By PwC Deutschland | 14.03.2017

Taxation of company cars in case of leasing

In December 2016 the Finance Ministry issued a decree dealing with the tax implications of privately used comapny cars in case of a leasing, whereby also commenting on an earlier judgment of the Supreme Court on a so called "government lease".

Employees entitled to use company cars privately calculate the monthly taxable benefit at a fixed rate of 1 % of the list price of the car when new. However, the taxpayer has the alternative of taxing the actual cost of the private use of the car as determined on the basis of an accurate mileage log detailing the business journeys. In a decision of December 18, 2014 the Supreme Tax Court held that neither of those methods may be applied if the vehicle is leased by the employer and the employee is the economic / beneficial owner of the car. This would be the case if – due to specific legal features – the employee would be in a similar position as a lessee. The case at hand involved the car lease of a local authority at reduced rates due to special conditions in its capacity as public body ("government lease"). In December 2016 the Finance Ministry issued a decree to that effect stating that the aforementioned decision of the Supreme Court could not be followed if the right to a private use of the company car is either laid down in the employment contract or if it results from other regulations governed by labor law. In its decree the ministry also clarifies various other scenarios on these issues, especially if and to what extent the judgment of the Supreme Tax Court should be applied to other (non-governmental) situations. It is in conclusion of the Finance Ministry's Decree that the judgment of the Supreme Tax Court has almost no significance in other cases.

Keywords

company car, private use