

University Cell Phone Policy Frequently Asked Questions

March 6, 2009

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Frequently Asked Questions

The frequently asked questions (FAQs) listed below are based on the revised Business and Finance Bulletin G-46, Guidelines for the Purchase and Use of Cellular Phones and Other Portable Electronic Resources, which became effective **May __, 2009**.

1. Why is the University treating my cell phone as a taxable benefit?

The Internal Revenue Service (IRS) considers cell phone use a taxable fringe benefit if the business and personal use are not substantiated. Only recently has this issue emerged as a problem in IRS audits of colleges and universities, including a recent audit of some University of California campuses.

2. I have been paying for personal calls made on my University-owned cell phone. Aren't I meeting the IRS requirements?

You would think so, but under IRS regulations, it is not enough to simply pay for your personal calls and say all the rest are business. The IRS requires that the use of an employer-provided cell phone be documented in a very detailed manner. In addition to identifying all personal calls on the employee's monthly cell phone statement, the employee must *note the purpose of each business call*. In the absence of such documentation, the IRS can treat all undocumented calls as personal and the value of those calls as additional wages, even if the calls were mostly business calls.

3. Why is a cell phone treated differently than the phone on my desk?

Because a cell phone is portable and may be taken off the employer's business premises, Congress established the detailed business substantiation rules applicable to this equipment and similar devices. The business use rules that apply to equipment intended to stay in your office, such as a desk phone, are less restrictive.

4. This seems ridiculous. Why are you putting us through this?

While the documentation requirements may seem unreasonable to us and the average taxpayer, the IRS takes them very seriously in its audits of business and governmental employers. Legislation has been introduced by both the House and the Senate to modernize the cell phone substantiation rules, but it is not known when or if Congress will take action to approve these bills.

5. How will I be taxed on the value of my cell phone?

The monthly cost of your cell phone service plan, including the cost of the phone itself, will be treated as imputed income, which will be added to your taxable earnings as additional wages. Withholding for taxes on the imputed income will be taken from your regular earnings.

6. Why should I have to pay taxes on the imputed income? Is this fair?

You will receive a monthly cash allowance to reimburse you for the taxes on the imputed income. Since the cash allowance itself will be taxable, it will be increased or “grossed up” to reimburse you for applicable payroll taxes based on the IRS formula for such taxable payments.

7. How will the cash allowance be calculated?

The monthly cash allowance will be calculated using the following standard tax rates for supplemental payments: Federal income taxes, 25%; State of California income taxes, 6%; OASDI or Social Security (if applicable), 6.2%; and Medicare (if applicable), 1.45%. For example, assume you have a \$50 per month cell phone plan and you are subject to OASDI and Medicare withholding on all of your annual earnings. Under the IRS formula, your monthly cash allowance, including reimbursement for taxes, would be \$79.55 calculated as follows:

W = Monthly allowance, less plan cost

$$W = \frac{\text{Plan cost}}{1 - \text{Applicable tax rates}}$$

$$W = \frac{\$50}{1 - .25 - .045^1 - .062 - .0145}$$

$$W = \frac{\$50}{.6285}$$

$$W = \$79.55$$

$$W = \$79.55 - \$50 \text{ (plan cost)}$$

$$W = \$29.55$$

¹ Under the IRS formula, the State of California rate must be reduced by the Federal rate (i.e., .06 – (.25 x .06) = .045) since state taxes paid by an individual are deductible on his or her Federal income tax return.

8. What if my Federal and State tax brackets are higher than 25% and 6%, respectively?

Standard income tax rates have been used that approximate an employee's tax liability. Calculating individual allowances based on an employee's marginal income tax rates would introduce a new level of complexity that would be at odds with the University's goal to reduce the administrative burden associated with providing this benefit.

