

Car expenditure: cars put at the disposal of third parties

Car expenditure is only partly tax deductible. In a new circular letter the tax authorities has adapted the rules applicable to cars which are put at the disposal of third parties, when this free disposal is a benefit in kind in hands of the third beneficiary. In other words: the new rules apply to cars put at the disposal of an employee or a director.

Deductibility of cars expenditure

Car expenditure is not fully deductible as professional expenditure.

For *personal tax purposes* the deductibility is limited to 75% of the costs. For certain vehicles (e.g. taxi's) and certain costs (e.g. mobile phone and financial costs are 100% deductible, travel between home and work is deductible at 0,15€/km) other rules apply. Deductibility for the costs of the private use of a car is excluded.

For *company tax purposes* the deductibility of these costs is limited in function of the CO₂-emission. The deductibility varies between 100% for cars with a low emission and 50% for more polluting cars (with a difference between petrol and diesel engines). For vehicles without any CO₂-emission the deduction amounts to 120%. Fuel costs fall outside the scope of these rules and are always 75% deductible.

Car put at the disposal of a third party

A company can put cars at the disposal of a third party, e.g. a director or an employee, for whom the free use of the car is a taxable benefit in kind. As from the beginning of 2012 the calculation of this benefit in kind is made with the following formula:

catalogue value x CO₂-factor x age correction x 6/7

Danger for double taxation

A danger for double taxation occurs because on one hand the deduction of car expenditure is limited and on the other hand the free use leads to taxation in the hands of the beneficiary.

That is why the part of the amount which is taxable as benefit in kind with the employee/director is not considered as car expenditure. This part of the costs is not subject to the deduction limitation.

This rule only applies to the extent that the benefit in kind is reported in the personal tax return of the person having the use of the car.

What does this practically mean?

For *personal tax purposes* the benefit in kind can be deducted from the total of the costs relating to the vehicle. The result are car costs which are deductible for 75%, the part which equals the benefit in kind is other professional expenditure (employee costs) and is fully deductible.

Example

Jan has 1.500€ car costs, for a car which is put at the disposal of his employee Piet. The taxable benefit in kind for Piet calculated with the formula amounts to 500€.

Jan can deduct the costs as follows:

- Car costs: $1.500 - 500 = 1.000$ à 75% (deduction limitation) = 750€
- Other costs: 500€ (value of the benefit in kind) à 100% = 500€
- Total deductible: 1.250€

Note: if the 1.500 would be fully subject to the deduction limitation, the total deductible amount would only be 1.125€.

For *company tax purposes* it works in a similar way, but a distinction has to be made between fuel costs (always 75% deductible) and other car costs (subject to the deduction limitation in function of the CO₂-emission). The rest of the rules are the same: part of the benefit in kind: no deduction limitation; remaining amount: subject to the deduction limitation.

Example

BVBA Vandeveldel has 6.000€ car expenditure, for a car which is put at the disposal of director Karel. The taxable benefit in kind based on the formula amounts to 1.500€. The costs can be split up in fuel costs (2.000€) and other 'car costs' (4.000€). The benefit in kind is split up in the same way and applies to the fuel costs (500€) and other 'car costs' (1.000€). Based on the emission of the car the deduction limitation is 60%.

The company can deduct the following costs:

For the fuel costs

- Fuel costs: $2.000 - 500 = 1.500$ € à 75% (deduction limitation for fuel costs) = 1.125€
- Other costs: 500€ (value of the benefit in kind) à 100% = 500€
- Total: 1.625€

For the other costs of the car (purchase, insurance, maintenance)

- Car costs: $4.000 - 1.000 = 3.000$ à 60% (limitation in function of emission) = 1.800€
- Other costs: 1.000€ (value of the benefit in kind) à 100% = 1.000€
- Total: 2.800€

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As from when?

These new rules are applicable retroactively as from 1 January 2012 and therefore still be applied for the past.