AYCA

AMERICAN YACHT CHARTER ASSOCIATION

CHARTERING IN US WATERS

Inside Charter Compliance: Contracts, Clearance & Operations

Presented by:

John Bromley & Joseph Dargavage

Holbrook & Murphy
Attorneys at Law - Proctors in Admiralty

U.S. Superyacht Association

WHY THIS MATTERS

Unique & Complex Regulations

U.S. yacht charter regulations are unlike those in any other jurisdiction — federal, state, and maritime rules intersect in ways that can easily catch brokers and owners off guard.

Serious Risks for Mistakes

Errors in charter structuring can trigger significant tax liabilities, federal compliance violations, and personal liability exposure for brokers, owners, and captains alike.

Brokers Are First Advisors

Clients rely on their brokers for guidance before engaging legal counsel. Your knowledge of compliance requirements directly shapes the deals you structure and recommend.

Legal & Liability Exposure

Non-compliant charters expose all parties to USCG enforcement, civil penalties, loss of insurance coverage, and reputational damage in a highly regulated industry.

LEARNING OBJECTIVES

Charter Structures

Understand the three primary U.S. charter structures: UPV, Bareboat, and Foreign Flag with MARAD waiver, and when each applies.

Tax Considerations

Identify federal and state tax obligations including Harbor Maintenance Tax, Passenger Vessel Tax, and state-level charter taxes.

Bareboat Compliance

Learn the legal criteria that define a valid bareboat charter, including possession, control, and crew selection responsibilities.

USCG Boarding Expectations

Know what to expect during a USCG boarding, how captains and guests should respond, and how to ensure vessel documentation is in order.

THREE WAYS TO CHARTER IN THE U.S.

UPV (U.S. Passenger Vessel)

A U.S.-flagged vessel holding a Coast Guard Certificate of Inspection (COI). Regulated for commercial passenger operations with defined passenger limits. Crew is provided by the owner. Fully compliant for carrying paying guests in U.S. waters without additional waivers.

Bareboat Charter

The charterer takes exclusive possession and control of the vessel without crew. Charterer is responsible for hiring the captain and crew independently. No COI required if structured correctly. Compliance depends on true transfer of possession, control, and crew selection to the charterer.

Foreign Flag + MARAD

A foreign-built or foreign-flagged vessel operating in U.S. waters under a MARAD waiver. Limited to a maximumof 12 passengers. Subject to operating area restrictions. Waiver must be obtained in advance and vessel must meet all applicable requirements for the charter region.

DECISION TREE

Is the vessel U.S.-flagged?

→ YES: Is it a documented vessel with a USCG COI?

→ YES: May operate as UPV (up to 6 or 12 passengers)

→ NO: Bareboat charter rules apply

→ NO: Is it foreign-built with a MARAD waiver?

→ YES: Foreign Flag + MARAD — max 12 passengers, area restrictions apply

→ NO: Charter may NOT be legally conducted in U.S. waters

Key Decision Points:

- Vessel type & flag state
- Passenger count (6, 12, or unlimited)
- MARAD waiver status
- Operating area (coastal vs. offshore)
- Crew arrangement (bareboat vs. crewed)

Use this flowchart before quoting any U.S. charter to ensure full compliance and avoid regulatory exposure.

MARAD WAIVER ESSENTIALS

01 Vessel must be foreign-built

02 Maximum 12 passengers allowed

03 Operating area restrictions apply

STATE TAX SNAPSHOT

MA

Massachusetts (MA)

Rate: 6.25% sales tax applies to yacht charters. Tax is assessed on the charter fee and must be collected and remitted by the charter operator.

NH

New Hampshire (NH)

Rate: 8.5% meals and rooms tax may apply to charter services. Brokers should confirm applicability based on charter structure and vessel location.

ME

Maine (ME)

Limited application. Maine's sales tax has narrow applicability to yacht charters. Verify whether the specific charter arrangement triggers any state tax obligations.

NY

New York (NY)

Combination of state and local taxes applies. New York state sales tax plus applicable local taxes can significantly increase the total tax burden on charter fees.

BROKER TAX CHECKLIST

Before quoting any charter, brokers must ask five essential questions to ensure proper tax compliance. Failing to address these upfront can expose clients — and brokers — to unexpected tax liability and compliance risk.

