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Driving to work in a company car - new rules

The finance ministry has modified the rules on taxing the benefit of driving to work in a company car in the light of Supreme Tax Court judgments holding that the benefit should be based on the actual journey.

The Income Tax Act allows a standard deduction for the daily costs of getting to work of 30 ct. per km of distance between home and workplace regardless of the method of transport. However, it also sets the monthly benefit in kind for each km of driving to work in a company car at 0.03% of the list price of the car when new. The Supreme Tax Court amplified on this in October 2010 when it held in a series of cases that the company car benefit was a corrective, withdrawing from the expense deduction costs which the employee did not incur. It was not to be seen as a benefit in its own right. Accordingly, it had to be based on the actual use made of the car without taking the other, more general advantages open to the driver into account - such as an increased scope for private use if the driver had the car with him all the time. The finance ministry has now issued a decree on the application of this principle when calculating the income tax to be deducted from an employee's salary.

The employer may either take the benefit into account as stated in the Income Tax Act at 0.03% of list price per month and km, or as held by the Supreme Tax Court at 0.002% of list price per km for each day the car was actually used for the journey to work. This choice should be made once for each employee in each year, except that in 2011 the 0.03% method may be changed if it had already been applied on publication of the decree on April 1. The employer's choice does not bind the employee, who may therefore take the other option in his own tax return. Similarly, the 0.002% option is now available to employees in their tax returns for 2010 and any earlier years still open. Application by the employer of the 0.002% option is to be based on a monthly list of the days the employee came into work by company car. The employer is to accept this list as prepared by the employee unless it is obviously incorrect. The root calculation behind the 0.03% rate is based on an assumption that a full-time employee will travel between home and work on the average 180 days a year. The 0.002% calculation leads to an equal result if the employee actually travels to work in his company car on 15 days in the given month. If the calculation is based on the 0.002% option it is to stop for the rest of the year once the 180-day limit is reached. There is no corresponding monthly limit.

Those who only go part of the way to work by company car may base their benefit on the distance actually driven, provided they can demonstrate that they in fact drove no further. This demonstration can either be based on an enforced employer prohibition on further non-business use of the car or on production of an annual public transport season ticket in the employee's name.

Schlagwörter

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