



VAT adjustment private car

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Introduction

Regarding the VAT adjustment private car have been significant developments in recent years which we will explain in this newsletter.

If a company car is also used for private, a VAT adjustment should be made for private use. As of July 1, 2011, the legislation to establish substantially amended determine the amount of the VAT adjustment. The reason for this change was a statement of Haarlem District Court of 1 June 2011. The court ruled that no distinction should be made to the VAT adjustment between environmentally and -onvriendelijke cars. This meant that all cars should be connected to the most favorable rate used for the addition of the wage and income tax.

Amsterdam Court upheld the ruling of Court of Haarlem. In 2013, the Supreme Court, however gecasseerd the judgments of Court of Haarlem and Amsterdam Court, because the Supreme Court brief was not a violation of the principle of equality. On this basis, the tax authorities requesting the appeals filed in the past against the

VAT adjustment for the period before
July 1, 2011 to withdraw.

We suggest, however, that with respect to the period still running procedures before July 1, 2011. We therefore advise you not simply to agree to a settlement or withdrawal of objections sent. Should you have any questions, please feel free to contact us.

For the VAT correction by July 1, 2011 no longer a distinction between environmentally and -onvriendelijke cars.

In addition, the pre-existing band is with the addition in the income tax wage and released. The BUA is not applicable to private use of a car.

In this newsletter we will discuss the latest regulations. Here we will explain the new regulations include by way of example. We also inform you about the current state of affairs with regard to the outstanding test procedures. The Supreme Court ruled on April 21, 2017, when the use of the flat-rate system has meant that the employer has paid then calculate the effects of a private far more tax (actual) expenditure, the entrepreneur insofar entitled to a refund VAT. The employer must provide information about the extent of private use. We emphasize that this newsletter is only for the VAT adjustment. These regulations do not concern the addition of the wage and income tax.



Private use car

When amending the regulations by July 1, 2011, it is very important to take into account the fact that commuting for VAT also is considered private. Under the old rules, this was because of the connection with the addition of the wage and income tax in most cases not. This under the new regulations have frequently a VAT adjustment for private use are indicated. This example is the case of drivers who have a "Declaration no private use". Obviously, it is not necessary to provide a VAT adjustment to where a car is used exclusively for business. This is particularly the case if the car on the matter remains making commuting is not possible.

If a car for both VAT taxable and VAT exempt supplies is used, does the VAT adjustment to be applied proportionally. Thus, if for example, for 50% conversion is made up of VAT-loaded turnover and 50% tax-exempt turnover, then only needs 50% of the VAT adjustment to be indicated. This also has the consequence that only 50% of the tax on vehicle charges can be deducted.

1. commuting

Under commuting according to the Secretary of State is to be understood to mean:

Example: The travels of a service to the customers' addresses will not qualify as commuting.

"The (back and / or return) travel from the place of residence to under a contract for the provision of labor agreed fixed location (s) where (one or more days) performs his duties."

Example: A freelancer who drives daily from his home in Utrecht to the office of his company in Amsterdam.

If an agreement as referred to above is not closed, all qualifying travel from the place of residence to a business address of economic and commuting.

Example: The travels of a construction worker at the site are not commuting rule, unless the site as a permanent workshop agreed (eg long-term projects, or temporary project basis).

Travel to places other than the fixed locations or business addresses referred to above are not considered as commuting.

Example: A clerk who daily from his home town of Utrecht at the office of his employer rides in Amsterdam.

2. Actual use

Of course it is just as possible to determine the VAT height adjustment under the old regulations, based on the actual private use. That's even the point, but requires the implementation of a comprehensive kilometer administration. The Supreme Court ruled that the employer must provide information about the extent of private use. Consideration may be given to the nature of the business, the business purpose for which the vehicle is used, the work in the company of the person using the car or statistics. The mileage administration is not the only evidence that is admitted for this purpose.

Example: When purchasing a car is € 5,000 VAT charged. This purchase-tax write you off for VAT adjustment in five years, or € 1,000 per year. The remaining costs (maintenance, fuel, etc.) in a year to € 3,000 VAT charged. The total that year tax attributable is € 4,000 (€ 1,000 + € 3.000). The employee total

50,000 kilometers driven in the year, which 30,000 commuter kilometers, 10,000 kilometers and 10,000 corporate private kilometers. For the VAT adjustment car is thus 80% private use ((30,000 km + 10.000 km) /

50,000 km).

The VAT adjustment amounts to € 3,200 (80% of € 4,000).

