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# Will the Mobility Allowance, also known as “Cash for Car”, be a valid alternative for the company car?

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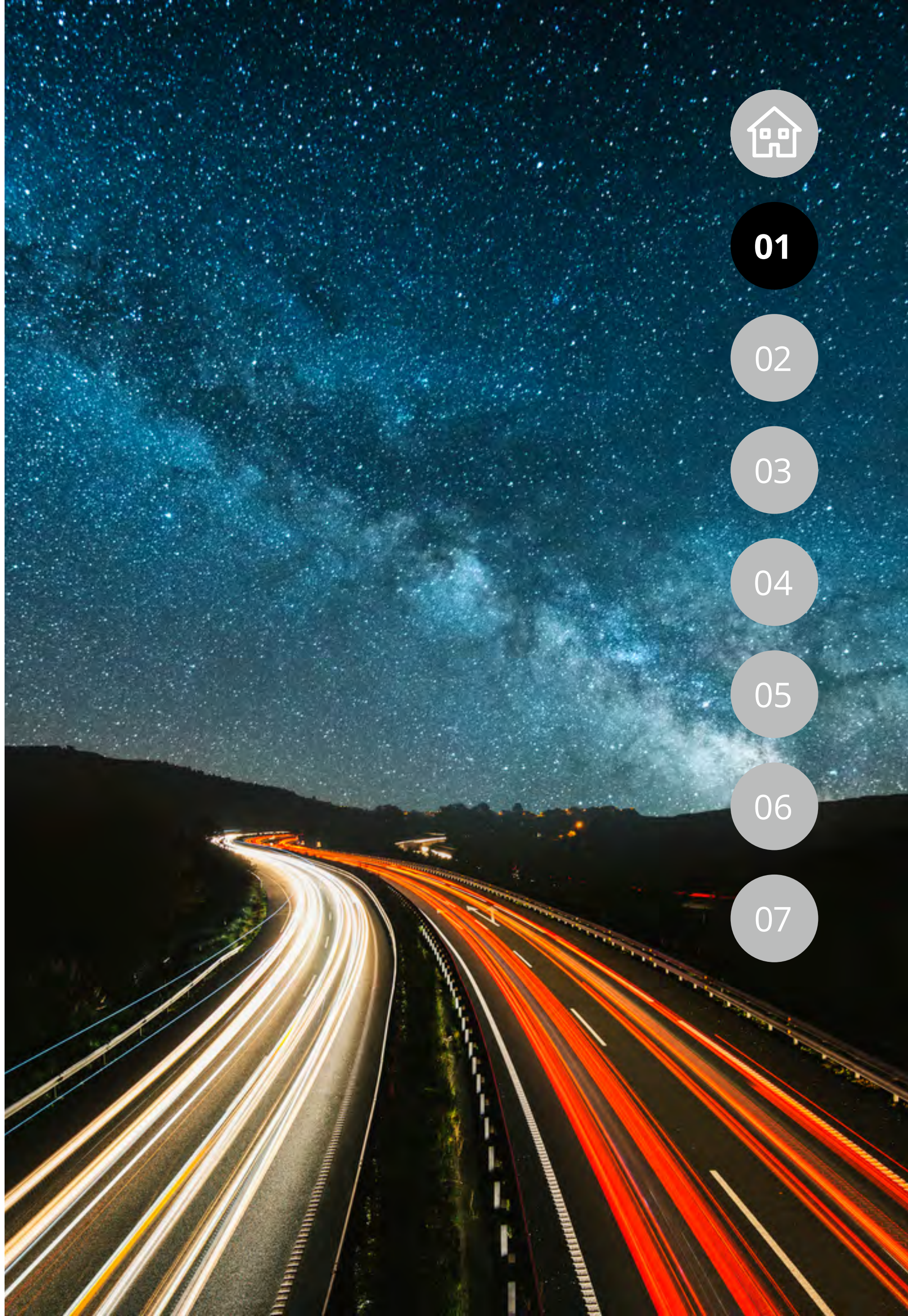
# Introduction

The government set itself a very ambitious goal to create a shift in mobility behaviour by providing an attractive alternative for the current company car schemes, adding that such alternative would need to be cost neutral for all parties involved.

On 29 September the Council of Ministers approved a draft bill introducing the “Cash for Car” measure. Today[1], more details are available on the scope and impact of the measure, which covers social security legislation, personal income tax, labour law aspects and corporate tax updates. This allows us to make a first assessment to evaluate if the Mobility Allowance indeed strikes the right balance between the interest of the employee and employer. Will the measure create a change in mobility behaviour, while at the same time respecting budget neutrality?

