

CIT and VAT treatment of executive luxury vehicle lent for use (3/32/19)

The State Revenue Service has published an advance tax ruling (ATR)¹ on the CIT and VAT treatment of an executive luxury vehicle (ELV) lent for use. This article explores the ATR conclusions.

Background

A company makes business use of a vehicle borrowed from another company that recognises it as an ELV in its books under section 1(17) of the CIT Act.

The company asked for an ATR to understand whether they should also recognise the vehicle as an ELV. This would involve having to recognise all repairs and fuel expenses as non-business expenses and being unable to deduct input VAT because none of the circumstances mentioned in section 100(3) of the VAT Act is present.

Applying provisions of the CIT Act

The definition of an ELV is included in section 1(17) of the CIT Act.² A vehicle is considered an ELV if its value excluding VAT exceeds €50,000.

Section 8 of the CIT Act provides that a company's non-business expenses are all expenses that are not directly related to its business, including any expenses related to an ELV, i.e. the acquisition cost, rental payments, and running expenses.

Thus, if a company makes business use of a vehicle borrowed from another company that is considered an ELV under the CIT Act, the company's repairs and fuel expenses should be treated as non-business expenses and included in the tax base.

Applying provisions of the VAT Act

Section 100(1.1) of the VAT Act provides that a taxable person cannot deduct input VAT on the purchase, lease or import and running (including repairs and fuel) costs of a vehicle whose value is consistent with the value of an ELV under the CIT Act. However, section 100(3) excludes the following cases from this restriction:

- 1) A VAT-registered taxable person buys, leases or imports a vehicle for making any of the following taxable supplies:
 - a) passenger carriage for a consideration, including taxi services;
 - b) vehicle rental services;
 - c) vehicle sales or hire purchases;
 - d) goods transport services;
 - e) driving instruction services; or
 - f) security services;
- 2) The vehicle is an emergency vehicle;

- 3) The vehicle is used as an authorised vehicle dealer's demo vehicle; or
- 4) The vehicle is used for making taxable supplies.

So the company can deduct input VAT on the repairs and fuel expenses of a borrowed ELV only in the circumstances mentioned above.

Key takeaways

Any vehicle that is considered an ELV under the CIT Act must be recognised as such for VAT as well as CIT purposes regardless of the type of contract signed for its use.

For the ELV lender, all related expenses will always be non-business expenses, and the ELV borrower must also recognise them as non-business expenses. Input VAT on repairs and fuel expenses is deductible only if the company uses the vehicle for supplying passenger carriage services for a consideration, vehicle rental services, freight transport services, or for another purpose specified by section 100(3) of the VAT Act.

¹ ATR No. 30.1-8.7/252214 of 19 July 2019 on VAT and CIT treatment

² An ELV costs more than €50,000 excluding VAT and is –

- 1) a light-duty vehicle with up to eight seats in addition to the driver's seat, except for an emergency vehicle or a special light-duty vehicle (an ambulance, a living vehicle or a hearse, a light-duty vehicle specially equipped for carrying disabled persons in wheelchairs) or a new light-duty vehicle that an authorised dealer uses as a demo vehicle;
- 2) a goods vehicle with full weight up to 3,000 kg which is registered as a goods van and has more than three seats (including the driver's seat) if it is classified as a goods vehicle (N1 category) but is in fact a light-duty vehicle (M1 category).