

Estonian tax news (2) (3/27/17)

This article picks up where we left off [last week](#).

Exemption from fringe benefit taxes

A car that has been removed from the traffic register on a temporary basis (possible for periods ranging from one month to 24 months) is considered to be out of use, and so an obligation to pay fringe benefit taxes does not arise for that period.

An employer who does not allow private use of a car should notify the Road Administration, and they will make a note on the traffic register, which will become public information. The initial plans for special markings (stickers, distinct colours for licence plates) have been scrapped. The Finance Ministry puts the onus on employers to ensure that cars meant for business use only are not used for non-business purposes. The Tax and Customs Board is to issue guidelines with recommendations. Any car without a note on the traffic register is considered to be in mixed use.

Mixed use of vans

For vans in mixed use (category N1) the proposals offer an option to use the same kW based calculation for measuring the taxable base of a fringe benefit. If this option is taken, the same taxable base will apply for VAT purposes, i.e. the taxable base of a fringe benefit includes VAT.

Changes to the VAT Act

There are also proposals for amending the VAT Act. A special provision is made for measuring the taxable base for private use of N1 category vans with a mass of up to 3,500 kg (e.g. a Volkswagen Amarok with a carriage body) and for certain specific cars (taxis and cars used by driving schools). It is currently possible to fully recover input VAT on the purchase or use of such vehicles, with private use taxed through the self-supply rules as an exception. Going forward, the taxable base (containing VAT) will be the kW based cost of private use, rather than the cost of a private ride. For vans this principle applies only if the company has voluntarily opted to use the kW based calculation for measuring the taxable base of a fringe benefit. For example, a 132 kW mixed-use van would attract a monthly VAT charge of €43.12 ($132 \times 1.96 / 1.20 \times 0.20$).

The guarantee obligation

Implementing the so-called guarantee obligation can be considered an important change. According to the proposals a VAT-registered trader that has fully recovered input VAT on costs related to the purchase or use of a car should ensure that it is used for business purposes only. An annotation to the proposals explains that it is up to the company to decide how this obligation is carried out since a logbook and an electronic GPS record are both acceptable. Guidelines from the Tax and Customs Board are expected.

Non-compliance with the 2-year rule to become more costly

The rules for adjusting input VAT will become more stringent where the originally intended use of a car

that allowed a full VAT deduction changes from business to private within two years. According to the proposals, the limitation on input VAT deduction will apply retroactively from the beginning of the 2-year period, meaning that 50% of the initially recovered input VAT must be paid back to the government. The current rules provide for a proportional calculation in measuring the amount to be paid back over a 24-month period, which is more beneficial to the taxpayer. The Finance Ministry expects that in addition to the amount of VAT that must be paid back, an obligation to pay interest on arrears will arise, making taxpayers hardly interested in voluntary adjustment in that case.