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By PwC Deutschland | 02. Februar 2011

No additional private use benefit from additional accessory to car

The Supreme Tax Court has held that the subequent addition of a liquified gas converter to a company car does not increase the 1% benefit in kind for private use.

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A trader in liquified gas fuels for motor vehicles equipped his fleet of cars for executives and salesmen with converters to enable the vehicles to run on liquified gas. His object was to support the marketing and publicity campaigns for his products. However, his drivers were also able to use their cars privately. The trader chose to tax the benefit in kind under the 1% rule allowing the taxable benefit to be taken at 1% monthly of the list price of the car when first registered. This list price is to include the cost of any accessories built into the car at the factory before delivery and also VAT. However, the trader disputed a tax office claim that the benefit should also reflect the cost of the gas converter added shortly after registration.

The Supreme Tax Court has now sided with the taxpayer. The 1% flat rate is a simplied lump sum rule, not intended to be completely accurate in any given set of circumstances. It must be applied as it stands as a measure of the full benefit from the possibility of using the car privately. It is not open to additions based on specific, or additional, costs, other than those mentioned in the statute. The court also held that the provision of the converter could not be regarded as a benefit in its own right. The converter had been build into the car and could only be used to drive the car with alternative fuels. It had no separate existence from the car and could not be taxed as a separate item.

Supreme Tax Court judgment VI R 12/09 of October 13, 2010 published on February 2

Schlagwörter

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