

Selling a Foreign Flagged Boat in the USA

By John Boyle

Introduction

After 14 years of owning our Moody 425 “Shamal”, my wife Georgina and I decided that it was time to sell and try something new. During that time, we cruised in the Mediterranean, undertook an Atlantic crossing and had 5 years cruising in the Caribbean, Central Americas and the USA.

For various reasons summarised below, we decided that the USA was the place that we would put the boat (legally) on the market. As a UK registered vessel this presented some bureaucratic hurdles to be overcome. Our experience however was positive and the sale was successfully completed in a relatively short period. Prior to us making the decision, we found very little information available on this subject. So, we decided to write this article as a guide for anyone else who may be considering this option.



“Shamal” in Grenada

Please note that the following is a description of our own experience. I make no claims that this is the only way to do this. Also, we found that each state tends to apply its own interpretation to the federal rules (We sold in South Carolina). Therefore, some local variations may exist. The rules on this are also subject to change, so please check the current situation. I hope however that the details below will provide useful guidance should you be considering the USA as the place to sell.

Why sell in the USA?

The decision on where to sell your boat will depend on your circumstances. For us, the choices seemed to come down to the following:

1. We were in the Bahamas and therefore close to the USA mainland
2. Brexit had made the exchange rate of US\$ to GBP attractive
3. The US boat market was buoyant (no pun intended) at the time and Moody’s seemed to be in demand.
4. The alternatives didn’t seem too attractive. (Sailing/shipping the boat back to Europe, Selling in a hurricane safe location like Guatemala or Trinidad where the humidity is high and potential buyers would find it harder to view the boat, etc)

We also did some research on the costs and complications of selling in the USA vs Canada. The USA seemed to involve lower cost and looked practical.

Sailing and storing your boat in the USA

As anyone who has sailed in America will know, the requirements for foreign flagged vessels cruising in the USA are tiresome. These are eased somewhat by obtaining a Cruising Licence from the US Customs and Border Protection (CBP) agency. Without a Cruising Licence, boat owners and crew are obliged to register in person at a CBP office at each port of call. With a Cruising Licence, this can be

done with a series of short phone calls. The Cruising Licence does however make clear that the boat can only stay in the USA for a maximum of 12 months and that it is illegal to offer the boat for sale to a US citizen within the USA without paying Import duties. The definition of “Within the USA” is important as shown below.

Meeting the terms of the Cruising Licence is what drives the options around how to sell in the USA.

Options

Due to the Cruising License terms, there are essentially **2 Options** for anyone looking to sell a foreign flagged boat in the USA. In either case I would strongly recommend that you list the boat with a reputable Yacht Broker. This is especially true if you are returning home while the boat is up for sale, as a yacht broker can handle all of the on-site activities described below in your absence. With a standard fee of 10% of the sale price, US Yacht Brokers are comparatively expensive. But in our case I believe that he earned his fee through the way he handled the whole process and it would have been impossible for us to proceed without his on-site assistance.

Option 1: “Not for Sale within the USA”

This involves listing the boat as “For Sale, but not within the USA”... (or words to that effect). This complies with the terms of the Cruising Licence and may avoid you having to pay Import Duties, depending on who buys the boat.

Essentially, a buyer would view the boat as normal in a US Boatyard or Marina. If they decide to proceed then surveys etc can be completed as normal. An offer is made subject to a successful sea trial to be held outside the USA 3-mile limit of territorial waters. If the sea-trial is successful then the sale of the boat is completed while still at sea. This meets the currently understood condition of having been sold outside the USA. Depending on who buys the boat, the following will then take place: -

1. If the buyer is an American citizen, then the buyer would need to import the boat on arrival back in the USA and pay the required fees/charges. He/she would also need to register the boat with the US Coastguard. (The coastguard need to see evidence that the boat has been removed from its previous registry before they will do this).
2. If the buyer is not a US citizen then the new owners would apply for a new Cruising Licence at the local CBP office in their name on arrival back in the USA. They would then proceed like any other visitor to the US in a foreign flagged boat.

We initially offered the boat for sale under this arrangement, but found that most US buyers were put off by the this added complexity. We were also advised that most US buyers would expect the cost of importing to be deducted from the asking price, so offered no real cost saving. This approach would however be attractive if you were targeting non- US citizens as your potential buyers, as in that case it avoids having to import the boat.

Option 2: Importing

In our case all of the people calling the broker and expressing interest were US citizens. We therefore decided to import the boat. This meant that the boat could then be listed by the broker without any caveats regarding where it could be sold. An issue still existed due to fact that the boat would still be foreign flagged, as only a US resident can register their boat with the coastguard. So the options on importing the boat are limited to a “For the purpose of sale” importation.

For the Purpose of Sale Importation: This is the only option available if the boat cannot be registered in the USA immediately after Importing. It is intended for people like ourselves who just want to import the boat in order to sell her within the USA. We used a Customs Broker to handle all the Importation paperwork. Total charges for this type of import were: -

- Import Duty of 1.5% of the value of the boat
- Other State charges of approx. 0.5% of the value of the boat
- Customs Broker Fees of approx. \$250 in our case

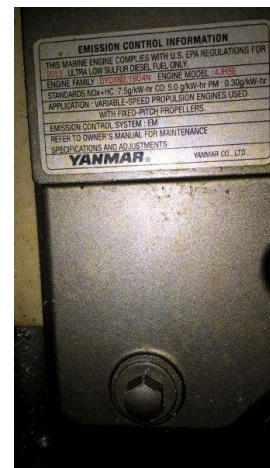
So overall, the total cost of importing the boat for sale was just over 2% of the value of the boat.

There are however some restrictions that this type of import contains. These are: -

1. On the Plus side, Sales Tax did not apply under this arrangement.
2. The term of the import is limited to 3 years. After that term, the imported status of the boat expires.
3. If you depart the USA after importing the boat then you need to pay a proportion of the charges again on re-entry
4. All boats need to have its engine comply with the Environment Protection Agency (EPA) emission standards as follows: -

EPA Standards: All boats sold in the USA that are equipped with an engine must have an EPA Certificate to confirm that the engine complies with US emission standards. There are 2 ways to check if your engine meets these standards: -

- a. If the engine was manufactured for the US market, then an EPA Certification Plate will be attached to the engine somewhere. (See picture opposite). This will illustrate the Certificate Number needed by the Customs Broker to import the boat,
- b. Check the EPA website. (See below). This contains a list of all the boat engines that have been tested and certified as compliant (whether sold in the USA or not). This website is at: <https://www.epa.gov/compliance-and-fuel-economy-data/engine-certification-data#marine-ci>



EPA Plate

Conclusion

Importing the boat took about 10 days. Once completed, the Yacht Broker could list the boat as For Sale, without any of the “Not in the USA” caveats. Within days we had several viewings lined up and we completed the sale within 10 weeks.

The key point for us was to engage a reputable Yacht Broker. We used Ashley Yacht Brokers in Charleston SC. <http://www.ashleyyachts.com/>. The process of importing sounds complicated, but they handled everything, conducted the potential buyers in a very professional way and made it all happen.

I hope that the above will be of some help to anyone considering selling in the USA.

John Boyle.