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Company car / Own car

Tax 2017

Tax

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Making the choice of optimum car solutions is a complicated matter which requires profound considerations and analyses.

The big issue is whether it is an advantage to have a company car at one's disposal or whether it will be better to use one's own car for business purposes with the possibility of mileage allowance. A precise answer requires considerable calculations and depends on thorough knowledge of the rules and practices of taxation of company car as well as the conditions for paying out a tax-free mileage allowance when using one's own car for business purposes.

Deloitte has developed an easily accessible calculation model which on the basis of a few parameters gives a very precise indication of which choice will be the best in each concrete situation. The model can be downloaded as an app from www.deloitte.dk and is also described in section 4.

This publication contains a brief introduction to rules and practice for taxation of free company car and payment of tax-free mileage allowance applying as of 1 January 2017.

1. Company car

1.1 Who are comprised

Taxation of company car is triggered when the car is made available to the employee by an employer for private purposes. Therefore, the rules apply first of all to employees. A cohabitant or spouse's use of the company car does not trigger additional taxation. It is only the employee who can have a company car at his/her disposal and consequently be subject to taxation.

The rules also apply to individuals who are members of or assistants for boards, committees, commissions, councils etc. and for self-employed who have chosen to apply the rules of the Business Tax Scheme.

1.2 Calculation basis

Company car is a taxable benefit and the value is calculated as a standard percentage of the car's calculation basis. It is the mere right of disposal that is taxed. The extent of private use is not important.

The calculation basis depends on whether the car is more or less than 36 months old at the time when the employer acquires the car (conclusion of binding purchase, rental or leasing agreement).

The calculation basis does not change for a company car (from the set of rules for new cars to the set of rules for used cars) – unless the car is actually traded (changes owner) at a time that is more than 36 months after its first registration.

Purchase of a company car upon the expiry of the leasing period is considered change of ownership just like a sale-and-lease-back agreement. If a company car is handed over to an affiliated company, for instance as part of a restructuring, it can be considered an actual change of ownership, whereas sale and repurchasing of the same car will not be accepted for tax purposes, unless the agreement can be justified clearly for business purposes.

New cars (less than 36 months old)

The calculation basis for new cars acquired no more than 36 months after their first registration is the original price of the car as new. This is called a date rule. After the first 36 months the calculation basis is 75% of the original price of the car as new. This is called the month rule according to which the calculation basis is reduced on the basis of the age of the car by the number of months from the month of the car's first registration.

The original price

The price of the car as new is the car's price including the registration tax, VAT, costs of delivery and all usual equipment. There is a distinction between usual equipment and extra equipment pursuant to the Registration Tax Act.

Usual equipment means equipment subject to registration tax including extra equipment in e.g. cars used for campaigns, if the equipment is mounted by the manufacturer or the importer.

Pursuant to the Registration Tax Act extra equipment can be exempted from the registration tax, if the equipment is supplied and mounted by the dealer according to agreement between the dealer and the user, and the equipment is stated separately on the contract as extra equipment.

Used cars (more than 36 months old)
The calculation basis for used cars acquired more than 36 months after the first registration is the employer's purchase price including any renovation repairs (opposite maintenance expenses).

When it comes to used cars there is no distinction between usual equipment and extra equipment. The calculation basis is the total purchase price of the car.

1.3 Taxable value
The taxable value of company car is equal to:

- 25% of the first 300,000 DKK of the calculation basis.
- 20% of the amount exceeding 300,000 DKK.
- Environmental charge.

Irrespective whether the calculation basis is the price of a new car, 75% of the price of a new car or the purchase price, the calculation shall always be based on the amount of minimum 160,000 DKK.

Environmental charge
The taxable value is increased by an environmental charge. The charge is not included in the calculation basis, but is added (directly) to the taxable value.

The environmental charge comprises the annual vehicle excise duty (including special charge for diesel cars without a particle filter, but exclusive of equalizing duty for certain diesel cars and extra charge for private use) x 1.5.

