

Passenger cars and VAT accounting

In the case of a passenger car and goods and services purchased for that purpose, there is a scheme whereby instead of the taxation of the self-supply of a passenger car, the deduction of the VAT payable on the purchase of passenger cars (including on hire and leasing) and on the purchase of goods and services for that purpose is limited. The general limit on the deduction of input VAT is 50%.

Therefore, upon acquisition of a passenger car or use under the contract for use and purchase of goods and receipt of services for such a passenger car, usually **50%** of input VAT is deducted from the calculated VAT. Essentially, the proportion of the use of a passenger car for business purposes is considered to be 50%.

The restriction on the deduction of input VAT applies to vehicles of category M1 (including M1G) with a gross weight not exceeding 3,500 kilograms and with no more than eight seats in addition to the driver's seat.

If a taxable person also has supply exempt from tax or an activity which is not considered to be a business, such circumstances must also be taken into account when deducting input VAT.

Examples of costs related to passenger cars include fuel, spare parts, maintenance, repairs, parking fees, transport costs (e.g. ferry tickets).

The following is not be regarded as expenses related to a passenger car:

- ✓ the cost of placing advertising on a car – these costs are not related to the use of the vehicle, but to advertising;
- ✓ buying or renting a trailer.

If, in addition to work trips, a passenger car purchased for a company is also used for private trips, the procedure is that 50% of the input VAT is deducted from VAT (or less, for example, if the company has a part of its supply exempt from tax) when buying a car used for business purposes or using it on the basis of a contract of use and receiving goods and services for that purpose. Therefore, regardless of the extent to which a passenger car used for business purposes is used for private trips, 50% of the input VAT can be deducted.

The transport of employees between the places of residence and the place of work by employer's passenger car is not deemed to be private use of a passenger car if the conditions provided for in subsection 5¹ of § 48 of the Income Tax Act are met.

EXAMPLES ON DEDUCTING INPUT VAT

Example 1

A car is used for **both business and private purposes**. This car is used to the extent of 60% for taxable supply and 40% for supply exempt from tax. Fuel was bought for 50 euros + VAT 12 euros. 3.6 euros of input VAT can be deducted ($12 \times 0.5 \times 0.6$).

Example 2

A car is used **exclusively for business purposes**. This car is used to the extent of 60% for taxable supply and 40% for supply exempt from tax.

Fuel was bought for 50 euros + VAT 12 euros.

7.2 euros of input VAT can be deducted (12×0.6).

EXCEPTIONS

Subsection 4 of § 30 of the VAT Act sets out the exceptions in which the deduction of VAT payable on the acquisition of a passenger car and goods and services for that purpose is not restricted.

The exceptions are applied in the following cases:

- ✓ A car is acquired **for selling or for renting it out**.
It is important that cars acquired for selling or for the granting of use under the contract for use **are not taken into use by the acquirers themselves**. When a car acquired for selling is used for other purposes the **input VAT deducted on the acquisition must be adjusted**. The adjustment must be made during the period of taxation in which a taxable person himself starts using the car originally acquired for selling. If the taxable person is also engaged in the granting of use and the car purchased for selling is, e.g., rented out, the two-year period begins to count from the renting of the vehicle.
- ✓ A car is mainly used for **the carriage of passengers for a charge or for driving lessons**.
A taxable person has the right to deduct **in full the input VAT on a vehicle** used for business purposes and on goods and services acquired for that purpose if the car is used mainly for the carriage of passengers and on condition that the taxable person has a Community licence and a certified copy of the Community licence or, in the case of the provision of taxi service, a taxi licence and a licence card.
Private consumption is taxed as self-supply pursuant to subsection 7¹ of § 12 of the VAT Act.
In accordance with subsection 7¹ of § 12 of the VAT Act, the taxable value of the self-supply in the case of the use of these passenger cars is: the price of a fringe benefit calculated on the basis of the Income Tax Act $\div 1,2$.
In other words, if a car which is used mainly for the carriage of passengers for a charge or for driving lessons is given to an employee to be used, it is taxed. Unlike other passenger cars, it is possible to deduct 100% of the input VAT on these vehicles even if the car is used for private consumption. What is important is that the vehicle complies with the conditions of clauses 3 and 4

