyacht Charter Rules & Conditions 2017

04.18 Maldives Foreign Vessel Regulation Amendment 2010

05. MANAGEMENT OF APPLICABLE TAXES IN THAILAND

The Current “hold” on the operational ability of the Thai Charter License for Foreign Super yachts, in Thailand, is on how to manage the potentially applicable VAT on the value of the charter AND the bond required by customs for the temporary import of the yacht. These concerns fall under the jurisdiction of The Ministry of Finance, which in turn then splits the issue between the Customs Department and Revenue Department.

REVENUE DEPARTMENT & VAT ON THE VALUE OF THE CHARTER

In order to operate commercially (earn income) in Thai waters the operator of the vessel must pay VAT on the revenue earned to the Revenue Department. In order to pay tax in Thailand, on a business such as charter, a Thai Registered Business must be involved.

As the country examples of Australia, New Zealand and Fiji show the payment of applicable taxes is managed by the Yacht Agent. The VAT and Withholding Tax (Total 10% Tax) will already be included in the Invoice to the charter guest. It is then the responsibility of the Yacht Agent to collect this Tax from either the Charter Agent or direct from the captain.

TO BE CLARIFIED: if the charter fee is paid to a company in Thailand, the 3% WHT will be deducted when paid to parties in Thailand (e.g. agent). But if the owner or company is overseas, it would be 15% income tax or less depending on the international tax treaty.

It is suggested the Yacht Agent be a current (year 2020) TYBA member and must be TAT registered. Furthermore, the Yacht Agent must share relevant data, such as number of participating yachts, number of charter days, revenue from Tax, revenue from APA etc with TYBA. Detail should be a combination of that collected by other countries to keep a clear record of comparison.

A further point raised is any agreement of the exchange rate for the agent to handle the VAT amount. Most charters are paid in Euro or USD. The relevant Yacht Agent must be aware of this point.

CUSTOMS & TEMPORARY IMPORT

The Royal Thai Customs currently require a foreign vessel entering Thai waters to pay 7% VAT (& if applicable Withholding Tax) on the value of the yacht.

Is it possible to create an exemption under section 47, biz 12 of The Thai Vessel Act ?

Exemptions for VAT on import are under Part V, Section 81 (page 112).

EXAMPLES OF EXEMPTIONS

Refer to The Customs Tariff Decree B.E. 2530, section 10

The above link to The Customs Tariff Decree B.E. 2530, section 10, was used for “Jewelry” to obtain an exemption of tax when being bought in to the country for exhibit:

“The Minister of Finance, with the approval of the Cabinet, shall be authorized to notify that certain kinds or categories of goods imported for personal use by persons entitled to duty exemption or reduction or for use in any specifically provided purpose under the first paragraph shall be exempted from the enforcement of this section and may set conditions therewith. The notification shall be made in the Government Gazette.”

Further **exemption information**. Sample from this link:

- The imported household provisions, medicines, consumable items and personal effects of entitled persons for their personal use which are left in stock at the date the grant for tax and duty exemption/reduction is terminated.
- Household effects imported by entitled persons for their personal use and of which age are more than 2 years old
- Items proved to Customs that they are seriously defected and irreparably damaged
- Other items imported for more than 5 years by entitled persons, which are exclusive of motor vehicles. The exceptions for motor cars are only for those falling under the conditions in the next item.

Sample from above link regards **Fisheries:**

"1.Laws of which certain provisions require that tax and duty free allowance is applied to imports e.g. Section 5 of the Laws Protecting the Operations of the Southeast Asian Fisheries Development Center B.E. 2514 requires that tax and duty free allowance, including VAT, are applied to vessels, vehicles, materials and equipment imported by the Southeast Asia Fishery Development Center provided that the imports are approved by the Ministry of Agriculture and Cooperative."

Exemption for **exhibitions** (Last Published: 8/9/2019):

"As a member of the World Customs Organization, Thailand has been using A.T.A. Carnet. This treaty facilitates the duty exemption of goods temporarily imported for exhibitions, exposition meetings, training, seminars and international conferences. Imported goods used for free distribution (such as T-shirts, caps, scarves, and pens) or for exchange between attendees of international meetings (related to the development of economy, social and/or technology aspects) are exempt from duty. The goods should have a logo or symbol related to the meeting, and the value of goods should be relatively inexpensive. At present, Thai Customs grants duty exemptions on exhibition goods for use only at exhibition sites, for the repair of professional equipment, product samples, and scientific/technological equipment. If the goods are not re-exported within six months, duties and tax will then be levied. The entry of temporary imported goods and exhibit materials can be handled by freight forwarding companies for customs clearance and other required procedures. For further information, please see Temporary Entry of Goods and Exhibit Materials (on the last page) and visit the section on Customs Procedures at the Thai Customs Department website."

RECENT EXEMPTIONS

Thailand announces additional excise and customs duty related measures to support businesses during COVID-19 and duty exemption to encourage investment.

Duty exemption on machinery imports to encourage domestic investment.

The Ministry of Finance (MOF) announced, on 10 April, that the duty exemption shall apply to imported machinery that falls within the prescribed list of 146 Harmonized Schedule (HS) codes in order to encourage domestic investment in these sectors. The link to access the prescribed list is as follows: CN re: The list of machinery under 146

HS Codes. The key conditions to qualify for the MOF's duty exemption benefits (This exemption is valid from 14 April 2020 until 31 December 2020) include:

- Machinery must be new, not used
- Machinery must be used by the importer for its own operations
- The importer is prohibited from transferring or selling the machinery within five years from the date of import

INCOME TAX ON CREW WORKING ON A COMMERCIAL YACHT

(<https://www.rd.go.th/publish/37749.0.html>)

(<https://www.boi.go.th/upload/content/A%20Business%20Guide%20to%20thailand%202019.pdf>)

SUMMARY FOR THAILAND

Until recently, The Revenue Department has been the focus and now seems amenable to working out a solution, using an active Thai Registered Company. The key sticking point appears to be Customs still wanting a 7% value of the vessel, which is not a workable solution for a yacht owner.

Possibly, the most straightforward route is to create a new exemption.