9. What If my business usage exceeds the number of minutes available under my service plan?

Most of the University's cell phone carriers provide plans with pooled minutes to absorb excess minutes due to temporary spikes in business usage. If the pool can not absorb the minutes, however, your department will ask you to provide substantiation that the excess calls were for business purposes. Any minutes for personal calls must be reimbursed at the excess minute rate. If there will be an ongoing increase in your business usage, you should ask your department to increase the number of minutes under your plan.

10. What if my cell phone is lost or stolen or damaged?

Notify your department and your carrier immediately. Subject to *approval* by your department, you will receive a one-time allowance reimbursing you for the imputed income associated with the cost of repairing or replacing your phone.

11. Can I use my cell phone for personal calls?

Yes. Because you will be taxed on the full cost of the phone and service plan, you may use your cell phone for incidental personal calls. However, the cost of your cell phone plan is based on the number of minutes you need for University *business* use.

12. Can I purchase additional minutes for personal use if I pay for the minutes myself?

No. Since your cell phone is owned by the University, the number of minutes purchased under your cell phone plan will include only minutes needed for business purposes.

13. Can I add a business phone to an existing family plan if it is cheaper than receiving a new phone and getting a new number under the University's imputed income/cash allowance policy?

No. Employees will not be reimbursed for the purchase individually-owned cell phones. Under the policy, employees may only receive phones purchased by the University.

14. What if I use my personal cell phone for University business, can I get reimbursed for those calls?

You may be reimbursed for your business calls but only if you exceed your plan minutes for the month. You will need to provide your department with a copy of your cell phone statement noting the calls and the business purpose for each call. Employees who regularly exceed their plan minutes, however, should request to receive a University-provided cell phone.

15. How will the reimbursement of my business calls be calculated?

You are only eligible for reimbursement of your business calls if you incur additional expenses by exceeding your plan minutes for the month. For example, assume you have 50 minutes of business calls but you exceed your plan minutes by only 30 minutes and incur overage charges of 40 cents per minute or \$12.00 (30 x 40 cents). Your reimbursement would be limited to \$12.00.

16. What about BlackBerrys and other PDA?

If your job requires that you have access to e-mail, calendaring, custom text messaging, document creation and editing, or other personal data assistant (PDA) functions, your department may approve the purchase of a BlackBerry, Palm Treo, or other device that is required to perform your job. If you receive a PDA, the imputed income associated with the cost of the device and service plan will be added to your income. You will also receive a cash allowance to cover the taxes on the imputed income.

17. How about accessories like a Bluetooth, batteries, etc.?

There has to be a business reason for the purchase of any accessories. Keep in mind that the use of hands-free devices while driving is not permitted under existing policy, which will remain in effect under the new policy. Any accessories, including batteries, that are needed to operate the phone for business purposes may be approved by your department. The cost of these accessories will be included in the imputed income and cash allowance that you receive.

18. Does the new policy cover data-only contracts for PDAs, 911 only calls, pagers, or other devices where no outgoing calls can be made?

Communications devices that do not have a cell phone calling capability such as “push-to-talk” devices, walkie-talkies, pagers, and similar devices are excluded from the new policy. PDAs with a data-only capability are also excluded from the policy.

19. What happens after I am approved for a cell phone or PDA?

The imputed income and cash allowance will be added to your pay on your next regular pay day, subject to payroll deadlines. You will continue to receive the allowance each pay day until your contract is renewed or canceled. If you renew your contract, or contract with a new carrier, your imputed income and monthly allowance will be adjusted to reflect the cost of your new plan.

20. If I have to travel to another country for business, will I be reimbursed for the cost to upgrade my phone?

Yes. If you need to purchase additional coverage for a business trip overseas, you may be reimbursed for this expense when you submit your travel expense voucher for payment.

21. Will the imputed income and cash allowance be included in my income for calculating my retirement or other benefits?

No. The imputed income and cash allowance will not be included in your compensation for purposes of determining University retirement coverage or other benefits.

22. Are there any exceptions to the imputed income/cash allowance policy?

At the discretion of your campus, certain employees or groups of employees may be exempted from the policy due to operational considerations or other factors. Such exceptions might include employees who are required to share a cell phone while on duty and research personnel who use cell phones as data-collection devices for research purposes. In cases where an exception is approved, however, the employee would be required to document the business use of the phone and timely reimburse the University for any personal calls made using the device.

