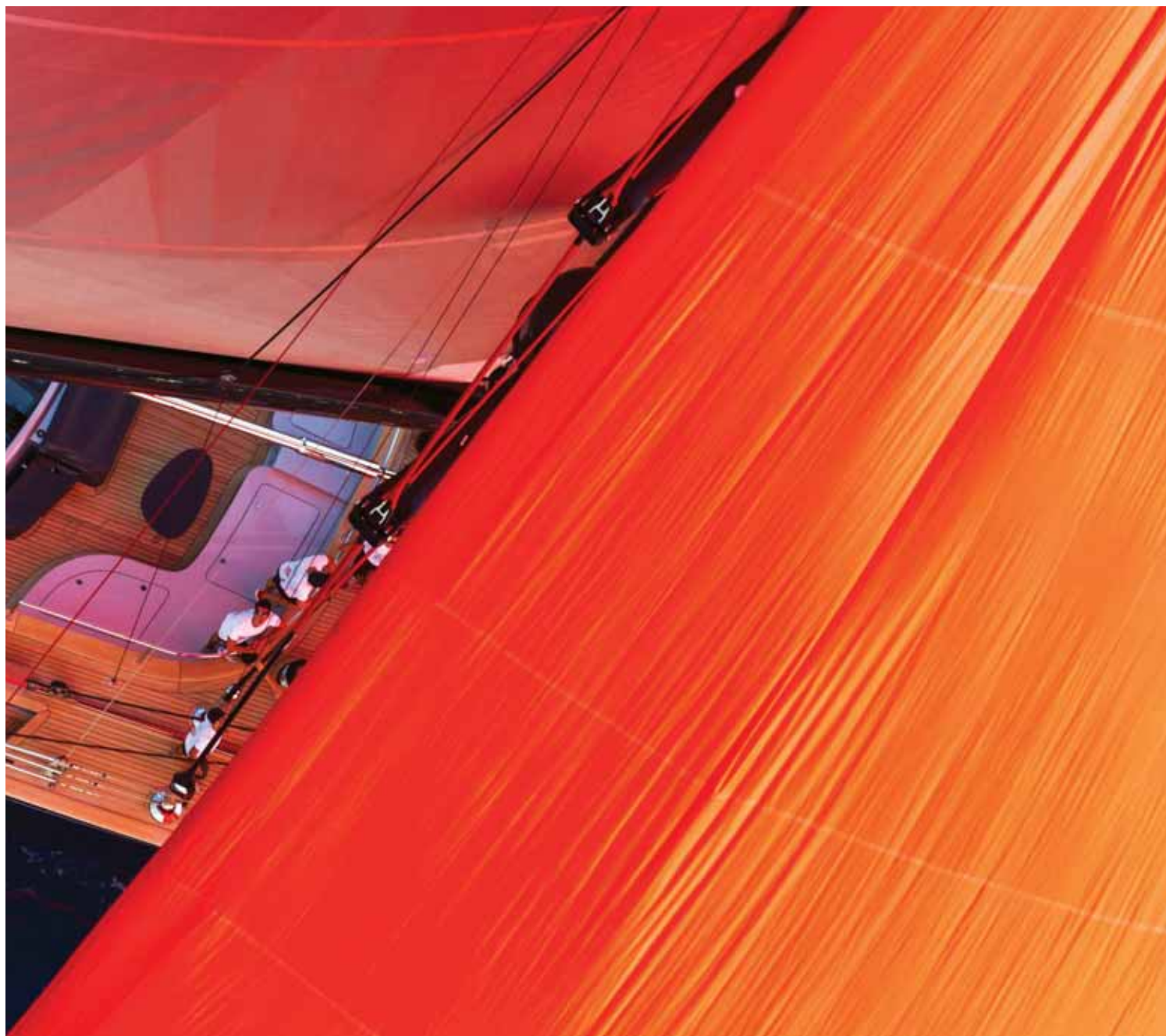


The Superyacht

TRUTH • OPINION KNOWLEDGE • IDEAS AND EXPERT INDUSTRY ANALYSIS



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Superyacht Intelligence Report Flag Registration

The following Superyacht Intelligence report evaluates the distribution of the superyacht fleet among flag states, alongside the key requirements for registration. This is published with an analysis of the considerations that determine why a particular flag state is chosen. **Will Mathieson** reports.

According to the IMO there are almost as many active ship registries as there are UN-recognised nations (170 compared with 196), all vying for the world's maritime tonnage. The superyacht industry has defined itself as a niche maritime sector, and this is no different in terms of registration, with bespoke requirements defining a registry's suitability for superyachts to flag under.

Consequently, a relatively small number of flags have secured a disproportionate proportion of superyacht tonnage, but despite the popular maxim that the most successful registries double as tax havens, *TSR* undertook empirical analysis to identify who the successful flag states are, what they offer and why they are seen as desirable in the eyes of superyacht owners.

A relatively small number of flags have secured a disproportionate proportion of superyacht tonnage.

