In this article some important amendments recently made to both the travel allowance and the so-called company vehicle are examined.

### Vehicle benefits

**Important amendments**

**Travel allowance**

During his 2004 Budget speech the Minister of Finance said the following:

‘I am concerned about the tax loss associated with travel allowances. In the coming year, we plan to review the taxation of the motor vehicle allowances and the ad valorem duty structure on motor vehicles.’

He promised in the same Budget speech that in conducting this review, there would be a proper consultation with all the relevant stakeholders so that all aspects could be taken into account.

A year later, during his 2005 Budget speech, far-reaching amendments to the taxing provisions of company vehicles and travel allowances were suggested. As justification for these amendments, it was stated that the deduction of deemed business expenses against a travel allowance had increased substantially over the years and had become a commonly used means of reducing tax liability, irrespective of actual business costs. The formula

- created a bias in the structuring of salary packages, particularly for higher-income earners,
- encouraged the purchase of expensive motor vehicles, and
- unfairly influenced household travel choices.

On 19 July 2005 the Taxation Laws Amendment Act 9 of 2005 was promulgated. In this amendment Act, some of the budget proposals were addressed.

The first change to the travelling allowance relates to the deemed distance formula. The deemed private kilometres have been increased from 14 000 kilometres to 16 000 kilometres for the 2006 year of assessment and further increased from 16 000 kilometres to 18 000 kilometres for the 2007 year of assessment.

The second set of changes relate to the deemed cost table. A new table was introduced for the 2006 year of assessment. This table was replaced by yet another new table for the 2007 year of assessment. Some features of these tables are as follows:

- As from 1 March 2005, the deemed method for calculating fixed business travel costs was adjusted by introducing a residual value element and by capping the car value at R360 000. This means that a taxpayer with a motor vehicle costing R1 million will use the same costs in the deemed cost table as a taxpayer with a motor vehicle costing R360 000.
- The revision of the tables recognises that five-year old vehicles will commonly have a 30% residual value.
- Simultaneously, the deemed maintenance and fuel costs were adjusted to reflect the latest applicable average running cost rates for motor vehicles. These costs are to be reviewed annually.
- When the simplified method for reimbursive claims of less than 8 000 kilometres is used, the rate per kilometre was increased to R2,38 a kilometre for the 2006 year of assessment and to R2,46 a kilometre for the 2007 year of assessment.

Together with the adjustment of the fixed cost element in the deemed costs table (that is reducing the fixed cost by introducing a 30% residual value, and by capping the value of the vehicle at R360 000), a new paragraph has been inserted in s 8. It governs the allowable actual costs to be used when the taxpayer keeps accurate record of expenses.
incurred so as to substantiate the business use of a travel allowance:

- When the vehicle is being leased – the total amount of deductible lease rentals for that lease may not in any year of assessment exceed the amount of the fixed cost determined by the Minister of Finance in the deemed cost table for that specific category of vehicle. Thus, for a vehicle with a value of R101 000, the actual lease payments included in the deductible actual costs will be limited to R35 578, that is the fixed cost of that same vehicle as per the deemed cost scale table.

- No provision exists for the disallowed excess of any lease payments to be carried forward to the succeeding years of assessment. The reference to ‘might not in any year of assessment’ in s 8(1)(b)(iiiA) indicates that the limit must be calculated on a year-to-year basis.

- The limitation refers only to the actual lease payments. There is no limit on expenses incurred on the licence, insurance, fuel and maintenance. In certain circumstances, the actual costs may therefore be more beneficial than the deemed cost table. When a service plan is included in the lease payment, it is, however, recommended that the lessor should split the lease payment between the two different elements.

In any other situation, in other words, when the vehicle is not being leased, the following factors are relevant:

- Wear and tear on the vehicle is determined over a period of seven years from the date of its original acquisition by the recipient. Although no formal residual value is assumed, by increasing the number of years over which wear and tear is calculated, after a period of five years, a residual value of 29% is derived.

- The cost of the vehicle for this purpose is limited to R360 000.