23. What if I decide I no longer need a phone? Can I give my phone back?

Yes. The University will make every effort to accommodate employees who want to return their phones or PDAs. If you no longer need a phone or PDA for business purposes or if you simply decide you do not want to retain your phone or PDA, you may return this equipment to your department.

24. If I am a supervisor, how do I know which is the appropriate plan for an employee?

The plan selected should reflect the number of minutes needed by the employee for **business** purposes. Once a plan has been purchased, departments should review the monthly cell phone statements to confirm that the business use of the phone is appropriate for the number of minutes included under the plan.

25. What if the employee is subject to OASDI during the first part of the year but then goes over the wage limit, should his or her allowance be grossed up for OASDI anyway?

No. If the employee is in a salary range that we know in advance will exceed the OASDI wage limit, then his or her allowance should not be grossed up to include OASDI for any pay period during the calendar year. It would not be appropriate to gross up the allowance for OASDI if the employee will exceed the wage limit anyway based on his or her normal earnings.

26. What if the employee's earnings are normally under the OASDI wage limit but the cell phone allowance causes him or her to exceed the limit? Should the allowance be grossed up for OASDI?

Yes. Even though the employee may receive some additional benefit, the allowance should be grossed up for OASDI if the employee's regular earning will not exceed the wage limit.

27. Has the IRS published any guidelines that outline their position on cell phone taxation?

Yes. The IRS website includes additional information on employer-provided cell phones. You find this information at the following address: <http://www.irs.gov/govt/fslg/article/0,,id=167154,00.html>

CELL PHONE IMPUTED INCOME/ CASH ALLOWANCE FORM

Instructions

DRAFT

Under *Business and Finance Bulletin G-46, Guidelines for the Purchase and Use of Cellular Phones and Other Portable Electronic Resources*, the value of a cell phone or personal data assistant (PDA), such as a BlackBerry or similar device, provided by the University to an employee is treated as a taxable non-cash fringe benefit. Employees who receive such equipment must have the value of the device and monthly service plan added to their taxable earnings as imputed income. These employees will receive a cash allowance, however, reimbursing them for the tax on the imputed income. Since the allowance itself is taxable, it will be increased or “grossed-up” to reimburse the employee for applicable payroll taxes associated with the payment. ***This Form will automatically calculate the cash allowance based on the information entered for the individual.***

Employee Information

In addition to the employee information requested, this section asks for the service plan end date and any tax exemptions applicable to the individual (check the appropriate box). This information will be used to calculate the amount and duration of the cash allowance received by the employee. The cash allowance may only be received for the period of the service agreement with the cell phone carrier.

Calculation of Cash Allowance Applicable to Imputed Income

Enter the monthly cost of the cell phone or PDA service plan, including the cost of the device. This amount will be added to the employee’s earnings as imputed income subject to normal withholding for Federal and State income taxes, OASDI (i.e., Social Security), and Medicare. If the cost of the device is not included in the monthly service plan amount, it should be prorated and added to the monthly plan amount for the period of the contract.

The imputed income field may also be used to record imputed income applicable to one-time purchases of cell phone accessories, expenses for repairs, and the cost of replacing a lost or stolen device.

Based on the monthly plan cost (imputed income) entered for the employee, the monthly cash allowance will be calculated automatically in accordance with the IRS formula for such taxable payments. The following standard tax rates will be used to calculate the monthly allowance: Federal income taxes, 25%; State of California income taxes, 6%; OASDI (if applicable), 6.2%; and Medicare (if applicable), 1.45%.

