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TALKING TAX: Last moment to purchase your Aston Martin

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by Janis Taukacs [Sorainen Law Offices]

Latvia's parliament has adopted amendments to the corporate income tax law stating that from July 1, 2007 company cars purchased for over 30,000 lats (43,000 euros) cannot be depreciated for CIT purposes. A further draft amendment introduces a 30 percent per annum depreciation rate (instead of 40 percent) for passenger cars, motorcycles and other means of transportation purchased after July 1, 2007.

Thus the Finance Ministry has finally acknowledged the Aston Martin and Rolls Royce company vehicles that are seemingly unnecessary for taxpayers involved in construction, agriculture, etc.
Additional criteria for falling within the non-deduction limitation are that the vehicle not weigh over 3,500 kilos, has no more than eight seats (excluding the driver) and is not intended for a special purpose (e.g., transporting disabled). So under the current wording, if a vehicle costs 100,000 euros and weighs 4,000 kilos, tax depreciation can be claimed.

However, one may argue that a standard four-wheel drive would exceed the above threshold of 43,000 euros and yet might be required for a manager who inspects forests. Likewise, it is reasonable that a bank purchases a Mercedes for its president instead of an Opel. Therefore, tax authorities might better follow the principles of the 6th VAT Directive, which denies deduction of the input VAT paid for goods and services that are not strictly business expenditures – e.g., luxury and entertainment.
Interestingly, the European Commission has examined a similar provision in Italian law, which stated that luxury vehicles excluded from tax depreciation purposes are ones with engines exceeding 2,000 cc or 2,500 cc (for diesel engines). The commission noted that such treatment discourages purchases of high-powered cars and results in a "restrictive measure on imports," which is prohibited under the Treaty of Rome. Latvia should also carefully examine this provision in implementing the above amendments.

Another example is French law, which permits depreciation of company cars but only up to 18,300 euros per car. As to cars acquired after Jan. 1, 2006, the depreciation value is limited to 9,900 euros for cars deemed to be polluters (CO_2 emission of more than 200 g). The restrictions abroad contrasted with no restrictions in Latvia explain the trend for the number of luxury cars in Latvia in comparison with the number in many West European countries.
The French experience also shows that it is possibile for the Latvian state to influence car-purchasing behavior based on environmental reasons. It may be of value for the Latvian authorities to have a closer look at the experience of other EU countries in order to choose the best model for the taxation treatment of company vehicles.

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