

By the Judgement of 6 June 2019 No.22-II the Constitutional Court of the Russian Federation appraised constitutionality of Article 346⁴³, Section 8, Subsection 3, Article 346⁴⁷ and Article 346⁴⁸, Section 1 of the Tax Code of the Russian Federation and provisions of the Law of the Murmansk Oblast “On the Patent System of Taxation in the Territory of the Murmansk Oblast”.

The challenged provisions were subject to consideration in so far as on their basis the issue of determining the number of separate objects (areas), assigned for determining the amount of potential annual income to be obtained when individual entrepreneurs apply the patent taxation system in case of renting premises (areas) as parts of the object specified by the taxpayer in the application for a patent, - is decided.

The Constitutional Court recognised the challenged interrelated provisions of the Tax Code of the Russian Federation, granting the constituent entities of the Russian Federation the authority to set the amount of potential annual income to be received by an individual entrepreneur in relation to rental activities for premises - not in contradiction with the Constitution of the Russian Federation, since they imply the need to use for this goal such characteristics of isolated objects (areas) that actually affect the possible economic result from renting thereof and do not imply determining the number of separate objects (areas) solely on the basis of the number of rent agreements concluded by the taxpayer, without taking into account the area of the rented premises.

The challenged provisions of the said Law of the Murmansk Oblast are recognised not in compliance with the Constitution of the Russian Federation to the extent that they do not provide legal certainty regarding the object of taxation and the tax base with respect to the patent taxation system and, as a result, do not provide the economic justification for tax collection when the system of taxation in the case of renting premises (areas) as parts of the object specified by a taxpayer in the application for a patent is applied by individual entrepreneurs

Until appropriate legislative changes are made in determining the number of separate objects (areas) for the purpose of determining the amount of potential annual income to be obtained when individual entrepreneurs apply the patent taxation system in connection with the lease of premises belonging to them, in the territory of the Murmansk Oblast should be used the number of immovable property objects specified by the taxpayer in the application for the grant of a patent.