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Sec. 12-407(2)(i)(N)-1. Motor vehicle parking services

(a) Definitions.

(1) The term “motor vehicle parking services” means (A) the service of providing a parking space for a motor vehicle for a service recipient in a lot having 30 or more spaces, and (B) the services of parking and retrieving a motor vehicle for a service recipient (“valet parking services”), whether or not the vehicles are parked in a lot having 30 or more spaces, other than valet parking in a parking lot maintained for airport passengers at or near any airport. The term “motor vehicle parking services” does not include the provision of metered parking space.

(2) The term “parking lot” or “lot” means any area, garage or structure, or any portion of an area, garage or structure, operated by a single service provider containing parking spaces for motor vehicles.

(3) The term “motor vehicle” has the meaning ascribed to it in section 14-1(a)(47) of the general statutes, as from time to time amended.

(b) **Taxability of motor vehicle parking services.** (1) If a landlord furnishes parking spaces in a lot having 30 or more spaces to its commercial or residential tenants in conjunction with their leases, the furnishing of such parking spaces shall be treated as a taxable sale as follows:

(A) Where the landlord makes a separate charge for the furnishing of such spaces, that charge shall be taxable; provided, the landlord shall have the burden of establishing that the charge has not been understated for tax avoidance purposes.

(B) Where the landlord makes no separate charge for the furnishing of such spaces, there shall be deemed to be no charge made for parking services; provided, the landlord shall have the burden of establishing that no greater rent is paid by tenants furnished parking spaces than is paid by tenants not furnished parking spaces. Where the landlord cannot meet that burden, any difference between the rent paid by tenants furnished parking spaces and the rent paid by tenants not furnished parking spaces shall be deemed to be the charge made for parking services.

(2) The involuntary impoundment of motor vehicles or the storage of a motor vehicle for an extended period of time (e.g., for the winter), during which time, pursuant to the terms of the contract, the vehicle owner will not have free and unlimited access to the vehicle, shall not be taxable as motor vehicle parking services.

(3) The provision of space in a seasonal parking lot provided by any of the following persons is excluded from tax: the United States, the State of Connecticut, any of the political subdivisions thereof, agencies of the United States or the State of Connecticut, and an organization exempt from federal income tax under section 501(a) of the Internal Revenue Code which has been determined by letter by the United States Treasury Department to be an organization described in section 501(c)(3) or (13) of the Internal Revenue Code. The term “seasonal parking lot” means a lot for which a charge for parking is made during a limited portion of the year. An example is a municipal parking lot at a beach for which a charge for parking is made during the summer.

(4) Charges made by a nonprofit charitable hospital, nonprofit nursing home, nonprofit rest home or nonprofit home for the aged licensed by the State pursuant to chapter 368v for parking in a lot operated by it, whether or not such lot is seasonal, are exempt from tax under section 12-412(5) of the general statutes.

(5) Charges for the provision of space in a parking lot which is owned or leased under the terms of a lease of not less than 10 years’ duration and which is operated,

or caused to be operated, by an employer for the exclusive use of its employees are not taxable.

(6) Charges for the provision of valet parking in a parking lot maintained for airport passengers at any airport are not taxable.

(7) Charges for the provision of space in municipally-operated railroad parking facilities in municipalities located within an area of Connecticut designated as a severe nonattainment area for ozone under the federal Clean Air Act (42 U.S.C. § 7401 et seq.) are not taxable, effective for sales occurring on and after July 1, 1997.

(c) **Lease of real property for the purpose of parking.** The lease of a parking lot with 30 or more parking spaces for the purpose of parking, except as provided in subdivision (b)(5) above, shall be treated as a taxable sale of motor vehicle parking services. The lease of real property for a purpose other than parking shall not be treated as such a sale. Thus, a contract for the lease or rental of real property may be taxable because it includes motor vehicle parking as part of the agreement. Tax is due on the lease payments for the parking lot if an amount can be attributed to the parking, either through the agreement itself or by some other method. For example, if one agreement of the landlord does include motor vehicle parking and another agreement for similar property does not, any monetary difference between the two agreements may be considered as evidence of the value of the parking.

(d) **The purchase of motor vehicle parking services for resale to others.** A person who is registered for purposes of the Sales and Use Taxes Act as a provider of motor vehicle parking services may issue a resale certificate to other such providers only if the parking services will be resold and tax collected upon such sales. For example, if the person is the lessee of 50 spaces in a parking garage and will sell motor vehicle parking services for 45 of those spaces, by means of monthly parking permits, to 45 of its employees and use five of those spaces for free parking for its customers, then the person may lease the 45 spaces on a resale basis (as the person is making taxable retail sales of motor vehicle parking services with respect thereto), but shall pay tax on its purchase of motor vehicle parking services with respect to the remaining five spaces.

(e) **Purchases by motor vehicle parking service providers.** Because parking service providers are considered the consumers of tangible personal property that they use in rendering such services, sales to a parking service provider of such property are retail sales and are taxable.

(f) **Where motor vehicle parking services are deemed to be rendered.** Motor vehicle parking services are deemed to be rendered where the parking lot is located. If the parking lot is within Connecticut, the sale of motor vehicle parking services shall be taxable, notwithstanding the fact that the materials consumed in rendering such services were purchased outside Connecticut, the contract for services was negotiated or executed outside Connecticut, the bill or invoice for such services is mailed to or from an address outside Connecticut, or the service provider is not otherwise engaged in business in this state, as the term is defined in section 12-407(15) of the general statutes.

(Adopted effective April 7, 1999)