Under the Thai Vessel Act section 47, is an exemption automatic? If not, the exemption can get linked to this Act. Other countries have created the complete "package" under the critical Act allowing commercial yacht operation.

Another discussion can be for the Yacht Agents to negotiate with customs direct. They are thus coming up with amicable solutions. An example is a "bond" in place of holding a 7% value of a yacht, similar to how most immigration agents already manage bonds; The two leading Superyacht Agents were not averse to this idea. However, the agreement would have to be "logged" to avoid discrepancy on change of command at customs.

การให้บริการประชาชนของสำนักเลขาธิการคณะรัฐมนตรี ในสถานการณ์การแพร่ระบาดของโรคติดเชื้อไวรัสโคโรนา 2019

การบริการในส่วนของหนังสือแจ้งวันลงโฆษณาในราชกิจจานุเบกษา
ฉบับประกาศเจ้าพนักงานพิทักษ์ทรัพย์ เพื่อนำไปประกอบยื่นคำขอรับชำระหนี้ต่อเจ้าพนักงานพิทักษ์ทรัพย์
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โดยกรอกข้อมูลให้ครบถ้วน และส่งไปทางอีเมล ratchakitcha@gmail.com
โดยให้ถือว่าการตอบรับอัตโนมัติทางอีเมล เป็นหลักฐานการรับหนังสือ
ทั้งนี้ กลุ่มงานราชกิจจานุเบกษา สำนักเลขาธิการคณะรัฐมนตรี
จะดำเนินการตรวจสอบและจัดทำหนังสือส่งทางไปรษณีย์ตามที่อยู่ที่กำหนดไว้ต่อไป



กลุ่มงานราชกิจจานุเบกษา | สำนักเลขาธิการคณะรัฐมนตรี | สอบถามรายละเอียดเพิ่มเติม 02-280-9000 ต่อ 1881

The agreement needs to be published in The Royal Thai Government Gazette. The Gazette is Thailand's public journal Law where regulatory notifications are published by the Cabinet and the Royal Gazette Publishing House on the website. It is only available in Thai. (<http://www.ratchakitcha.soc.go.th>)

06. MANAGEMENT TAXES OTHER COUNTRIES AND EXEMPTIONS

please also refer to Chapter 4

MANAGEMENT TAXES AUSTRALIA

A super yacht offered for hire or charter and owned by a foreign operator can be granted a temporary license under the Special Recreational Vessels Act 2019. Applications are then considered under the Coastal Trading (Revitalising Australian Shipping) Act 2012.

“Owners, masters or agents that receive temporary licenses under this scheme will not have to pay goods and services tax (GST) on the importation into Australia of a super yacht. The scheme does not change any other Australian tax obligations, including GST on hire and charter services.”

The non-resident vessel owner is responsible for paying the GST on super yacht hire or charter services.

However, if an Australian resident agent acts on behalf of the non-resident vessel owner, the agent may be responsible for the owner’s GST obligations. The resident agent is responsible for GST if:

- the non-resident vessel owner does not intend to operate and does not operate their chartering services in Australia for greater than 6 months
- the chartering services are made to an entity that is not GST registered (either an Australian consumer or an enterprise not registered for GST), and
- the resident agent acts on behalf of the non-resident owner in the agreement to supply chartering services.

INCOME TAX ON CREW WORKING ON A COMMERCIAL YACHT IN AUSTRALIA

Crew working on a Commercially operating yacht in Australian waters are not liable to income tax as the vessel is operating under “Temporary Import Status” and Crew are on a “Special Activity Visa” and therefore not tax residents in Australia.

MANAGEMENT OF TAXES IN NEW ZEALAND

The New Zealand TIE, as mentioned in Chapter 4, allows for the Temporary Import of yachts without paying tax, subject to a limit of stay for up to 24 months.

The payment of GST on any charter is handled by the yacht agent operating under the MOU.

INCOME TAX ON CREW WORKING ON A COMMERCIAL YACHT IN NEW ZEALAND

“Income a non-resident crew member earns by performing services in New Zealand relating to pleasure craft is exempt if certain conditions are met.

This exemption applies to pleasure craft, such as super yachts, that:

- meet the definition in section 2 of the Maritime Act 1994
- are subject to a security under section 136 of the Customs and Excise Act 2018
- are not owned directly or indirectly by a New Zealand resident or a controlled foreign company.

The services must be performed for a person who is not a tax resident in New Zealand.

A non-resident crew member is a person who:

- is a crew member of a pleasure craft
- is not a New Zealand tax resident according to the permanent place of abode test
- is not in New Zealand for more than 365 days in any two-year period
- is not in New Zealand illegally.

The 183-day tax residency test is turned off for the purposes of the definition.

Note: If a crew member does not qualify under this exemption, they may like to consider whether one is available as a non-resident employee under the 92-day rule or the 183-day rule if a double tax agreement applies.

NON-RESIDENT CREWS OF VISITING PLEASURE CRAFT NEW ZEALAND

(www.ird.govt.nz) (<https://www.ird.govt.nz/search?q=FOREIGN%20FLAGGED%20YACHT&t=All&numberOfResults=25>)

(www.customs.govt.nz/globalassets/documents/guides/customer-guide-to-temporary-admission-of-goods.pdf)

(<http://www.legislation.govt.nz/act/public/1994/0104/latest/DLM334660.html>)

(<https://iknow.cch.co.nz/document/iknzUio797413sl29683367/is3385-temporary-imports-such-as-yachts-zero-rating-for-goods-and-services-tax-interpretation-statement-is3385>)

MANAGEMENT OF TAXES IN FIJI

“Exemption from duty of temporary imports 15.—(1) Subject to subsection (2) and any Regulations made under the Customs Act,1986, if the Comptroller is satisfied that goods have been imported solely for a temporary use or for a temporary purpose he may remit or reduce the duty payable in respect of those goods subject to such conditions as he considers appropriate.”

Exemptions, Part 3, Code number 239 specifies “Superyacht Operator”. See full procedure and information on the [website of Fiji Marinas](#).