For example, assume an employee is provided with a \$50 per month cell phone plan and is subject to OASDI and Medicare withholding on all of his or her annual earnings. The cost of the handset is included in the monthly plan cost. The monthly allowance,

including reimbursement for taxes, would be \$29.55 calculated using the IRS formula as follows:

W = Monthly Allowance, less imputed income

W = $\frac{\text{Plan Cost}}{1 - \text{Applicable Tax Rates}}$

W = $\frac{\$50.00}{1 - .25 - .045^1 - .062 - .0145}$

W = $\frac{\$50.00}{.6285}$

W = \$79.55

W = \$79.55 - \$50.00 (imputed income)

W = \$29.55

If the employee is not subject to one of the tax rates, e.g., OASDI, the tax rate box should not be checked. The Form will then calculate the cash allowance excluding this rate.

Payroll Information

This section should be used to update the employee's earnings record to include the imputed income and cash allowance.

- Imputed Income - Distribution of Service (DOS) code "CEL" should be used to establish the imputed income distribution. This distribution should be set up for the term of the service agreement.
- Cash Allowance - DOS code "CE2" should be used to establish the distribution for the cash allowance. This distribution must match the duration of the imputed income distribution established under DOS code CEL

The CE2 code would also be used to reimburse an employee for taxes applicable to any one-time purchases recorded under CEL code.

A copy of the form should be provided to the employee for his or her records.

¹ Under the IRS formula, the State rate must be reduced by the Federal rate (i.e., .06 – (.25 x .06) = .045) since state taxes paid by an individual are deductible on his or her federal income tax return.

University of California Cell Phone Policy Proposals

March 16, 2009

This summary presents the pros and cons associated with two competing proposals that have been put forward in order for the University to come into compliance with the IRS regulations on cell phones and similar devices. Under the agreement with the IRS, the University has until June 1, 2009 to notify the IRS that it has come into compliance. This deadline could be interpreted as applying to cell phone expenses incurred on or after June 1. Therefore, the first affected pay checks would be those issued on the *June 24 and July 1, 2009* for biweekly and monthly-paid employees, respectively.

Both proposals involve doing gross ups to reimburse employees for the tax on the value of their cell phone plans. The University's estimated annual spending on the 13,000 UC-provided cell phones and PDAs is approximately \$9 million. The gross up on this amount would be an additional \$4-5 million annually.

Both proposals would virtually eliminate the University's tax exposure with respect to cell phones and PDAs with a cell phone capability (both proposals exclude data-only PDAs, laptops, home computers, and Internet connectivity). Under both proposals, prior approval from The Regents would be needed to pay an allowance to an SMG employee or other employee for whom salary increases require Regental approval.

Proposal 1: Cash Allowance

This proposal would involve paying a taxable cash allowance to employees to purchase individually-owned cell phones and PDAs. As part of this proposal, there would be limited exceptions granted for departments where the University needs to retain ownership of the phones, e.g., the medical centers (due to HIPPA concerns), police and fire, facilities, etc. The pros and cons associated with this proposal are as follows:

Pros:

- Accounts Payables would no longer be responsible for making carrier payments, monitoring monthly expenses for overages, and reconciling payments since these payments would be made by employees. Departments also would no longer review and approve the carrier bills for payment.
- The University would be out of the cell phone business except in those cases where exceptions are granted to departments.
- Employees could use one phone for both business and personal calls.

Cons:

- University cell phones and PDAs currently issued to employees (approximately 13,000 devices) would need to be converted to personally-owned devices or turned back to their departments for employees who no longer need this equipment.
- Employees would be responsible for contacting the carriers, signing a new contract, and paying the monthly cell phone bill.
- Campuses would have to administer two cell policies at those locations where exceptions are granted to departments to retain ownership of the phones.
- The University would lose the additional discounts and other savings available under the new AT&T agreement since the agreement is based on UC-ownership of the phones.
- The carriers typically charge an additional 5-10 percent for individually-owned cell phone plans; this cost would be passed on to the University in the form of higher cash allowances.
- Employees would be subject to city and county telecommunications taxes, which the University does not have to pay, that would add to the cost of this proposal. Such taxes range from 0-10% depending on the locality (see Accounting Manual chapter T-182-25).
- If the cell phone legislation is eventually approved by Congress, the University would need to convert the phones back to UC-owned devices in order to save the \$4-5 million in gross up payments.

