

# Private cars used for company needs (2/4/17)

Employees often use their private car to carry out their job duties (for the employer's business purposes). This article explores whether a company that uses private cars of its employees for business purposes may be liable to pay corporate light-duty vehicle tax ("company car tax").

## Using a private car

Under the Vehicle Running Tax and Corporate Light-Duty Vehicle Tax Act, an employer that uses an employee's car under an employment contract or a loan for use may be liable to pay company car tax on that vehicle even if the employer is not registered as holder of the car. Thus company car tax may be payable by a trader that makes commercial use of a car borrowed from someone who is neither a trader nor a farmer. It is important to note that an individual who carries on a business is not considered a trader within the meaning of the Act and cannot be liable for company car tax.

When employing someone, the employer should consider the tax implications of the type of contract chosen for determining the right to use the employee's car.

## A loan for use

Section 11 of the Act gives an exemption to a company that uses an employee's car under a loan for use for up to 15 days in a calendar month (regardless of how many hours a day and whether the use is continuous or intermittent) where in such cases the employer would not be liable for company car tax unless he is registered as holder of the car. In that case, however, the employer must be able to prove that the number of days the car is actually used each month does not exceed the statutory cap. This involves providing documentary evidence requested by the State Revenue Service (SRS) such as –

- the conditions of the loan for use;
- documentary evidence of fuel purchases; and
- completed trip tickets.

The employer is liable to pay company car tax for any calendar months in which a car is –

- used for more than 15 days, or
- registered in the employer's holding (unless the holder is committed to declaring the car's eligibility for an exemption at the Registry of Vehicles and Drivers within 15 days).

For example, if a company uses an employee's car under a loan for use for 17 days in January, then company car tax is payable for the whole January.

## An employment contract

If an employee's own vehicle is used for business purposes under an employment contract, the employer will be liable to pay company car tax on that vehicle during the operation of the contract regardless of how many days it is used each month.

## A lease

The employer is not liable for company car tax during the operation of a lease agreement with an employee.

It is important to note, however, that in this case the company may be liable to withhold personal income tax (PIT) on the rent payable to the employee under the PIT Act, unless he is registered with the SRS as a trader.<sup>1</sup>

If the lessor is registered with the SRS as a trader and independently calculates and pays PIT under the summary procedure on the rent received for the car,<sup>2</sup> the employer is not liable to withhold PIT on the rent.

More exemptions from company car tax are given in section 14 of the Act.

The trader is allowed to treat his company car tax charge as a business expense and does not need to add it back to his income subject to corporate income tax.

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<sup>1</sup> Section 14(14) of the Vehicle Running Tax and Corporate Light-Duty Vehicle Tax Act

<sup>2</sup> Section 14(15) of the Vehicle Running Tax and Corporate Light-Duty Vehicle Tax Act