INCOME TAX ON CREW WORKING ON A COMMERCIAL YACHT IN FIJI

As Fiji recognizes crew under a standard “tourist Visa” there is no question of liability to pay income tax on salary. Fiji: (www.fracs.org.fj/wp-content/uploads/2012/11/Superyacht_Charter_Decree.pdf)

MANAGEMENT OF TAXES IN THE MALDIVES

As The Maldives allow Temporary Import of yachts, for charter purpose, without import duty or tax on the value of the yacht AND zero VAT is applied to the charter revenue of the yacht as transactions are regarded as offshore, no taxes are applicable to import, salary or otherwise.

See here for the [FULL REGULATION GOVERNING FOREIGN TOURIST VESSELS CRUISING AND HARBOURING IN MALDIVIAN WATERS](#).



CRUISING IN THE MALDIVES IS HASSLE-FREE

INCOME TAX ON CREW WORKING ON A COMMERCIAL YACHT IN THE MALDIVES

The Maldives Superyacht Decree, Part 5, Section 23 refers to the Immigration amendments to allow crew to work on foreign charter yachts in Maldivian waters. As a result they are not liable to any income tax.

07. LENGTH OF STAY FOR VISITING YACHTS

INTRODUCTION

Thailand currently allows up to 6 months' stay for any foreign-flagged yacht. With correct papers, the Government can extend the permit to stay with "good reason" such as Refit / Repair, Illness. The current system allows for further extension, following the yacht inspection, in 6-month increments up to 1 year. However, if they stay longer than one year, the yacht might be "blacklisted," making the next port clearance difficult. See the page of [Thai Customs](#).

TEMPORARY IMPORTATION OF PERSONAL VEHICLES BY SEA

"Motor cars, motorcycles, yachts or fishing vessels/boats, which are temporarily imported with passengers and will be re-exported out of Thailand within 1-2 months, but not exceeding six months (for traveling) will be exempted from duty, provided that the importer complies with Customs rules and regulations."

A proposal was put forward to customs three years ago to extend the stay of visiting yachts for up to 3 years, in 6-month reporting increments. A key reason for this was to keep income in Thailand via Refit & Repair, Yards, Marinas, Tourism, further development of sailing in the Gulf of Thailand.

If a vessel is allowed to stay longer, it will have more flexibility in passage planning due to the weather patterns. Next to this, neighbors, like Malaysia, are welcoming long-term stay; we recommend that Thailand reaches a "comparative level" with neighboring countries, all actively addressing the "Yachting Industry" and "Superyacht Charter."

08. OTHER COUNTRIES AND LENGTH OF STAY

LENGTH OF STAY IN AUSTRALIA

In Australia it is possible to stay for 12 months. This is extendable to 2 years with reason, including Charter (www.superyacht-australia.com/entering-australia/chartering-in-australia)

“For foreign vessel charter, the Special Recreational Vessel Act 2019 was passed by the Australian Government to facilitate this. A Coastal Trading Temporary Licence is required for a vessel to undertake commercial voyages. The fee for applying for a licence is currently \$400 AUD. The licence is valid for a period of 12 months. Additional licences can be applied for prior to the completion of each 12 month period”

LENGTH OF STAY IN NEW ZEALAND

In New Zealand it is allowed to stay 12 Months or up to 24 Months with reason, including Charter. (www.customs.govt.nz/personal/travel-to-and-from-nz/yachts)

Visitors to New Zealand may import a yacht or small craft for up to 2 years without paying duty and GST or a financial security provided they meet all of the following criteria:

- they are a permanent resident of a country other than New Zealand
- the yacht or small craft will not be sold or offered for sale in New Zealand, or destroyed or given away without permission from Customs
- the yacht or small craft will not be used commercially for hire, transport of cargo or carrying passengers.

Note: the qualifying criteria may be extended, on a case-by-case basis, to craft used for charter, provided the charter work is less than 65 per cent of the vessel's time in New Zealand.

LENGTH OF STAY IN FIJI

In Fiji you can stay for 6 months extendable to 1.5 years total.

(NOTE: Fiji is in the cyclone belt so are more seasonal than Thailand) (http://138.25.65.49/fj/promu/promu_dec/scd2010226/)

Duration of Vessel and/or Superyacht Charter Permit:

(1) A Vessel Permit has a duration of 6 months (or part thereof) commencing on the date on which the Chief Executive Officer grants a Permit under section 9.

(2) For each and every Charter, the duration and validity of a Superyacht Charter Permit shall be stipulated in the Superyacht Charter Permit issued by the Chief Executive Officer.

Renewal of Vessel Permit:

(1) A Vessel Permit is renewable for two additional and continuous periods of six months from the date the Superyacht first enters Fiji waters.

LENGTH OF STAY IN MALDIVES

Up to 180 days per entry and if the yachts IMO registered 270 days, this is for all the yachts including charter, private and pleasure yachts. (www.fracs.org.fj/wp-content/uploads/2012/11/Superyacht_-Charter_-Decree.pdf)

LENGTH OF STAY SUMMARY

Thailand has the shortest length of stay for visiting yachts than the countries focused on in this report. Neighboring, competitive countries allow much longer stay. All countries use the link between “length of stay under temporary import,” and assumedly, if extended, Thailand can also apply this to temporary import under The Thai Vessel Act, section 47.