Because of the plethora of flag states pitching themselves to the lucrative superyacht market, *TSR* has limited its investigation to those flags that have amassed a historical number of yachts above 1 per cent of the global fleet – on the water and in the order book – registered with them: an accumulation of 51 superyachts or more, from a fleet of

5,183 at the time of writing, according to the Superyacht Intelligence database. This benchmark was used to identify the 21 leading registries, based on number of vessels, with a ≥ 1 per cent market share. We have also included registries that have only recently entered the market, but have exhibited notable growth of their superyacht fleets.

The qualifying registries are (in alphabetical order, based on figures of 76 per cent accuracy): Antigua & Barbuda, Bermuda, British Virgin Islands (BVI), Cayman Islands, Cook Islands, Cyprus, Gibraltar, Guernsey, Isle of Man, Italy, Jamaica, Jersey, Luxembourg, Madeira, Malta, Marshall Islands, Singapore, St Vincent & Grenadines, Turkey, the United Kingdom and the United States.

THE GLOBAL DISTRIBUTION OF SUPERYACHTS

Of the 21 flag states surveyed, five are conspicuous in their absence for their reluctance to provide details on the number of superyachts registered with them or the cumulative tonnage. Antigua & Barbuda, Malta, Singapore, United States and Turkey did not submit figures.

Of the 16 states that did submit information, the Cayman Islands Ship Registry dominates the agenda. This member of the Red Ensign Group (a loose conglomeration of registries, which all fly manifestations of the British flag) has

an impressive 46 per cent share of the yachts registered with our respondents. Cayman has a superyacht fleet of 725, out of 1,576 ‘submissions’. This is 503 more vessels than its Red Ensign compatriot, and second-placed flag state, the UK’s Maritime and Coastguard Agency.

In fact, the Red Ensign Group holds a monopoly over the superyacht fleet, with 1,179 yachts under their combined auspices, or 74.8 per cent market share. The only genuine challenger to this hegemony is the Marshall Islands, which claimed to have “approximately 200 vessels” on its books, placing it close behind the UK, and with double that of Isle of Man (110) and St Vincent & Grenadines (100).

The landscape is much the same when one considers the market share of cumulative tonnage. The Cayman Islands Ship Registry accounts for 59.24 per cent of the 926,424.32gt, which equates to 548,801gt. The list of cumulative tonnages is similar to that of fleet numbers, with Cayman’s closest rival – the Marshall Islands – amassing a tonnage over seven times smaller (approximately 75,000gt) than the market leader. The UK, ranked third in tonnage terms, accounts for 74,809gt or 8.08 per cent. The Red Ensign Group again, when its collective tonnages are combined, comprise a massive 85.68 per cent of the tonnage figures compiled from submissions to this report.

It is clear then that the vast majority of superyacht owners favour the prestige of a Red Ensign flag, whilst the standout registry and the undoubted market leader for superyacht registration is the Cayman Islands Ship Registry. What is it that makes the Cayman Islands such an attractive choice?

The pre-eminence of preferential tax rates is clearly cause for concern for those registries required to impose duties on yacht ownership.

It is hard to look past its competitive tax rates or lack thereof: corporate entities based in the Cayman Islands do not pay tax, individuals pay no tax on [charter] income or capital gains, and the VAT rate is set at zero per cent. Effectively therefore, a superyacht can be purchased and operated commercially under the Cayman flag without incurring any fiscal duties.

However, Cayman is not the only register able to offer its customers a tax-free superyacht lifecycle. A further four Red Ensign flags offer superyacht owners tax immunity – Bermuda, BVI, Gibraltar and Guernsey – whilst both the Isle of Man and Jersey have imputation mechanisms

that can reduce one’s VAT liability, from 20 per cent and 5 per cent respectively, to zero.

A yacht that is owned by a VAT-registered company in the Isle of Man may claim back the VAT on the purchase or importation of a yacht, provided that the yacht in question is demonstrably used to provide

commercial charter services. Charter income is thus subject to corporation tax at a rate of zero per cent in the Isle of Man. Customs and excise in the Isle of Man will only register superyacht charter businesses for VAT exemption that are clearly operating on a commercial basis; the business must seek to make a return on its investment. The administration and management of a yacht-owning entity must also take place in the Isle of Man. Yachts that carry 10 or more passengers, including crewmembers, can be classified as ‘passenger transport’ vessels. Supplies of ‘passenger transport’ made in the Isle of Man are charged at a zero rate of VAT.

NATIONAL YACHT REGISTRY STATISTICS

Flag	Antigua & Barbuda	Bermuda	BVI	Cayman Islands	Cook Islands	Cyprus	Gibraltar	Guernsey	Isle of Man	Italy
Number of yachts	*	43	26	725	24	6	25	9	110	11
Tonnage	*	77,776	8,000	548,801	8,027	1,560	9,796.72	1,207.30	68,822.30	c. 1,000
Corporate tax	25%	0%	0%	0%	0-28%	12.5% ⁽¹⁾	0-10%	0-20%	0%	27.5-38%
Capital gains/ income tax	0%	0%	0%	0%	30	20% ⁽³⁾	None	None	Not taxable	23-43%
VAT rate	15%	0%	0%	0%	12.5% ⁽⁵⁾	18%	0%	0%	20% ⁽⁶⁾	Standard 21% ⁽⁷⁾

1. Increased from 10% on 1 January 2013

2. With imputation tax system – effective tax 0-10%

3. Only on immovable property situated in Cyprus

4. Except for shares in qualifying participations

5. Figure from gov website <http://www.mfem.gov.ck/vat-information>

6. Exemptions may apply.

7. Reduced rate for passenger transport 10%

8. 0% rate for certain exemptions

As Jersey is classified as a non-EU jurisdiction, VAT is not applicable to new build importation. As long as the ownership entity is non-EU registered, Jersey-flagged vessels qualify for temporary importation into EU waters for 18 months. This 18-month period can be renewed by leaving EU waters for one week.