01 **Is the vessel U.S. flagged or foreign flagged?**

02 **What state will the charter occur in?**

03 **Are all applicable taxes included in the quote?**

BAREBOAT CHARTER FUNDAMENTALS

Chain of Command & Control

OWNER

Transfers full possession and control of vessel to charterer. Owner steps back from all operational decisions during charter period.

CHARTERER

Assumes full responsibility for the vessel. Manages all operations, selects crew, and directs the voyage. Legal control rests here.

CAPTAIN

Hired by and answers to the charterer — not the owner. Oversees navigation, safety, and vessel operations on behalf of charterer.

CREW

Selected and supervised by the charterer (via captain). Not employed or directed by the vessel owner during the charter.

Key Principle: For a bareboat charter to be legally valid, the charterer must exercise genuine possession and control — the owner must have no operational role during the charter period. Each link in the chain matters. If the owner retains control over the captain or crew, the bareboat structure may be invalidated, triggering tax and liability consequences.

WHAT MAKES A BAREBOAT CHARTER VALID?

01 Possession: Charterer has full control of the vessel

02 Control: Charterer manages all operations, not the owner

03 Crew Selection: Charterer is responsible for hiring crew

COMMON BAREBOAT MISTAKES

01 Advertising crew as part of the charter

02 Owner retaining operational control of the vessel

03 Mixing entities and finances (commingling)

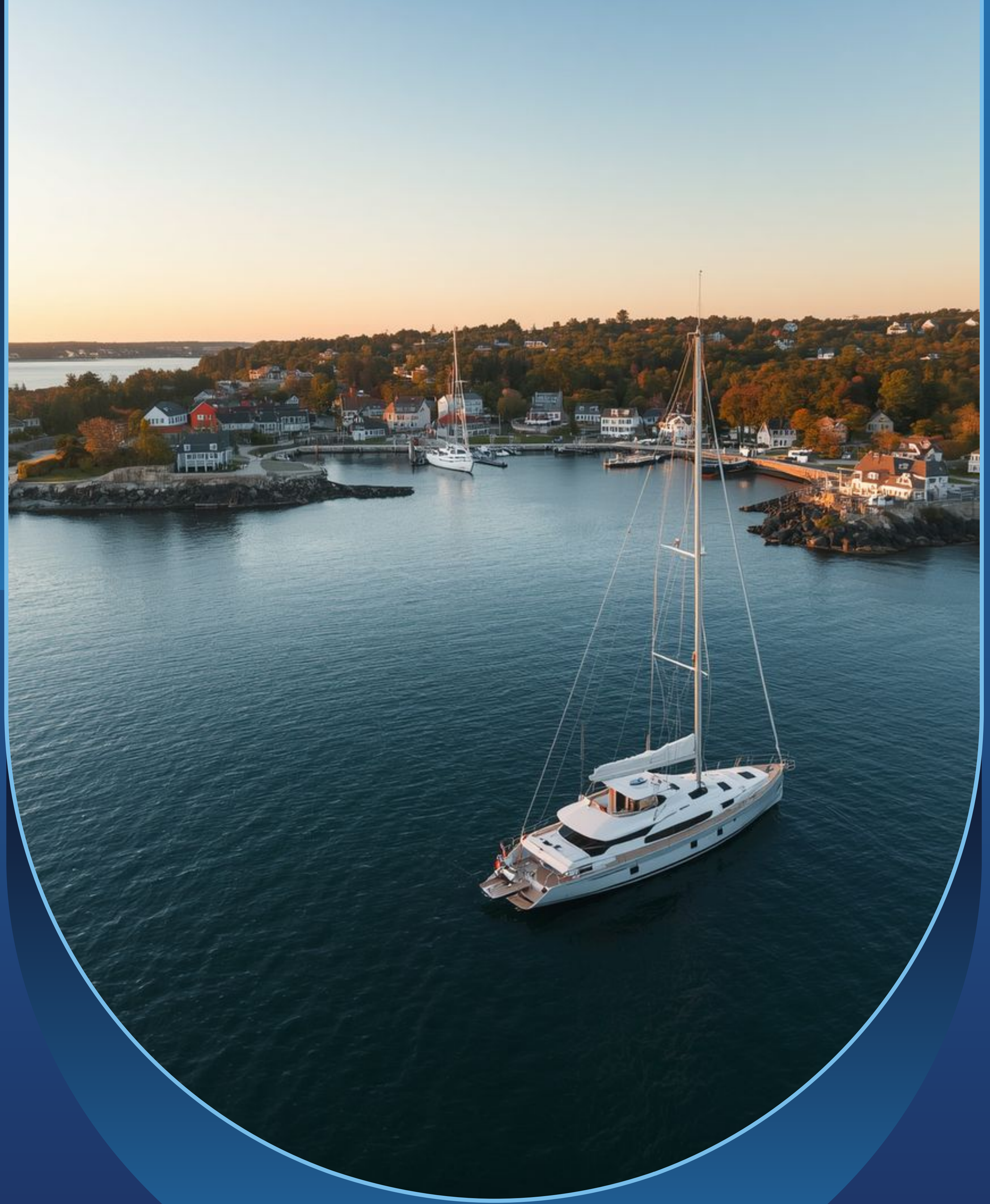
GUEST CHANGEOVERS

Newport → Nantucket Changeover Process

When guests change over mid-charter, proper documentation and timing are critical. The departing guests must formally disembark and the charterer must re-establish possession before new guests board. A gap in time and a new charter agreement for each leg is strongly recommended to maintain bareboat compliance.

Key Operational Considerations

- Timing: Allow sufficient time between guest groups for documentation to be completed
- Documentation: Execute a new charter agreement for each changeover leg
- Crew: Charterer must re-confirm crew selection for each voyage segment
- Location: Changeover port must be a documented, recognized port of call
