



NEWSLETTER

From: EMPLOYMENT LAW DEPARTMENT

Subject: BELGIAN WAGE POLICY ELECTRIFIED

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1. AN INCREASING INTEREST IN THE ADVANTAGES OF E-BIKES

E-bikes are hot in today's flat economy. Out of a total of 450.519 bikes sold in 2015, 141.463 were E-bikes. In 2011 12% of the Belgian workforce pedaled to work. This number increased today to 18% (+50%). E-bikes are also by younger workers increasingly being used for their daily commute.

E-bikes have many advantages when travelling to work: less time in traffic, better control of arrival time and work planning, more time for family and leisure, less perspiration and a need to shower and change clothing, costs efficiency and environment friendly

Belgian tax and social security law allows under certain conditions Belgian employers to grant employees an incentive to pedal to work. How does the Belgian administration deal with this incentive?

Before giving you the full story an overview, we make a distinction between two types of E-bikes existing in today's market, being:

- The normal E-bike aka Pedelec (pedal electric cycle), electronically reaching speeds up to 25 km/h;
- The speedy E-bike aka Speed Pedelec, reaching speeds up to 45 km/h;

The latter is, under the Belgian highway-code and in conformity with European legislation, labeled a motor bike class B. Under the Belgian Highway-code an E bike will be considered a classic bicycle if (I) it has electric pedal support (the cyclist has to cycle himself, with an e-motor giving support), (II) the e-support is limited to 25 km/h, (III) the power is limited to 250 Watt. The difference between an E-bike and motor bike results in a different social and tax treatment of the E-bike fee and the disposal of an E-company bike.

2. TREATMENT BY THE SOCIAL ADMINISTRATION

Bike Fee – General Social Regime:

When an employee uses a private bike for home-work traffic, whilst at sector or company level (this is not a general legal obligation for the

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Employer) a bike fee (amount to be decided by the Employer) is awarded, this fee will be exempted from social security contributions when the bike fee is limited to 0,23 EUR/km.

Bike Fee and Pedelecs:

The social exemption for bike fees will equally apply to employees driving a Pedelec. The 0,23 EUR/km limit stands.

Bike fee and Speed Pedelecs:

Because the Speed Pedelec is labeled a motorbike, this exemption doesn't apply.

A (limited) solution nevertheless exists. Since fees borne by the Employer as reimbursement of costs due to home-work traffic with a private vehicle (which can be a Speed Pedelec) are exempted, no social security contributions shall have to be paid by the Employee as long as these fees cover real costs (but the social administration allows for a 0,3363 EUR/km fixed fee with a total annual ceiling of 390 EUR).

What if the (Speed) Pedelec is provided by the Employer as a company bike?

The Employer can provide a company bike to his employees to be used for both home-work traffic and private transport. The private use of a company bike constitutes a benefit for the employee.

The private use of the company bike is a benefit in kind and will be subject to social security contributions. The commute to work is not considered by the social security administration to be private work. This benefit in kind is therefore calculated depending on the price of the bike and the percentage of private use.

This viewpoint differs from that of the tax administration. If the worker uses it to go to work, the private use is exempted for income tax purposes.

Aforementioned reasoning is applicable to the normal Company Pedelec.

For the Speed Company Pedelec the social exemption stands, but the tax treatment differs.

A bike fee on top of a company (Speed) Pedelec?

When the Employee drives to work using a company bike, the Employer may grant him or her the exempted bike fee.

This equally applies to the Pedelec.

When the Employer provides a Speed Pedelec as well as paying a bike fee for home-work traffic, the bike fee will be considered a benefit subjected to social security contributions.

3. TREATMENT BY THE TAX ADMINISTRATION

Bike Fee – General Tax Regime:

Withholding tax will not be due on the bike fee paid when using a private bike for home-work traffic, as long as the fee is limited to 0,23 EUR/km.

Bike Fee and Pedelecs:

The same tax exemption will apply to Pedelecs.

Bike fee and Speed Pedelecs:

The tax exemption doesn't apply to motor bikes, therefore it cannot be applied to Speed Pedelecs.

For tax purposes the rules on the use of a private vehicle for home-work traffic shall apply to the Speed Pedelec. Any reimbursement made by the Employer to cover home-work traffic will be exempt for a maximum monthly amount of 32,50 EUR (or 390 EUR per annum).

What if the (Speed) Pedelec is provided by the Employer as a company bike?

From a tax point of view, when using the company bike both for home-work traffic and privately, the use of the company bike will be tax exempted. When the company bike is only used for private purposes, it will constitute a taxable benefit based on the effective value for the employee.

Aforementioned reasoning is applicable to the Pedelec.

As mentioned, the Speed Pedelec is a motor bike. Therefore the benefit related to the home-work traffic will be exempted for an amount up to 32,50 EUR/month (or 390 EUR per annum). The private use of the Speed Pedelec provided by the Employer is completely taxable.

A bike fee on top of a company (Speed) Pedelec?

From a tax point of view, payment of a bike fee will be exempted when the Employee uses a company bike to drive to work.

This will equally apply to the Pedelec.

In case of combination of both the use of a Speed Pedelec with payment of a bike fee for home-work traffic, the bike fee will, for the Employee, be considered a benefit subjected to tax contributions.

4. WHAT'S IN IT FOR THE EMPLOYER?

Besides it creating a green image for the company, the bike fee will be 100% tax deductible for the Employer.

The investments made by the Employer to encourage home-work traffic by bike benefits from an increased expense deduction up to 120%.

It includes costs for acquisition (purchase or lease), maintenance and repair of company bikes as well as accessories such as helmets, locks and protective cycling gear.

The costs relating to placement or building bicycle docks, charging points for E-bikes, dressing rooms or sanitary facilities will equally be considered for the expense deduction.

The Speed Pedelec is not a bike; therefore the increased expense deduction does not apply. A 100% expense deduction applies if the company bike benefit is taxable for the Employee.

Ecology and economy can go hand in hand.

5. CONCLUSION

Employers have in Belgium an important tool to motivate their work force to adopt a healthier life style by pedaling to work. Tax and social security exemption of a 22 eurocent per pedaled km is an important step forward in reducing traffic jams, reduce pollution levels and making our economy more durable.

Wish to contact our legal experts?

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