Tax treatment of company cars in Greece

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Is the tax treatment of company cars environmentally harmful in the European Union?

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Introduction

- Current economic situation in Greece:
  - Greece-EU-IMF agreement
  - Fiscal austerity program
  - “Green economy” is a headline target of the government !!!
  - BUT only tax revenue raise considerations so far…
  - No coherent environmental/transport policy
  - distortive effects
  - “frozen market”
Greek tax legislation

- Employee side
  - Old system (before 2010)
  - New system (Law 3842/2010)

- Company side
  - Depreciation rules?
  - VAT treatment?
I. Tax rules at the EMPLOYEE Side

- OLD SYSTEM (before 2010): cars owned by the employer and provided to the employee (for both business and personal use) did not result in any income being imputed to the employee.

- NEW SYSTEM: Law 3842/2010 (Art. 9 par. 5) → The employee is taxed explicitly on the value of the corporate car (remuneration in kind).

- Objectives of new provision:
  - Revenue-raising objective – true target: luxury company cars
  - Fight against tax fraud/evasion
  - No environmental considerations (no reference at all)
Fringe benefits tax

- “Company car” definition
- Irrespective if the cars are owned or rented (leasing) by the company
- Irrespective of the legal form of the company
- Exceptions (i.e. cars for staff transport, test-drive cars, cars used for airport VIP service etc.)
- There is no provision for the fuel-part of the benefit-in-kind → it escapes taxation
- Tax base calculation (according to art. 126 of Greek Customs Code, Law 2960/2001)
  - Fixed percentage of the factory list car value (not the market value), taking into account the depreciation (based on circulation time).
  - + Fixed-km rate (5% * kilometers travelled) / 1,500 [taking into account km for both private and company use]
  - The final rate may not be exceed 81%
## Tax base calculation

<table>
<thead>
<tr>
<th>Factory List Car Value</th>
<th>Percentage of value (considered as income)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-14,999 euros</td>
<td>0%</td>
</tr>
<tr>
<td>15,000-22,000 euros</td>
<td>15%</td>
</tr>
<tr>
<td>22,001-30,000 euros</td>
<td>25%</td>
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<tr>
<td>above 30,001 euros</td>
<td>30%</td>
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</tbody>
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<table>
<thead>
<tr>
<th>Percentage of depreciation of Factory List Car Value (per month of circulation) – Statutory fraction</th>
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</thead>
<tbody>
<tr>
<td>1&lt;sup&gt;st&lt;/sup&gt; year of circulation</td>
</tr>
<tr>
<td>2&lt;sup&gt;nd&lt;/sup&gt; year of circulation</td>
</tr>
<tr>
<td>3&lt;sup&gt;rd&lt;/sup&gt; year of circulation</td>
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<tr>
<td>4&lt;sup&gt;th&lt;/sup&gt;-8&lt;sup&gt;th&lt;/sup&gt; year of circulation</td>
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<tr>
<td>9&lt;sup&gt;th&lt;/sup&gt;-11&lt;sup&gt;th&lt;/sup&gt; year of circulation</td>
</tr>
<tr>
<td>12&lt;sup&gt;th&lt;/sup&gt;-13&lt;sup&gt;th&lt;/sup&gt; year of circulation</td>
</tr>
<tr>
<td>Subsequent years</td>
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</tbody>
</table>
Example: Calculation of employee taxable income in 2010

IF:
- Factory list value: 40,000 euros
- Circulation since 02.05.2008
- Mileage (until 31.12.2009): 45,000 km travelled

Percentage of depreciation:
- \((1.30 \times 12) + (0.70 \times 4) + (0.05 \times 45,000 / 1,500) = 19.9\%\)

Factory list value of company car:
- \(80.1\% \times 40,000 = 32,040\) euros

Annual employee taxable income:
- \(32,040 \times 30\% = 9,612\) euros

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Tax base calculation

- ECJ 20.09.2007, C-74/06
  - Greek legislation imposed a heavier tax on second-hand vehicles from other Member States than on similar vehicles registered for the first time in Greece.
  - ECJ: incompatible with Art. 110 TFEU (ex 90 EC) → discriminatory
    - See also ECJ C-345/93, Nunes Tadeu; C-47/88, Commission vs. Denmark; 375/95, Commission vs. Greece.
  - Adoption of new rules (Law 3634/2008) → introduction of accelerated depreciation scales, plus a depreciation criterion based on mileage
  - European Commission stills considers that this system is favorable for cars registered within the national market over cars acquired in other MS
  - Depreciation rates should be defined at the level which is logically closer to the highest depreciation
- New infringement procedure initiated by European Commission (see IP/09/169 & IP/10/514) for the imposition of penalty payment
  - Now pending!!
II. Tax rules at the COMPANY Side

Company car depreciation for corporate income tax purposes

- Art. 31 par.1(b) of Greek Tax Code: deductibility of expenses for maintenance, reparation, circulation, depreciation and hire charges as follows:
  - Vehicles up to 1,600 cc → 70% of total expenses
  - Vehicles above 1,600 cc → 35% of total expenses
- No specific rules for car depreciation (same rules as other machinery apply)
II. Tax rules at the COMPANY Side

- VAT treatment? (Art. 30 par. 4 (e) of Law 2859/2000)
  - acquisition of cars for business and private use by company? → Not deductible
  - VAT on private use? → Not subject to VAT
III. Incentives for replacement of old cars ("car retirement scheme")

- Law 3899/2010
- Incentives:
  - Vehicles of up to 900 c.c. → total exemption from registration tax / factory list value up to 6,000 euros
  - Vehicles of 901-1,400 c.c. → 65% exemption from registration tax / factory list value up to 11,000 euros
  - Vehicles of 1,401-2,000 c.c. → 50% exemption from registration car / factory list value up to 14,000 euros
- Only implicit link to environmental objectives
Conclusions

- Government efforts to establish a new comprehensive tax system
- But too much tax kills the tax ("trop d’impôt tue l’impôt")
- The greening of the Greek tax system is a big challenge, especially in times of economic crisis, where the rationalization of the budgetary and tax legislation is crucial.
- Tax system / Competitiveness