

AS PricewaterhouseCoopers in Estonia helps clients in finding tax efficient business solutions and managing tax risks.

We work together with our colleagues in other PricewaterhouseCoopers' offices world-wide and use our access to international know-how and long-term experience to quickly and efficiently solve tax issues that arise both locally and in foreign jurisdictions. For more information, please see our contact details below.

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Tax alert

Estonia, Issue 30, July 2017



Legal acts

Tax Alert July 2017

Tax package

On June 19 the Parliament passed a number of laws amending the Income Tax Act and other laws (458 SE) and the law for the simplified taxation of business income. The amendments were addressed in the June 2017 edition of the Tax Alert.

On 29 June the President proclaimed the laws and these will be published in the State Gazette of July 7.

The law for the simplified taxation of business income will come into force on 1 January 2018.

The amendments to the Income Tax Act and other laws will come into force on 1 August 2017 already, except for rules becoming effective as of 1 January 2018 due to the so-called 6 months rule – these are inter alia the provisions regarding the taxation of use of cars and vans.

Below we describe the amendments regarding cars and vans.

Taxation of employer's car which is used for business and private purposes (mixed use)

The taxation of private use of **employer owned**

cars (under lease agreement, rent agreement) was amended.

The current system allows for taxing the private use of employer owned cars based on kilometres driven, but this requires keeping logbooks for declaring both private and business use which is burdensome and complicated as these are often difficult to distinguish from each other. The price per kilometre of private use for a car that is older than 5 years and with a cylinder capacity of up to 2000 cm³ is deemed to be EUR 0,2 and in other instances 0,3 EUR. If a logbook is not kept, but private trips are nevertheless made, then regardless of actual kilometrage, the estimated taxable base per car is EUR 256 per month, on which income and social tax of approximately EUR 170 is due.

NB! The changes to the Income Tax do not amend the reimbursement system for using a private car – the formatting requirements for the logbook which is basis for paying the compensation and the tax exempt threshold of the reimbursement remained the same. The employer can compensate up to 0.3 EUR per driven business related kilometre, but no more than EUR 335 in a calendar month.

Kilometre based calculation replaced by kilowatt based calculation

Pursuant to the amendment to §48 (8) of the Income Tax Act, going forward the cost of private use would not depend on kilometres according

Legal acts

to logbooks, but the power of the car. The only possibility of declaring private rides will be a kilowatt based tax base calculation regardless of if and how much a company car was *de facto* in private use. Since there will not be a kilometre based record-keeping, then reimbursement of private use to the employer will not help avoid the tax obligation. The kilometre based calculation will become impossible as the respective regulation of the Minister of Finance of 13 January 2011 §2 (1) will be abolished (currently allowing for a kilometre based record-keeping with a logbook).

If from now on the employer allows for private use of a car, then the taxable base for the purposes of fringe benefits taxation will be **1,96 EUR per kW**, based on information available in the traffic register. As a result the cost for a car below 130 kW will become cheaper and for cars exceeding 130 kW power will be more expensive. A majority of company cars are in the range of 50-130 kW. According to the Ministry of Finance the capacity based calculation is the best solution for strengthening the connection between the benefit deriving from private use and the taxable base of a fringe benefit, whilst maintaining the simplicity of the system as linkage to the market price of the vehicle would be complicated and burdensome to administer.

Since generally the value of assets decreases in time, then similarly to the current system, a lower tax base is foreseen for cars older than five years which will be **1.47 EUR per kW**, making it 25% less than for new vehicles.

Income and social tax liability

The income and social tax liability is approximately **1.3 EUR per kilowatt per month**, if the taxable base being 1.96 EUR per kW. As an example, the taxable base of private use of a 111kW Toyota RAV4 first registered in 2015 would be 217.56 EUR, with a monthly tax cost of 144 EUR (currently without a logbook the respective figures would be 256 EUR and 170 EUR).

Exemption from fringe benefit taxes

If a car has been temporarily deleted from the traffic register for a certain period (possible from 1 month to 24 months), then it is assumed that the vehicle is not in use and for that period the obligation to pay fringe benefit taxes does not arise.

If the employer who is the owner or the responsible user of the vehicle in the meaning of the Traffic Act. If the employer does not allow private use of a car, then it must notify the Road Administration under §48 (22) of the Income Tax Act, (notification without an applicable state fee) who will then make note of it in the traffic register, which will become public information. The plans for special markings have been dropped (stickers, distinct colours for licence plates). If the respective note is absent from the traffic register, then the car is considered to be in mixed use.

Legal acts

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The Ministry of Finance expects that for such cars that are only meant for business use, the employer must ensure that these are not used for non-business related purposes. **The Tax and Customs Board is to issue guidelines with applicable recommendations.**

Mixed use of vans

For vans in mixed use (N1-category necessity vehicles) the law provides for the possibility of opting for **voluntary** use of the same kilowatt based calculation for calculating the taxable base of a fringe benefit. If this possibility is chosen, then the same taxable base applies for VAT purposes, whereby the taxable base of a fringe benefit includes VAT for the purposes of VAT.

Changes in the Value Added Tax Act

A special provision is introduced for determining the taxable base for private use of N1 category vans, not exceeding the mass of 3500 kg (for example a Volkswagen Amorok with a carriage body) and certain specific cars (taxis and cars used by driving schools).

At the moment it is possible to deduct 100% input VAT on acquiring or using such vehicles 100% and as an exception, private use is taxed through the provisions on **self-supply**.

Starting from 1 January 2018 the taxable base

(containing VAT) will not be the cost of the private ride, but the kW based cost of the private use. For vans, this principle only applies in case the company has voluntarily opted for using the kilowatt based calculation for determining the taxable base of the fringe benefit – for example 132 kW capacity mixed use newer van would additionally result in a monthly VAT of 43.12 EUR ($132 \times 1,96 = 258,72$ and $258,72 : 1,20 = 215,60$).

Guarantee obligation

The implementation of a so-called guarantee obligation can be considered an important change – the new provision is added to the Value Added Tax Act - § 30(9).

A VAT registered person, who has deducted 100% input VAT on the costs related to the purchase or use of a car must ensure that the vehicle is solely used for business purposes. Explanatory memorandum refers that the way of fulfilling the obligation is decided by the company itself and both a logbook and an electronic GPS-record are accepted. **Guidelines from the Tax and Customs Board are expected.**