1 This article is based on the information currently available. The pre-draft bill, after review by the Council of State, still needs to receive the Council of Ministers’ final approval and go through the legislative process. Hence, the information in this article may be subject to change. This article contains general information only, and is not to be considered as professional advice or a service. Before making any decision or taking any action that may affect your finances or your business, please consult a qualified professional adviser.



# The Mobility Allowance



The Car for Cash measures introduces the possibility to opt for a cash Mobility Allowance in lieu of the current company car. The Mobility Allowance will be based on the catalogue value of the company car and is computed as:

[20% x 6/7 x the catalogue value of the car]

The Mobility Allowance increases by 20% when the employer also, partially, intervenes in the fuel cost of the private use of the car by the employee, e.g. via a fuel card. Any personal net contribution for the car, due by the employee is deducted from the Mobility Allowance. These two additional factors need to be taken into account when determining the final amount of the Mobility Allowance.

[20% x 6/7 x the catalogue value of the car] + 20% – personal net contribution

The catalogue value is determined in the same way as the taxable benefit in kind for putting the company car at disposal i.e. the list price of the car including options and VAT, but excluding discounts. It remains to be seen if this is the value at the moment the car was purchased or the value at the moment the car is handed in for the Mobility Allowance (i.e. the value taking into account the same age coefficient used today to determine the taxable benefit in kind.

**Example**

Let us take the example of a company car with a catalogue value of €26,550, a $CO_2$ emission of 97 g/km and a monthly lease price of €425.
If an employee exchanges this car, the gross annual Mobility Allowance will amount to €4,551.43. If his employer also provides a fuel card, the gross annual Mobility Allowance increases by 20% to €5,461.71.

If the employee pays a personal net contribution of €30 per month for the company car, the gross annual Mobility Allowance is reduced to €5,101.71.

**Evolution over time**

The amount of the gross Mobility Allowance would be determined at the time of the exchange of the company car and would remain fixed as from that moment forward. However, the Mobility Allowance, would be subject to an automatic indexation on 1 January of each calendar year. This new index mechanism would be included in a Royal Decree and would be based on the evolution of the cost of transportation.

**Timing**

The government aims to implement this new measure as from 1 January, 2018.

# Impact on the employee

Similar as for a company car, the Mobility Allowance is exempt from employee social security contributions.

The Mobility Allowance itself will not be subject to income taxes, but a lump sum taxable benefit would be determined based on the catalogue value of the car.

Any personal net contribution paid by the employee for the car, can again be deducted from the taxable benefit.

[4% x 6/7 x the catalogue value of the car] – personal net contribution

Contrary to the formula to determine the amount of the gross Mobility Allowance, the taxable benefit would not increase if the employer intervened in the fuel cost for the private use of the car.

Unlike the case for company cars today, no minimum taxable benefit in kind would be foreseen. The Mobility Allowance thus results in a lower taxable benefit in kind for the employee. It also does not factor in the $CO_2$ emission of the swapped car, increasing the net impact for the employee if a car that pollutes more is exchanged (see figure 1).

The Mobility Allowance starts from the assumption that with the additional net in hand the employee will freely organise his own means of transportation. Due to that underlying reasoning, any tax and social security incentive attached to alternative mobility solutions (e.g. public transport, bike, etc.) would no longer be available for the employees opting for the Mobility Allowance and not yet benefiting from any alternative mobility solutions in the 3 months prior to the exchange.

Figure 1

**catalogue value of € 26 550**

| | No fuel card | With fuel card | With fuel card & Personal contribution (€50/month) |
|---|---|---|---|
| **Gross Mobility Allowance** | **€4,551** | **€5,462** | **€4,862** |
| Social security contributions | €0 | €0 | €0 |
| Taxable basis | €910 | €910 | €310 |
| (Less) Taxes (marginal tax rate of 53,50%) | -€487 | -€487 | -€166 |
| **Net mobility allowance** | **€4,064** | **€4,975** | **€4,696** |
| (Add) saving on personal income tax on company car (marginal tax rate of 53,50%) | +€791 | +€791 | +€470 |
| **Additional net in hand** | **€4,856** | **€5,766** | **€5,166** |

# Tax implications for the employer

To safeguard the cost neutrality for the employer, the Mobility Allowance would not be subject to regular employer social security charges, but would be subject to the same special solidarity surcharge (so-called $CO_2$ tax) applicable to company cars today. The amount of the $CO_2$ tax due would be equal to the amount due on the swapped company car in the month prior to the swap.