- Compliance: Commingling of guest groups or overlapping agreements can void bareboat status



EVENTS & PASSENGER LIMITS

A Certificate of Inspection (COI) is required when a vessel carries passengers for hire beyond specific thresholds. Understanding these triggers is essential for brokers to ensure clients remain compliant during events, charters, and group outings on U.S. waters.

6+ Passengers: COI required for vessels carrying more than 6 passengers for hire on U.S. navigable waters

Event Types: Corporate events, weddings, and organized group charters trigger COI requirements regardless of vessel size

Bareboat Exception: COI may not apply if charterer has full possession and control — verify compliance before booking

WHAT HAPPENS DURING A BOARDING?

When the USCG boards a vessel, the process follows a structured sequence:

① Boarding — Officers come aboard and identify themselves. The captain should greet them calmly and professionally.

② Documentation Review — Officers request vessel documents: registration, COI, charter agreement, crew licenses, and passenger manifest.

③ Safety Inspection — Officers inspect safety equipment: life jackets, flares, fire extinguishers, and navigation lights.

④ Questions — Officers may ask about the nature of the voyage, charter arrangement, and vessel ownership. Answer truthfully and succinctly.

⑤ Departure — If compliant, officers depart. Any deficiencies may result in a warning or citation. Always remain cooperative throughout.

WHAT SHOULD CLIENTS SAY?

01 Be polite and cooperative with boarding officers

02 Answer questions truthfully and succinctly

03 Allow the captain to lead all interactions

CAPTAIN BEST PRACTICES

Have Documentation Ready

Keep all vessel documents organized and immediately accessible: COI, registration, licenses, crew certifications, and charter agreements. USCG officers expect prompt document production.

Pre-Boarding Safety Briefings

Brief all guests and crew before entering U.S. waters. Cover safety equipment locations, emergency procedures, and what to expect during a boarding to ensure calm, cooperative responses.

Professional Demeanor

Greet boarding officers courteously and professionally. Lead all interactions, remain calm, and instruct guests to allow the captain to handle questions and communications with officers.

