

Tax Newsletter



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Tax-free reorganization: impact on tax treatment of car costs?

In order to fiscally green mobility the maximum tax deduction of expenses relating to cars with co² emission being purchased, leased or rented during 1 July 2023 until 31 December 2025 will be gradually decreased to 0% as of tax year 2029 (income 2028). Vehicles with co² emission being acquired as of 1 January 2026 in any event no longer benefit from any tax deduction. The date of the contract or purchase order is decisive here (circ. 2024/C/50).

When a company transfers a company car, incl. leasing contract, to another company and adds an addendum to appoint a new contractual party, the date of the addendum will determine what tax deduction rate (in function of the co² emission rate of the car at hand) applies to the car (circ. 2024/C/50).

But what is the impact on the tax treatment of car expenses when a company with a car park is involved in a tax-free reorganization, e.g. a merger or (partial) spin-off? In summary: a reorganization is tax-free if it is not driven by predominant tax motives.

The following question has been submitted to the Belgium Finance Minister: BelCo (1) is partially spun-off without taxation entailing that a car that BelCo (1) had purchased before is transferred to BelCo (2). The latter needs to re-register the car and obtains a new license plate. Does the general principle of tax neutrality inherent to tax-free reorganizations allow BelCo (2) to compute its disallowed expenses regarding this car taking into account the tax deduction limitation rules that BelCo (1) applied before? Or will BelCo (2) will be confronted with other (likely higher) tax deduction limitation rates in function of the 'acquisition' date of the car upon partial spin-off?

The Minister starts off by saying that the transfer of the car by the spun-off company to the other company gives rise to an acquisition in the hands of the beneficiary company. Indeed, Belgium tax rules addressing tax deduction of expenses do not contain any specific rules for tax-free reorganizations. The Belgium tax regime governing tax-free reorganizations as such neither foresees any particular rules in this respect (*Questions & Answers*, Chamber 2023-24, n° 55-133,98).

Notwithstanding this, the Finance Minister shows goodwill as he confirms that the acquisition date of the car in the hands of the spun-off company BelCo (1) can be considered in order to compute the disallowed car expenses in the hands of the beneficiary company BelCo (2).

Needless to say that this is excellent news for Belgium tax practice!