These luxuries are not at the disposal of Red Ensign parent the Maritime and Coastguard Agency (MCA), which as a government department is subject to the UK's 24 per cent corporate tax rate, a sliding capital gains scale of 10-50 per cent and a fixed VAT rate of 20 per cent (although this falls to zero for 'passenger transport', as in the Isle of Man). Yet despite these seemingly prohibitive tax requirements, its registry figures have not been adversely affected. While it is a far older and better established registry than its Red Ensign spawn, its closest tax-free rival – the Isle of Man – possesses less than half the number of superyachts the UK does (although, admittedly, the tonnages are similar). This would suggest that other factors, beyond mere tax avoidance, play a role in flag state selection.

Owners are often inclined to select a flag based on its appearance (and perception by other owners) at the stern of the yacht.

Having said that, the pre-eminence of preferential tax rates is clearly cause for concern for those registries required to impose duties on yacht ownership. This is evidenced by the number of sophisticated mechanisms for significantly reducing the effective rate of VAT. Malta is a prime example, where the national rate of 18 per cent is applied to charters proportionally. Any time spent out of EU waters is not subject to the levy. Italy too has taken steps to reduce the effective rate from 21 per cent to 10 per cent, if a yacht can be proved to be a passenger vessel, with Luxembourg reducing its rate from 15 per cent to three per cent via similar means. In Cyprus a complex leasing scheme can reduce the VAT imposed on yacht purchase from 18 per cent to as little as 3.6 per cent.

These attempts by administrations to reduce the tax burden on the end user imply a preference for low tax jurisdictions as destinations to register under, but the anomalies presented above also suggest that other factors play a part in influencing choices. *TSR* therefore has surveyed 187 existing superyacht captains to identify which factors take primacy in the final choice of register for their vessels.

WHICH FLAG STATE IS YOUR SUPERYACHT REGISTERED WITH?

Cayman Islands	59	31.72%
Malta	23	12.37%
Isle of Man	14	7.53%
United Kingdom	13	6.99%
Marshall Islands	10	5.38%
British Virgin Island	8	4.30%
USA	8	4.30%
Bermuda	5	2.69%
Jersey	5	2.69%
Cook Islands	4	2.15%
Netherlands	4	2.15%
Antigua & Barbuda	3	1.61%
Guernsey	3	1.61%
St Vincent & Grenadines	3	1.61%
Italy	3	1.61%
Panama	3	1.61%
Denmark	2	1.08%
Luxembourg	2	1.08%
Madeira	2	1.08%
UAE	2	1.08%
Australia	1	0.54%
France	1	0.54%
Croatia	1	0.54%
Germany	1	0.54%
Gibraltar	1	0.54%
Hong Kong	1	0.54%
Iceland	1	0.54%
Finland	1	0.54%
Turkey	1	0.54%
Vanuatu	1	0.54%
Jamaica	1	0.53%

Taken from Superyacht Intelligence survey of 187 existing superyacht captains.

Jamaica	Jersey	Luxembourg	Madeira	Malta Islands	Marshall	Singapore	St Vincent & Grenadines	Turkey	United Kingdom	United States
6	19	28	22	*	c. 200	*	100	*	222	*
3,047	4,518	6,634	7,426	*	75,000	*	30,000	*	74,809	*
25-33%	0-10%	28.15 or 29.22	21-30%	35% ⁽²⁾	0%	17%	33%	20%	24%	15-30%
	0%	28.15	1% or 29.23% ⁽⁴⁾	0-5%	8-12%	3.5-20%	None	15-35%	10-50%	10-39.6%
16.5% GST	5% ⁽⁸⁾	15% ⁽⁹⁾	21% ⁽¹⁰⁾	18%	5-10% ⁽¹¹⁾	7%	15%	18%	20% ⁽¹²⁾	Varies ⁽¹³⁾

^{9.} Reduced rate to 3% for passenger transport

^{10.} Reduced rate transport of passengers 10%

^{11.} Potentially due to change this year

^{12.} Reduced rate 0% passenger transport

^{13.} From 2.9% (Colorado) to 7.25% (California)

GIVEN A CHOICE, WHAT FLAG WOULD YOU BE REGISTERED WITH?

	No.	%
Cayman Islands	44	27.5%
United Kingdom	24	15.0%
Isle of Man	15	9.4%
Marshall Islands	15	9.4%
Malta	13	8.1%
Luxembourg	13	8.1%
Jersey	8	5.0%
British Virgin Islands	5	3.1%
Madeira	4	2.5%
Italy	3	1.9%
Cook Islands	3	1.9%
Bermuda	3	1.9%
Jamaica	3	1.9%
Antigua & Barbuda	2	1.3%
Bahamas	1	0.6%
Singapore	1	0.6%
Cook Islands	1	0.6%
Monaco	1	0.6%
USA	1	0.6%
Hong Kong	0	0.0%
Cyprus	0	0.0%
St Vincent & Grenadines	0	0.0%
TOTAL	160	100%

WHO DECIDES WHICH FLAG TO CHOOSE?