Ensure Vessel Compliance

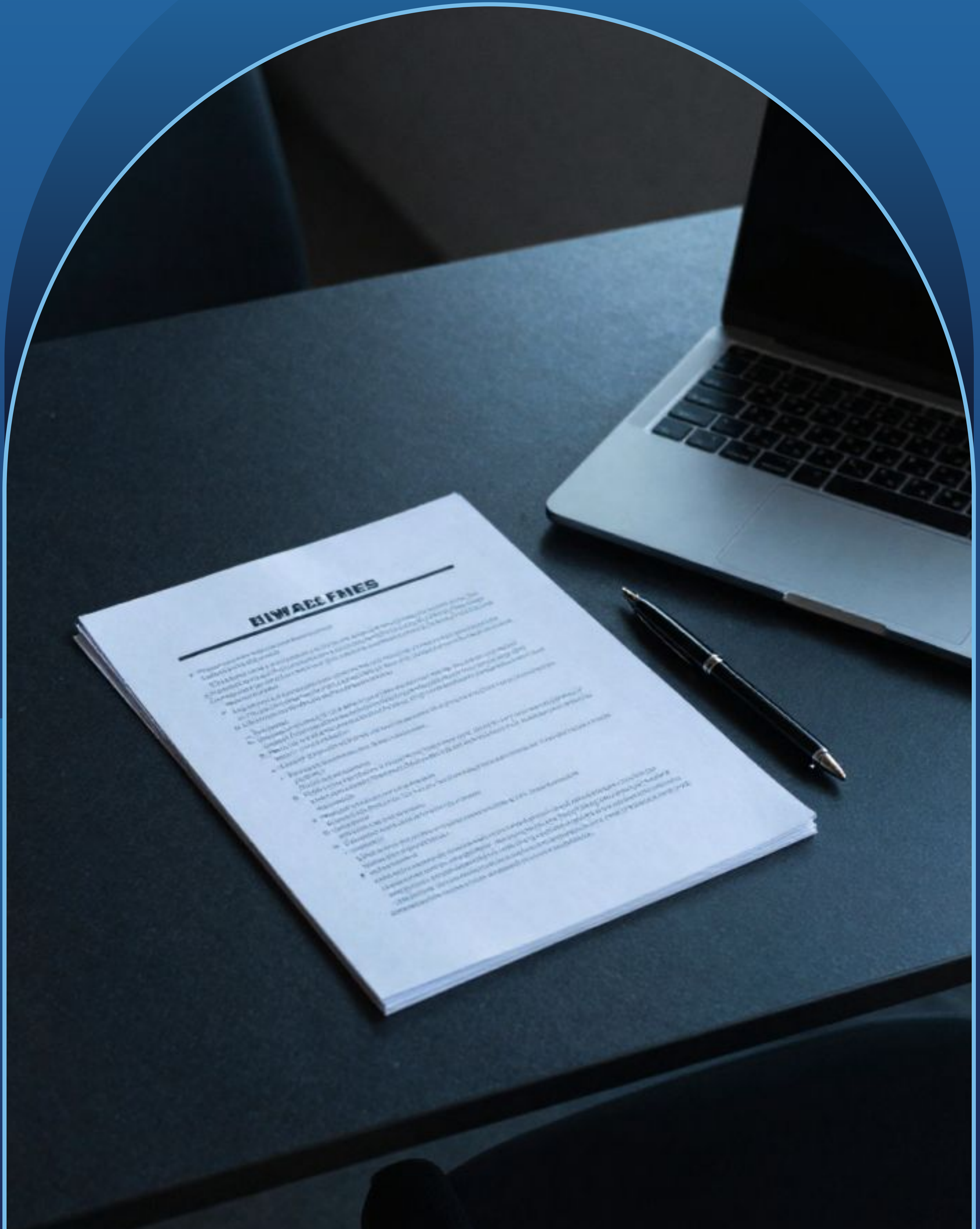
Conduct thorough pre-departure compliance checks. Verify safety equipment, navigation lights, fire extinguishers, life jackets, and all required certifications are current and in proper working order.

ENTITY STRUCTURE

01 Maintain separate LLCs for each vessel or charter

02 Keep separate bank accounts for each entity

03 Use separate contracts and agreements per entity



INSURANCE CONSIDERATIONS

01 Additional Insureds Named on Policies

02 Protection & Indemnity (P&I) Coverage

03 Risk Transfer via Contracts & Waivers

TOP BROKER TAKEAWAYS

- Know charter types (UPV, Bareboat, Foreign Flag/MARAD) & verify vessel flag, passenger limits, and MARAD waiver status before quoting.
- Always include applicable federal & state taxes (HMT, PVT, state sales tax) in quotes and confirm bareboat validity: charterer must have full possession and control.
- Ensure entity separation, proper insurance (P&I + additional insureds), and prep clients & captains for USCG boardings with documentation ready.

QUESTIONS & DISCUSSION

We welcome your questions and open discussion.

This is an opportunity to explore any aspects of U.S. yacht charter compliance, broker responsibilities, tax obligations, bareboat requirements, or USCG boarding procedures in greater depth.

Please feel free to ask questions, share experiences, or raise scenarios relevant to your practice.

RESOURCES

AYCA (American Yacht Charter Association)
www.ayca.net

Holbrook & Murphy
www.holbrookandmurphy.com

USSA (U.S. Superyacht Association)
www.ussa.org