ENTERING COUNTRIES VIA PRIVATE YACHT

			IMMIGRATION	Cost	CUSTOMS Lenth of Stay	Annual Min Cost/person with boat
THAILAND	On Arrival	Single Entry	Crew 30 days	200 THB	6 months Exit 6 months	24,100 Excludes costs of flight hotels etc
	crew cannot extend visas		Passengers 30 days	200 THB		
	Via Consulate	Single Entry	60 days + 30 days (Tourist) Can only apply 3 times in 12 months & must leave Thailand on each application	2,900 THB + 2,900 THB		
MALAYSIA	On Arrival	Single Entry	Up to 90 Days (VOA)	Free (most Nationalities)	Indefinite	800 THB
	Via Consulate:	Multiple Entry	Up to 2 years, normally 90 days	Up to 20 Rgt (200 THB)		
SINGAPORE	On Arrival	Single Entry	Crew 2 weeks		Indefinite (captain must report every 2 months)	
	Via Consulate	Single Entry	Passengers 2 months to stay longer need letter with a reason e.g. Boat Repair			
INDONESIA	On Arrival	Single Entry	Up to 90 days	Most countries visa free	Up to 3 years (captain must report every 6 months to regional Marine Office) Must use an agent for Customs. Nongsa Point Marina charge 500,000 Rupriah or 1,310 baht	1,300 baht
	Via Consulate	Multiple Entry	Up to 6 months if arriving onboard Up to 6 months if leave and repeat Visa on arrival can ext 30 days Business visa 1 year freely available			
AUSTRALIA	On Arrival	Multiple Entry	Up to 90 Days		12 months Extend with reason up to 2 years can apply for "commercial" operating liscense to charter, > 1 year	4,300 THB
	Via Consulate	Multiple Entry	6mths - 2 Years Can extend in AUS. with proof of funds Temporary Activity (Crew Visa) Visa Subclass # 408 Has crew visa linked to length of stay of vessels - 2 years. Must have contract	20 AUD -150 AUD (600 thb - 4,300 thb)		
NEW ZEALAND	On Arrival	Multiple Entry	Up to 90 Days		Up to 2 years	4,100 THB
	Via Consulate	Multiple Entry	6mths - 1 Year Can extend in NZ with proof of funds Has crew visa linked to length of stay of vessel - up to 2 years. Must have contract	130 NZD - 160 NZD (3,300 thb - 4,100 thb)		
FIJI	Visa ON ARRIVAL	No Need	4 Months + 6	No cost	6 months up to 1.5 years	No cost
MALDIVES	On arrival	Multiple Entry	1month Tourist (can extend to 90 days) OR 90 days as crew Can renew as many times as wanted but must leave every 90 days	No cost	Up to 270 days for IMO vessels, up to 180 days for non IMO	Agent fees apply
PLEASE NOTE: The above does vary according to nationality applying, types of visa etc & is subject to change.						
PLEASE NOTE: New Zealand has currently pulled most visas due to Covid 19.						

Appendix

08.1 Letter from TYBA requesting longer length of stay for (all) visiting yachts, for up to 3 years

08.2 Country comparison for customs & immigration, November 2020

09. CREW VISAS FOR FOREIGN FLAGGED VESSELS

As the previous chapters have shown, Crew Visas are generally recognized as different from “tourist or visitor” visas. Ideally, the validity of the visa should be the same as the length of stay of the yacht, even if reporting to immigration or some kind of incremental process is put in place.

THE CURRENT IMMIGRATION PROCEDURE IN THAILAND

When crew and captain arrive per vessel in Thailand, the following will happen upon arrival (*please note an agent is advised to be used for this process*):

- Captain and crew are given 30 days on arrival. This is a “Transit Visa”.
- Passengers get a 30 days Visa on Arrival, extendable 15 + 15 days UNLESS a pre-arranged visa is held, previously applied for via a consulate, allowing 60 days plus the ability to apply for a further 30 days stay at a further 1,900 THB cost.
- There must always be one Captain or Crew member when arriving by Yacht.

Additionally, in order for the Captain and Crew to remain with the vessel:

- A bond must be laid for captain and crew. 20,000 THB each
- Crew must be converted to “Tourist” status & removed from the crew list, in order to leave the country by means other than the vessel.
- Crew fly out and fly back in as tourists
- Crew are then signed back on the boat for the length of stay of their tourist visa
- OR crew enter, on arrival, as passengers under a tourist visa

This is a problem for yachts under White or Grey flag who must legally maintain a certain amount of crew onboard, at all times, and is a logistical crew management nightmare, with huge expenses that do not benefit Thailand (the money is spent outside of Thailand doing the visa changes). Added to this logistical management an active Charter season and the concerns multiply.

Chapter 4, Section 35 refers to “[Temporary Stay in The Kingdom](#)” Read here for [Application requirements and process](#)

10. OTHER COUNTRIES AND CREW VISA

CREW VISA IN AUSTRALIA

Australia created a “Superyacht Crew Visa” under “Temporary Activity Visa”. The Temporary Activity Visa, subclass 408 also covers such “activities’ as: Sports, Culture events, Entertainment, Religious events, Research, Exchange programme, Invited participant and Domestic help for Executives.

The Superyacht Crew Visa is valid up to 12 months of use and is multiple entry. This means a crew member can fly out, the visa usage goes “on hold” and the visa days restart on return to Australia.

It is extendable with reason, such as refit & repair or charter i.e. revenue for Australia

Temporary Activity visa (subclass 408) Superyacht Crew stream KEY POINTS

Note: This visa is also used for sports events:

- Stay up to 4 years or for the period of the event (length of stay allocated to the yacht)
- Cost 310 AUD upwards
- Must hold a contract with the yacht
- Multiple Entry
- Apply from inside or outside of Australia

NOTE: This is different to a merchant marine or Maritime Crew Visa subclass 988 which must be applied for outside of Australia and is aimed more at vessels passing through Australian waters, rather than “staying” in Australian waters.



CREW VISA IN NEW ZEALAND

New Zealand has a dedicated crew visa, valid 6 months, extendable with reasons such as refit/repair or charter. Provided crew remain within the time stipulations of their visa, no tax on income is applied for up to 2 years.

V3.80 Visitors arriving by yacht or private aircraft Immigration Act 1987 s 126(1)(c)

In addition to meeting the policy and mandatory requirements for a visitor to New Zealand, all persons who arrive on a private craft must provide:

- evidence of funds of \$400 per month, if living on board a yacht, and
- an outward ticket (or evidence of sufficient funds to buy an outward ticket) if departing by commercial transport.

On top of this counts that all persons who arrive on a private craft and are not departing by commercial transport must provide:

- (in the case of owners and their dependents), evidence of ownership of the craft and adequate insurance against major damage, or
- (for crew and passengers), a letter from the craft's owner or captain confirming that they will be departing on that craft.

