

Personal Use of Company Cars

Often an employer provides an employee, during the course of his/her employment, a company car that he/she may also drive for personal use. This payment-in-kind has a material value and, as part of his/her remuneration, is thus subject to taxation and social security contributions.

Determination of the private value-in-use under the 1% method

The value of personal use of a vehicle is to be set at 1% per calendar month of the domestic list price at the time of initial registration plus the expense for special accessories plus the sales tax (§ 8 subsection 2 sentence 2 EStG [income tax code]).

When the car can be used for trips between residence and workplace, the value-in-use increases by 0.03% of the list price, per kilometer of direct distance between residence and workplace (§ 8 subsection 2 sentence 3 EStG) for each calendar month. The determining factor is the shortest, usable road connection. The kilometers travelled must be rounded down to full kilometers.

The monthly values must be applied also when the employee has only part-time use of the car during the month. It is not permitted to reduce the value when, for instance, the car has writing on it, a private car is available or when the employee assumes the cost for gasoline or garage.

List price

List price is the non-binding manufacturer's suggested retail price, rounded-down to full hundreds Euros, at the time of the car's original registration plus costs of special equipment, even when it is installed later, (e.g., air conditioning, navigational system, anti-theft system) plus sales tax. The value of the car telephone, including the hands-off equipment,

as well as an extra set of tires including rims is not counted.

Cars armored for safety reasons

This pertains to safe-keeping fittings for the protection of persons. For a car that is armored for safety reasons, the list price of a car with lighter equipment (without safety armor) may be used.

Flat-rate taxation for trips between residence and workplace

The employer may use the flat-rate taxation method for trips between residence and workplace, i.e., at 15% (plus SolZ [solidarity tax] and KiSt [church tax]) and € 0.30 per kilometer for 15 workdays per month. The flat-rate taxation applied may not be higher than the computed payment-in-kind for trips between residence and workplace. This applies especially to cars with a list price of under € 15,000.

Example:

List price: €14,900.00

Distance residence – workplace: 10 km

$0.03\% \text{ of list price} \times 10 \text{ km} = € 44.70$

The employer may not apply the flat rate taxation method on ($€ 0.30/\text{km} \times 10 \text{ km} \times 15 \text{ days} =$) € 45.00, but may only apply the computed payment-in-kind amount for trips between residence and workplace in the amount of € 44.70.

The portion that is taxed under the flat-rate method for trips between residence and workplace is not subject to social security contributions.

Salary reduction in exchange for use of company car

When in connection with the use of a company car the salary reduction is agreed upon, the various evaluations under the tax- and social security legislation must be considered.

Example:	
Non-exempt gross income	€ 3,500.00
Exempt supplement	+ € 400.00
Total gross salary	= € 3,900.00
Salary reduction in the amount of monthly costs	€ 500.00

Contributions and payment for use by the employee

When the employee pays the employer a flat-rate or a cost-specific amount for the use of the car, it reduces the payment-in-kind value. Contributions which are made by the employee toward the acquisition costs may be offset toward the personal use value only in the year payment is made

Example:		Income tax		Soc. Sec. Contribution	
Salary reduction is recognized in full		Salary reduction is recognized only for the exempted share		Salary reduction is recognized only for the exempted share	
Reduced gross salary	€ 3,900.00	Reduced gross salary	€ 3,500.00	Reduced gross salary	€ 3,500.00
	-€ 500.00				
	€ 3,400.00				
Payment-in-kind	+€ 350.00	Payment-in-kind	+€ 350.00	Payment-in-kind	+€ 350.00
Gross salary subject to income tax	€ 3,750.00	Gross salary subject to Soc. Sec. contribution	€ 3,850.00	Gross salary subject to Soc. Sec. contribution	€ 3,850.00

Carpool

When there are more persons entitled to a company car than there are cars available in a carpool, the payment-in-kind for personal trips must be determined by using 1% of the list prices of all cars and this sum must be divided by the appropriate number of entitled persons. The usage value for trips between residence and workplace must be computed analogously using 0.03 %. This value must be multiplied by the number of kilometers driven by the individual employee.

Choice among several cars

When more than one car is available to an employee at the same time, the personal use of every car must be computed at 1% of the list price per month. When the use of the car is not extended to dependents, the list price of the predominantly used car is used as the base. The list price of the predominantly used car must always be used to determine value of the trips between residence and workplace.

Used and leased cars

The list price at the time of original registration is applicable also to the pre-owned car. Additionally, no special considerations are given to leased cars.

Re-imported cars

For re-imported cars the original local list price applies. When the car is not being offered in the country, the determining list price may be estimated. In this case the list price and the value of the special equipment may be determined by comparing it to an older domestic car.

Company car and social times

Personal use of a company car is considered to be all travel, whose purpose is private such as recreation, trips to relatives or friends, shopping and cultural or sporting events. This means that

the company car may be used for so-called social times. **Vacation:** The employee is entitled to use the company car during vacation. During vacation the employee must make reasonable payments in cash to reimburse for received payment-in-kind outside the benefit plan (§ 11 subsection 1 sentence 4 BUrlG [Federal German vacation act]).

Disability due to illness: The employee is entitled to continued salary payment for the period of six weeks (§ 3 Abs. 1 EFZG [salary continuation payment]). During the period of continued salary payment, the employee is fully entitled to use the company car. At the end of salary continuation payment, the entitlement to the company car ceases unless other conditions have been agreed upon in the employment contract. **Maternity protection:** At the start of the maternity protection period, the employment relationship ceases. When, during the last three months prior to maternity protection period, the use of the company car was part of the employment compensation, the right to continue the use of the company car for personal purposes remains. This applies during the protection periods before and after delivery (Decision of BAG [Federal Court of Employment Law]).

Permitted methods for establishing value in use

It is permitted to keep a trip recording journal in place of the 1% method for the determination of usage value for taxation purpose. Thereby all business and personal trips must be recorded separately and regularly. Detailed data is required for business trips.

Data of kilometers driven is adequate for personal use. It is, however, not permitted to change the method of determination during one calendar year or to apply one method for the general usage only and to determine the usage value for trips between residence and workplace utilizing another method.

When it is impossible to precisely establish usage value under the trip recording journal method during the calendar year, data of previous years may be used as basis, for the time being. It is also permitted, during the course of the year, to temporarily assess personal trips at 0.001 % of the list prices per kilometer driven.

In both cases the actual usage value must be determined within the framework of the annual balance sheet preparation. Thereby any differences in income tax must be adjusted and the social security contributions must be corrected.