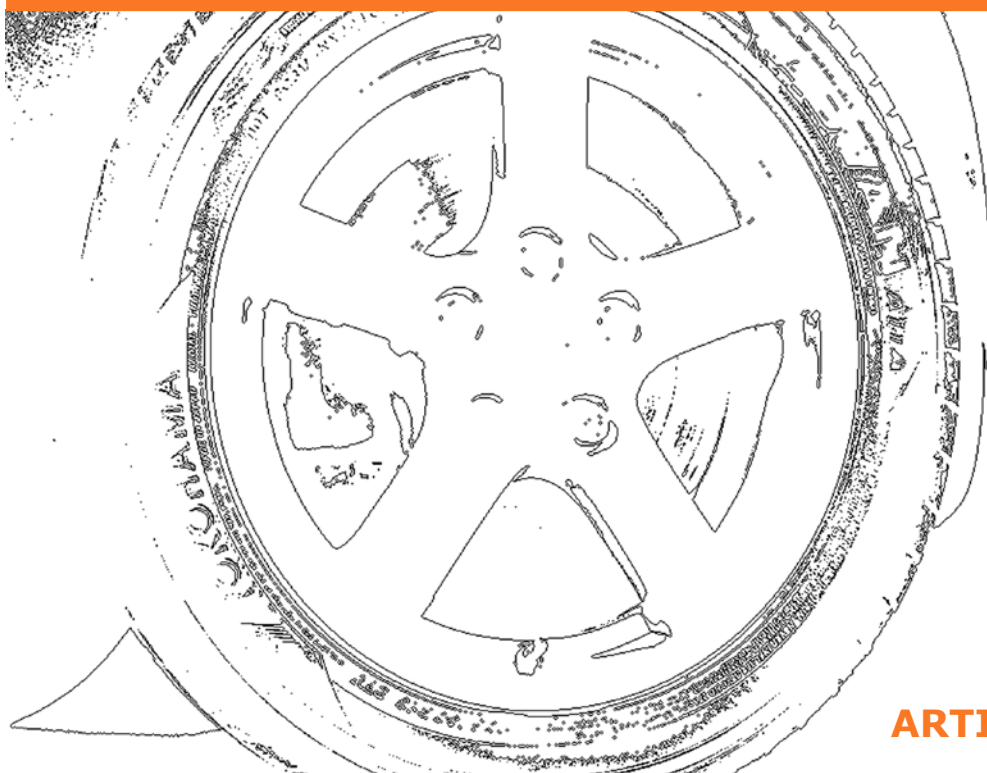


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Knowledge

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ARTICLE 24

Company Car Taxation

Company Car Taxation

Carbon dioxide based company car tax

The cash equivalent

Benefit-in-kind tax is payable by directors or employees earning over £8,500 (including the value of any benefits-in-kind) who drive company cars that are available for their private use.

For the tax to arise the car has to be made available 'by reason of their employment' so it does not matter if the car is owned, leased or supplied by someone else.

The tax also applies if the car is made available to a member of the employee's family or household, including their spouse, parents, children (and their children's spouses) and guests

No car benefit charge arises if the employee is specifically prohibited from using (and does not use) their car for private purposes, or the car is a pool car or is an emergency services vehicle.

No charge arises either if the car is being driven by a disabled employee and these conditions apply:

- the car must have been adapted for the employee's special needs (or it is an automatic and their disabilities do not allow them to drive any other car), and
- the employee must be prohibited for using it for any purpose other than their business travel, or ordinary commuting, or travel between any two places that is for practical purposes substantially ordinary commuting, or travel to a place of training, and
- the car has only been used in accordance with those terms.

The benefit-in-kind tax is based on the 'cash equivalent value' of the company car. From 5 April 2002 it has been calculated by reference to the list price of the vehicle (including VAT, delivery costs and all extras fitted before the vehicle is delivered) and the CO2 emission level of the vehicle.

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To determine the relevant percentage of list price the exact CO2 figure of the vehicle is rounded down to the nearest five g/km.

