

Personal Use of Company Cars

Many employers provide their employees during the course of their employment with a company car for personal as well as company use. This payment-in-kind has a material value and is thus subject to taxation and social security contributions as part of the employee's remuneration,.

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

The value of the personal use of a company vehicle is to be set, per calendar month, at 1% 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]).

Electric cars

If the vehicle provided by the company is an electric car, taxation for its private use is reduced. For e-cars and hybrid vehicles, the value of personal use is set at 1% of either only half or only a quarter of the domestic list price in the year of the registration (as opposed to full list price for conventional cars).

- A quarter of the list price is applicable if the car is fully electric and the domestic list price does not exceed € 60.000.
- For more expensive vehicles and for hybrid cars (externally chargeable), half the domestic list price will be considered.

As of 2022, the reduction will only apply to new hybrid cars if the electric-only range is at least 60 kilometres or if the carbon dioxide emissions do not exceed 50 grams per kilometre.

Value-in-use for commute between residence and workplace

If the employee can use the vehicle for the commute between residence and workplace, the value-in-use increases either by 0.03% generally or 0,002% per day of use of the list price (or the reduced list price in case of electric cars), for each kilometer of the direct distance between residence and workplace (§ 8 subsection 2 sentence 3 EStG), for each calendar month.

The daily accurate method of calculation (0,002 % per each day of commuting by car) is

preferable if the employee is commuting by car on less than 15 business days per month to his/her workplace.

Distance is determined as the shortest usable road connection. The kilometers travelled must be rounded down to full kilometers.

The monthly values must be applied as well if the employee has only part-time use of the car during the month. The value may also not be lowered if the car carries advertisements, or if the employee owns a private car as well, or if the employees pay for gasoline or garage costs out of their own pocket.

List price

List price is defined as the retail price suggested by the manufacturer in a non-binding way, rounded-down to full hundreds of Euros, as given at the time of the car's original registration, plus costs of special equipment (.g., air conditioning, navigational system, anti-theft system,, even if such equipment is installed later, plus sales tax. Not to be added is the value of a car telephone, including the hands-off equipment, as well as an extra set of tires including rims.

Cars armored for safety reasons

This pertains to protective fittings of the vehicle intended for the safe-keeping of persons. If a car is armored for safety reasons, the list price of a lighter car without armor (i. e. without safety equipment) may be used.

Flat-rate taxation for trips between residence and workplace

The employer can choose a flat-rate taxation for the value of the employee being able to commute between residence and workplace in a company car. The flat rate taxation is set at 15% (plus SolZ [solidarity tax] and KiSt [church tax]) and € 0.30 per kilometer for the first 20 kilometres and € 0.35 for additional kilometers, for 15 workdays per month. The flat-rate taxation applied may not exceed the payment-in-kind value 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. The computed payment-in-kind amount for trips between residence and workplace in the amount of € 44.70 has to be used.

The payment-in-kind value 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

If a salary reduction is agreed upon in connection with the use of a company car, the various evaluations under 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

If the employee pays a flat-rate or a cost-specific amount to the employer for the use of the car, the payment-in-kind value is reduced accordingly. Contributions made by the employee towards the acquisition costs may be offset toward the personal use value only in the year the payment is made.

Example:

Income tax

Salary reduction is recognized in full	
Reduced gross salary	€ 3,900.00
	-€ 500.00
	€ 3,400.00
Payment-in-kind	+€ 350.00
Gross salary subject to income tax	€ 3,750.00

Soc. Sec. Contribution

Salary reduction is recognized only for the exempted share	
Reduced gross salary	€ 3,500.00
Payment-in-kind	+€ 350.00
Gross salary subject to Soc. Sec. contribution	€ 3,850.00

Carpool

If 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 dividing this sum by the 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

If an employee has several cars at his or her disposal for personal use, the value of the payment-in-kind must be computed at 1% of the list price per month for every car. However, if no dependents or other third parties have the use of one of the cars, only the list price of the car used predominantly will be considered. The list price of the predominantly used car must be used to determine the value of the trips between residence and workplace in every case.

Used and leased cars

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

Re-imported cars

For re-imported cars the original local list price applies. If the car is not being offered in this 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

All travel for private purpose such as recreation, trips to relatives or friends, going shopping or to cultural or sporting events are considered personal use if the company car may be used for so-called social times.

Vacation: If employees are entitled to use the company car privately but the car is not available to them during their vacation, the employer must make reasonable reimbursements in cash for the payment-in-kind (§ 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 of the company car. At the end of the 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. If during the last three months prior to maternity protection period 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

Keeping a journal recording every trip is a permissible alternative to the 1% method for determining the private usage value of a company car for taxation purposes. In this case all business and personal trips must be recorded separately. Detailed data is required for business trips. For personal use, information about kilometers driven is sufficient.

For e-cars and hybrid vehicles, the acquisition cost of the car as used to calculate the usage value will be set at only half or only a quarter of the actual acquisition cost pursuant to the criteria described above.

The method of determining the value of private usage (1 % or a journal) must be adhered to for at least one calendar year. Mixing the methods is prohibited (e. g. applying one method for the general usage only and determining the usage value for trips between residence and workplace utilizing another method).

If usage value cannot be established precisely using the trip recording journal method during the calendar year, data of previous years may be used as a 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.