



P11D and VAT Definition of Car-Derived and Combination Vehicles Fact Sheet – September 2020

Background

Businesses purchasing cars will need to check the status of their vehicles against guidance issued by HM Revenue and Customs (HMRC) to clarify the VAT and P11D treatment of car-derived vans.

HMRC clarified its interpretation of the definition of a motor car as contained in the Value Added Tax (Cars) Order 1992 to cater for the development of vehicles that blur the distinction between cars and vans.

Except for leasing or rental companies, most businesses that buy motor cars are unable recover the VAT owing to a "block" preventing the recovery of input tax on vehicles whose physical attributes make them suitable for private motoring. It is important therefore, for you to know the status of your vehicles under the terms of the legislation, as this will affect the deductibility of VAT on their purchase.

How vehicles which blur the diction between cars and vans are treated for P11D purposes has been a point of ongoing contention for a number of years. In 2020 a Court of Appeal ruling gives a legally binding interpretation. While this verdict may be subject to appeal, the BVLRA has prepared this guidance note giving the current position to create maximum clarity for members.

This guidance was produced in consultation with the BVRLA, HMRC and manufacturers to clarify how HMRC treat car-derived vans and highlights the correct interpretation of the legal definition when considering combination vehicles. We reflect HMRC's guidance into this fact sheet.

VAT treatment of vehicles affected

The vehicles affected are certain car-derived and the combination vehicle.

Car-derived vans

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Many car-derived vans do not raise any difficulties for HMRC, as they are clearly a van or non-motor car for VAT purposes e.g. they have no rear seats, metal side panels to the rear of the front seats, a load area which is highly unsuitable for carrying passengers etc.

However, a number of models, where the vehicle starts off life as a car and is subsequently altered, cannot be so clearly defined. It is these vehicles which HMRC has focused on providing clarity about.

On the exterior, these vehicles look like a motor car, but their interior has been altered to give the appearance and functionality of a van. The rear seats and seat belts along with their mountings have been completely removed and the rear area of the shell is fitted with a new floor panel to create a load area. In addition, the side 'windows' to the rear of the driver's seat are fitted with immovable opaque panels.

HMRC will not view such a 'car-derived' vehicle as a motorcar for VAT purposes, if the technical criteria specified in their guidance is met by the manufacturer.

The criteria relate to how any alterations to the vehicle have been affected, and if the adaptations give the vehicle the functionality of a commercial vehicle. For example, the removal of a bench seat or similar from what is essentially a two-seater car would not automatically satisfy HMRC's requirements. The space that remains behind the front row of seats is highly unsuitable for carrying passengers.

It may be difficult for you to be satisfied that all of the technical criteria have been met, therefore HMRC and the manufacturers have published the below list of car-derived vans on which VAT can be deducted, subject to the normal rules. Please click here for the [full list](#).

Combination vehicles

While these vehicles have the appearance of vans, they are designed to be fitted with or include additional seats behind the front row of seats, to enable the carriage of passengers.

For VAT purpose, such vehicles are motor cars except in the case of:

- larger vehicles which have a payload of more than one tonne (these vehicles are automatically excluded from becoming motor cars by the one tonne payload test contained in legislation); and
- those vehicles where the dedicated load area (i.e. that load area which is completely unaffected by the additional seating) is of a sufficient size compared to the passenger area to make the carriage of goods the predominant use of the vehicle.

If you have previously bought a combination vehicle, which does not fall within the exceptions above, it is a motor car under VAT legislation. If you have recovered the VAT incurred on the purchase, you must make an adjustment to correct this overclaim.

For further information please see the HMRC website available [here](#).

Combination vehicles and P11D treatment

There is a separate question for combination vehicles to see if they are cars or vans for P11D purposes. The combi vehicle will be a goods vehicle if it is: a vehicle of a construction primarily suited for the conveyance of goods or burden of any description.

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The critical question is then the interpretation of the above and whether a vehicle meets the definition in HMRC's eyes. To establish this HMRC lays out a two-stage test which should be applied to a vehicle to ascertain if it is a good vehicle or a car for benefits purposes.

These tests focus on the definitions of "construction" and "primarily suited" and whether a specific vehicle which can convey goods was meets these.

Actual use of a particular vehicle is irrelevant it is a test of construction, not use. If a vehicle is designed and marketed as a multi-purpose vehicle, it is unlikely to meet the definition of being a goods vehicle.

Step 1 the "construction" test:

Before considering whether a vehicle is primarily suited to the conveyance of goods the specific construction of the vehicle must be considered. This needs to happen at the time of the transaction or in the relevant tax year and not the point of construction as it may not be the same as its original manufactured construction.

The steps to take are

Step 1	identify the original manufactured form of the vehicle
Step 2	<p>establish whether any modifications have been made to that original manufactured form</p> <p>* if <u>no modifications</u> have been made, apply the primarily suited test at to the vehicle as originally manufactured</p> <p>* if <u>modifications have been made</u>, go on to step 3</p>
Step 3	<p>identify the precise nature of the modifications that have been carried out. Then consider whether they are sufficiently permanent and substantial in scale to have altered the original manufactured construction of the vehicle.</p> <p>* changes such as sliding out the rear seats, but leaving the seat mountings and seat belt fixtures in place, or placing temporary coverings over the rear side windows do not change the original construction of the vehicle.</p> <p>* changes such as permanent removal of the rear seats and all associated fittings, possibly accompanied by the welding in of a new load base, and the replacement of glass rear side windows by permanently welded-in fibreglass or metal panels may well change the original construction of the vehicle.</p> <p>* if the vehicle's construction <u>has been altered</u>, apply the primarily suited test to the new construction.</p> <p>* if the modifications <u>have not altered</u> the vehicle's construction, apply the primarily suited test to the original construction.</p>

Step 2 the "primarily suited" test:

For a vehicle to be recognised as a goods vehicle it must be "primarily suited" to the conveyance of goods using the construction of the vehicle as determined in the first test point

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The need to satisfy the “primarily suited” condition means a vehicle may be suited to fulfil more than one purpose and but will only fall outside the definition of car in this if it has a **predominant purpose of carrying goods or burden**.

Crucially if a vehicle has no predominant purpose, and is equally suited to carrying passengers and cargo, it will not satisfy this test. This creates a high bar for the burden of showing that a vehicle is “primarily suited” to the conveyance of goods.

HMRC is clear that if a vehicle has side windows behind the driver and passenger doors, it is unlikely pass this test. A vehicle will also not pass the test if it is fitted with, or is capable of being fitted, with additional seating behind the row which includes the driver. This remains true whether or not those additional seats are in the vehicle at the time.

The only exception to this are double cab pick-ups which must meet the specific guidance relating to that type of vehicle. For all other vehicles there is no payload which, on its own, is sufficient to pass the ‘primarily suited test’.

For further info please see HMRC website [here](#) and if in doubt get in touch with HMRC directly.

Conclusion

VED and VAT legislation are both different to income tax legislation, so the same vehicle can be treated differently by the different agencies. For instance, VED is based on type approval at the time the vehicle is first registered, whereas VAT and the tax/NICs regimes consider the nature of the vehicle at the time of the transaction or in the relevant tax year.

As such a vehicle can meet the tests laid out for VAT purposes and qualify as a van under VAT legislation but not meet the test for benefits purposes. This would result in a vehicle which is a van for VAT and a car for benefits.

BVRLA Contacts:

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