For corporate income tax purposes, the percentage of deductibility of the Mobility Allowance would be based on that of the swapped car and would thus initially be linked to the $CO_2$ emission of the exchanged car. However, the tax deductibility is set at minimum 75% and maximum 95% at start of the measure.

The ambition would be to make the Mobility Allowance ultimately 75% deductible for corporate income tax purposes. To reach that 75% deductibility, a grandfathering regime would be installed for those cars exchanged with a higher deductibility percentage. For those cars, the Mobility Allowance will be deductible up to a maximum of 95%, with an annual decrease with 10% until the minimum deductibility of 75% is reached (maximum after 3 years).

In addition, and similar to what we know for company cars today, an additional 17% (car exchanged without fuel card) or 40% (car exchanged with fuel cost intervention) of the annual taxable benefit would have to be added to the disallowed expenses. This disallowed expense would follow the same rules as for company cars.

# Conditions and voluntary nature

The Mobility Allowance would be a voluntary scheme for the employer and the employee. Both would be able to freely opt in or out, but the initial initiative would remain with the employer. The following 3-step process would need to be followed:

1. The employer chooses to offer the Mobility Allowance to all or a specific group of employees (subject to the normal anti-discrimination rules)

2. If the employer implements the Mobility Allowance scheme, the qualifying employee has the choice to request to exchange the company car for cash

3. After an employee has made the request, the employer decides to agree or not with the exchange...

Both the request by the employee and the motivated decision by the employer would need to be made in writing.

To avoid abuse of the Mobility Allowance, a number of conditions would need to be met to benefit from the measure.

