COMPANY CAR TAX

RELEVANT TO ACCA QUALIFICATION PAPER F6 (HUN)

The example below gives a good illustration of a move toward equity in one specific area in the tax system of a country.

In Hungary, a substantial number of companies provide their employees (usually senior managers and those who need it for work) with company cars. In most cases, employees may use them for private purposes as well, and as such the cars are treated as part of a remuneration package.

As a result, the Hungarian Government has always tried to levy tax from private individuals on this type of income. The taxation of company cars had been an element of the Act on Personal Income Tax for several years, and tax had to be paid by the employer providing the car. The main drawback of the old system was that payment was relatively easy to avoid, with companies maintaining mileage records (often created retrospectively when a tax audit was in sight) and classifying private usage as 'business trips' so that no tax was payable. The tax authorities had no actual capacity to examine the validity of those records. Entities that did not want to be involved in these activities paid the tax, which was rather high.

THE HUNGARIAN GOVERNMENT RADICALLY REDRAFTED THE REGULATIONS CONCERNING THE TAXATION OF COMPANY CARS. TO SHOW HOW IMPORTANT THESE CHANGES ARE, THE REGULATIONS HAVE BEEN REMOVED FROM THE ACT ON PERSONAL INCOME TAX AND ARE NOW PART OF THE ACT ON TAXATION OF MOTOR VEHICLES.

To create a more equitable system, the Hungarian Government radically redrafted the regulations concerning the taxation of company cars. To show how important these changes are, the regulations have been removed from the Act on Personal Income Tax and are now part of the Act on Taxation of Motor Vehicles. The rules are easy to follow and they do not allow avoidance. As tax payment is spread over a much larger number of taxpayers, the tax payable per company car is significantly lower than that under the old system.

SCOPE

The new rules have been enforceable since 1 February 2009. The tax is payable on company cars as they represent wealth (the tax now being treated as a property tax). On the other hand, company cars tend to be used more frequently on the public roads which are maintained by taxpayers' contributions. Furthermore, those cars may serve as a means of generating additional income for private individuals.

Under this legislation, company car tax must be paid on cars that are not used exclusively for private purposes. The taxation of such cars is independent from the legal status of the owner of the car (it can be a private individual or a company). An underlying principle of company car tax is the deduction of expenses related to the car, thus decreasing the taxable income of the owner (either an entity or private individual). A 'car' is defined as a vehicle with three or four wheels that is capable of carrying a maximum of eight people (including the driver).

OBLIGATION OF CORPORATIONS

Based on the regulations, company car tax must be paid on a car if it is owned (legally registered) by an organisation (ie not a private individual). There is no exemption from this rule. Companies registered under EVA (simplified taxation for small entrepreneurs) must pay company car tax as well. This is because simply owning the car results in deductible expenses – the most common example being depreciation. Allowable costs and expenses, are those incurred as a direct result of maintaining and operating the car, such as:

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- depreciation
- fuel expenses
- spare parts used within one year, as well as costs of maintenance and repair costs
- insurance premium
- car capacity tax (gépjármuadó)
- leasing and rental fees for the car.

As these costs and expenses are incurred in the ordinary course of business, no adjustment to the corporate tax base will be required.

OBLIGATION OF PRIVATE INDIVIDUALS

Company car tax is payable by the private individuals if they own the car, but expenses in relation to the car can be deducted from the tax base of another. This is the case when, for example, the private individual:

- chooses the itemised deduction of car expenses from his revenue to determine taxable income for the year (even if the private individual uses travelling order – kiküldetési rendelvény – for administering expenses)
- hires out his car to a corporation for consideration (and the corporation expenses the cost of hire)
- hands over the car for others to use and those taking over the car pay for and deduct expenses relating to the car
- uses his car for the benefit of his employer and the employer pays for and deducts expenses relating to the car.

The day the costs are incurred is the date of the relevant official document related to the cost (eg date of invoice) or the date of usage in the mileage record.

EXAMPLE 1

A private individual (an advisor) and a company enter into an advisory agreement for a period of one month. No employment contract is concluded, the agreement being of a freelance nature. If fuel expenses incurred by the advisor are re-charged to the company, expenses are borne by the entity in accordance with the Act on Accounting so the advisor should pay company car tax. If the advisor is not entitled to re-charge such expenses, but deducts them on his own personal income tax return, he must pay the company car tax as he expensed the fuel cost on an itemised basis in accordance with the Act on Personal Income Tax. In this example, the private individual cannot evade taxation by registering the car abroad. The law applies to all cars registered in any country if expenses are deducted by a Hungarian private individual.

