

## Update of the Circular 104/1 concerning the evaluation of benefits in kind granted by an employer to its employees

### Luxembourg Tax Alert

From 20 November 2014 on: two benefits in kind could arise from a company car:

- Benefit in kind in relation to the private use of a car (BIK1), and
- Benefit in kind in relation to the repurchase, if any, of a company car at the end of the leasing under its market value (BIK2).

In this respect, the overall reportable benefit in kind (BIK1 + BIK2) cannot exceed 100% of the acquisition price of the car (VAT and options included; discount and tax deductible participations by employees deducted).

On 10 March 2015, the Luxembourg tax administration pointed out that the price paid by the employee for the repurchase of the vehicle should be taken into account for the determination of the overall reportable benefit in kind (BIK1 + BIK2). In this regard, please find below the illustrative example reported in the updated Circular 104/1:

<i>Market value of the vehicle</i>	<i>EUR 20,800</i>
<i>(As determined by application of the rate defined by the Circular)</i>	
<i>Purchase price paid by the employee</i>	<i>EUR 5,200</i>
<b><i>Theoretical BIK</i></b>	<b><i>EUR 15,600</i></b>
<i>Acquisition price of the car</i>	<i>EUR 52,000</i>
<i>BIK linked to the use of the car</i>	<i>EUR 26,360</i>
<i>Participation of the employee to the acquisition price</i>	<i>EUR 20,000</i>
<i>Purchase price paid by the employee</i>	<i>EUR 5,200</i>
<b><i>Maximum amount for BIK2</i></b>	<b><i>EUR 440</i></b>
<i>(Ceiling to take into account for the determination of the overall reportable benefit in kind)</i>	

Further to an accurate reading of the Circular 104/1, some elements remaining unclear, we contacted the tax authorities who confirmed that:

- (i) the ceiling of 20% of the acquisition costs borne by the employer applies also in case of leasing of the car;
- (ii) the entire participation of the employee to the acquisition price – not only the deductible portion, as suggested by the wording of the Circular – can be taken into account when determining the maximum amount for the benefit in kind (BIK2).

Link to the Circular 104/1:

[http://www.impotsdirects.public.lu/legislation/legi15/Circulaire-L\\_I\\_R\\_-n\\_-104-1-du-10-mars-2015.pdf](http://www.impotsdirects.public.lu/legislation/legi15/Circulaire-L_I_R_-n_-104-1-du-10-mars-2015.pdf)

# Your contacts

**Raymond Krawczykowski**

Partner | Tax Leader

Tel/Direct: +352 451 452 500

[rkrawczykowski@deloitte.lu](mailto:rkrawczykowski@deloitte.lu)

**Pierre-Jean Estagerie**

Partner | Global Employer Services

Tel/Direct: +352 451 454 940

[pjestagerie@deloitte.lu](mailto:pjestagerie@deloitte.lu)

**Xavier Martinez-Aldariz**

Director | Global Employer Services

Tel/Direct: +352 451 452 246

[xmartinezaldariz@deloitte.lu](mailto:xmartinezaldariz@deloitte.lu)

Deloitte Luxembourg

560, rue de Neudorf

L-2220 Luxembourg

Tel: +352 451 451

Fax: +352 451 452 401

[www.deloitte.lu](http://www.deloitte.lu)

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