- ✓ of subsection 4 of § 30 of the VAT Act.
The taxable value of self-supply, including VAT, arising from the use of a passenger car mainly used for the carriage of passengers or for driving lessons and from a category N1 lorry of a maximum gross weight not exceeding 3500 kilograms for private purposes is the price of fringe benefit calculated on the basis of the Income Tax Act. According to the VAT Act, no self-supply can be generated from the use of other passenger cars for private purposes.
- ✓ A car is used **exclusively for business purposes**. The exception applies only if the car is directly necessary for business purposes and the car is used exclusively for business purposes.

KEEPING RECORDS OF THE USE OF A CAR

A taxable person who applies the above exceptions and who has deducted the input VAT on the passenger car and related expenses in full must ensure that the use of the car for non-business purposes is precluded and may continue to keep records of the use of the car.

The method of keeping records is decided by the company itself – the aim is to ensure that the company's passenger car is used only for business purposes. For example, the company may, among other things, keep detailed records, i.e. a logbook, or use a GPS service provided by a third party.

As a general rule, a passenger car used exclusively for business purposes should be parked outside of work at the company's premises.

The company must decide:

- ✓ how a car is used,
- ✓ how such use is ensured and
- ✓ how both the company management and the tax authority can check its use.

USING A CAR FOR NON-BUSINESS PURPOSES

If a passenger car used for business purposes is used for private purposes, regardless of whether or not the employee reimburses the expenses related to the use of the car, such use is not considered to be use for business purposes only.

This also applies to companies engaged in the granting of use of cars and that grants their employees use of cars for a fee.

In order to avoid double taxation, the private consumption of a car shall not be taxed as self-supply and

the granting of the car for use for a fee to an employee or member of the management and control body of a taxable person shall not be deemed to be supply.

The use of a company car for personal journeys is taxed with a fringe benefit on the basis of the power of the vehicle.

RECALCULATION OF INPUT VAT DEDUCTED IN FULL UPON PURCHASE OF A PASSENGER CAR

If, at the time of acquisition a car was considered to be used exclusively for business purposes (so-called 100% car) and input VAT was deducted from the acquisition price in full, but in the two years from its acquisition the car starts to be used for private journeys, then the input VAT deducted upon the acquisition of the car must be decreased in the VAT return of the month of the acquisition.

Upon adjustment of the input VAT deducted upon acquisition, such passenger car is considered to be a car used partly for business purposes (so-called 50% car) during the entire first two years of use, regardless of the actual proportion of its use for business purposes during the individual months of the first two years.

The input VAT on running costs is not reduced retroactively and the so-called two-year rule is not applied to running costs.

Example

A passenger car is acquired in December 2018 without VAT for 20,000 euros and 100% of the input VAT (4,000 euros) is deducted upon purchase. From June 2019, the car starts to be used for non-business trips – therefore the requirement to use the car for business purposes only for at least two years is not met.

The input VAT must be recalculated in the VAT return for December 2018, reducing the input VAT initially deducted on the purchase of the passenger car by 2,000 euros (50%).

Since input VAT on running costs is not retroactively recalculated, the input VAT on the passenger car and related costs, including the input VAT deducted on acquisition (regardless of the adjustment) will remain in field 5.3 of the VAT return until May 2019.

If the so-called 'two-year rule' is applied to a passenger car whose use for private purposes was taxed as self-supply (a car used for the carriage of passengers or for driving lessons), the amount of VAT to be refunded will be reduced by the VAT already paid on the car's use as self-supply. This means that within two years of the acquisition of the passenger car, the car will either cease to be used for the carriage of passengers or for driving lessons, or it will no longer be used mainly for the carriage of passengers or for driving lessons (and is, among other things, used for non-business purposes).

