

## **Boat Ownership and Tax Deductions**

By John Alan Cohan, Attorney at Law

To what extent can you write off your participation in boating events as a promotional activity for your business or profession? People who maintain Mardi Gras parade horses often deduct maintenance costs as advertising for their business. Similarly, a major pizza chain owner deducts the costs of auto racing in events in which he drives. These are deemed justifiable, albeit unconventional, means of promoting one's business or profession, according to Tax Court cases on the subject.

In my law practice I have encountered boat owners who properly take tax deductions for boat maintenance costs as advertising expenses deducted for their business or profession.

Advertising expenses are justified if they fall into various broadly construed tax criteria—which leaves open a significant wedge for creative tax planning. Some doctors whom I have advised write off boat expenses which are tied into promoting their medical practices or clinics. The key is twofold: to establish a rationale for the boat expenditures, and to limit deductions to approximately 5% of your gross business income. And in fact, usually the advertising, if properly conducted, helps the taxpayer make new business contacts. In addition, advertising activity can help protect or promote good will with existing and potential customers.

Tax Court cases show that advertising and promotional costs are generally deductible if they are reasonable in amount and bear a rational relation to the taxpayer's business activities. Advertising expenses are broadly construed to apply to activities that serve to attract customers to one's business or profession. There is no concrete rule, and creative advertising is legitimate for purposes of tax deductions.

With boating events it is necessary to show that your sponsorship or participation resulted in customers or that it is otherwise helpful to your business. The primary purpose of the promotional activity should be to benefit your business.

For instance, one business I know regularly started to decorate their boat with company initials and logos in a distinctive color scheme. This established an advertising "nexus" between the business owner and the events in which he was competing. Also, he displayed cups and other awards in the reception area of his office.

In one well known Tax Court case, the president of a family-owned corporation and his wife went on an African hunting safari and deducted the cost of this activity, usually considered recreational, as an advertising expense. After the safari, the company issued a pamphlet that contained pictures and descriptive matter pertaining to the safari, a film about the safari was shown at the plant on visitor tours, and the company used these occasions as an opportunity to bring its products to the attention of visitors. Considerable publicity was generated in newspapers, which benefited the company. The deductions were allowed.

In order to develop an advertising plan that utilizes your boat, keep in mind that the IRS will scrutinize promotional activities in which deductions exceed 5% of your gross business income. It's a good idea to discuss the advertising or promotional plan with a tax attorney and obtain a tax opinion letter to back up your strategy. A tax opinion letter constitutes evidence that you have consulted an expert and obtained legal recommendations in connection with your plan, and that the plan conforms to Tax Court cases on the subject. It becomes part of your permanent records and helps pass IRS muster in the event you are audited.