

The Deductible Expenses of Company Car Related (Revision effective Jan. 1, 2016)

Apr. 28, 2016

① Deductible Expense of Company Car related Expense

(Article 50-2 of Enforcement decree of the Corporate Income Tax Law and Article 78-3 of Enforcement decree of the Individual Tax Law in Korea)

- Non-deductible expenses of company car related expenses which are not allowed by law as a expenses for the business purpose
- The deduction of the depreciation on company car or the one on the leased company car is limited to the depreciation expenses by business purpose use ratio and shall not exceed KRW 8 million a year. The depreciation expense over the limit can be carried forward to subsequent years.
 - o When a loss is incurred from the disposal of company car, the amount in excess of the KRW 8 million a year can be carried forward to subsequent years.

Current	New
<N/A>	<ul style="list-style-type: none"> ■ [Exclusion] This deduction rule will not apply to company car directly used in the business to generate profits in the industries including transportation, car sales, renting of cars(rent company), leasing of car and facilities (lease company) and driving schools. ■ [Types of Expenses] <u>The types of car related expenses are expenses incurred for the acquisition and maintenance of company cars including depreciation expenses, rental or lease fees, fuel expenses, repair expenses, car insurance, property tax, interest expenses on financial leases.</u> ■ [Calculation] The calculation method of car expenses for business purpose is as follows. <ul style="list-style-type: none"> o A company must purchase (or renew) an exclusive auto insurance* : <u>If not, the entire expenses relating to the company car will not be allowed</u> <ul style="list-style-type: none"> * The exclusive auto insurance should limit the scope of coverage drivers to executives and employees of the company (or executives and employees of a subcontractor if they drive cars for the business of the client company) and also should cover the entire period of the fiscal year**. ** <u>For the fiscal year 2016, it will be applied for the 'exclusive auto insurance policy for executives and employees' purchased (or renewed) effective April 1, 2016 and after.</u> o When the 'exclusive auto insurance for executives and employees' is enrolled and the 'car operation record'* is prepared, the deductible expense is as follows. <p style="text-align: center;">Total car expenses of company car x business use ratio **</p> <ul style="list-style-type: none"> * The details for car operation record form, etc. will be specified by the tax

authority (head of National Tax Service).

** Business use ratio per operation record for each car:

Mileage for business ÷ Total mileage

o When the 'exclusive auto insurance for executives and employees' is enrolled but the 'car operation record'* is not prepared, the deductible expenses is as follows.

MIN [Expense of company car for Business, KRW 10 million]

* For individual, the 'exclusive auto insurance for executives and employees' is not necessarily required

■ **[Car Operation Record]** The car operation record should be maintained for each car and readily provided to the tax authorities upon the request without any delay.

■ **[Depreciation]** The calculation method of depreciation on company car (or equivalent depreciation on leased company cars) with ceiling amount of KRW 8 million a year is as below.

Depreciation amount (the equivalent*) x business use ratio **

* The equivalent depreciation in the car rental expense: the amount of rental excluding expenses for car insurance, car tax, etc. And the further equivalent depreciation is to be specified by the Presidential Rules

** Unless the car operation record is maintained, the business use ratio will be as follows.

- **100%** if the company car related expenses is KRW 10 million or less

- **KRW 10 million divided by the company car related expense** if the company car related expense exceeds KRW 10 million.

■ **[Expenses of the Carried Forward]** The method of the carried forward for the excess amount of KRW 8 million on the depreciation (the equivalent) and disposal loss is as follows.

o The depreciation expense over the limit can be carried forward to subsequent years and deducted when the depreciation expense multiplied by a business use ratio is less than KRW 8 million.

o When a loss is incurred in a year from the disposal of company cars or the expiration of a lease period, the amount in excess of the limit can be carried forward to subsequent years and deducted up to KRW 8 million

- any remaining amount will be entirely deducted in the year that includes the 10th anniversary of the disposal date or expiration date of car lease contract.