RESTRICTIONS ON DEDUCTION OF INPUT VAT ON RUNNING COSTS RELATING TO A CAR

If a passenger car is to be used for non-business purposes, as of 1 January 2018, no more than 50% of

the input VAT on the costs related to the passenger car can be deducted within one year from the month of starting using the passenger car for non-business purposes, regardless of whether or not the passenger car is also used for non-business purposes in the following months of the one-year period. Supply exempt from tax and being a non-business (e.g. NGO or sole proprietor) may decrease the deduction percentage further.

Example 1

If a car which has been used only for business purposes is used for non-business purposes for the first time, then in the first year (not a calendar year but the following 12 months) from the month in which the first trip for non-business purposes was made, no more than 50% of the input VAT on the costs relating to that car can be deducted, even if in the following 11 months the car is again used only for business purposes and this can be proved. This means that the restriction on the deduction of input VAT after the first non-business trip is in any event valid for 12 months even if non-business trips are no longer made in the following months.

Example 2

If the deduction of input VAT on costs related to a car is already subject to a 50% restriction and, in addition, the company has both taxable and non-taxable supply and business-related trips are related to both taxable and non-taxable supply, then 50% of the input VAT on the costs relating to the car cannot be deducted, but the proportion between taxable and total supply must be taken into account. For example, if the taxable supply accounts for 60% and the supply exempt from tax 40% of the total supply, the input VAT on costs related to a car can be deducted not by 50%, but by 60% of the 50% (0.6×0.5), i.e. only 30%.

Example 3

If a person liable to VAT is a non-profit association or a sole proprietor who is engaged in both business and non-business activities and who deducts input VAT according to subsection 4 of § 29 of the VAT Act, he can deduct input VAT on the costs related to a car according to the proportion of the use of the car for business purposes and not more than 50%. For example, if upon purchase of a car a sole proprietor indicates 40% of costs as related to business, he can deduct 40% of input VAT, not 50%, on the costs related to that car.

The so-called one-year rule applies regardless of the time of purchase of the car – also in the case of passenger cars for which the period of adjustment of input VAT deducted on acquisition has already expired. If the adjustment period has not yet expired, upon adjustment of the input VAT deducted upon acquisition, it must be taken into account at the end of a specific calendar year that, within at least one year from the month of starting to use the car for non-business purposes, the car must be regarded as being partly used for business purposes (a so-called 50% car). As of 1 January 2018, subsection 4 of § 32 of the VAT Act also includes a sentence that the proportion of the use of a car for business purposes must be calculated pursuant to the procedure provided in subsection 4 of § 29 and § 30 of the VAT Act.

Running costs also include lease payments for using a car and the so-called “two-year rule” explained above is not applied in the case of such a car.

Example

A passenger car is acquired in December 2018. The car is first used 100% for business purposes (and

only for taxable supply), but from July until September 2019, also for non-business purposes.

As the use for non-business purposes started in July 2019, a new one-year rule is now applicable – from July 2019 to June 2020, 50% of the input VAT on running costs related to the car can be deducted, despite the fact that the car is not actually used for non-business purposes between October 2019 and June 2020.

In July and August 2020, only business-related trips are made – as more than one year has now passed since the introduction of use for non-business purposes, 100% of the input VAT on running costs can be deducted in these months. As of September 2020, the car is again used for non-business purposes, and as of that month, the deduction of input VAT on the running costs related to the car is again 50% until at least August 2021.

TAXABLE VALUE OF THE SELF-SUPPLY ARISING FROM THE USE OF A PASSENGER CAR MAINLY USED FOR THE CARRIAGE OF PASSENGERS OR FOR DRIVING LESSONS AND OF A LORRY OF CATEGORY N1 WITH GROSS WEIGHT NOT EXCEEDING 3500 KILOGRAMS FOR NON-BUSINESS PURPOSES

As of 1 January 2018, the taxable value of such self-supply together with VAT is the price of the fringe benefit calculated on the basis of the Income Tax Act. According to the VAT Act, no self-supply can be generated from the use of other passenger cars for private purposes.

According to subsection 8 of § 48 of the Income Tax Act, in such a case, the price of the fringe benefit is, as a general rule, 1.96 euros per unit of engine power (kW) indicated in the motor register, and 1.47 euros in the case of a vehicle older than 5 years.

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