Yacht owner	76	44.44%
Owner rep	31	18.13%
Yacht manager	24	14.04%
Captain	23	13.45%
Lawyer	17	9.94%

CAPTAINS' SURVEY

In relation to the number of respondents, the following survey has a margin for error of 7 per cent and a confidence interval of 95 per cent, which affords the survey statistical authority as an overview of the current superyacht fleet. It should be noted that when captains were asked to nominate the reasons for selecting a registry, they were allowed to choose multiple options. For this reason the 'Reasons for Registering' table overleaf features percentages based on the number of responses, rather than the number of respondents.

It is the owner who decides, a choice that is probably based on more immediate gains, considering a yacht's status as a loss-making asset, than an interest in maritime legislation.

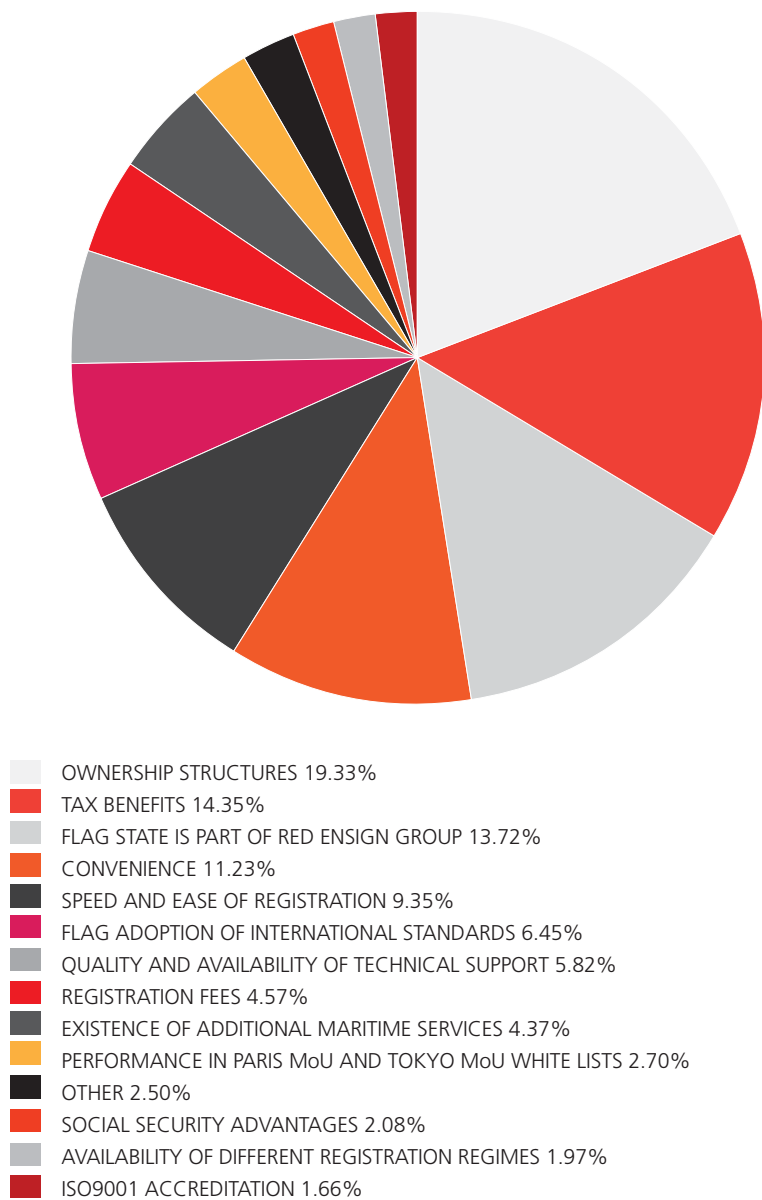
In line with the responses of the flag states themselves, a majority of our captains said their vessel was registered with the Cayman Islands (31.732 per cent). Furthermore, of 31 flag states identified (in addition to *TSR's* list of 21 registries: the Netherlands, Panama, Denmark, UAE, Australia, France, Croatia, Germany, Hong Kong, Iceland, Finland and Vanuatu – neither Cyprus or Singapore were identified by our surveyed captains) the five most prolific registries (Cayman, Malta, Isle of Man, United Kingdom and the Marshall Islands) comprise 63.99 per cent of responses, resembling their share of fleet numbers and tonnage. Where the survey offers a more enlightening perspective on flag state selection are the bases for why flag states are chosen. Rather worryingly for an industry that aspires to professionalism, the primary motivations for choosing a flag state, it appears, are the ownership structures it facilitates (19.33 per cent), the tax benefits it affords (14.35 per cent) and its status as a member of the Red Ensign Group (13.72 per cent). Granted, this last consideration could be based on the group's revered position within the global maritime community, and its reputation for good governance and due diligence, but it could equally be perceived as a status symbol because, as Richard Eastham observes elsewhere in this report, owners are often inclined to select a flag based on its appearance [and perception by other owners] at the stern of the yacht.