What is included in the taxable value
Operational costs when using a company car are included in the taxable value, and the employer can pay these costs without the employee being taxed additionally. These costs are general operational costs, e.g. costs for petrol/diesel, insurances, vehicle excise duty as well as repairs and maintenance including drive-on products such as oil, wash, windshield fluid etc.

Costs for garage, parking space, parking charges, ferry tickets, motorway charges, bridge toll and purchase of roof rack for skies, child seat etc. are not operational costs and thus not included in the taxable value. If the employer pays such costs, they will be treated as taxable benefits which must be taxed separately.

Example:
The car is registered the first time on 20 October 2014. As from October 2017, the calculation basis is reduced, no matter whether the car is delivered later on, e.g. in November/December 2014.

DKK	2014	2017 Jan-Sep	2017 Oct-Dec
Price of a new car (the original price)	480,000	480,000	480,000
Reduction, after 36 months	-	-	-120,000
Calculation basis	480,000	480,000	360,000
25% of 300,000 DKK	75,000	75,000	75,000
20% of amounts above	36,000	36,000	12,000
+ Environmental charge (vehicle excise duty 4,500 DKK)	6,750	6,750	6,750
Taxable value per year	117,750	117,750	93,750
Taxable value per month	**9,812**	**9,812**	**7,812**

Employee's self-payment
If during the income year the employee has paid the employer – with net pay – for having the car at his/her disposal, the taxable value of company car will be reduced by an equivalent amount within the year in question. It is not important whether the self-payment is paid by instalments over the year or as a one-off payment. Payment after 31 December or to others than the employer who has provided the company car does not reduce the taxable value. Costs that the employee pays himself/herself do in principle not reduce the taxable value. However, if the employee pays for general operational costs, they can be reimbursed by the employer as an outlay according to receipts submitted, or they can be set off against the taxable value as a user charge, if the employer does not want to reimburse them, see below.

If for instance the employee pays for petrol abroad – or other general operational costs – they can be considered self-payments and thus reduce the taxable value of company car. It is, however, a condition that:

- The employee submits the original receipts to the employer.
- The employer books the amount as an operational cost and at the same time credits an equivalent amount as income in the form of self-payment in the company car accounts.

Salary conversion
It is insignificant whether a company car is included as part of the total remuneration package or the employee contributes directly to the financing by accepting a general and actual salary reduction.

A reduction of the gross/cash salary is not considered a self-payment for tax purposes, because it is not made with net pay. Consequently, taxation will take place according to the ordinary rules, and a salary reduction can neither be set off against nor reduce the tax value.

1.4 Availability
If the car is only available for private use part of the year, the tax value will be reduced by the number of months during which the car was not available to the employee. In this respect one month is a continuous 30-day period and not a calendar month. If for instance the car has been available for the period 1 January to 20 June and 10 August to 31 December, the employee must be taxed of 11/12 of its annual value, because the period with no car available is more than 30 days, but less than 60 days.

In case of an occasional loan of a company car the employee will also be taxed according to the ordinary rules. This means that an employee must be taxed for a whole year, however, a deduction for the number of whole months during which the car was not available will be granted. This means that a loan/availability period of only a few hours actually triggers taxation of the value of company car for minimum one month (1/12 of the annual value).

In case of changing cars in the middle of a calendar month taxation of both cars should in principle be triggered in the actual month. However, if both cars have not been available at the same time, it will be accepted that only the most expensive one of the cars is taxed during the actual month.

The same applies if an employee changes job in the middle of a month and has a company car available from both workplaces. In this case the first employer must calculate and tax the value of the company car for the whole month according to general terms and conditions. The new employer must also calculate the value of company car for the whole month during which the employee starts employment, but can against documentation set off the value of company car that has been reported by the previous employer.

Storage/downtime insurance
A frequently asked question is whether it is possible to avoid taxation of cars which are either put for storage or which for instance are covered by a downtime insurance. However, neither downtime insurance or dismounting and deposit of registration plates with e.g. an insurance company are sufficient to avoid taxation of a company car.