Permits to stay in New Zealand beyond the maximum permitted period may be granted if:

- a yacht or aircraft needs to undergo refitting or major repairs, or
 - yacht crews wish to wait out the South Pacific hurricane season (October to April).
- Additionally V3.81 for Owners and crew of super yachts: *“The owners and crew of super yachts are not considered to be undertaking employment and may be issued with a standard multiple visitor's visa or granted a standard visitor's permit allowing an initial stay of up to six months. If required, further visitor permits may be granted on application allowing a total stay of up to 12 months. For the purposes of this policy a super yacht is considered to be any privately owned yacht over 20 meters in length powered by motor and/or sail. Effective 04/09/2000”*

NOTE: New Zealand has pulled most information from their websites due to Covid 19 restrictions and revisions.

CREW VISA IN FIJI

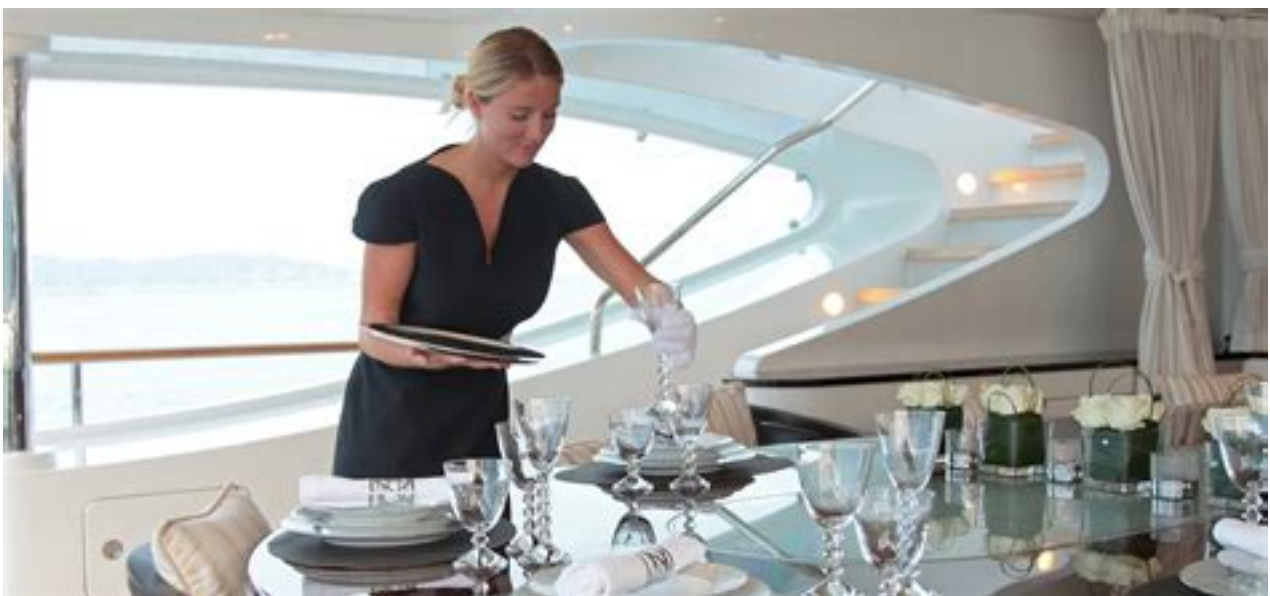
All crew receive a Visitors Visa on arrival and automatically receive 4 months, extendable up to 6 months with reason. (Refer to Part III www.immigration.gov.fj/images/pdfs/immigration_act_2003.pdf) (www.pacii.org/fj/legis/consol_act_OK/ia138)

Special Purpose Permit for Yacht Owners and Crew: (www.immigration.gov.fj/special-purpose-permit-for-yacht-owners-and-crew)

As they are visitors they are not liable to any taxes on income or otherwise

CREW VISA IN MALDIVES

The Maldives Superyacht Decree, Part 5, Section 23 refers to the Immigration amendments to allow crew to work on foreign charter yachts in Maldivian waters (https://www.fracs.org.fj/wp-content/uploads/2012/11/Superyacht_-Charter_-Decree.pdf) Zero taxes are applicable on income



11. SUMMARY CREW VISAS

- **Australia** added a category under “Special Activity Visa”
- **New Zealand** appears to have added a category under “Special Categories of Visitors”
- **Fiji** simply accepts “visitor visas” work for crew under the overall Charter Decree
- **Maldives** created an amendment to the immigration Act

All above visas are linked (and thus granted) to the permission or permit for the yacht to be in “local waters”.

- **Thailand:** Under section 3, Non Immigrant Visa - to undertake skilled work or to work as an expert or specialist (Category “EX” (www.mfa.go.th/en/publicservice/5d5bcc2615e39c306000a316))

Considering the recent creation of the Special Tourist Visa (STV), already works well for visiting yacht owners and crew, we advice the creation of a permanent sub-clause under: Non Immigrant Visa - “to undertake skilled work or to work as an expert or specialist (Category "EX").”

Requirement examples:

- Copy of contract,
- copy of certifications (STCW),
- Copy of Yacht Registration.

Once linked to the yacht the visa should then meet the length of stay of the yacht but MUST have a multiple entry option to encourage visiting The Gulf of Thailand. When applied to a “Charter Yacht” apply the time limit of stay, similar to New Zealand, before income tax rules apply i.e. after 24 months (<https://www.mfa.go.th/en/index>)

Note: the MFA website has many areas under construction at time of working on this document

12. REVENUE OPPORTUNITIES - AN OPERATIONAL CHARTER LICENSE

Thailand currently earns zero revenue from Charter of Foreign Flagged Yachts, except charters that pick up within Thai waters and therefore purchase supplies for the guests in Thailand to enjoy outside Thailand. The availability of a working Charter License for Thailand, allowing super yachts to operate within Thai Waters, must be managed. It offers the opportunity to gather data to monitor the Income produced by this form of high-end tourism. It would also be anticipated that an adjusted Charter License, whereby we assume there is a provision of multiple entries for yachts & crew, would encourage longer stay in Thai waters and create more activity in The Gulf of Thailand.