While fiscal benefits and status are primary motivators, factors that would be at the forefront of an owner's mind when choosing a shipyard, supplier or integrator are notably low on the agenda. ISO9001 accreditation, which certifies minimum management and quality of service guidelines, is ranked lowest, at 1.66 per cent. This is closely followed by the availability of different registration regimes, which would allow a vessel to register temporarily under a flag to enter certain jurisdictions (1.97 per cent). Social security advantages for crew is, perhaps understandably, of limited importance when selecting a registry (2.08 per cent) but rather alarmingly, a flag's result in the Paris MoU performance

REASON FOR REGISTERING

	Ownership structures	Tax benefits	Flag State is part of Red Ensign Group	Convenience	Speed and ease of registration	Flag adoption of international standards	Quality and availability of technical support
Total	93	69	66	54	45	31	28
Overall percentage of captains surveyed	19.33%	14.35%	13.72%	11.23%	9.35%	6.45%	5.82%

REASON FOR REGISTERING, BY OVERALL PERCENTAGE OF CAPTAINS SURVEYED (CLOCKWISE FROM TOP)



league table was only a key motivator for nominating a flag for 2.70 per cent of captains. This means that a flag’s overall performance and service provision in the eye of its representative association was less than a quarter as important as securing tax advantages for the beneficial owner.

The pre-eminence of preferential tax rates is clearly cause for concern for those registries required to impose duties on yacht ownership.

Again, considerations such as a registry’s readiness to adopt international standards (6.45 per cent) and the quality of its technical support (5.82 per cent) are of similar importance to registration fees, a cost that is relatively nominal compared with other maintenance and operational costs (4.57 per cent). Although these factors may not inhibit a flag registry’s drive to optimise its entire portfolio of service provisions, it is an ongoing reality that flags must continue to define themselves by the fiscal benefits they afford or their status among other owners. As if to underline that fact, even captains sailing under the UK flag – not a jurisdiction synonymous with tax breaks – being ‘part of the Red Ensign Group’ and ‘tax benefits’ were cited as the leading reasons for registering.

Registration fees	Existence of additional maritime services (banking, legal, etc.)	Performance in Paris MoU and Tokyo MoU whitelists	Other	Social security advantages	Availiablity of different registration regimes	ISO9001 accreditation
22	21	13	12	10	9	8
4.57%	4.37%	2.70%	2.50%	2.08%	1.97%	1.66%

Considering the reasons for registering posited by the respondents, one would assume the final arbiter on which flag to register under is invariably an owner's representative or financial advisor. However, 44.44 per cent claimed it was the owners themselves who chose the registry, a proportion that is almost equal to all of the other listed categories combined: owner's representative (18.13 per cent),

yacht manager (14.04 per cent), captain (13.45 per cent) and legal representation (9.94 per cent). Interestingly, those concerned with the front-line operation of the vessel – the captain and the shoreside management team – have little say in the choice of flag state. This would seem to corroborate the heavy emphasis placed on agreeable fiscal solutions in favour of technical

support networks and compliance with international standards. The aforementioned primary motivating factors support the premise that it is the owner who is the final arbiter. The leading considerations are, thus, based on short-term gains and cost-saving endeavours, rather than the less obvious benefits of maritime legislation adherence.

Finally, our captains were asked which flag they would like to register with in an ideal world. While the distribution at the top is slightly more heterogeneous, it tells a similar story. In line with the popularity of Red Ensign flags, the UK and Isle of Man have usurped Malta in the 'rankings'. The Marshall Islands too has exerted its desirability, with 9 per cent of the vote, compared with Malta's 8 per cent. Both Luxembourg and Jersey have also performed well, with 8 and 5 per cent respectively expressing a desire to be registered with these flag states. Again, bar the UK, which thrives on its heritage, all of these share a common trait – flags of convenience that offer desirable tax and ownership structures. This suggests that, while registries should continue to work hard to enhance the quality of their provision and expertise, the fiscal advantages that administrations can offer retain, in the short term at least, primary importance. ■

The industry's flag administrations tell *TSR* the secrets of their success and identify the main competitors for superyacht tonnage.

WHAT MAKES YOUR REGISTRY ATTRACTIVE TO SUPERYACHT OWNERS?

Lecia Christopher-Thomas, assistant registrar of shipping, British Virgin Islands



Our strengths are as follows: helpful and very efficient staff, highly competitive

fee costs, quick turnaround time for documents, a fully electronic registry, our good relationship with brokers and agents, and an advisory service for registration issues.

Nicola Moore-Gothar, manager – information, Cayman Islands



The Cayman Islands has a stable democracy and is also a tax-neutral international

finance jurisdiction with modern maritime legislation. MACI has an experienced global team that is customer focused. MACI offers a wide range of ownership structures and registration options and we have global coverage across many maritime locations.

Chryso Demetriou, merchant shipping officer, Cyprus



Superyacht owners enjoy the same quality service as any other type of vessel.