To avoid taxation of a company car it is decisive that an effective “deprivation of the availability” has taken place, and this requires in principle that the car is deregistered in CRM and the registration plates are handed over to the Danish tax authorities.

1.5 Electric cars
An electric car is in principle comprised by the general rules on taxation of company car, if the car is made available for private use. The costs for electricity for recharging the car are included and treated in the usual way as costs for petrol/diesel etc.

Electric cars have been exempted from registration tax until the end of 2015, and the calculation basis solely constitutes the acquisition price including VAT. From 2016 to 2020 there is a gradual phase-in of registration tax on electric cars.

The extemption from vehicle excise duty on electric cars will not be continued, and excise duty is due from 2016.

If the employer pays costs related to the installation of a power charger at the employee’s residence, the amount should be added to the “calculation basis”.

2. Use of own car for business purposes

If the employee uses his/her own car for business purposes, the employer can reimburse operating costs by paying out a tax-free mileage allowance.

On the contrary the employer cannot pay or reimburse actual operating costs concerning the employee's private car without tax consequences.

If the employee has other expenses for e.g. bridge tolls, ferry tickets etc. in connection with transportation for business purposes, the costs can, however, be covered by the employer as outlays according to receipts submitted. In order to have the expenses covered, it is a condition that the employee can show original receipts.

2.1 Own car

In order to obtain tax-free mileage allowance, it is a condition that the employee drives in his/her own car.

"Own car" is a car that is registered in the employee's own name. A car that is leased in one's own name (private leasing) is also considered one's own car. A car that is registered in the spouse's or the cohabitant's name is considered one's own car as long as the parties have joint finances. A car that is registered in one of the parents' name is also considered the son or daughter's own car, when it can be documented that the son or daughter is the actual owner of the car, has financed the purchase and pays the operating costs.

2.2 Transportation for business purposes

Legislation stipulates the following objective criteria for which kind of transportation is considered transportation for business purposes.

- Transportation between usual residence and a workplace for up to 60 working days within the preceding 12 months.
- Transportation between workplaces.
- Transportation within the same workplace.

This 60-day rule means that transportation will no longer be considered business-related when an employee has driven from his/her residence to a workplace for more than 60 working days within a period of 12 months. Therefore, the employee is no longer entitled to a tax-free mileage allowance.

When counting the 60 days, it is not important whether the transportation has been done by one's own car, another person's car or by public transport. The decisive factor is whether the employee has transported himself/herself between his/her residence and the specific workplace for more than 60 working days within a preceding 12-month period.

If the employee has a transport pattern that implies transportation to so many different workplaces that it is not likely that transportation between usual residence and the workplace will occur for more than 60 working days within a 12-month period, the transportation can be considered made for business purposes. There is no direct requirement to control that the rule has been complied with. The tax authorities can, however, with future effect for up to 12 months impose written orders that it should be documented that the transportation is actually business-related (e.g. by making mileage accounts).

2.3 Tax-free mileage allowance

Both Danish and foreign employers and assignors can pay out tax-free mileage allowance to the employee for transportation in his/her own car for business purposes.

For 2017 the National Assessment Council has determined these rates:

- **3.53 DKK per kilometre for the first 20,000 kilometres**
- **1.93 DKK per kilometre beyond this limit**

The total annual number of kilometres driven in the income year referred to is decisive for whether the kilometres driven justify the high or the low rate.

When the limit of 20,000 kilometres for business purposes in the individual calendar year is exceeded, the rate will be reduced. If an employee has several employers at the same time or during the year, the 20,000 kilometre limit will apply to each employer.

It is the actual number of kilometres driven during the calendar year which decides which rate to be used. The mileage allowance must thus be calculated on the basis of the rates that applied on the date of the transportation – even though the actual payout will be made in the subsequent income year/calendar year.

If the employer pays out a tax-free mileage allowance by rates that are lower than the rates stipulated by the National Assessment Council, the employee cannot deduct the differential amount between the allowance and rates.