When Thailand dropped the import duty on yachts, it pushed the further development of Thailand's marine infrastructure. Since then, the existing facilities of Ocean Marina Yacht Club, Boat Lagoon, and Phuket Yacht Haven have all made massive expansions. Added to this are Royal Phuket Marina, Ao Po Grand, Krabi Boat Lagoon, Port Takola, Premier Boat Yard, Racer Marina, and numerous smaller haul out facilities.

The opportunity to legally charter foreign super yachts in Thailand would stimulate another surge in development, including a rise in job opportunities. Ref appendices 09.1

The accepted estimate to calculate the yacht's annual expenditure is 10% - 15% of the yacht's value; this covers dockage, standard maintenance (not projects), insurance, bunkering, and general running costs of salaries, food supplies, etc. Additional is crew and guest entertainment spending and the APA.

The APA is accepted as between 15% and 30% of the charter's value, obviously depending on the size of the yacht, reflecting the value of the charter.

Information from the sample countries clearly demonstrates the economic benefit of the Yacht Charter.

REVENUES IN AUSTRALIA

An extensive Economic Impact Study (EIS) was carried out, alongside Government lobbying. Obviously, the EIS highlighted the economic benefits of opening up to Foreign Flagged Superyacht Charter. In Australia some opposition to the “Special Recreational Vessel Act” (SRVA) was met from locally operating charter yachts, since they too must maintain high standards, similar to any White Flag. So far, there has been no impact on the local charter yachts but this will be monitored. There is talk that The SRVA has encouraged Australian owners to bring their yachts back in, for charter purposes.

Since creating the “Special Recreational Vessel Act” in 2019, Australia has suffered horrific damage to tourism due to the 2019/2020 Bush Fires and then the occurrence of Covid 19. However, despite the anticipated number of yachts not reaching Australia, the figures from the 3 yachts that took up the opportunity to charter are extremely positive:

Three Yachts, with length of stay of 47 days (45m), 136 days (85m) and 240 Days (60m): **10% GST on the value of the charter gave 621,750 AUD Total.**

Please note: one of the vessels was 85m, “Amatasia”, previously in Thailand. She produced 521,000 AUD in GST alone.

Advanced Provisioning Allowance (APA) 1,509,500 AUD

Refit/Repair 2,599,553 AUD

Total income to Australia from 3 Charter Yachts: 4,730,803 AUD = approx 107,712,273 THB (1AUD = 22.7683THB)

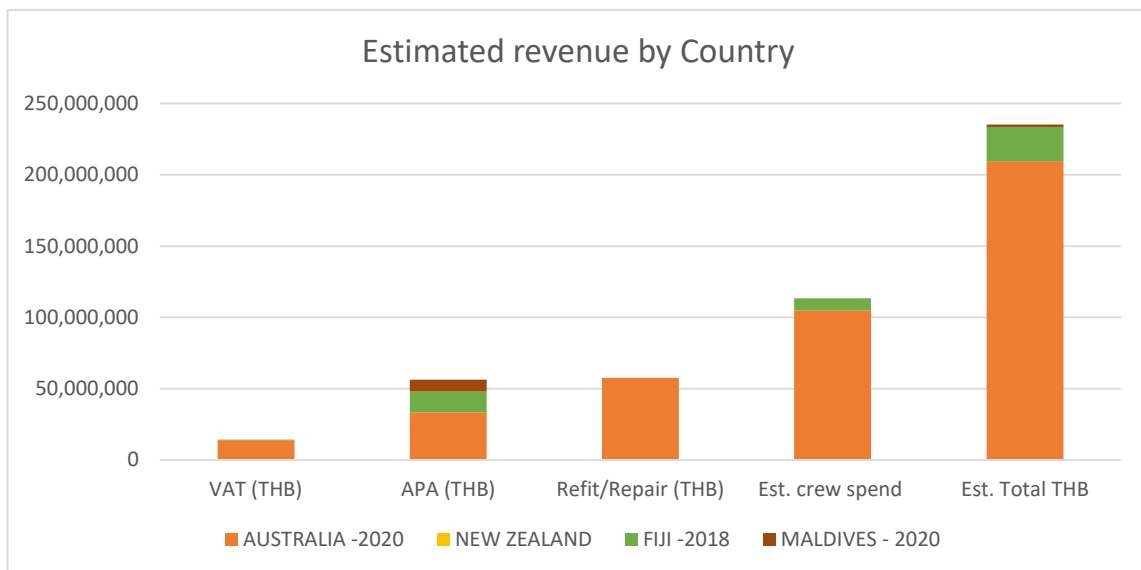
Possibly, the most significant impact has been the private investment in marina and refit facilities in Australia, totaling 508 Million Australian Dollars.

REVENUES IN NEW ZEALAND

As New Zealand allows foreign yachts to charter under an MOU it has negated the need for official reporting of figures. Please see the email from Duthie Lidgard, explaining there is also minimal information on this subject as Super yachts, as a whole, are regarded as elitist and so information is not readily available.

However economic Impact studies have been completed such as the SeaChange study and also a more in depth one for the Auckland Tourism in 2017, attached but this does not focus on Charter. A more general study includes fisheries and other marine impacts: (<https://www.stats.govt.nz/indicators/marine-economy>)

Also some comprehensive research on boating in general can be found at (www.maritimenz.govt.nz/recreational/safety-campaigns/recreational-research.asp#research_2020)



REVENUES IN FIJI

Fiji has definitely seen the benefits of opening up for foreign yachts to charter, although only a handful actually charter, the publicity from announcing the possibility to charter provided a massive knock on effect in attracting more yachts, overall, to the islands.

The VAT revenue has been dropped over the years from 15% to 10% to 5% and all this revenue goes to the environmental department. The reason for the latest drop to 5% is for Covid 19 business stimulus.

The VAT is a negligible amount compared to APA.

In 2018, 6 yacht registered for charter, for a total of 7 Charters over 70 days:

Revenue from 10% VAT on the charter 348,527 FJD

Revenue from permits 57,868 FJD

Revenue from APA 1,003,500 FJD

Total spend from 6 yachts 1,409,895 FJD = approx 20,585,583 THB (1 FJD = 14.6008 THB)

PLUS Estimated vessel and crew spend each 8,192 FJD

Port Denarau has grown & improved facilities to World Class levels and can now accommodate 56 yachts up to 85m LOA.