Furthermore, registry transactions may be effected through our maritime offices abroad – Piraeus, London, Hamburg, Rotterdam, Brussels and New York – as well as through our consular offices around the world, enabling owners to proceed with the registration of their yacht worldwide.

The biggest advantage for superyacht owners, however, is the VAT treatment on yacht leasing for Cyprus companies, under which the VAT may be reduced from 18 per cent to as low as 3.6 per cent depending on the length and type of yacht.

Diana Soussi Avellano, registrar of yachts, Gibraltar



Although Gibraltar is within the European Union, by virtue of being a dependent

territory of Great Britain, it is in accordance with the terms of accession outside the customs union; Gibraltar is outside the VAT zone and does not apply a VAT system.

An added attraction is the recently announced abolition of import duty on all vessels over 18m, as well as the reduction of import duty on yachts, pleasure craft and other seagoing vessels under 18m – from 12 per cent to 6 per cent. The yacht will fly the defaced British flag (Red Ensign) and this brings with it international recognition, protection and prestige.

It also allows the owner to seek assistance from any of the British embassies and consulates worldwide where the vessel may be situated.

From a legal perspective, registering a yacht in Gibraltar offers many advantages of security and reliability: the legal title of yacht ownership on registration or transfer of ownership is straightforward. All vital details concerning the yacht are contained in the register, and in the Certificate of Yacht Registration, known as the 'Blue Book'. The register is a public record, open to inspection by interested third parties, such as buyers, and/or potential lenders, offering security with regards to identity of ownership. All legal mortgages are required to be registered, enabling interested parties to ascertain from this public record whether a yacht is free from encumbrances or registered liens. This enables the owner to sell the yacht easily in a cost-effective and timely manner.

Joshua Paine, assistant registrar of British ships, Guernsey



We provide an efficient and friendly service with same-day processing of submissions/applications. Initial registration can be achieved in as little as five days from name reservation to the issuing of the final certificate of registry. Part I registration is valid for 10 years with no annual fees.

Guernsey has a history as a British Register spanning three centuries, with a current fleet of approximately 2,000 vessels and a strong ethos of personal service by knowledgeable and experienced registry staff. Guernsey is recognised as a quality register and a member of the Red Ensign Group, which is regulated by the UK MCA to ensure consistency of standards. Entitlement to register is open to all British nationals, regardless of place of residence, and all British companies or limited liability partnerships, provided the registered office and principal place of business are in British territories. Registration provides access to British consular services and support when abroad.

Registration, as proof of title and ownership, enables the securing of marine mortgages or other liens on a vessel. It also secures eligibility for MCA-equivalent certification for charter and other commercial operations for vessels under 24m loadline length under the Codes of Practice for Small Commercial Vessels.

As part of the British Isles, but outside the UK and EU, a vessel registered

in Guernsey and owned by a non-EU resident is entitled to exemption from payment of VAT under the EU's rules on temporary importation into the EU. Guernsey is also a low-tax jurisdiction which embraces the best international standards and was white-listed as a transparent and well-regulated offshore finance centre by the Organisation for Economic Cooperation and Development (OECD) in April 2009.

If required, company formation can be facilitated on the island by organisations familiar with the specific needs of vessel owners. Vessels registered and managed through Guernsey have access to a broad spectrum of expertise in marine asset management including crew management.

Ray Ferguson, quality manager, Isle of Man



The Isle of Man offers a pragmatic approach, quality of service and cost to value, in-house expertise, 24/7 assistance, and a high standing on white lists and flag state performance tables.

Debbie Podger, assistant registrar, Jersey



Our service offers the following advantages: speed and efficiency, reasonable fees, wide qualification scope, broad geographical coverage of surveyors, VAT benefits, a strong financial support network, good positioning near 'the continent', good international flight connections and a strong reputation within the maritime community.

Valerie Micallef, office of the chief officer, Malta



The Malta registry is regulated by a framework of the highest standards based on international and European Union legislation. The Maltese registration system is formulated in such a way as to attract high quality yachts with the aim of reinforcing its safety record (the Maltese ship register in on the White List of the Paris MoU and Tokyo MoU). Safe yachts and clean seas are matters of priority for the Malta Flag, a policy that is successfully increasing the number of superyachts on its register.

Ships may be registered under the Malta flag by European Union citizens or by legally constituted corporate bodies/entities irrespective of nationality. The Malta flag is highly responsive, offering a professional service by its well-organised administration, and values long-term customer relations. Registration under the Malta Flag is a fast and straightforward process, which includes the possibility of a provisional six-month registration. It also offers the possibility of a 24/7 service, with experienced staff who are available to guide yacht owners, managers and captains through specific enquiries and challenges that might arise. The Malta flag offers yacht owners and builders comprehensive support during the build process to ensure compliance from the very early design stage through to completion.

The Malta registry has grown not only in numbers but also in repute, and today the island state is increasingly adding high-class superyachts to its

fleet. This is also a result of the good quality of service backed by various initiatives and strategies in favour of the industry offering a holistic package, which is recognised by the yachting industry. Within this scenario, blue chip companies are increasingly being attracted to the Malta flag, further validating it as a flag of confidence.

