

Parking service in a private car park, incl. fee charged for parking in violation of parking conditions

Following the judgment of the European Court of Justice in Case C-90/20, a private company engaged in the handling of private car parks is required to calculate and pay value added tax (VAT) on the entire parking fee. The fee charged for the provision of parking services where a car has been parked in breach of the conditions of use of the car park must also be subject to VAT as a charge for regular parking services, for which the European Court held that it could not be described as a contractual penalty within the meaning of the VAT rules.

If a vehicle is parked in an area where parking conditions apply, including a fee and/or a fee in the event of non-compliance with the parking conditions, any charges which the person parking is required to pay in connection with parking will be regarded as consideration for the service provided to the person and are subject to VAT in Estonia from 01.01.2023 onwards.

A claim for late payment of the parking fine determined by the local government is not deemed to be a fee for the service, as the local government does not provide parking services. The parking fee established on the basis of a rural municipality or city council regulation is a local tax, not a fee for parking services, which is why the tax treatment is also different.

Contractual penalties imposed for parking in violation of parking conditions which are essentially charges for parking services will be taxed on the basis of the time of supply which is determined in accordance with the general rule of subsection 1 of § 11 of the Value Added Tax Act. If the total amount, exclusive of VAT, of such contractual penalties imposed on the same person during the taxable period, together with the total amount, exclusive of VAT, of other sales invoices submitted to that person during the same taxable period, is at least 1,000 euros, the invoices concerning the contractual penalties must also be indicated in the annex KMD INF to the VAT return. A contractual penalty which is deemed to be fee for a service must comply with the requirements set out in § 37 of the Value Added Tax Act.

The amount of VAT indicated on the received contractual penalty claim may be deducted as input VAT from the VAT due, taking into account the general conditions and limitations of input VAT deduction set out in the Value Added Tax Act.

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