[Background for the Revision]

- A new deduction rule has been introduced in order to actualize the criteria of car expense for the business-related use

[Timing of Application]

- The new expenses deduction rule is to be applied effective starting date of the fiscal year on and after Jan. 1, 2016.
 - ※ For Individual and self-employed business
 - (for business operators subject to confirmation of compliant filing in the prior fiscal year: expenses occurred on and after Jan 1, 2016
 - (for business operators double-entry bookkeeping required) expenses on and after Jan. 1, 2017
- o The car operation record: The record should be prepared for an entire fiscal year. But for 2016, it is allowed to be prepared from April 1, 2016.

② The Income Disposal for Private Use Expense of Company Car

Current	New
<ul style="list-style-type: none">■ The amount of outflow from determining or correcting the tax base of corporate tax according to the tax law, the disposal of income will be reverted to the person who is beneficiary of the income (when the beneficiary is unknown, it will be reverted to bonus to a Representative of the company)<ul style="list-style-type: none">o Shareholder: Dividendo Executive · Employee: Bonus, etc.	<ul style="list-style-type: none">■ The disposal of income includes the non-deductible expense amount of private use of business purpose company car

[Background for the Revision]

- The revision is made to dispose the expenses of the private use of company car as income of those to whom it reverts.

[Timing of Application]

- This revision is to be applied effective starting date of the fiscal year on and after Jan. 1, 2016.

③ Actualization of the Deemed Depreciation for Company Car

- The depreciation criteria of company car for those the taxation rationalization is to be applied are revised to mandatory conditions (the deemed depreciation) as determined by Enforcement Decree of the Corporate Tax Act in Korea.

Current	New
<input checked="" type="checkbox"/> Company has option to select on the Depreciation method and Period of duration	<input checked="" type="checkbox"/> Depreciation criteria of company car is revised to mandatory conditions
o Depreciation Method: Straight line method or Fixed rate method	o Depreciation Method: Straight line method
o Period of duration: 4~ 6 years (25 years±25%)	o Period of duration: 5 years

【Background for the Revision】

- The revision is made to secure the validness for the taxation rationalization on the business purpose company car

【Timing of Application】

- This revision is to be applied to the company car newly purchased from the fiscal year starting on and after January 1, 2016.

(Reference: 업무용승용차관련비용에대한세법개정 \ 법인세신고업무및업무사례 \ 신고&세무실무)

업무용승용차 관련비용에 대한 세법 개정

① 업무용승용차 관련비용의 인정기준 등(법인령 §50 의 2, 소득령 §78 의 3)

<법 개정내용(§27 의 2) >

▣ 업무용승용차 관련비용 중 시행령으로 정하는 업무용 사용금액에 해당하지 않는 금액은 손금불산입

▣ 감가상각비와 임차료 중 감가상각비 상당액으로서 업무사용금액은 연간 800 만원 한도로 손금산입, 한도초과분은 이월

○ 업무용승용차 처분손실로서 800 만원 초과금액은 이월

현 행	개 정 내 용
신 설>	<p>▣ (적용 제외대상) 운수업, 자동차판매업, 자동차임대업(렌트회사), 시설대여업(리스회사), 운전학원업 등에서 사업상 수익 창출을 위해 직접적으로 사용하는 승용차</p> <p>▣ (적용대상 비용) <u>감가상각비, 임차료, 유류비, 수선비, 보험료, 자동차세, 금융리스부채에 대한 이자비용 등 업무용승용차를 취득·유지함으로써 발생하는 비용</u></p> <p>▣ 업무용 사용금액 계산방법</p> <p>○ <u>임직원 전용 자동차보험*에 미가입시: 전액 비용 불인정</u></p> <p>* 해당 법인의 임직원 또는 협력업체 임직원이 해당 법인의 업무를 위해 운전하는 경우만 보상 대상인 자동차보험으로 해당 사업연도 전체 기간 동안 가입되어 있어야 함</p> <p>※ '16 년도의 경우는 '16.4.1 일 이후 기존 가입보험 갱신 시에 임직원 전용보험 가입</p> <p>○ 임직원 전용 자동차보험에 가입하고 운행기록*을 작성한 경우: $업무용승용차 관련비용 \times 업무사용비율^{**}$</p> <p>* 운행기록 양식 등 구체적 사항은 국세청장이 정함</p> <p>** 승용차별 운행기록상 업무용 주행거리 ÷ 총 주행거리</p> <p>○ <u>임직원 전용 자동차보험에 가입하였으나 운행기록을 작성하지 않은 경우:</u></p> <p>Min(업무용승용차 관련비용, 1 천만원)</p> <p>※ 개인의 경우 임직원 전용 자동차보험 가입의무 배제</p> <p>▣ 운행기록은 승용차별로 작성·비치하여야 하며 과세관청의 요구가 있을 경우 즉시 제출 필요</p> <p>▣ 800 만원 한도 적용대상인 감가상각비(상당액) 업무사용금액 계산방법</p> <p>○ 감가상각비(상당액*) × 운행기록상 업무사용비율**</p>

