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Vouchers of fixed or maximum amount are benefits in kind

The Supreme Tax Court has held that vouchers enabling employees to purchase goods of a specified type up to a fixed amount or upper limit are benefits in kind rather than cash wages.

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Employee benefits in kind are not taxable if they do not exceed €44 in the given month. The purpose of this exclusion is to avoid valuation difficulties over minor items, rather than to privilege recipients. Accordingly, there is no move to extend it to cash wages. Indeed, the official Wages Tax Guidelines take the position that gift vouchers and similar allowing the holder to draw certain goods up to a given amount substitute for a cash wage of the same figure and should be taxed as such. This view has now been contradicted by the Supreme Tax Court in two cases, involving the right of employees to draw fuel up to the value of €44 per month from a specified filling station at the employer's expense, and the birthday gift of a €20 book token to each staff member. The court made the point that the essential difference between a cash wage and a benefit in kind lay not in the form of payment, but in the claim of the employee on the employer. Thus, an employer's payment settlement of a debt privately incurred by the employee would be a cash wage, whilst handing cash to an employee for use on a specified purpose would be a benefit in kind. Put another way, the use of cash was universal, whereas the use of the token was restricted. It could not easily be converted to cash on the open market, so its value to the recipient was less than that of a cash payment. In both cases, the benefit was held to be tax-free as the limit of €44 had not been exceeded.

Supreme Tax Court judgments VI R 21/09 (book token) and VI R 27/09 (filling station) of November 11, 2010 published on February 9, 2011

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