

## ESC 6 Use of company vehicles

[Amended 24 February 2005, coming into force effective from 1 January 2005]

Section 3(1)(b) of the Taxes (Benefits in Kind) Rules 2003 introduces a charge to tax, from 1 January 2004, on the benefit of a vehicle provided by an employer to an employee for his or her own use {or for the use by any member of that employee's family}, other than wholly for the purpose of performing the duties of that employment.

Under the Ordinance and Benefit in Kind Rules "employee" includes company directors.

The taxable annual value of having such a vehicle provided is £3000. There is an alternative taxable value of £40 per day if a vehicle is only made available on an ad hoc, rather than a regular, basis.

A vehicle provided by an employer to an employee is normally made available to enable the employee to carry out the duties of that employment. Where a vehicle is made available by reason of an employee's employment the legislation provides that it will be automatically treated as having been made available for private use. This means that a vehicle benefit charge will automatically apply.

However, the vehicle benefit charge will not apply if the employee

- is specifically prohibited from using the vehicle privately, **and**
- does not in fact use it privately.

Note that there are two parts to this test.

The mere prohibition of private use is insufficient on its own to prevent a tax charge. It is also necessary to show that a vehicle is not used for private motoring.

- Thus a provided vehicle will result in liability even if no private use is made of it **unless such private use has been specifically prohibited**  
**AND**
- even if the director or employee shows that private use of a vehicle has been specifically forbidden, there must be **no private use of it if a charge is to be avoided.**

Employees who are required to take a vehicle home because they are on call will not be charged on the benefit of that vehicle provided that it is only used in an emergency. For the avoidance of doubt we will not seek to charge a benefit on vehicles provided to public officers strictly in accordance with paragraphs 109 and 112 of Chapter K of General Orders.

### Explanation

It is a fact that within the Falkland Islands it has become an established and long standing tradition for employees to use a vehicle provided by their employer, which is required for work purposes, for travelling from home to work and work to home, both at the start and end of the day and at lunchtime.

For the purposes of defining **private use** the use of that vehicle for travelling **directly** to and from work at the start and end of the day, and at lunchtime, will not be treated as private use.

If a vehicle is used for any other private purpose then a benefit in kind will arise and will become liable to tax. So, if on the way home an employee goes shopping that is a chargeable benefit. If, when on standby or on call the employee uses the vehicle to visit friends that is also a chargeable benefit.

**Comment [k1]:** 5.1EXCO paper 107/11 agrees a relaxation of this rule and allows home to work travel with occasional private use. If an employee is provided with a company vehicle and regularly uses it for private use this will give rise to a benefit. (2 May 2011 KD)

**“So we will not seek to charge a benefit on a vehicle provided to doctors, firemen, power station workers, etc. who are necessarily obliged to have that vehicle at their home in case they are called out in an emergency.”**

has been replaced by

**“For the avoidance of doubt we will not seek to charge a benefit on vehicles provided to public officers strictly in accordance with paragraphs 109 and 112 of Chapter K of General Orders.”**

This change has been introduced to point out that FIG employees are not allowed to use FIG vehicles for private purposes without permission except for a strictly limited amount when on-call duty or unless such use has been properly authorised whereby an appropriate hire charge is payable.

**Please note that, in the event abuse becomes apparent and cannot be controlled, there is a high risk that this concession will be withdrawn and, as a consequence, the Benefit in Kind Rules would be strictly applied. This would mean that any use of a vehicle provided by an employer for travel to and from work, etc. would result in a charge to tax as a benefit in kind.**