3. Only business use and commuting

Instead of actually tracking the frequency may also be based on a fixed number of 214 days per calendar year. This number include all account of occasional teleworking, illness, vacation, sabbatical leave and compassionate leave. If the rider is working part time or employment begins or ends are taken in the course of the calendar year, the number of 214 days should be in proportion to the part-time percentage.

Example: A van is used daily by an employee commuting.

The commuting distance is 100 km per day, or 21,400 km (100 km x 214 days) per year. The business use is that year a total of 30,000 km. The total tax on car expenses relating to that year amounted to € 4,000. The amount of the VAT adjustment is therefore € 1,665 (21,400 km / 51,400 km x € 4,000).

4. Package

The Minister has approved that, if no compensation is paid for the private use of a vehicle, the amount of the VAT compensation may be determined using a standard calculation. The VAT adjustment amounts in such cases 2.7% of the list price (including VAT and bpm) on the car during the first year of use in the enterprise and the four subsequent years. The approval can otherwise only be applied if the administration can not be reduced much private use has occurred

(Eg if there is no mileage records available at the company). If the vehicle has been in use only part of the year, the VAT correction should be calculated pro rata.

Example: The list price of a car is € 30,000, so the VAT adjustment amounts to € 810 ($2.7\% \times € 30,000$), irrespective of the actual private use.

At partly VAT exempt supplies value added tax on vehicle cost can exempt performance is attributable not as for tax deductible to the VAT. This also has the result that the fixed rate of 2.7% of the list is thus reduced proportionately. This means that in the performance of 50% tax-exempt performance, no flat rate of 2.7%, but can be applied of 1.35%.

The Secretary of State has also adopted the VAT payable may be given to the private car in the last VAT return for the calendar year or the financial year, provided that the period does not exceed one year.

For vehicles that have been used for five years by the relevant Director / employer in the company (including the year of commissioning) and vehicles purchased with purchasing tax is not deductible (for example because the vehicle was purchased under the margin scheme) , has been approved in that a fixed amount of 1.5% of the catalog (including VAT and bpm) may be used. This approval takes effect retroactively from July 1, 2011.

It is possible supplementation in order to serve the paid by 2015 VAT adjustment of 2.7% partially returned to ask.

Example: A car is already six years used in the enterprise. The car's list price is € 30,000, the VAT adjustment amounts to € 450 ($1.5\% \times € 30,000$).

If a car is also used for VAT exempt supplies after five years, the VAT adjustment does even then only in proportion to be declared. So as an entrepreneur for 50% VAT charge and 50% tax-exempt provided services, you only need 50% of the flat rate of 1.5% VAT adjustment must be provided. The tax expense is after all, only 50% deductible. For completeness, we note that committed to applying the fixed rate of 2.7% mean that the VAT payment is higher than the tax deducted in that year. This is due to the amortization of the purchase-tax is included in the fixed amount of 2.7%. These are 1 / 5th attributed by purchasing tax each year. It is not allowed to levy VAT to maximize the deduction of VAT charged.

5. Own contribution

If the driver of a car pays a contribution, then the entrepreneur must pay VAT in principle from the received contribution.

However, if the contribution is lower than the "normal value" (we will explain this concept referred to), it must carry out the entrepreneur in principle the normal VAT value. We note that the normal value is only important for the VAT adjustment. It is not necessary that the driver pays a contribution of the normal value. For situations where the contribution is less than the normal value, the Minister has approved that VAT has to be paid on the normal value, but that can be connected to the flat-rate system as described in

Section 4 "Package".

The package should not be used as the VAT from its own contribution amounts to more than what would have been due under the package.

For situations in which the contribution is higher than the normal value, must always be paid VAT from its own contribution.

To determine whether the contribution is higher or lower than the normal value, will first have to be determined normal value.

The Secretary of State has indicated that under the normal value must be understood:

"In brief, applying the normal value that is determined to be the amount the entrepreneur 'in the market' would have to pay to enter use the car for private purposes (for example) a worker."

Thus, the normal value is based on market price. Because such market price in practice is not always adopted the Tax goes into these cases agree that is assumed by the employer costs (including depreciation expenses), provided such costs attributable are in private use.

In our opinion, the explanation of the State does not provide practical assistance if, for example, mileage records exist. There are no clear data on the extent of private use, making it impossible to determine which part of the costs of private use is attributable. In such situations, to determine the extent of private use in our opinion, for example, be sought with the report "View business (car) mobility" Ecoryn on 13 May 2011. This concluded that cars cause an average of 25 % are used for business and the remaining 75% private (including commuting). On this basis, the normal value would be 75% of the real costs per year (the purchase cost should be spread over five years).

