



TAXREP 31/14 (ICAEW REPRESENTATION 75/14)

FINANCE BILL 2014: CLAUSE 25: CARS AND VANS: PAYMENTS FOR PRIVATE USE

ICAEW welcomes the opportunity to comment on the [Finance Bill](#) published on 27 March.

This briefing has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

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SUMMARY OF MAIN POINTS

1. It is wholly unreasonable to require all private use payments in respect of company cars and vans to be made within the tax year before a tax reduction can be claimed. The effect of this clause will be to deny employees tax relief that is fair and reasonable on any measure.
2. It is not possible in most cases to calculate how much is due to be paid by the employee until all data for the tax year have been collected and analysed, which is impossible by 5 April. We therefore suggest that the deadline be deferred to the P11D benefit return deadline of 6 July after the end of the tax year, which gives employers a short but reasonable and practicable window in which to carry out the necessary calculations.

WHAT THE CLAUSE IS INTENDED TO DO

3. There has until now been no specified time limit for employees to make good the value of the private use of a company car, which reduces or eliminates any taxable benefit. This clause provides for a reduction in an employee's tax liability on a company car or van benefit only if payments for private use of a company car or van are made in the tax year in which the private use was undertaken.
4. The change seems to be a response to a fear that employees may claim to make a tax-deductible contribution for private use several years after the car has been provided and only when their tax position in respect of the car has been challenged by HMRC.

WHAT ICAEW IS CONCERNED ABOUT

5. We consider it sensible that government is clarifying the deadline by when payments should be made by employees to employers for the private use of a company car or van during a tax year. It can be unreasonable for reimbursement of motoring costs to be delayed for a long period.
6. However, it is always wholly unreasonable to expect employers to have to work out the charge and collect the money from employees before the end of the period that it covers, because it provides no opportunity to work out what the correct amount due should be before the payment deadline.
7. The proposed change will make it impossible, when working out how much employees should pay the employer, to take into account a change in circumstances just before the end of the tax year, for example a change in vehicle or the provision for the first time or withdrawal of a company car or van, and is likely to give rise to innocent mistakes which, given the deadline for payment, will be impossible to rectify.

RECOMMENDATIONS

8. We suggest that in order to ease employer compliance and increase the likelihood of the calculations and payments being right first time (see our Tenets for a Better Tax System 3 and 4 in Appendix 1 – tax should be simple to calculate and easy to collect), the deadline should not be the end of the tax year but should be the deadline for submitting the return of benefits-in-kind and expenses, form P11D, namely 6 July after the end of the tax year.
9. This would give sufficient opportunity for employers to compute the charge correctly first time and collect the right amount from employees, and the ability to do so alongside preparation of form P11D, thereby saving time and therefore compliance costs.

10. It would also meet the government's policy objective of car and van private use payments being made timeously, but reasonably. It would also be fair to taxpayers without disadvantaging HMRC.

PROPOSED AMENDMENT

11. We propose the following amendments:

Clause 25, subsection (1), page 25, line 13, substitute the following –

‘(b) pays that amount by 6 July following the tax year in question’

Clause 25, subsection (2), page 25, line 16, substitute the following –

‘(b) pays that amount by 6 July following the tax year in question’

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see icaew.com/en/technical/tax/tax-faculty/-/media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx)