

TO: Deans, Directors, and Department Chairs

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SUBJECT: Use of Cell Phone/Communication Devices

We are aware that the IRS is currently auditing employee use of cellular telephones at other universities – and may eventually audit the University of Utah. As a precaution, we wish to remind you of your responsibilities when using these cell phone/communication devices for University business. ^{UPo1 4-005} ~~Policy 2-70~~ [^] *Use and Security of Property* governs the use of cellular telephones by employees. Section 3.7.b. of the policy describes an allowance or salary additive plan for covering costs associated with business use of such devices. When such devices are provided and paid for by the employer, the IRS classifies these as “listed property”. To avoid the administrative burden of call substantiation required by the IRS for “listed property”, the University strongly encourages employees needing communication devices for University business to participate in the cell phone allowance plan. More information on this plan can be found at <http://www.it.utah.edu/services/phones/cellular.php> With this plan . . .

- The employee *is not* required to document business use of the phone.
- The employee buys a cell phone and calling plan from a provider of their choice, and receives a monthly salary supplement to cover the *business-related portion* of their costs.
- The amount of the allowance will be paid as a separate check and reported as taxable wages on the employee’s W-2.
- The monthly allowance amount can be adjusted based on actual business usage; or, if the business use spikes one month – the employee may request an expense reimbursement for un-reimbursed business calls in excess of the allowance amount.
- If an individual does not make enough business calls to justify the allowance plan, the employee can still submit an expense reimbursement request - following the required elements of business expense substantiation (see below). Such situations should be limited to those in which the employee’s business use of the phone is nominal or infrequent. Therefore reimbursements would cost less to the University than the allowance. When seeking reimbursement, the employee should certify on the documentation that they are not also receiving a monthly cell phone allowance.

^{UPo1 4-005(III)(G)(3)}

In cases where the employee allowance plan is not practicable, such as where a University-owned phone is shared by several employees, ~~Section 3.7.c. of PPM 2-70~~ is applicable. The wording of this section agrees with IRS guidelines that identify amounts taxable to the employee for personal use of employer provided equipment. Essentially, the following rules apply for cell phones/calling plans paid for with University funds – regardless of the payment method (system check, LPC or P-Card):

- Documentation is required *for each call* made or received on a university-provided cell phone. In this context, a “call” refers to not only voice transmissions, but data transmissions as well. Substantiation is necessary even if ALL calls are business calls, and should be performed contemporaneously in the format of a record or log – not as notations on a subsequently-received phone bill or monthly statement.
- The notation “*patient call*” is adequate for evidence of business purpose - given HIPAA privacy guidelines for staff involved with patient care.
- Calls not properly documented as “business use” must be assumed to be personal use, the value of which should be reimbursed to the University or added to the employee’s W-2 as taxable wages.
- Employees are responsible for reimbursing the University for the direct cost of each incoming and outgoing personal call, and a pro-rata share of the calling plan’s monthly service fees and other charges – based on business/personal minute usage. The value of personal calls not reimbursed to the University will be deemed as income to the employee and reported accordingly – which will have an impact on the employee’s personal tax situation.
- The University pays for “free” calls as part of the base cellular service plan, including fees and taxes. Therefore, the pro-rata cost of all personal calls made during “free” calling times should be documented and reimbursed to the University – just like any other personal call.

In some cases, employees have their own cell phones/calling plans and seek reimbursement from the University for business-related calls. The same rules apply as described above. Requests for personal reimbursement or payments to cellular providers for business use of equipment or plans that are not adequately documented will be *returned unpaid* to the initiating department. If documentation is not available or forthcoming, approval by the responsible vice president will be required and an allocable amount representing personal use will be reportable as wages. Reimbursement or payment requests should be submitted on a timely basis, and not be allowed to accumulate over several months or across fiscal year boundaries.

Taking these measures in complying with IRS substantiation requirements should be sufficient to shield the University and employee from negative IRS findings, but do not guarantee such. We encourage employees to seek their own tax counsel when evaluating their individual tax liability related to this issue. See also related guidance from the IRS at <http://www.irs.gov/govt/fslg/article/0,,id=167154,00.html>

If you have questions regarding these issues, please contact one of us directly. Thank you for your attention to this matter. **Please circulate this to those employees in your areas using cell phones for business purposes.**