Broadly, the steps to be followed are:

1. Find the price of the car (normally the list price)
2. Add the price of any accessories
3. Make any required deductions for capital contributions by the employee (max £5000)
4. Take the lower of the amount carried forward from Step 3 and £80,000
5. Find the appropriate percentage for the car. This changes annually; see HMRC website.
6. Multiply the figure at Step 4 by the appropriate percentage at Step 5
7. Make any required deduction for periods when the car was unavailable
8. Make any required deduction for payments by the employee for private use of the car

There are special rules for cars that run on road fuel gas, classic cars (those 15 years of age or more) and disabled drivers.

The benefit may be reduced where the car is shared.

A 3% supplement is added to the percentage of list price if the vehicle is diesel powered. This reflects government concerns about the fact that diesel fuel contains 'particulates', small solid particles deposited locally when diesel is burned. While these do not affect the ozone layer and are not greenhouse gases, they may be carcinogenic and they affect local air quality.

If the car does not have an internal combustion engine with reciprocating pistons, the appropriate percentage is:

- 15% if it is propelled solely by electricity (for example, by a battery)
- 35% in any other case (for example, a car with a rotary Wankel engine).

If the employee makes a contribution of up to £5,000 towards the purchase price of the car (a 'capital contribution') this can be deducted from the list price before starting to calculate the company car tax liability.

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However, the contribution from the employee to the employer must meet certain tests for this deduction to be allowed. If the payment is simply in the nature of a loan and is returned in full to the employee on sale of the car, it cannot be deducted from list price for company car tax purposes.

If the employee forfeits the £5,000 after it has been paid, or only gets back a proportion of it on sale of the vehicle (no more than the proportion that the sale proceeds represents compared with list price), the capital contribution can be deducted from list price.

List price

For the purpose of calculating the cash equivalent value of the car, the list price is the price published by the manufacturer on the day before the car was first registered. The inspector of taxes checks your returns against Glass's Guide to check their accuracy.

Then you must add the cost of delivery, VAT, number plates and accessories fitted when new, but not VED or the initial registration fee. For this purpose it does not matter if you bought the vehicle second-hand.

If you subsequently attach an accessory costing more than £100, this increases the list price to be used when calculating the cash equivalent from that year onwards.

For 'classic cars' different rules apply. If the car is more than fourteen years old at the end of the tax year, has a market value more than the original cost of the car and more than £15,000, the market value on the last day of the tax year is used instead of the list price.

Car not available

If the company car is not available to the employee (or his family or household) company car tax benefit can be reduced pro-rata on a time basis. However, if it is just parked at home because the driver is unable to drive, the car is still deemed to be 'available'.

So in this case it is best to return it to the workplace.

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Employee contributions

If the employee is required to make payments to the company in consideration of being allowed private use of the vehicle, his or her tax liability is reduced by the amount of this payment pound for pound. However, for this purpose they must have been required to pay as a condition of the car being made available and they must actually have made the payment.

There is a little trap here for the unwary. If as part of their contract of employment you require your employee to pay you £30 per month for private use of the car, and the car costs you £530 per month on contract hire, the £30 can be deducted from the cash equivalent used to calculate their tax charge. However, if they are entitled to a car costing only £500 per month and you give the employee £530 only because they pay the extra £30, the £30 is not tax deductible.

Accessories

Some accessories affect a vehicle's CO2 emissions. These include air-conditioning and changing to non-standard wheel sizes (some lighter alloy wheels actually reduce CO2 emissions).

Other accessories, such as body kits, towing bars and cosmetic changes, have no impact on emissions.

Almost all vehicles with automatic transmissions generate higher emission levels than their manual transmission equivalents. However, if a disabled person has to use an automatic vehicle because they are unable to use a manual, they will be taxed as if they had the manual equivalent.

Trading down

If you give a cash refund to an employee for taking a car of lower value than they were entitled to under your fleet policy, the employee has to pay income tax on the refund at their marginal rate and you can get tax relief on the payment.

Transactions at undervalue

If the employee buys the car from the employer at less than its market value the difference is taxable at the employee's marginal rate of tax.