- Finance charges on a debt incurred for the purchase of the vehicle is limited to an amount that would have been incurred had the original debt been R360 000.

- Again, although the fixed cost element is limited to R360 000, no limit is placed on the cost of the licence fee, the insurance, maintenance and fuel. Using the deemed cost table, vehicles with a cost of R360 000 and R1 million have the same fuel and maintenance cost per kilometre. But this is not the position when the actual cost per kilometre is used.

It was accepted that a taxpayer could claim wear and tear on a qualifying asset, even if he was not the owner of it. This was based on the argument that s 11(e) refers to the value of an asset used in a taxpayer’s trade and not to its cost. The Act has now been amended to place beyond doubt the fact that a taxpayer claiming the wear-and-tear or depreciation allowance must be the owner of the asset.

In the past an employee enjoying a travel allowance when using a vehicle for business purposes could claim wear and tear on it even though he was not its owner. The amendment to s 11(e) results in an employee who does not own the vehicle being unable to claim any wear and tear when calculating his actual costs. Because s 8(1)(b)(ii) refers to the ‘portion of the allowance expended’, it follows that an employee using someone else’s vehicle (even the vehicle of a spouse if they are married out of community of property) for business purposes was not entitled to the wear and tear because no amount is expended by him. He should therefore make use of the deemed cost table.

The above changes are applicable as from the commencement of years of assessment ending on or after 1 January 2006. This means that the changes apply to individuals as from 1 March 2005.

To ensure that a greater amount of normal tax is collected through the employees’ tax (PAYE) system during the year, the percentage of the monthly travel allowance subject to tax was increased from 50% to 60% from 1 March 2006. Apart from this change in the monthly cash flow, additional payments might still be necessary after year-end due to the changes in calculating the deemed business kilometres and deemed cost per kilometre.

From the above it is clear that the new provisions result in a higher tax liability
for a taxpayer enjoying a travel allowance if he calculates his business use using the deemed distance formula or the table of deemed costs. This increased tax liability results irrespective of the kilometres travelled.

Company vehicle
To pre-empt a switch to ‘company vehicles’ over the short to medium term, the deemed value of a company vehicle has been increased from 1.8% a month to 2.5% a month. The effective date for this amendment is 1 March 2006. The deemed value of the second company vehicle (or any other additional number of company vehicles for that matter) remains at 4% a month.

To avoid the unfair taxation when an employee actually bears a portion of the costs for the private use of his employer’s vehicle, the previous version of para 7(4)(a) provisos (i) and (ii) allowed the taxable benefit of 1.8% to be reduced
• by R120 a month when the employee bore the cost of all fuel for the purposes of private use of the vehicle; and
• by R85 a month when the employee bore the full concessions of maintaining the vehicle, including, for example, the cost of its repairs and servicing it.

The monetary values of these concessions were deleted and the percentage of the value of the vehicle that is taxed as a fringe benefit is now adjusted. The 2.5% is reduced
• by 0.22% when the employee bears
the cost of all fuel for the purpose of private use of the vehicle; and
• by 0.18% when the employee bears the full cost of maintaining the vehicle.

These ‘reductions’ are available only if the employee does not enjoy a travel allowance for the same vehicle.

There was previously a possibility of a double deduction when an employee reduced the taxable portion of the travel allowance by claiming fuel and maintenance costs and then also used the same costs to reduce the taxable benefit of the private use of his employer’s vehicle.

These amendments will not, however, change the method of reducing the value as calculated for the purposes of Practice Note 24. The restriction applies only when the employee ‘also’ receives a travel allowance in terms of s 8(1)(b). It does not apply when a self-employed taxpayer who does not maintain adequate records claims his motor vehicle expenses. A sole trader or partner could therefore still benefit from this possible double deduction.

Conclusion
Not all employees are able to choose between a travel allowance and a company vehicle. But it is still important after the various changes to the legislation to determine which option is the best for those employees who have the choice. Although it is not only impossible, but also unwise to express an opinion that would always promote the choice of one option in favour of the other, a comparison between the two is attempted in a follow-up article.