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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 individual 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 practices for taxation of free company car and payment of tax-free mileage allowance applying as of 1 January 2021.

Changes in 2021
As part of the political agreement ("green conversion") from December 2020 several changes have been agreed, which will have an impact on the rules for taxation of free company cars.

The percentages (25%/20%) for calculating the taxable value will be changed and the percentage (150%) for calculation the environmental charge will be increased, see section 1.3. Furthermore, the value of an employer-paid power charger – installed at the employee's residence will be exempt from taxation, see section 1.5.

The changes will have effect from 1 July 2021 for all employees, who are taxed on the value of free company car.

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.

Leased company cars
The leasing company must inform the lessee (employer) of the current calculation basis used for the calculating of the taxable value.

For the past many years, leasing cars have often been registered at very low prices and with low registration tax – and for company cars, therefore, also with a low tax value.

With the amendment of the Registration Tax Act at the end of 2017 (the “Car Package”), a special “recalculation” of the registration tax on leasing cars was introduced with a comparison and possible increase after 4 months in relation to the market price.

As per 1 February 2020 such a recalculation will also affect the tax calculation basis, however, only with effect for cars made available for the first time (as a free car) from 1 February 2020.

The leasing company must determine and inform the lessee (employer) of the recalculated value if this leads to a higher basis of calculation.

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)
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.

**The original price – changed case law**
Until now, it has been an accepted and general interpretation that the “original price” was locked once and for all – by the first registration date of the car. Also where the car was traded within the first 36 months thereafter.

This interpretation has been changed with a 2018 municipal court decision, which was upheld by the High Court (SKM2019.338.ØLR). In the specific case, a car dealer first registered the car in May 2010 as an importer with a value of DKK 467,072. The car was then made available to an employee of the car dealer, after which the car was sold to a company in June 2011 for DKK 860,000 for the purpose of being used as a company car.

The High Court upheld the district court’s ruling and emphasized that the concept of “original price” in calculating the value of a free car must be understood as the price that an end user would have to pay at a dealership when acquiring the vehicle as new. After an overall assessment, the original price of the car was fixed at DKK 860,000.

Therefore, it is always important to consider the calculation basis soberly when taking over a company car, where an “original price” is stated and be particularly critical of – if the basis differs from the car’s suggested retail price.

**Used cars (more than 36 months)**
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 DKK 300,000 of the calculation basis.
- 20% of the amount exceeding DKK 300,000.
- 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 DKK 160,000.

As part of the political agreement from December 2020 (see introduction section) it has been agreed that the environmental charge will be increased year by year for all company cars until 2025. Per 1 July 2021 the environmental charge will be increased to 250% and for 2022 to 350%.

**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, currently 150%, comprises the annual vehicle excise duty (including special charge for diesel cars without a particle filter, but exclusive of equalising duty for certain diesel cars and extra charge for private use).

As part of the political agreement from December 2020 (see introduction section) it has been agreed that the environmental charge will be increased year by year for all company cars until 2025. Per 1 July 2021 the environmental charge will be increased to 250% and for 2022 to 350%.

**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 2017. As from October 2020, the calculation basis is reduced, no matter whether the car is delivered later on, e.g. in November/December 2017.

<table>
<thead>
<tr>
<th>DKK</th>
<th>2017</th>
<th>2020 Jan-Sep</th>
<th>2020 Oct-Dec</th>
</tr>
</thead>
<tbody>
<tr>
<td>Price of a new car (the original price)</td>
<td>480,000</td>
<td>480,000</td>
<td>480,000</td>
</tr>
<tr>
<td>Reduction, after 36 months</td>
<td>-</td>
<td>-</td>
<td>-120,000</td>
</tr>
<tr>
<td>Calculation basis</td>
<td>480,000</td>
<td>480,000</td>
<td>360,000</td>
</tr>
<tr>
<td>25% of DKK 300,000</td>
<td>75,000</td>
<td>75,000</td>
<td>75,000</td>
</tr>
<tr>
<td>20% of amounts above</td>
<td>36,000</td>
<td>36,000</td>
<td>12,000</td>
</tr>
<tr>
<td>+ Environmental charge (vehicle excise duty DKK 4,500) per year</td>
<td>6,750</td>
<td>6,750</td>
<td>6,750</td>
</tr>
<tr>
<td>Taxable value per year</td>
<td>117,750</td>
<td>117,750</td>
<td>93,750</td>
</tr>
<tr>
<td>Taxable value per month</td>
<td>9,812</td>
<td>9,812</td>
<td>7,812</td>
</tr>
</tbody>
</table>

**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 the 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 installments 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.

For instance, if the employee pays for petrol abroad – or other general operational costs – they can be considered self-payments and, thus, reduce the taxable value of the 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.

**Gross salary reduction**
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. For instance, if the car has been available for
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 the 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 away for storage or which are covered by a downtime insurance for instance. However, neither downtime insurance nor 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 de-registered in CRM and the registration plates are handed over to the Danish Tax Agency.

Majority shareholder – new case law
Until now, the case law has been that a majority shareholder has not been able to deprive him/herself of the availability of a company car during a period of downtime insurance, unless the car was de-registered for whole months and the license plates are handed over to the Motor Vehicle Agency.

In the opinion of the Danish Tax Agency the case law for majority shareholders has changed on the basis of SKM2019.337.BR, however, under special conditions as indicated in the control signal, SKM2020.44.SKTST.

According to new case law, it is possible to cut off the availability of a car even if the license plates are not handed over to the Motor Vehicle Agency but simply deposited with an insurance company or insurance broker in connection with a downtime insurance. However, this must be an independent third party who has an independent interest in relation to the insurance relationship, and this is not the case when depositing with for example a lawyer or an accountant.

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.

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”.

For the period 1 April – 31 December 2020 (9 months), a special reduction of DKK 40,000 in the annual taxable value for all electric, plug-in hybrid and fuel cell cars has been introduced (DKK 3,333 per month).

As part of the political agreement from December 2020 (see under introduction section) it has been agreed that the value of an employer-paid power charger – installed at the employee’s residence will be exempt from taxation. The change will have effect from 1 July 2021.

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 taken place 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 Danish Tax Agency 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 2021 the National Assessment Council has determined these rates:
- DKK 3.44 per kilometre for the first 20,000 kilometres
- DKK 1.90 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. Thus the mileage allowance must 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, civil registration 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, and the employer is liable to report the amounts paid out on a month-by-month basis to elIncome in box 48 with seperately income type, code 0109.

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.

However, as per 1 February 2020 a tightening has been introduced so that “recalculation” of the registration tax also affects the tax calculation basis. For more, see under “Leasing company cars” in chapter 1.2.

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 regarding 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 upfront, and, therefore, the payment is not continuous.

Only leasing companies that 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 the company car available to the employee for private purposes. Therefore, no taxation will occur according to the general rules of taxation of company car.

The Danish Tax Agency has approved the scheme provided that the following requirements of the wording of leasing agreements and mileage logs are fulfilled:

**Split leasing arrangements**

- 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.
- An ongoing settlement and adjustment of the distribution of lease payments must be made, including both the extraordinary first-time payment, ordinary lease payments and operating expenses etc.
- The current payment must be made in such a way that the payments at all times reflect the distribution between the actual number of kilometres traveled for business and private driving, i.e. based on the accumulated mileage and the accumulated payments made over the entire lease period.

**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 vis-à-vis the leasing company.

In order for the scheme to be practicable and at the same time comply with The Danish Tax Agency’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 should 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 each 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 individual 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).

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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