

EU VAT CASE NOTE

Europark Estonia

Contractual parking penalties are fully subject to VAT

General Court • T-131/26 • Reasoned Order • 4 September 2026

Core holding

A punitive component under national law does not break the direct link with the parking service.



Case at a glance

The Court treated the penalties as indivisible consideration for the parking service.

ESTONIA

REASONED ORDER

ARTICLE 2(1)(c)

Facts

Europark charged EUR 60 or EUR 100 contractual penalties for non-compliance with parking conditions. The Estonian tax authority assessed EUR 322,525.11 of VAT on undeclared penalty income.

Issue

Can the punitive or deterrent element be separated from the compensatory element and excluded from VAT?

Holding

No. The entire contractual penalty is consideration for a taxable parking service, including the part regarded as punitive under national law.

Business message

Labels such as “penalty”, “damages” or “deterrent charge” do not control the VAT outcome. The contractual and economic link to the service does.

Facts and procedural path

The dispute followed a change in Estonian administrative practice after Apcoa Parking Danmark.



Europark's position: the punitive element deters misconduct and is unrelated to consideration for parking. | MTA's position: the charge arises from actual use of the parking space and is a normal source of parking income.

The legal question

Does a punitive purpose create a non-taxable component?



Article 2(1)(c)

“Supply of services for consideration”

1

Question 1

Must the penalty be split between taxable consideration and a non-taxable punitive component?

2

Question 2

Or is the punitive component integral to the total consideration and therefore taxable?

Decision

The General Court answered both questions together.

THE RULE

The contractual penalties are consideration for a taxable supply of parking services in their entirety.

Including the part that is punitive under national law.

Result: no apportionment and no VAT exclusion for the punitive component.



Why the penalties remain subject to VAT

The legal relationship and direct link outweigh the label or purpose of the charge.

1

Contractual relationship

Parking creates a legal relationship governed by the operator's general conditions.

2

Reciprocal performance

The space is made available in exchange for the parking fee and, where applicable, the penalty.

3

Direct link

The penalty originates in the conditions under which the motorist actually used the service.

4

Amount is irrelevant

A lump-sum charge need not match cost, loss or objective service value.

5

EU-law classification

National labels such as penalty, damages or compensation do not determine VAT treatment.

6

Purpose is not decisive

A deterrent or punitive objective does not break the exchange relationship.

Practical VAT implications

The case reinforces a substance-over-label approach for contractual charges linked to services.

Review revenue streams

Identify default fees, penalties, surcharges and deterrent payments arising under customer contracts. Test whether they originate directly from the conditions of service use.

Avoid label-based positions

A national-law classification as a penalty or sanction is insufficient. Document the legal relationship, reciprocal obligations and economic link to the underlying supply.

Align systems and controls

Where a direct link exists, configure invoicing, VAT determination, tax codes and reconciliation controls so the full charge enters the taxable amount.

Key takeaway | A punitive purpose does not create a separate non-taxable amount when the payment is indivisibly linked to the service received.