Patrick Bachofner, director of business development, Marshall Islands



The Republic of the Marshall Islands (RMI) Registry currently has 25 full service

offices, each with the ability to register a yacht and service clientele locally. Support and technical assistance are available from the RMI Registry's staff of over 200 qualified and experienced mariners, naval architects, engineers, surveyors, nautical inspectors, marine safety and environmental

protection experts, shipping company administrators, radio specialists and casualty investigators, among others.

With an assigned permanent representative at the IMO, and as the second country to ratify the Maritime Labour Convention, RMI is directly involved in current and future policies impacting the maritime industry. We are committed to the support of maritime safety, security, environmental protection and social responsibility and, through its quality council, are able to engage owners and operators in discussions concerning regulatory changes that may impact the industry.

The Registry has more clients seeking to operate privately in the European Union due to the increased cost of operating commercially. For the same reason, many clients obtain private yacht limited charter certification under our programme when in the Caribbean or other countries that accept the programme.

We have exceptional port state control records in the Paris and Tokyo MoUs and have obtained the United States Coast Guard Qualship 21 status for nine consecutive years. The RMI Registry works very closely with owners and operators to apprise them of changes to international shipping regulations and PSC activities to help avoid unnecessary port delays.

Yinca Williams, legal advisor, St Vincent & Grenadines



service. ■

The registry's strengths are based on efficiency, costs and a personalised

WHO DO YOU SEE AS YOUR MOST SIGNIFICANT FUTURE COMPETITOR?

Lecia Christopher-Thomas, assistant registrar of shipping, British Virgin Islands

The other Red Ensign Flags.

Nicola Moore-Gothar, manager – information, Cayman Islands

The Maritime Authority of the Cayman Islands (MACI) has to view all flag administrations as competitors; we are all competing for business.

Diana Soussi Avellano, registrar of yachts, Gibraltar

The Cayman Islands.

Joshua Paine, assistant registrar of British ships, Guernsey

We have noticed the development of the Delaware Registry but consider our levels of quality assurance and operation in a British legislative system to be superior. We have always maintained a friendly rivalry with Jersey as our sister island but aim to ensure best fit for any vessel with fellow members of the Red Ensign Group; the ‘right’ result for an owner does not necessarily mean registration through Guernsey.

Debbie Podger, assistant registrar, Jersey

Malta offers low VAT rates. The Marshall Islands offers an easy registration process, but without the high quality standards, and while the Cayman Islands concentrates on superyacht registration, it is part of the Red Ensign Group, and we are content to grow the reputation of the group as a whole.

Valerie Micallef, office of the chief officer, Malta

In this sector there is no direct competitor, but in view of the ever-increasing regulatory framework regulating the sector, one hopes that there is not competition at the expense of lowering standards. The Malta registry does welcome competition as long as the same standards are applied and as long as this competition is based on the level and quality of service that is provided.

Patrick Bachofner, director of business development, Marshall Islands

The Republic of the Marshall Islands Registry, Red Ensign Group and Malta offer a breadth of qualified personnel and infrastructure to support the growing yachting community. At the moment, there are no new flag state administrations offering the same resources.

Yinca Williams, legal advisor, St Vincent & Grenadines

Our competitors are Marshall Islands, Cayman Islands, Jersey, Isle of Man, Malta and British Virgin Islands.

Jo Rawlings, press officer, United Kingdom

We do not comment on other flag registries. ■



SIMON CARDIFF



RICHARD EASTHAM



GABRIEL GONZÁLEZ

TSR spoke to three experts who advise owners and their representatives on the nuances of superyacht registration and asked them what characteristics they would look for in a 'good flag'.

Simon Cardiff
Marine services manager
Carey Consultants Monaco

Flag state selection for superyachts is a serious business decision. The starting point for advisors and decision-makers is to understand each client's wider ownership and asset management objectives. These are the big-picture objectives that depend on factors such as the client's wider asset portfolio, family succession planning, motivation for owning the yacht, the vessel's areas of operations, whether it is used commercially, and so on.

As owners' representatives, we analyse a client's ownership objectives to identify which flag states and registries can support two overlapping groups of outcomes: commercial outcomes, and maritime and technical outcomes. Once registered, a yacht assumes its flag state's nationality and becomes subject to its laws and regulations.

Flag state selection directly affects owners' commercial outcomes for private and charter yachts because it determines tax and VAT efficiency, ownership structures, security of title to the vessel, social security and employment obligations, availability of financing, effectiveness of liens and mortgage priority, feasibility of commercial registration, and income generation.

Reliable legal protections support these commercial outcomes. Good flag states have sophisticated political and legal regimes, certainty in the application of law to disputes and a consular support network in times of crisis abroad. Reputable professional advisors and service providers will be available in these jurisdictions to support owners, maintain local relationships and navigate the bureaucracy.

Reputation is an important consideration too and it can be protected to some extent by registering with one of the prestige flag states in the superyacht sector.

Flag state registries have two main roles: first, as national maritime regulators and

second, as professional service providers. Owners need maritime regulators to provide a safe regime of national rules and regulations that protect the value of the owner's investment without unreasonable compliance costs and red tape.

“Good registries see themselves as professional service providers, rather than just law enforcers.”

