HMRC - VATSC44000 - Fines And Penalty Charges

If a payment is a fine or penalty then it is not consideration for a supply - see VATSC57600. However, a payment may be described as such in instances where it is not a payment for the breaking of terms and conditions, but is a further payment for a fulfilment of terms and conditions, and so is part of the consideration for the supply. In these cases the payments follow the same liability as the supply.

Video/DVD Hire Fines

Any fine by a video or DVD shop is an additional taxable supply for the extended use of a video/DVD. This was confirmed in the Tribunal case JG Leigh t/a Moor Lane Video (LON/89/83X) where the trader required borrowers to pay a fine if a video was returned late and claimed this was compensation since it was above the normal standard hire charge.

The tribunal decision was that the borrower had merely rented the video for a longer period and so the payment was further consideration for the supply. One of the reasons was that there was felt to be an air of unreality about the threat of legal action for a claim to damages of an amount no more than £2.50.

Car Park Charges

If the contract under which car parking is supplied allows for an extension of the original terms, for which additional consideration is payable, the liability of this consideration follows that of the original supply. However, where a car park operator makes an offer of parking under clear terms and conditions, setting punitive fines for their breach, the fines constitute penalties for breaching the contract, rather than additional consideration for using the facilities. Consequently, they are outside the scope of VAT.

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