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No private use

If an employee uses a company vehicle for business use only, that is, they do no private mileage, do not use it to drive to or from work and do not park it at home overnight, they are not liable for company car tax.

In many cases this is impractical, though for an employee living near the workplace, who does not need the car for private use – perhaps because his partner has one – it may be a real option.

Pool cars

If an employee drives a pool car there is no benefit-in-kind charge.

HM Revenue and Customs is very keen to ensure that employees do not use pool cars as their regular company vehicles so as to avoid benefit-in-kind tax.

To be treated as a pool car the vehicle has to be:

- available to more than one driver
- actually used by more than one driver and
- it must not normally be kept overnight at one employee's home.

Some modest private use is allowed if it is 'incidental' to the business use. An example would be if the car were taken home to allow an early start on a business trip, though if this happens frequently it would be treated as a company car.

If many cars are driven by one driver

If you are in the motor industry your employees may drive many cars every year.

In this case the Revenue will allow you to use an averaging method to calculate the cars available to each employee in the year. This is a concession that you must request.

So, as an example, if an employee drives a series of cars in the £14,000 to £18,000 list price range, the Revenue may allow you to substitute £16,000 as the average list price for the year. You will need to be able to justify the average that you request.

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Free parking

If you provide free car parking to your employees, this is not taxable. However, if you reimburse your employees' parking costs, both income tax and National Insurance contributions are due on these payments.

The self-employed

It is important to know whether a person who works for you is employed or self-employed. The 'consultant' who has worked for you for three days a week for the last two years and whose invoices have been submitted monthly may say they are self-employed but they may well be your employee for legal and tax purposes.

If you classify them incorrectly you will be liable to pay PAYE and National Insurance contributions on their income.

Unfortunately, the dividing line between employment and self-employment is not clear, though HM Revenue and Customs' Employment Status Manual and Employed or Self Employed publications provide some guidance. Broadly, a person is likely to be self-employed if they:

- can choose their own hours
- can sub-contract the work to someone else
- must use their own tools
- do not enjoy employment-type benefits
- do not have a permanent desk
- have the risk in their own business
- provide occasional rather than continuous services
- can refuse to do particular tasks

If a person is self-employed none of the company car benefit-in-kind tax rules will apply to them.

Tax on private use of vans

Benefit-in-kind tax is payable by a director, or an employee earning more than £8,500 per year, who is provided with a company van that is available for their (or a member of their family's or household's) private use.

If you provide a company van to an employee it is always treated as being available for private use for tax purposes, unless no private mileage is allowed and none is driven (both tests have to be met).

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For tax purposes a van is a mechanically propelled vehicle having at least four wheels, built primarily to carry goods and other loads, and that has a gross vehicle weight of up to 3.5 tonnes. Gross vehicle weight is the maximum weight of the vehicle when travelling in normal use on the road.

A van driver who enjoys unrestricted private use of a company van is taxed on a benefit of £3,000 for the use of the van. A van driver who is provided with free fuel for private use will be taxed on a further benefit of £500.

If an employee makes a personal contribution to the business for the private use of the van, the amount he or she pays will be deducted from this charge. The payment must have been made because the employee is enjoying private use from the van and not because he decided to upgrade the van above the their normal entitlement.

In addition, if the car is only available for part of the year, the charge will be pro-rated.

Unlike the situation with company cars, no tax relief is available if the employee makes a capital contribution.

If a van is a true pool van, no tax will arise on private use. The rules for pool vans are the same as for pool cars.

If a company car driver takes his or her vehicle home, that is deemed to be private mileage for tax purposes. Most company van drivers take their vans home overnight because they are required to do so for the efficient operation of the business. It would be impractical to require them to drive their own cars to work so that they could pick up their vans to do their day's work. As this group of drivers take their vans home and do no other private mileage they are not taxed on this benefit.

Tax on private use of other forms of company transport

If you provide an employee with the private use of a motorbike, heavy goods vehicle, motor vessel or other form of transport, they will be taxed each year at 20% of the cost of that asset.

In the case of a heavy goods vehicle an employee would need to drive substantial levels of private mileage before HM Revenue and Customs would seek to tax this as a benefit in kind.