Good registries have track records for implementing and enforcing international and domestic maritime law in matters such as seaworthiness, oversight of classification societies, navigation safety, crew training and welfare, security and environmental protection. For superyachts up to 3,000gt, preferred registries will have, or accept, robust equivalent standards to accommodate the special requirements of superyachts.

A registry's regulatory performance is measured, in part, by the safety record of its fleet based on the conclusions of accident

investigation reports and its appearance on Paris MoU and Tokyo MoU white lists. Vessels on grey or blacklisted registries face routine – and inconvenient – port state inspections in the waters of white-list states, which is where superyachts tend to operate. Good registries also see themselves as professional service providers, rather than just law enforcers.

Owners' advisors prefer registries that take a business-like approach – registries using this approach to facilitate each yacht's regulatory compliance in a flexible way that appreciates its owner's commercial realities, without compromising the flag's regulatory integrity or the yacht's safety.

Captains and shore-based advisors appreciate efficient registries that provide timely, global support through professional infrastructure, standards and staff. Flag states that can assist vessels through difficult port state control inspections and detentions are also well received.

Richard Eastham CEO, Regs4Ships

I have my 'rule of five' for flag state selection:

1. There are only two types of surveyors – those who say yes and those who say no. The best thing about a good flag is having really good surveyors who will work with the owner to achieve what they want. There are some flags, including the MCA, who say no all the time; 'no' is the easy and lazy answer. From a professional standpoint, if you say 'no' you don't jeopardise your reputation, whereas if you say 'yes' and there's a problem, you do. But saying 'yes' is also about being able to identify the problems and work with the client to overcome them.

“A lot of yards build with a flag in mind to avoid unexpected surprises that will hit their profit margins.”

2. Some flags take a more holistic approach. Using the MCA and passenger ships as an example, it is not in the MCA's remit to allow weddings on board or to sort out the tax status of the yacht. So they are a bit bureaucratic, can't consider the vessel as a whole and can only handle their 'bit'. This can create problems for the owner, so it's about finding a flag that can do everything. Occasionally it involves doing deals or offering discounts, whereas the UK has to publish its results, so the fee is the fee. With some of the more heavily regulated flags, there's no leeway at all.

3. Some flags offer a better tax rate than others, and that's fairly obvious. There are some fairly complex mechanisms out there, particularly if the yacht is a loss-making entity being offset by a profit-making company and they opt for a high tax flag – but that's what the tax specialists are there for.

4. Follow the crowd. Once the Cayman Islands had convinced the yards that they should go Cayman ahead of MCA, and it came to signing the next contract, a lot of them said, 'We'll go with Cayman again'. The last thing a yard wants is to build a vessel and then have the flag say that there are additional requirements. So a lot of them build with a flag in mind to avoid unexpected surprises that will hit their profit margins. They want to work with flags that they know and understand.

5. It's a poor one to finish on, but we have had customers who, quite simply, don't like the colour of certain flags. We had one client who was ready to go with the Marshall Islands, and then he took one look at the flag and decided he wanted a different registry. Some clients can be quite difficult!

Gabriel González, Head of RegisterAYacht.com

Registration should be examined from two different angles – international public law (the relationship between the nationality of the owner and the flag state) and the private aspect of ownership. In the case of the latter, British flags have an advantage because British law is well recognised worldwide and it offers comfort to owners when they are governed by an administration that has pioneered yacht-specific law.

Generally banks feel more comfortable securing a loan against a British flag, whilst Malta is also gaining a good reputation. The UK also has the advantage of English being the universal language, and the whole industry is very well educated when it comes to understanding the regulations and requirements of flag states so the interests of the owners can be better represented. Therefore the capacity of the flag states to provide quality of service to its yachts is very important too.

It is very important to assess the ongoing costs of registration before a choice is made. Continuing support and services vary and, in this sense, Cayman has done really well; the numbers are there to demonstrate that fact. In the case of commercial yachts,

there may be very technical differences between Cayman and Malta, Isle of Man and Gibraltar, or even within the Red Ensign Group, so it is worth checking these in detail.

“While a yacht may qualify for VAT exemption, the liability remains on the end user of the vessel. It is not as straightforward as it may first appear.”

Owners should use a combination of advisors, who can offer different perspectives, to help them make a decision. The choice will depend on how the yacht is to be used, the country of residence of the client and the nationality of the holding company. Having a commercial yacht is becoming more cumbersome these days, because of international regulations. Owners may still opt to go commercial for the VAT advantages, but the restrictions imposed offset the tax advantages, so this also needs to be considered.

While a yacht may qualify for VAT exemption, the liability remains on the end

user of the vessel. It is not as straightforward as it may first appear. The entity is giving legal substance to the whole enterprise and there are a variety of liabilities to consider; it is extremely complex.

The first thing to consider is that the client's country of residence and nationality may not be the same. Then it needs to be established where the client will use the yacht – in the EU or outside – and what it will be used for. These are the basic questions and they will be followed by examining the yacht itself – for length, tonnage and design – and this will impact the legislation that the yacht must comply with. In legislative terms, it is also a case of consulting a classification society or naval architect. There are also age considerations, as well as whether it's a new build or secondhand vessel. This information is enough to make an initial assessment and open discussions. Once this has been done we can start to consider secondary factors such as crew nationality. ■

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