If no allowance for transportation by one's own car for business purposes is paid out, the employee will instead be entitled to a tax deduction (according to the rules and by the rates for transportation between home and work).

If an allowance is paid out by rates that are higher than the National Assessment Council rates, the entire amount will be taxable as personal income, unless the amount is divided at the time of payout and the part of the amount that exceeds the rates is treated as salary. In this case taxes should be withheld in connection with the payout.

2.4 Set-offs

Fixed monthly or annual payouts of mileage allowance are taxable and considered salary. Mileage allowance is also taxable, if it is set off fully or partly against cash salary already agreed upon.

The tax exemption is conditioned by the employee not having compensated his/her employer in connection with payout of tax-free allowance. If concurrently with payout of allowance the employer has agreed with the employee to reduce his/her gross salary, show salary restraint or receive a lower salary at his/her employment, the allowance paid out will be taxable.

2.5 Documentation and bookkeeping

In order for the employee to receive a tax-free mileage allowance, the employer must check the number of kilometres driven.

The allowance must be settled by submitting a document containing information about:

- **The recipient's name, address and civil registration No. (CPR-number).**
- **The business purpose of the transportation.**
- **Date of the transportation.**
- **The objective of the transportation.**
- **Number of kilometres driven.**
- **Rates applied.**
- **Calculation of the mileage allowance.**

The demand on employer control procedures means that the documentation must be completed carefully and that it must contain all necessary information.

In our opinion the conditions must be considered fulfilled, if the above items can be identified through a salary/employee No. This means that if the name, CPR-number, rates and calculation are stated on the payslip, and the information about date, purpose and address etc. is registered in an IT system, the documentation requirements are considered fulfilled.

The employer must check the number of kilometres driven effectively, and therefore the person approving the payout must be able to identify the destination stated. Stating a company name or an in-house term is in principal not enough. The exact address must be stated. The voucher should be signed by the person checking them.

2.6 Reporting

Payout of tax-free mileage allowance must be reported to the tax authorities, and the employer is liable to report the amounts paid out on a month-by-month basis to eIncome in box 48.

3. Leasing

If the employer leases a car and makes it available to the employee as a company car, the employee will be tax liable according to the same rules applying for cars owned by the company. The calculation basis is determined as if the car was purchased by the employer at the time of leasing the car.

If the car is leased no more than 36 months after the car's first registration, the car will be valued on the basis of the price of a new car. If the leasing agreement has been concluded more than 36 months after the car's first registration, an estimated market value of the car at the time of concluding the agreement will be used as basis for the calculation.

3.1 Low-taxed leasing cars

Even though the rules of taxation of company cars are identical – irrespective whether the employer purchases or leases the car, it is, however, a fact that a car model with the same equipment is often taxed lower, if it is leased compared to a purchased car. This is solely due to the fact that the leasing companies (who own the car) can purchase the car at a lower price than the price at which an employer can purchase it.

In addition, the leasing companies have the possibility of only settling a proportional part of the registration duty for the period that the leasing agreement covers. This does, however, not affect the taxation basis. Proportional calculation and settlement of the registration duty are often referred to as flex leasing described in section 3.2 below.

3.2 Flex leasing
In everyday speech flex leasing is the situation where the leasing company has the possibility of settling a proportional registration duty. Very often the model is described as continuous settlement of the duty, however, this is not correct.

A very special rule makes it possible for the leasing companies only to settle a proportional part of the total registration duty. This is an exception from the ordinary rules about payment of full registration duty when the car is registered in Denmark for the first time. The registration duty is calculated in the usual way, and subsequently the leasing company is charged with a proportional part – equivalent to the leasing period. The proportional duty is, however, paid up front, and therefore the payment is not continuous.

Only leasing companies who lease out cars commercially can apply the rule. Individuals cannot use the rules.

3.3 Split leasing
The model consists of two independent leasing agreements:

- One agreement between the leasing company and the employer which covers working hours and transportation for business purposes.
- One agreement between the leasing company and the employee which covers spare time and transportation for private purposes.

