Executive luxury vehicles: CIT treatment in 2018 (2/38/18)

With the reformed corporate income tax (CIT) in place, executive luxury vehicles (ELVs) are still governed by special rules. This article explores some of the aspects that deserve attention this year.

Rules

Section 4(2)(2)(a) of the CIT Act provides that CIT is payable also on deemed profit distributions, which include non-business expenses computed under section 8 of the Act. These expenses include any ELV costs such as acquisition cost, lease payments, running costs, and fuel.

The ELV definition remains unchanged this year. A key factor for ELV classification is the price, which should be more than €50,000 excluding VAT.

Purchase

Any ELV purchase constitutes a deemed profit distribution. A company that buys an ELV after 2017 faces an immediate CIT charge, which actually pushes the acquisition cost up 25%.

Although the company will record the ELV as an asset to be gradually written off during its useful life, CIT is payable immediately at the time of purchase. And since the company cannot deduct input VAT on the purchase, the CIT base should include the acquisition cost plus VAT.

Lease

All expenses associated with leasing an ELV should be treated as non-business expenses (including lease payments, running costs, and fuel). Where an ELV is used under an operating lease agreement, the CIT base should include expenses related to that agreement during the lease period.

Extra non-business costs of an ELV appearing on the balance sheet as at 31 December 2017 will include monthly depreciation charges or an impairment loss arising on revaluation.

Sale

We have noticed that an example given in the SRS guidance is contrary to the current rules governing the sale or derecognition of an ELV.

Selling an ELV bought before 2018

Paragraph 127 of the Cabinet of Ministers' Regulation No. 677 provides that the CIT base should include the net book value (NBV) of an ELV that is derecognised. We believe this rule applies both where an ELV is disposed of (sold, exchanged, given away etc) and where one is liquidated (with no further economic benefit expected from its future use or sale).

So, if a company sells an ELV bought before 2018, the CIT base should include the NBV, whether it is higher or lower than the selling price. This expense should be included on the CIT return for the month of sale.

As a result of this treatment, a company that sells an ELV bought before 2018 bears the same CIT burden as a company that buys an ELV after 2017 and pays CIT at the time of purchase.

A question asked through the Electronic Declaration System has been answered by the SRS stating that where an ELV bought before 2018 is sold in 2018, the CIT base should include the NBV and any insurance expenses related to 2018.

In view of this, we believe that the explanation the SRS has given in example 11 of their guidance on how to complete the CIT return – where an entity sells an ELV in 2019, the NBV should be expensed and not included in the CIT base – is inconsistent with the current rules laid down by the CIT Act and the Cabinet Regulation.

Selling an ELV bought after 2017

As stated above, CIT is payable at the time of a purchase made after 2017, while a sale has no CIT implications. If the sale makes a profit, CIT will be charged under general procedure when that profit is distributed, while a loss-making sale means there is no further CIT to pay.

Conclusions

The CIT reform has not made it any cheaper to use ELVs, since the extra CIT cost facing companies that buy, lease and sell ELVs is likely to make them think twice before buying one in the first place.