

19 March 2018

**The “cash for cars” regime has been adopted:
FAQ’s about this new initiative**

(A) Introduction

On 15 March 2018, the Parliament finally adopted the draft bill introducing a so-called mobility allowance or “cash for cars” regime which will apply retroactively as of 1 January 2018.

This regime entails important new measures for all Belgian employers who put a company car at the disposal of their employees.

The present FAQ’s document addresses the most important aspects of the “cash for cars” regime.

(B) FAQ’s

1. What does “cash for cars” actually mean in practice?

This regime allows employees to exchange their company car for a cash mobility allowance for the purpose of arranging a more eco-friendly method of commuting.

In order to receive the mobility allowance, the employee must give up not only the company car, but also any related benefits, including a fuel card, maintenance and winter tyres.

2. Who should take the initiative to introduce the mobility allowance?

The employer should take the initiative to introduce the mobility allowance within the company. In this respect, it is possible to introduce the regime for the entire company, a specific division of the company or just for a certain objective category of employees.

If an employee were to file a specific request to exchange his company car for a mobility allowance, the employer is not obliged to honour such request. It can for example refuse such request when a company car is deemed necessary for the performance of the employee’s work.

3. How should the regime be introduced?

No specific legal formalities apply with regard to the introduction of the regime. It can be implemented through a collective bargaining agreement at company level, an individual

employment contract or a policy. However, it should be noted that the employer always must respect the hierarchy of sources of law; in other words, if a company car was granted through an employment contract, the granting of a mobility allowance should also be enacted in the employment contract (or an addendum thereto).

4. What are the specific conditions that must be complied with by the employer?

The implementation of a mobility allowance is possible for employers who have been providing company cars to their employees for a period of at least 3 years. An exception applies for new companies.

5. What are the specific conditions that should be complied with by the employees?

Employees who request the switch from a company car to a mobility allowance must have been provided with a company car (i) for 3 consecutive months prior to requesting a mobility allowance and (ii) for an uninterrupted period of **at least 12 months during a period of 36 months preceding** the request.

6. What is the social security tax treatment of the mobility allowance?

The corresponding cash amount which employees will receive for no longer having the private use of a company car will be determined taking into account the catalogue value of their most recent company car. Moreover, for employees who also have a fuel card, the mobility allowance will be increased by 20%.

As is currently the case for the benefit-in-kind of a company car, no employee social security contributions will be due by employees who receive a mobility allowance. A specific employer's contribution amounting to 33% will however be due.

From a tax perspective, a benefit-in-kind will be calculated on the cash amount using a specific formula which is based on the car's catalogue value.

7. Are any other measures envisaged?

Yes. The Belgian Government is working on a draft bill to introduce a mobility budget in addition to the "cash for cars" regime. The mobility budget would allow employees to exchange their current company car for a smaller and more eco-friendly model. The remaining budget can be used to finance public transportation or other means of transportation. Alternatively, the employees can also opt to exchange the remaining budget for a cash amount which would be subject to a favourable social security and tax treatment. The specific legislative texts have not yet been adopted, so it is unclear when these measures will be implemented and, if so, in which manner.

8. How can Van Bael & Bellis assist you?

Van Bael & Bellis' employment law team can render further tailor-made advice regarding the introduction of the "cash for cars" regime within your company and the consequences thereof. In this respect, we would be pleased to provide you with the necessary contractual documents and to assess whether any alternatives for company cars or mobility allowances are available.

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