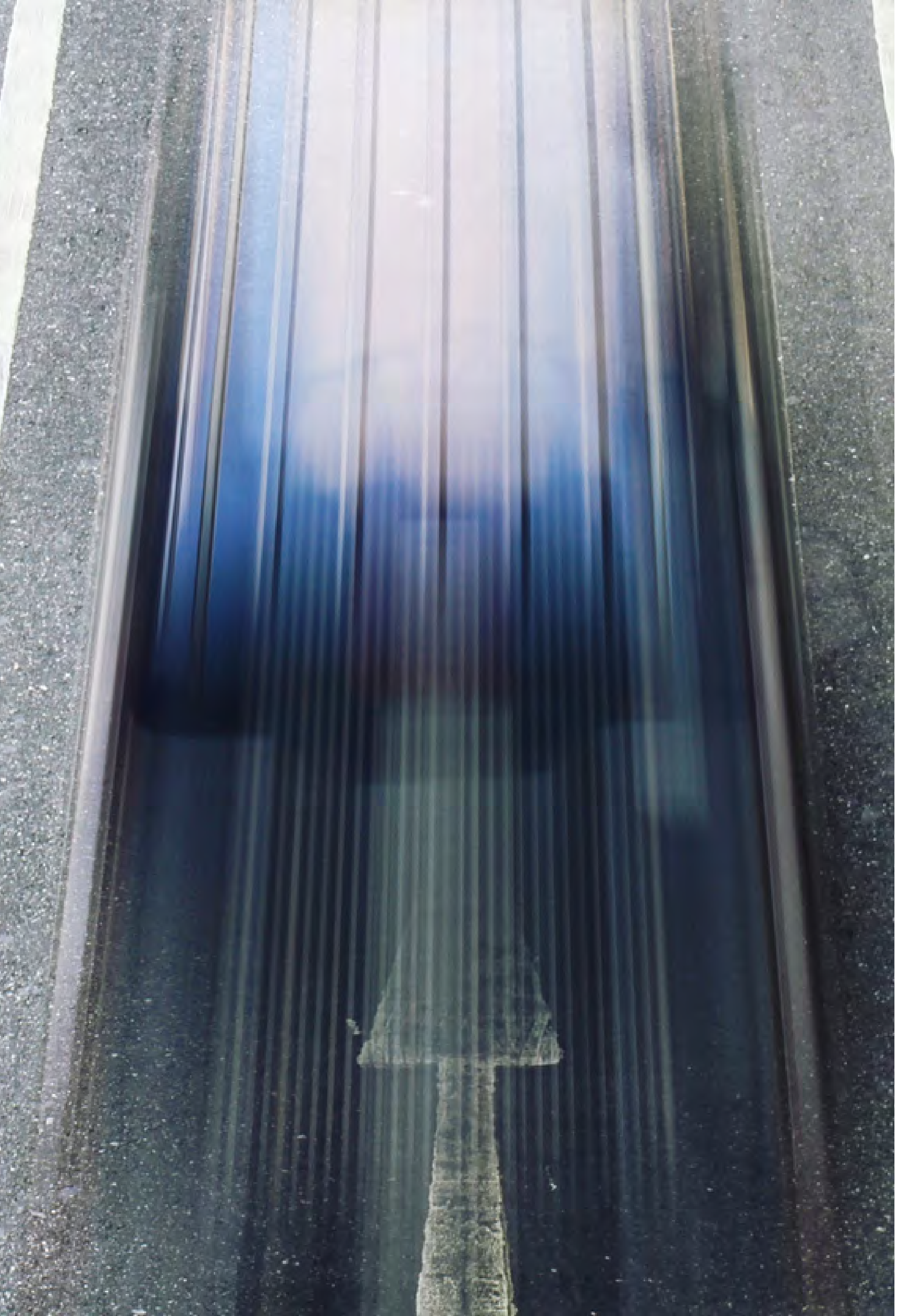
**Employer**

company cars would need to be offered to 1 or more employees during an uninterrupted period of at least 36 months before the company can decide to offer the Mobility Allowance to its employees.

**Employee**

- At the moment of requesting to exchange his car for cash, the employee must have had a company car during an uninterrupted period of at least 3 months; AND
- The employee must have had a company car at his disposal for at least 12 months during the last 36 months prior to the request.

In addition to the above conditions, the law would include a number of anti-abuse measures and specific rules for a set of specific situations (e.g. start-up companies, changing employers, salary sacrifice cars, etc.).



# Labour law impact

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The normal hierarchy of legal sources would apply to implement the Mobility Allowance. The Mobility Allowance can be implemented via a collective labour agreement, an individual labour agreement, a policy, or even informally.

However, all employees would have to be notified upfront if the employer wants to include specific conditions in the Mobility Allowance policy. One of these conditions could for instance be that a request for cash for car can only be made at the end of the company car lease contract.

The Mobility Allowance would also not qualify as “cash salary”. As a result, the allowance would not be taken into account in the calculation of the 13th month, vacation pay, pension built-up, guaranteed salary, etc. The Mobility Allowance would also be assimilated with a company car for the determination of the dismissal allowance, not the Mobility Allowance itself would be taken into account, but the equivalent benefit, as is done today for a company car.

# Bringing it all together



The Mobility Allowance in its current state seems to have a number of advantages and an interesting net outcome for at least a part of the employees who qualify. As such, it deserves further analysis. With the initial initiative on potential implementation to reside with the employer, the main objectives will be to define if the measure is indeed cost neutral, its impact on the overall talent agenda and operational effectiveness.

## Cost neutrality to the employer

- The direct cost impact of the Mobility Allowance needs to be compared to the actual overall net cost of a company car (figure 2 & 3).
  The actual cost of a company car is variable and can be very different and is subject to a number of variables such as the overall mileage, size of fleet and related reductions in price, current and planned average $CO_2$ emission, corporate tax deductibility, actual fuel consumption, etc..
  The Mobility Allowance on the other hand is solely based on the catalogue value of the swapped car.
- Within a classic company car scheme an employer typically manages the cost evolution by adjusting the fleet's composition to anticipate or react to market evolutions such as $CO_2$ emission, size or cost of cars

Figure 2

Net employer cost of a company car vs. Net employer cost of the Mobility Allowance: variation in lease kms & related fuel consumption

| | |
|---|---|
| Lease price/month (incl. VAT) | €425-€490 |
| Catalogue value (incl. VAT) | €26,550 |
| $CO_2$-emission (g/km) | 97 |
| Fuel type | Diesel |
| Monthly fuel budget | €75 - €150 |