	<p>* 임차료 중 감가상각비상당액: 임차료 중 보험료, 자동차세 등을 제외한 금액으로 시행규칙에서 규정</p> <p>** 운행기록을 작성하지 않은 경우 업무사용비율 계산방법</p> <ul style="list-style-type: none"> - <u>업무용승용차 관련비용이 1천만원 이하인 경우: 100%</u> - <u>업무용승용차 관련비용이 1천만원 초과인 경우: 1천만원 ÷ 업무용승용차 관련비용</u> <p>▣ 감가상각비(상당액) 및 처분손실 한도초과액 이월방법</p> <ul style="list-style-type: none"> ○ 다음 사업연도부터 해당 업무용승용차의 감가상각비(상당액) 업무사용금액이 800 만원에 미달하는 경우 그 미달액을 한도로 손금 추인 ○ 임차기간이 종료된 이후 또는 처분한 경우 그 다음 사업연도부터 이월금액 중 800 만원씩 균등하게 손금 산입 - 임차가 종료된 날 또는 처분한 날로부터 10 년째 되는 사업연도에는 이월잔액을 전액 금산입
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【개정이유】

- ▣ 업무용승용차 관련비용 인정기준 등 구체화

【적용시기】

- ▣ '16.1.1. 이후 개시하는 사업연도에 지출 또는 발생하는 분부터 적용

※ 개인의 경우

- (직전년도 성실신고확인대상자) '16.1.1. 이후 필요경비 산입 분부터 적용
- (복식부기 작성대상자) '17.1.1. 이후 필요경비 산입 분부터 적용
- 운행기록 작성: 사업연도 전체 기간중 작성하되, '16 년도의 경우 '16.4.1. 부터 작성('16 년도는 '16.4.1. 이후의 업무사용비율 적용)

② 업무용승용차 관련비용 중 사적사용분 소득처분(법인령 §106)

현 행	개 정 안
<ul style="list-style-type: none"> ▣ 세법상 손금불산입액이 사외에 유출된 경우 귀속자에 따라 소득 처분(귀속자가 불분명한 경우 대표자 상여) ○ 주주: 배당 ○ 임원·사용인: 상여 등 	<ul style="list-style-type: none"> ▣ 소득 처분 대상에 업무용승용차 관련비용으로 사적 사용에 따른 손금불산입액 포함

【개정이유】

- ▣ 업무용승용차 관련비용 중 사적 사용분은 소득처분

【적용시기】

- ▣ '16.1.1. 이후 개시하는 사업연도부터 적용

③ 업무용승용차 감가상각 의제 구체화(법인령 §50 의 2)

<법 개정내용(§27 의 2①) >

▣ 업무용승용차 과세합리화 적용대상 승용차에 대해 시행령으로 정하는 방법에 따라 감가상각 의무화(감가상각 의제)

현 행	개 정 안
▣ 업무용승용차의 경우 감가상각방법 및 내용연수 선택 가능	▣ 업무용승용차 감가상각 의무화
○ 상각방법: 정액법 또는 정률법	○ 상각방법: 정액법
○ 내용연수: 4~6 년(5 년±25%)	○ 내용연수: 5 년

【개정이유】

- ▣ 업무용승용차 과세 합리화 관련 실효성 확보

【적용시기】

- ▣ '16.1.1. 이후 개시하는 사업연도에 신규 취득하는 업무용승용차부터 적용