The model is to ensure that the employer as well as the employee pays exactly each their part of the total costs on the basis of a detailed mileage log.

As the employee pays all costs and bears the financial risk regarding all private transportation, the employer has not made company car available to the employee for private purposes. Therefore, no taxation will occur according to the general rules of taxation of company car.

SKAT has approved the scheme provided that the following requirements of the wording of leasing agreements and mileage log are fulfilled:

Split leasing agreements

- Separate, written leasing agreements between the leasing company/employer and the leasing company/employee must be concluded. The leasing agreements must be independent, and the parties must solely be liable for their own obligations in relation to the leasing company.
- The employer has the preferential right to use the car during working hours, and the employee has preferential right to use the car at other times (spare time).
- The lease payment and all operational costs are for each of the parties settled directly with the leasing company.
- The lease payment that covers the total operational costs, depreciation and interest payment is split proportionally between the parties on the basis of the actual kilometres driven.
- The leasing agreements are required to be identical, so that each party pays exactly the same amount per kilometre driven.

Mileage log – split leasing
In order to ensure that the employer only pays the costs related to business driving, a detailed and complete mileage log must be made continuously, and it must cover the actual kilometres driven split between business and private purposes respectively.

Split leasing in practice
The employer must in no way finance, be liable for or guarantee the employee's obligations via-à-vis the leasing company.

In order for the scheme to be practicable and at the same time comply with SKAT's terms and conditions, it is required that each party settles all operational costs (including costs for petrol) proportionally and directly with the leasing company. In this way it is ensured that each individual scheme is divided effectively between the parties.

Split leasing cannot be used for self-employed businessmen, even though the Business Tax Scheme is applied, since the self-employed businessman is one and the same legal person. If a leased car that is used for mixed purposes is kept out of the Business Tax Scheme, the actual costs for using the car for business purposes can be refunded, and consequently the model will in practice have the same effect as split leasing.

4. Choice of company car scheme

The choice between own car or company car usually attracts great attention. The basis for choosing company car or own car is primarily the financial consequences for both the employer and the employee.

It is difficult to give a precise answer as to when it is most financially advantageous for the parties to prefer the one model to the other as it depends on each individual situation.

For the employer it is most often a decisive factor whether the costs are unchanged, irrespective whether a company car is made available to the employee or the employee receives a higher salary combined with tax-free mileage allowance when using his/her own car for business purposes.

For the employee it is important which solution is the most financially advantageous. This can be decided by making a calculation based on the price of the car, the mileage pattern and the time of the purchase etc.

Typically the calculations will show that the employee shall choose company car if the number of kilometres driven for business purposes is low compared to the number of kilometres driven for private purposes. On the other hand it can be an advantage for the employee to choose his/her own car, if a lot of kilometres are driven for business purposes – in particular if it is a low-price car – as the tax-free mileage allowance rate is the same irrespective of the type of car that the employee uses (new, used, lowprice or expensive).

4.1 Free app to more platforms

Deloitte has developed an easily accessible calculation model which on the basis of a few parameters gives a very precise indication of which choice (company car or own car) is the financially most optimum solution in the concrete situation.

Our model makes the calculation on an assumption that the total annual costs for a company car scheme is financed by an equivalently lower salary, i.e. the choice between company car and own car is cost-neutral for the employer.

The calculations are based on the following concrete information which the user has to provide:

- The price of the car.
- Calculation basis (which is most often lower than the price).
- Petrol efficiency (how far does the car go per litre).
- Distance between home and work (for calculation of lost mileage allowance, if any).
- Transportation for private purposes.
- Transportation for business purposes (for calculation of the possibility of tax-free allowance when using own car).

The conclusion summarizes the most important assumptions and calculated amounts on which the calculations are based in the concrete situation.

Our company car app can be downloaded free of charge from www.deloitte.dk and is available for the following platforms:

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iPhone/iPad

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