A new 150 berth marina lifestyle development is due to open on Navi Island end of 2020 / early 2021

REVENUE IN MALDIVES

There are currently no requirements in The Maldives to collect and share detailed data on visiting yachts, charter or otherwise. However the Ministry of Tourism does provide entry statistics but it is unclear if this refers to Cruise ships. www.tourism.gov.mv/en/statistics

In September 2019 The Singha Estate Group brand New “Marina Crossroads, Maldives” opened offering state of the art lifestyle facilities and dockage for, initially, up to 30 yachts. This is the first dockage available for visiting yachts in The Maldives and so acts as an indicator of future potential.

An initial study for this project reported the following arrivals:

2011: Super Yachts – 28;
2012: Super Yachts – 29;
2013: Super Yachts – 25;
2014: Super Yachts -43;
2015: Yachts -49;

<https://info.undp.org/docs/pdc/Documents/MDV/20160207%20Consultants%20Report%20-%20Marina%20Development.pdf>

Unfortunately, there is no detail on charter.

On communication with Mohamed Hameed, MD of Asia Pacific Superyachts Maldives regards further detail:

“To be honest it is really hard to say about the income, I can say per boat average spending is USD50-75k through the agent, as gross. Around 25-30 charter yachts in a year and another 15-20 private yachts”.

Additionally, to charter in Maldives the license must be paid, along with other costs such as port fees, anchoring fees and pilotage. Please refer to appendix

Appendix:

12.1 Thai Marina Growth Table_Nov 2020

12.2 Email from David Good

12.3 Email with “spreadsheet” from David Good

12.4 2016 Economic Impact Study Australia short summary

12.5 2016 EIS Full version

12.6 Email with Duthie Lidgard, NZ

12.7 Superyacht Economic Impact Study for Auckland 2017

12.8 Catalano inhouse Economic Impact Report NZ 2016

12.9 Fiji Yachting Study 2018

12.10 Fiji Yachting Study 2019

12.11 Fiji Comparison stats 2006_2010

12.12 JLS Maldives Tariff Sheet

12.13 Revenue comparison table Nov 2020

12.14 General Spending Calculations 2014

12.15 Yacht Charter Price Structure

13. SWOT ANALYSIS THAILAND SUPER YACHT CHARTER LICENSE

SWOT ANALYSIS

STRENGTHS:	WEAKNESSES:	OPPORTUNITIES:	THREATS:
UHNW & HNW TOURISM	LENGTH OF TIME FOR DECISION MAKING	INFRASTRUCTURE GROWTH	POLITICAL
CREW SPENDING	INDUSTRY CAN BE SEEN AS HIGH END	JOB OPPORTUNITIES	TAX ON TOTAL VALUE OF SUPER YACHTS
ADVANCED PROVISIONING SPENDING	HAUL OUT FACILITIES LIMITED	EDUCATIONAL DEVELOPMENT	PANDEMICS
VAT ON CHARTER VALUE	CURRENT LACK OF SKILLED LOCAL LABOR	GROWTH WITHIN ASEAN	NEIGHBOURING COUNTRIES MOVING AHEAD
REFIT & REPAIR SPEND		SHOW THE WAY/SET EXAMPLE	NOT ADDRESSING THE WHOLE PICTURE
LOCAL ECONOMY (markets etc)		TO ADDRESS CURRENT (OLD) REGULATIONS	
OFFERS 'SAFER' TOURISM			
LOW IMPACT TOURISM			

14. SUMMARY

All the countries within this report have the “complete package.” From consistent regulations within the country (Australia, page 28 of EIS), to crew visas, length of stay of the foreign vessel, and criteria to control which vessel can operate commercially. This protects their local industry, safety concerns, and environment along with ease of management of the license itself.

Thailand already has a Charter license; this is not in question. However, there is concern regarding the "quality" of the yachts that can apply. Despite the 30m start point together with the 60,000 USD Charter value.

IMO REGULATIONS

Thailand is a signatory member of IMO. However, Thailand currently does not require Thai flagged or visiting vessels to meet IMO criteria until they leave Thai waters. This needs to change and must come under the Marine Department's management to comply with IMO regulation.

Maldives requires any commercial yacht operation within their waters to be under IMO compliance. An easy adoption for Thailand if needed.
Fiji, Australia, New Zealand require MCA OR equivalent.

It must be noted that the Langkawi Flag of IMO member Malaysia requires minimal compliance, similar to current regulations in Thailand.

<https://www.imo.org/en/About/Membership/Pages/MemberStates.aspx>

APPLICATION FOR THE LICENSE AND SUBSEQUENT MANAGEMENT OF VAT ON REVENUE

The commercially registered Yacht must provide a copy of:

- Yacht registration
- Yacht Insurance
- Charter Insurance
- Charter contract
- Possibly the addition of Thai 3rd party insurance for the term of the charter

ALL countries in this study have tax-paying, registered Superyacht Agents take complete management, from start to finish, including payment of any applicable taxes.

We suggest that once an agent can operate this license in Thailand, subject to the fact that they are a TYBA member for a minimum of 2 years+, and can provide testimonials for their service quality.

Added to this, the agent must hold TAT certification and appropriate insurance.

Any agent engaged in managing this license MUST share data with TYBA.

LENGTH OF STAY OF THE VISITING YACHTS AND VAT ON THE VALUE OF THE YACHT

There is a clear correlation between the length of stay of the yacht and import, commercial use, or otherwise.

New Zealand has an MOU for foreign vessels' charter operation and is the only country to implement a maximum allowed charter time.

ALL other countries allow foreign-flag charter, without vessel import, for the "normal" temporary import length.

Crew visa exemptions are to be created within the relevant laws (chapter 6).

CREW VISAS & INCOME TAXES

As shown by Australia and New Zealand, a crew visa can fall under a "Special Activity Visa" or similar. The permit was the first point addressed in both countries and caused no issue. The length of the visa stay matches that of the yacht stay, and similar to the Yacht not needing import for this length of visit, any earnings fall in the same timeline in regards to an exemption of income tax.