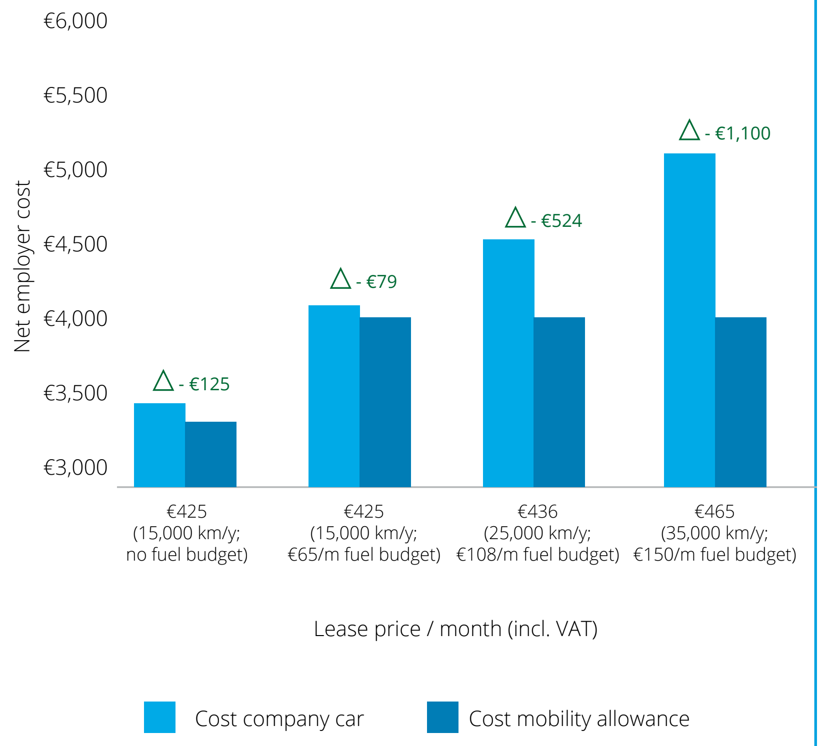

Figure 3

Net employer cost of a company car vs. Net employer cost of the Mobility Allowance: variation in lease price conditions (% of discount)

| | |
|---|---|
| Lease price/month (incl. VAT) | €425-€340 |
| Catalogue value (incl. VAT) | €26,550 |
| $CO_2$-emission (g/km) | 97 |
| Fuel type | Diesel |
| Monthly fuel budget | €65 |


provided, specific pricing schemes etc. When choosing for the Mobility Allowance, the cost of the allowance is fixed and will be subject to yearly cost increase based on the indexation.

- Introducing the Mobility Allowance in its current state will likely also require an update of some of the current business processes and systems. When offering the Mobility Allowance, it can be expected that only a part of the eligible population will opt to exchange their company car. An employer will need to get organised to be able to keep a record of historical company car related information, choices, etc. With only part of the population opting for the Mobility Allowance, the cost of the remaining company cars (average cost per car) could also increase.

It will be key to assess upfront the impact of the operational cost of having a company car and Mobility Allowance programme running simultaneously. Overall, it can also be expected that the majority of the employers, when introducing the Mobility Allowance, will do so under certain conditions to align the exchange of the company car with the end of lease (or period of depreciation) to avoid the cost of early termination.

## The employer's talent agenda

Mobility programmes are increasingly part of an employer's talent agenda. Mobility remains a very personal experience, with different factors playing an important role in an employee's decision (e.g. commuting mileage, overall mileage, easy access to public transport, professional requirements, etc.).

Exchanging a company car that is more polluting in comparison will result in a higher net impact for the employee due to the more favourable tax treatment of the Mobility Allowance. Despite the potential interesting net outcome for an employee, it can be expected that whether or not the Mobility Allowance is indeed beneficial for the employee will be highly situational.

The fixed and uniform character of the Mobility Allowance as currently proposed, creates some additional hurdles for the employer to overcome if they would like to introduce the Mobility Allowance to have their employees move away from the company car.

- The scheme is only open to employees who already have a company car today. New hires who were not eligible for a company car before (e.g. school leavers, no company car attached to previous function, etc.) will not be able to immediately opt for the Mobility Allowance. An employer will always need to foresee alternative mobility solutions (if not yet existing) to also facilitate alternative means of transportation for those groups that fall outside the scope of the Mobility Allowance.
- Having simultaneous mobility programmes in place also seems a natural outcome of introducing the Mobility Allowance knowing that tax and social security incentives attached to other means of transportation are no longer available to an employee switching from a company car to the Mobility Allowance (except for those employees who already benefited from other means of transportation before the exchange).
- The Mobility Allowance does not evolve (up- or downwards) with an employee's career but is fixed at the moment of exchange of the company car. In addition to the operational challenges, existing reward packages (potentially attached to an existing job framework) will need to be adjusted to this potential difference in treatment between employees with and without a company car to absorb indirect effects on career decisions such as promotions.

### Realistic to implement Cash for Car on 1 January, 2018?

The draft bill still needs to go through the legislative process and a Royal Decree introducing amongst other the index mechanism still needs to be drafted and voted, following which employers will need to assess the financial impact of the Mobility Allowance and its impact on existing mobility programmes and the talent agenda. Finally, the employer will also need to be able to timely update HR, payroll and other systems to accommodate the practical processing of the new Mobility Allowance.

Implementing the Mobility Allowance as of its anticipated entry into force on 1 January, 2018 therefore seems ambitious.

It will be key to assess the impact of the operational cost of having a company car and Mobility Allowance program running next to each other upfront.