Tax Alert

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The Supreme Court explains the fringe benefit taxation of use of employer's vehicle

On 3 March 2009 Estonian Supreme Court made a decision in case 3-3-1-93-08 that concerns the keeping of logbook for the usage of employer's vehicle and the calculation of the tax on potential fringe benefits.

According to the facts of the case the Tax and Customs Board took a position that if the company does not keep the logbook tracking the use of its vehicle, this would be deemed a fringe benefit as tax authorities otherwise cannot determine how much the car is used for private purposes. Furthermore, tax authorities were also on the opinion that the fact that the car was kept in employee's garage, confirms the use of the car for non-business related activities.

However, the Supreme Court took a position in application of Article 48 (tax on fringe benefits) of the Income Tax Law, the burden of proof to determine the tax object (that fringe benefit was granted) lies on the tax authorities. The tax authorities must prove that the employer's vehicle or any other assets were effectively used or there were facts that confirm that the vehicle or assets were used with high probability for non-business related activities. The fact that the company did not keep the logbook is not a sufficient basis to conclude that car was not used for business purposes.

It can be concluded from the Court's decision that the purpose of the logbook is the determination of the value of the fringe benefit granted if the vehicle has been used for non-business related activities. If car is used purely for business purposes, there seems to be no obligation to keep a logbook.

The Supreme Court additionally explained that keeping the employer's car in employee's premises does not automatically mean that the car is used for non-business related activities. If an employee uses employer's vehicle for non-business activities in a way that cannot be considered as monetary benefit and such usage does not involve any cost for the employer, this cannot be considered as fringe benefit. Court explained its standpoint by example where an employee, without extending the length of business trip, stops the car to combine the private activity with business trip.

The full text of the decision (in Estonian) is available at:
http://www.nc.ee/?id=11&tekst=RK/3-3-1-93-08

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