Thailand has recently been very creative with new visa types. Possibly crew could enter under something similar to the new BOI Smart Visa <https://smart-visa.boi.go.th/smart/>.

This type of visa would mean the crew must hold MCA or equivalent qualifications to qualify.

Visas must have an option for Multiple entries, in particular, to encourage the growth of opportunity in The Gulf of Thailand.

CRITICAL POINTS OF QUESTION

- Under Section 47, Biz 12, must the commercial operation pay tax on revenue or temporary import?
- Which IMO regulations are in place in Thailand at present? Thailand | MEPSEAS
- Plausibility of TYBA member "Superyacht Agents" negotiating directly with customs over a possible "bond" in place of 7% of the yacht value?
- Will the Revenue Department accept the management of this proposal to be managed via the Thai registered agents?
- More information on the International Tax Treaty and actual tax amount due on a charter
- Trust: is the proposed paperwork in 2) above acceptable as per International standard.
- Visas: how to create a "special activity visa" or otherwise?

Likely, before a decision takes place, Thailand will need a full Economic Impact Study. Maritime clearance procedures should be updated and unified throughout Thailand; mandatory AIS tracking should provide sufficient update of location, as per international standard.

As of December 2020, there are approximately 10,000 yachts, 24m and over, in the World. An estimate of 40% of these yachts is Charter Yachts (charterworld.com). This industry deals with HNW and UHNW clients whose vessels need constant maintenance and care.

The actual figures of other countries and "estimated spending" figures available all show this industry is very lucrative to a country and is not detrimental to the local industry but beneficial.

Thailand is currently looking for alternative tourism. Super Yacht Charter clearly shows positive financial impact across many levels, a low impact on infrastructure and environment, and health wise an opportunity for safe tourism.

15. ADDENDUM

MEETING NOTES WITH INDUSTRY REPRESENTATIVES

Joshua Lee, Northrop & Johnson & Lee Marine:

- Concern that the current Thai charter license is not taken seriously: lack of management and an inability to operate legally with the current status. Negative for Thailand.
- Yacht clearance agents should manage the VAT side, within Thailand
- Possibly have a “pilot project to start”
- Keep standards high, even base off MCA 500 tons to start
- Would rather less yachts but high quality

Lies Sol, Northrop & Johnson:

- Concern that locally based brokers will not really benefit due to how the charter business works
- Sees this as a long term picture
- Similar, overall, to Josh Lee
- License and VAT Should be managed by the Yacht Agent

Vincent Tabuteau, Fraser Yachts & Asia Marine:

- Concern that the current status of the license is giving Thailand a bad reputation
- Would like to find a compromise of “flag state” rather than the current application rules or only White Flag.
- Wants below 500 GRT options as well as over
- Concern how regulations may possibly affect local charter industry

Mark Woodmansey / Burgess Yachts:

- Would of likely had 3 yachts here if they could legally charter
- Seeing large growth in Chinese ownership / usage
- Seeing greater interest in more remote places such as Thailand, rather than Caribbean
- Low tourist destinations will be even more popular now
- Requests multiple entry for access to Andaman and The Gulf
- Suggests Red Ensign and equivalent
- make sure the mechanism is in place for currency exchange rates

Lisa Mckenzie, Camper & Nicholson:

- Yachts with MYBA charter agreement must have charter insurance, so acts as a good “check”
- Most commercial yachts based in the area are Cayman or Australian commercial flag
- Concern over cutting out Langkawi registration
- A few commercially flagged yachts in the area are just under 30m
- Vat and other local payments to Government should be managed by the Yacht Agent

ADDITIONAL WEBSITES FOR REFERENCE

THAILAND

[Statistics on waterways](#)

[MOT, Marine Department](#)

[Marine Department relevant Links](#)

[Thailand Law Online](#)

[Asia Pacific Superyachts Article](#)

[Immigration](#)

[Ministry of Labour \(99% in Thai\)](#)

[Article on Thai charter License](#)

AUSTRALIA

[Superyacht Australia – Bringing Yachts to Australia](#)

[Superyacht Australia, Private and commercial entry options](#)

[Department of Home Affairs - Immigration – Crew Visa Subclass 408](#)

[Conditional Control Permit. Ref section 11 for Breach of Conditions](#)

[Immigration - Overstay](#)

NEW ZEALAND

[Government Media Reports](#)

[Maritime New Zealand](#)

[The Viaduct Super yachting & Destination Report](#)

[Immigration NZ](#)

[Immigration Operations Archive](#)

[Immigration Amendment Act 2015](#)

[Immigration Amendments 2020](#)

[Income Tax for Crew](#)

[Exemption – chartering superyachts](#)

FIJI

[Customs Laws & Practise](#)

[Fiji Revenue and Customs - Yachts](#)

<https://www.frcc.org.fj/our-services/customs/yachts-and-vessels/>

[Fiji Customs Tariff Act 1986](#)

MALDIVES

[Regulation on the Protection and Conservation of Environment in the Tourism Industry, Maldives](#)

[Maldives Tourism Act \(law 2/99\)](#)

[Second amendment of the Tourism Act Law 2/99](#)

[News Superyachts seek safe haven](#)

[Visit Maldives – Superyachts Visit news](#)

[Superyacht News – Luxury Tax dropped](#)

[Inland Revenue – doing business in The Maldives](#)

[Inland Revenue – Income Tax](#)

[Employment Act](#)

[Ministry of Tourism stats - dashboard](#)

TAX INFO, GENERAL

[Seafarers Earnings](#)

[Maltese Flag seafarer info](#)

[Fling Fish – Tax advice for crew](#)

GENERAL INDUSTRY

[Boat International Global Order Book](#)

[2019 largest yachts – Yacht Harbour](#)

[Wikipedia number of yachts 24m+](#)

[Yacht Charter Fleet](#)

OTHER COUNTRIES

[SOS Yachting FAQ information](#)

[SOS Yachting France Rule](#)

[SOS Yachting VAT Book](#)

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- Lies Sol, Northrop & Johnson, Thailand
- Mark Woodmansey, Burgess Yachts
- Lisa McKenzie, Camper Nicholson, Thailand
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