

Budget 2009



BN65

22 April 2009

MODERNISING TAX RELIEF FOR BUSINESS EXPENDITURE ON CARS

Who is likely to be affected?

1. All businesses that buy or lease cars.

General description of the measure

2. Budget 2008 announced the abolition of the “expensive cars” capital allowances rules and the associated restrictions on deductions for car hire expenses, to be replaced by rules with an environmental focus (the tax treatment depending on the car’s CO₂ emissions).
3. The detail of the proposed changes was published, with draft legislation, in a technical note in December 2008. On 1 April 2009 the Government confirmed the changes and published revised draft legislation which had been amended in the light of comments made in response to the technical note. This included new anti-avoidance rules.

Operative date

4. The new rules will generally have effect for expenditure incurred (or leases entered into) on or after 1 April 2009 for businesses in the charge to corporation tax, and on or after 6 April 2009 for businesses in the charge to income tax.

Current law and proposed revisions

5. Capital allowances allow businesses to write off the costs of capital assets, such as plant and machinery, against their taxable income. They take the place of commercial depreciation, which is not allowed for tax. Assets are allocated to an appropriate capital allowances pool and a writing down allowance (WDA) is calculated, at either 20 per cent or 10 per cent per annum depending on the pool, on a reducing balance basis.

6. There are special capital allowances rules for cars. While expenditure on cars costing less than £12,000 is allocated to the main capital allowances pool, expenditure on cars costing over £12,000 is required to be accounted for separately from other assets with each car placed in a single asset pool. WDAs are calculated in the normal way (at 20 per cent) for cars in a single asset pool but they are then restricted to an annual amount of £3,000.
7. The special rules that restrict the amount of capital allowances for cars costing more than £12,000 will be replaced by new rules. Qualifying expenditure incurred on cars on or after 1 or 6 April 2009 will be allocated to one of the two general plant and machinery pools depending on the car's CO₂ emissions. Expenditure on cars with CO₂ emissions exceeding 160g/km will be dealt with in the special rate pool and attract WDA at 10 per cent. Expenditure on cars with CO₂ emissions of 160g/km or less will be added to the main rate pool and attract WDA at 20 per cent per annum. Expenditure incurred before April 2009 will continue to be subject to the old "expensive" car rules for a transitional period of around five years.
8. Cars that have an element of non-business use will continue to be dealt with in single asset pools to enable the private use adjustment to be made, but the rate of WDA will still be determined by the car's CO₂ emissions.
9. From April 2009, the special rules that restrict the amount of car lease rental payments that can be deducted for tax purposes will be reformed. The restriction will be changed to a flat rate disallowance of 15 per cent of relevant payments and will apply only in respect of cars with CO₂ emissions exceeding 160g/km.
10. At present the restriction applies to all links in a chain of leases. From April 2009, it will only apply to one lease in any chain. Broadly, businesses will not be subject to a restriction of their allowable lease rental payments (LRR) where the car is made available to them for a period of no more than 45 consecutive days. Also a business will not be subject to LRR in respect of expenses it incurs in hiring a car where it makes the car available to a customer for a sub-hire period of more than 45 consecutive days (this exclusion does not apply, however, where a business makes cars available to its employees or the employees of a connected person). Where a business hires a car for more than 45 days, and does not sub-hire it, it will be subject to LRR. In certain circumstances, hire periods or sub-hire periods may be aggregated to determine whether a hire (or sub-hire) period exceeds 45 days.
11. Expenditure under leases that commenced prior to 1 or 6 April 2009 (that is where the car is made available before April 2009) will continue to be subject to the "old" rules until the end of the lease.

12. Motor cycles will be excluded from the definition of cars and will not, therefore, be subject to these rules. Expenditure incurred on motor cycles on or after 1 or 6 April 2009 will qualify, where appropriate, for Annual Investment Allowance, first year allowances and to be treated as short life asset expenditure.
13. The revised legislation contains specific anti-avoidance rules to prevent the generation of balancing allowances by selling cars in single asset pools at less than market value. There are also rules restricting balancing allowances available to companies that cease a qualifying activity of providing cars, including cars with emissions over 160 g/km, where another company in the same group of companies carries on a similar qualifying activity.

Further advice

14. A Revenue and Customs Brief was published on 1 April 2009, explaining the changes made since the publication of the technical note in December 2008, and including revised draft legislation which also included anti-avoidance rules.
15. If you have any questions about these changes, please contact Annie Carney on 020 7147 2603 (email: annie.carney@hmrc.gsi.gov.uk) or Sue Pennicott on 020 7147 2610 (email: sue.pennicott@hmrc.gsi.gov.uk) on 020 7147 2610. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk