REPUBLIC OF ESTONIA
TAX AND CUSTOMS BOARD

Fringe benefits

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Compensation for the use of personal cars

WHO CAN BE PAID TAX-EXEMPT COMPENSATION?

According to the **Regulation No. 164 of the Government of the Republic of 14 July 2006** (hereinafter *the Regulation*), compensation can be paid for the use of a passenger car for business trips:

- to officials (within the meaning of the Income Tax Act, the persons specified in subsection 3 of § 2 of the Civil Service Act, such as members of local government councils, members of rural municipalities or city governments, judges, members of the Riigikogu, etc., are considered to be officials);
- to employees (within the meaning of the Employment Contracts Act) and
- to members of management or controlling bodies of legal persons (within the meaning of § 9 of the Income Tax Act).

Thus, for example, tax-exempt compensation cannot be paid, based on the Regulation, to owners of companies or to persons who provide services based on contracts under the law of obligations. However, it is possible for them to be reimbursed for expenses incurred in the interest of legal persons based on subsection 3 of § 12 of the Income Tax Act, if these expenses are documented.

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What kind of vehicle can tax-exempt compensation be paid for?

Compensation can be paid **for the use of a car, which is not in the ownership or possession of the employer.** Therefore, the car does not have to be the personal property of the user, but the right to use it must be proven. The right of use is indicated on the vehicle registration certificate. M1 and M1G category vehicles are considered passenger cars.

If compensation is paid to a person with a disability, as an exception, the costs of using any motor vehicle may be reimbursed. According to § 2 of Road Traffic Act, a motor vehicle means a power-driven vehicle. A vehicle means a device powered by a motor or in another way, designated for road traffic or driving on the road.

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Documents required for payment of compensation

To pay compensation, there must be a written decision, directive, or order from the employer, which shows the details of the person receiving the compensation, the amount of the compensation and the date of the ride or the period during which the made rides are compensated. A copy of the document certifying the right to use the car is attached to the written decision. A decision can also be made for a longer period than one calendar month.

Tax-exempt compensation can only be paid if records (driving log) of work rides are kept. Driving records must contain the data of the person using the car, data of the national registration plate of the car, the initial and final readings of the odometer for each work ride, and the date and purpose of each ride. The form in which the records are kept, e.g., on paper or electronically, does not matter. It is important that it contains the aforementioned data. As a result, tax-exempt compensation cannot be paid for future rides, but only for rides already made.

If the compensation for the use of a personal car is paid without keeping records, the payment is considered to be income from employment, which must be declared in Annex 1 of the form TSD (in the case of a non-resident, in Annex 2) in personalised form.

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Tax-exempt compensation limits

Based on driving records, business rides can be reimbursed in the extent of up to 50 cents per kilometre, but not more than 550 euros for rides made in one calendar month. This means that employers can also set a lower price per kilometre, for example 20 cents, but neither limit must be exceeded to qualify for the exemption. Therefore, if the price per kilometre of compensation is set at, for example, 1 euro, the part exceeding the limit price per kilometre is taxable, i.e. 50 cents, regardless of the total amount of the compensation.

The compensation can also be paid to the employee summed up, i.e. more than 550 euros cash-based in one calendar month, but it is important that the compensation is not calculated in excess of the prescribed limit for one month.

The compensation amount exceeding the limits is considered a fringe benefit. If the amount of calculated compensation for a calendar month is greater than the limit, the fringe benefit is calculated for each month separately and the fringe benefit must be declared in the month when the compensation was paid out.

A natural person can also receive tax-exempt compensation from several employers if there are records, while the upper limit of 550 euros is applied separately for each employer. The compensation includes all expenses related to the normal use of the car (including fuel, insurance, etc.), except for parking fee paid when performing service, employment, or official duties.

The price per kilometre and the tax-exempt limit established in the regulation are not related to actual costs (expense documents). Subsection 3 of § 12 of the Income Tax Act states that compensation for certified expenses incurred for the benefit of another person is not the income of a natural person, but it also adds that this subsection does not apply to compensation for which separate conditions and limits have been established. Since separate conditions and limits have been established for the compensation paid for the use of a personal car, compensation for the use of a personal car based on expense documents (e.g. payment of a tire change, repair costs, etc.) is a fringe benefit (**§ 48 of the Income Tax Act** and **§ 6 of the Regulation No. 2 "Procedure for determining the price of fringe benefits" of the Minister of Finance of 13 January 2011**), with the exception of parking fee paid when performing service, employment or official duties.

As an exception, personal car expenses can be reimbursed on the basis of an expense document, if one goes on a business trip with a personal car, and the reimbursement of these expenses is based on the so-called business trip regulations: **Regulation No. 110 of the Government of the Republic of 15 June 2009** or **Regulation No. 112 of the Government of the Republic of 19 December 2012**.

