

Car Tax Exclusion – Pool Cars

If a pool car or van, otherwise called a "pooled" car or van in the legislation, meets the statutory conditions, it is not treated as a company vehicle. As a result, the drivers using the vehicle are not liable for the car or van benefit and fuel charges. Meeting the conditions is therefore critical.

In the following notes, references to a "pool car" apply equally to a pool van.

A car is a pool car if, during a tax year, it has been included in a car pool and all of the following conditions are met:

1. the car was used by two or more employees, be reason of their employment
2. the car was not ordinarily used by one of those employees to the "exclusion of the others"
3. any private use of the car made by each of the employees was "merely incidental" to each employee's other use of the car in that year, and
4. the car was "not normally kept overnight" at or near any of the employees' homes (other than at the employer's premises).

Notice that these are tests of whether a car is a pool car, not whether an employee is using it as a pool car. The starting point is whether the car itself meets the conditions. If one of the conditions is not met, e.g. the car is regularly kept at one of the employee's homes, the car is not a pool car and, as a result, any private use of the car creates a tax liability, not just for that employee, but for all of the other employees who use the car. Employers must ensure that, once a car is designated a pool car, that it is used strictly for that purpose and no other.

The following notes explain the implications of the special terms used in the legislation.

"exclusion of the others"

This term, used in condition 2 means that the car, while it is a pool car, cannot have a principal driver. The fact that the car may also have been a company car for part of the tax year and, during that time, it had a principal driver does not prevent it from being a pool car, as long as that driver is not one of the drivers now using it as a pool car.

"merely incidental"

This term, in condition 3, imposes a qualitative test. It refers to the nature of the private use, not the distance covered. The private use of a pool car can only be "merely incidental" to its business use if the private use follows from the business use, i.e. for there to be private use, the car must be used on the same occasion for business use as well. Examples are taking the car home on the evening before a business trip (but see the "not normally kept overnight" rule below) and using the car to go to a nearby restaurant in an evening while away on business. It would be sensible to keep detailed mileage logs for pool cars, showing separately the business journeys and the "incidental" journeys, and also to record the employee's manager's authorisation for the use of the car.

Under the provision of HMRC Statement of Practice 2/1996, where the private use of a pool car is not "merely incidental", such use may also be ignored if it is small in extent and infrequent, and is

- provided on compassionate grounds to meet the immediate need for transport in an emergency situation, e.g. an employee learns that a family member has been involved in an accident, and/or

- incidental to the provision of another benefit that does not itself give rise to a tax charge, e.g. transporting sports equipment to a sports facility that the employer provides for the workforce in general.

"not normally kept overnight"

This term, in condition 4, is not defined quantitatively in the legislation. HMRC accepts that a car is "not normally kept overnight" at or near the homes of all the employees who use it if this does not happen for more than 60% of the year, usually taken to be 219 days. This rule is for guidance only and has no statutory basis. On the other hand, if the car were kept overnight at the home of one employee for less than 60% of the year, that level of work to home journeys would fail to satisfy the "merely incidental" test.

If a pool car is made available to employees at weekends or for their holidays, the full car benefit and fuel benefit, if appropriate, applies for the period the car was available. The employee could pay towards the private usage and thus reduce the tax charge to nil, but the benefit would still have to be reported on the P11D as a company car.

A similar caution applies where a pool car is taken home at night because there is inadequate parking or security at the company's premises, or where an unallocated car is temporarily looked after at night by an employee who is not entitled to a company car. These situations would fail the "not normally kept overnight" test and the car would thus become a company car with a taxable charge.