BASED ON THE NEW REGULATIONS, COMPANY CAR TAX MUST BE PAID ON A CAR IF IT IS OWNED (LEGALLY REGISTERED) BY AN ORGANISATION (IE NOT A PRIVATE INDIVIDUAL). THERE IS NO EXEMPTION FROM THIS RULE. COMPANIES REGISTERED UNDER EVA (SIMPLIFIED TAXATION FOR SMALL ENTREPRENEURS) MUST PAY COMPANY CAR TAX AS WELL.

EXEMPTION FROM PAYING COMPANY CAR TAX

From the above explanation, it is clear that company car tax payments are extremely difficult to avoid. There are certain situations, however, when it would be unfair and inequitable to levy tax on the reimbursement of expenses:

- if the employer reimburses the cost that employees incur in relation to coming to work on a daily basis with their own cars, irrespective of the amount of reimbursement
- if the private individual receives reimbursement of his expenses based on a travelling order (however, if expenses are deducted on an itemised basis, even if there is travelling order, company car tax is still payable).

In this second case, there must be documents supporting the actual expenses of the person so mileage records should be kept. The amount expensed cannot exceed the amount as determined by the tax authorities. The official norm for fuel expenses is available on the web site of the Hungarian Tax Authority. As an allowance for usage of the car, HUF 9 per km may be reimbursed.

If the reimbursement exceeds the norm established by the tax authority, there is still no liability to pay company car tax. However, any reimbursement which exceeds either the fuel norm or HUF 9 per km (or both) is classed as taxable income of a private individual according to the Act on Personal Income Taxation.

Cars used by the police, ambulance, and church are exempt from company car tax.

THE COMPANY CAR TAX IS PAYABLE QUARTERLY. THE DEADLINE FOR DECLARATION AND PAYMENT IS THE 20TH OF THE MONTH FOLLOWING THE QUARTER IN WHICH THE TAX IS DUE, AND THE NEW REGULATIONS RESULT IN A PROPERTY TAX THAT SERVES THE PUBLIC BETTER THAN THE PREVIOUS WAY.

START AND CESSATION OF TAX OBLIGATION

If a company acquires a car, tax obligation starts on the first day of the month following the first month of ownership (the month in which the vehicle was registered). The last day of obligation is the last day of the month of disposal.

If a company leases the car under a finance lease, the tax obligation starts on the first day of the month following the month the lease agreement is entered into. The last day of obligation is the last day of the month when the lessee gives the car back to the lessor. If the lessee gains ownership at the end of the lease term, the rules of ownership apply.

EXAMPLE 2

A limited liability company acquires a car on 12 February 2010 and disposes of it on 1 July 2010. As tax liability arises on the first day of the month following the month of acquisition, and ceases on the last day of the month of disposal, a tax obligation exists from 1 March to 31 July 2010, ie for five months.

In the case of private individuals, the obligation arises on the first day of the month following the month when first expenses are deducted and lasts until the last day of the month when final expenses are deducted.

EXAMPLE 3

A private individual deducts expenses for his car, on an itemised basis, for the first time in January 2010, and for the last time in March 2010. Company car tax is payable for two months: February and March 2010. If this person deducts expenses in, say, September 2010 again, the liability starts on 1 October 2010.

If the car is stolen or destroyed the tax obligation ceases to exist on the last day of that month.

AMOUNT, PAYMENT AND ADMINISTRATION OF COMPANY CAR TAX

The amount of tax payable depends on the capacity of the car engine.

For cars with an engine capacity up to 1,600ccm (or 1,200ccm for Wankel engines) the tax is HUF 7,000 per month; for engines above that limit, the tax is HUF 15,000 per month.

From the amount calculated, the tax payer may deduct the car capacity tax. The deduction can only be made:
- for the period when there is tax obligation in respect of both taxes
- if the car capacity tax has been paid within the legal deadline.

The company car tax is payable quarterly. The deadline for declaration and payment is the 20th of the month following the quarter in which the tax is due.

CONCLUSION

The new company car tax regulations result in a property tax that serves the public in a better way than the previous set of rules.

The honest taxpayer's burden has been reduced significantly. Although it is not possible to find an ideal system of taxation, the new regulations for company cars in Hungary points to a more equitable and predictable system.

REFERENCES

- 1991 Act LXXXII on Taxation of Motor Vehicles, Section IV.
- 1995 Act CXVII on Taxation of Private Individuals.

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