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When is ride compensation exempt from tax

WHEN IS THE REIMBURSEMENT OF RIDES BETWEEN WORK AND PLACE OF RESIDENCE EXEMPT FROM TAX

If, in general, rides between work and place of residence are not considered as work rides and cannot be reimbursed tax-free, it is still possible to do so under certain conditions. Rides between the place of residence and the place of work can be treated as work rides if it is not possible to travel this route by public transport at a reasonable time or cost. Also, if the place of residence of an employee with a contract of employment is located at least 50 kilometres from the place of work (subsection 5[1] of § 48 of the Income Tax Act). In this case, rides between work and place of residence are indicated in the driving records as the purpose of the rides, and these can be reimbursed exempt from tax up to the general limit (550 euros).

A person with a disability can be compensated for rides between home and workplace within the limits if records are kept and if it is not possible to use public transport or if its use causes a significant decrease in the person's ability to move and work.

Rides from home to work and back cannot be reimbursed exempt from tax on the grounds that it is easier and more convenient for a person to drive between home and work in a personal car than to use public transport.

It is possible to reimburse rides between home and workplace exempt from tax if it is primarily necessary for the employer to operate its activities. This means that the employer's interest generally prevails when compensating rides between home and work, and the employer must be able to justify it if necessary. The payment of compensation to each person must be assessed separately based on the person's place of residence, work obligations, start of working day, opportunities for using public transport, etc. By evaluating all these circumstances together, the employer can decide whether tax-exempt compensation for the person's rides from home to work is justified or not.

Example
An agreement has been concluded with the employee that the employee is ready 24/7 (on-call) to solve problems arising from business activities, i.e., crisis situations. In this case, can rides between work and home be considered business rides?
On-call time is the time when the employee is not required to perform work tasks but is required to be ready to perform work tasks based on the employer's order under agreed conditions. Since the employee cannot fully concentrate on rest during the on-call time and must be ready to perform work tasks immediately, if necessary, it is justified to pay salary for the on-call time in the amount of 1/10 of the agreed salary. On-call time can be implemented by agreement between the employee and the employer. Therefore, solutions to crisis situations (on-call time) are related to entrepreneurship, as well as rides outside the place of daily work for work purposes and then back there. In this case, rides between work and home are considered business rides.
However, attention must be paid to the fact that merely formally imposing the obligation on employees to regulate crisis situations does not give the right to tax-exempt compensation for all rides between work and home. Such an obligation must be substantive, based on the employer's real needs and correspond to the employee's duties.
More information on the organisation of employee transportation in the instruction “**Transporting employees home and to work**”.

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Declaration of compensation

A person (a resident legal person, state agency or local government agency, a natural person who is an employer and a non-resident who has a permanent establishment or operates as an employer in Estonia) who has paid compensation to a natural person (also, to a person with a disability) for the use of a car during a calendar year is required to submit the declaration form INF 14 by 1 February of the following year.

To submit the form INF 14:

- enter e-MTA
- select “Reports” and “Form INF 14” from the menu
- on the page of declaration lists, click the button “Add new INF”
- select the 4th quarter.

On the form INF 14, the compensation amounts are declared together with the part exceeding the limit.

Example 1
The employer's order states that the employee will be reimbursed for the use of a personal car for work tasks when keeping driving records. In January, the employee was compensated for the use of the personal car in the total amount of 600 euros (1200 km × 0.5 euros) and the amount was transferred to the employee. What amounts must be declared on the Annex 4 of form TSD and on the form INF 14?
The amount of 50 euros (600 – 550) must be indicated on the Annex 4 of form TSD and the amount of 600 euros on the form INF 14.

Example 2
The employer's order states that the employee will be reimbursed for the use of a personal car for work tasks in the amount of 550 euros. No driving records are kept. What amount must be declared on the Annex 4 of form TSD and on the form INF 14?
No amounts are declared on the Annex 4 of form TSD and on the form INF 14, because driving records have not been kept. The amount of 550 euros is treated as employment income and is declared on the Annex 1 of form TSD.

Example 3
The employer's order states that the employee will be reimbursed for the use of a personal car for work tasks when keeping driving records. In February, the employee was compensated for the use of a personal car in the total amount of 409.44 euros (744.44 km × 0.55 euros) and the amount was

transferred to the employee. What amount must be declared on the Annex 4 of form TSD and on the form INF 14?
The amount of 37.22 euros (744.44 km× 0.05 euros) must be indicated on the Annex 4 of form TSD and the amount of 409,44 euros on the form INF 14.

Example 4
The employer's order states that the employee will be reimbursed for the use of a personal car for work tasks when keeping driving records. In March, the employee was compensated for the use of a personal car in the total amount of 675 euros (1500 km × 0.45 euros) and the amount was transferred to the employee. What amount must be declared on the Annex 4 of form TSD and on the form INF 14?
The amount of 125 euros (675 – 550) must be indicated on the Annex 4 of form TSD and the amount of 675 euros on the form INF 14.

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