We emphasize that the Secretary of State gave no further guidance on the determination of the normal value of the tax authorities may consider that this (practical) calculation is incorrect. However, this method provides in our view a simple and practical starting point to approach the normal value.

Example kilometers with administration:

An employee is a company car worth € 30,000. For this, the employee pays a contribution of €

1,800 per year (€ 150 per month). In 2019 drives the employee car 30,000 commuter kilometers, 10,000 kilometers and business

10 000 private kilometers. The total cost of the car per year (including depreciation) € 12,000.

The example uses the car for 80% private. Therefore € 9,600

(80% x € 12,000) attributable to private use. Thus, the normal value is € 9,600. Since the contribution is lower (€

1800), the entrepreneur will have to pay 21% tax on the normal value. In other words, the correction amounts to € 2,016 (21% x € 9,600). If the employee pays a contribution of € 11,700 per year, the contribution is higher than the normal value. In that case, to be paid 21% tax from the contribution. Or the correction amounts for 2019 € 2,030 (21/121 x € 11,700).

Example kilometers without administration:

An employee is a company car worth € 30,000. For this, the employee pays a contribution of € 1,800 per year (€ 150 per month). The total cost of the car per year (including depreciation) € 12,000.

Since it is not known how much the car is used for private use, can be set to private on the basis of the report by Ecorys at 75%. The costs attributable to the private use in 2019 amount to € 9,000 (75% of € 12,000). The normal value is €

9000. The contribution (€ 1,800) is lower than the normal value. Therefore, it must be paid VAT on the normal value, or € 1,890 (21% x € 9,000). It can also be chosen for the flat-rate calculation, after all, it is not known how the car is used for private use. In that case, it is € 810 (2.7% x € 30,000) as a correction value added tax owed.

If the employee pays a contribution of € 11,700, the contribution is higher than the normal value. In that case, to be paid 21% tax from the contribution. or €

2030 (21/121 x € 11,700).

"Based on the above, we expect that the normal value will often exceed the contribution paid, even if the contribution is equal to the addition of the wage / income tax (this is common in DGA's)."

6. Arrangement for car (rental) companies

If a plurality of (demonstration) passenger cars to one or more riders are made available, The Secretary of State has been approved that the (non-weighted) average list of these cars as a basis may serve for the calculation of the amount of the VAT correction. It is an unweighted average, so no account should be taken of the time that cars were available. Of course, the VAT correction may also be calculated on the basis of the actual private use.

Example: A car dealer sets during the year in two of its three employees

demonstration cars available for private use. The cars have list prices of € 30,000, € 40,000 and € 50,000. Employees driving variable in the cars. The (unweighted) average list price is € 40,000 $((€ 30,000 + € 40,000 + € 50,000) / 3)$. The amount of the VAT adjustment amounts to € 1,080 per employee $(2.7\% \times € 40,000)$.

7. Auto purchased without deduction of VAT

It is possible that in the acquisition of an autogenously VAT could be deducted, for example because it a margin-car. For these cars, the Minister approved all the VAT on costs related to the car can be deducted (maintenance, fuel, etc.), based on the provision of full VAT taxable transactions during the year. In the latest VAT return of the year, shall then send a VAT correction to be specified at the level of

1.5% of the catalog (including VAT and bpm) of the car.

If the car also VAT exempt supplies is used, the VAT adjustment need only proportionally be indicated. So as an entrepreneur for 50% VAT charge and 50% tax-exempt provided services, you only need 50% of the total price of

1.5% as a VAT adjustment to be indicated. The VAT on car expenses is deductible only for 50%.

Example: An entrepreneur has bought a car using the margin scheme (list price € 50,000). The fuel and maintenance costs are paid by the company. The entrepreneur can make this tax deduction. In the last VAT return for the year the employer must indicate a VAT adjustment of € 750 $(1.5\% \times € 50,000)$.

8. IB-entrepreneurs / sole proprietors

Besides the VAT adjustment which must be specified for cars used by employees, should also be given a VAT adjustment for cars that are used by the entrepreneur himself. It could also be connected to July 2011 with the addition of the wage and income tax. This scheme is also lapsed. For the VAT adjustment for cars that are used by entrepreneurs same rules now apply as for the VAT adjustment for cars used by employees.

Contact

If you have questions regarding this newsletter, please do not hesitate to take contact to your contact at Baker Tilly or department VAT & Customs Advisory.

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