Proposal 2: Imputed Income/Cash Allowance

This proposal would treat the value of a University-provided cell phone or PDA as imputed income to the employee. The employee would receive a cash allowance to reimburse him or her for the tax on the imputed income. The pros and cons associated with this proposal are as follows:

Pros:

- Since no phones would be converted, employees would experience no change in their current cell phone plans or service. Employees would not be responsible for making monthly payments to the carriers.

- Because ownership of the phones would be retained by the University, no HIPPA issues would arise nor would any exceptions be needed related to UC-ownership of a cell phone or PDA.
- The same policy would be applicable to both campus and medical center departments and other departments, including police and fire.
- Potential additional savings available under the AT&T agreement would not be lost.
- The University would realize the normal 5-10% carrier discount inherent with employer-owned phones.
- The University would save the cost of telecommunications taxes charged in connection with employee-owned phones.
- If the cell phone legislation is approved by Congress, no phones would have to be converted. The imputed income/cash allowance would simply be turned off.

Cons:

- Accounts Payables would continue to pay the carriers as before and would be responsible for reviewing, approving, and reconciling the monthly carrier statements. Departments would also continue to review, approve, and process the statements for payment.
- University contracts with the carriers are normally month-to-month (not for two-year periods). Thus, departments would need to monitor when an employee changes his or her phone or carrier and adjust the imputed income/cash allowance accordingly.
- Employees who make more than incidental personal calls would have to carry two phones.
- Departments would need to set up two payroll (DOS) transactions for the imputed income and cash allowance, which would be more complex than establishing only one transaction for the cash allowance.
- The concept of imputed income may be confusing to some employees and departmental staff.¹

¹ The imputed income concept is not new to the University. SMG employees are charged imputed income for executive life insurance. Many employees incur imputed income for domestic partner health benefits. Nevertheless, the notion of imputed income may not be widespread among employees.

**UNIVERSITY OF CALIFORNIA
CELL PHONE IMPUTED INCOME/CASH ALLOWANCE FORM**

This form is used to calculate the imputed income and cash allowance applicable to a cell phone or personal data assistant (PDA), such as a BlackBerry or similar device, provided by the University to an employee. Employees who receive such equipment must have the value of the device and monthly service plan added to their taxable earnings as imputed income. These employees will receive a cash allowance, however, reimbursing them for the tax on the imputed income. Since the allowance itself is taxable, it will be increased or "grossed-up" to reimburse the employee for applicable payroll taxes associated with the payment. (see instructions)

Employee Information

Employee Name:	Service Plan End Date:
Employee ID:	Home Dept:
Exemptions <input type="checkbox"/> Out-of-State Employee <input type="checkbox"/> Treaty Eligible Foreign National <input type="checkbox"/> Exempt from Social Security Tax (OASDI) <input type="checkbox"/> Exempt from FICA Tax (OASDI and Medicare)	

Calculation of Cash Allowance Applicable to Imputed Income

Monthly Plan Cost (imputed income):	50.00
Applicable Tax Rates:	
<input checked="" type="checkbox"/> Federal	0.2500
<input checked="" type="checkbox"/> State	0.0600
<input checked="" type="checkbox"/> OASDI	0.0620
<input checked="" type="checkbox"/> Medicare	0.0145
Cash Allowance:	29.55

Payroll Information

A separate distribution should be established in the PPS for the imputed income and cash allowance using the following DOS codes:

CEL DOS Code (Imputed Income)

ACCOUNT	FUND	SUB	FTE	DIS%	PAY BEGIN	PAY END	RATE/AMT	DOS
							50.00	CEL

CE2 DOS Code (Cash Allowance)

ACCOUNT	FUND	SUB	FTE	DIS%	PAY BEGIN	PAY END	RATE/AMT	DOS
							29.55	CE2

Supervisor Signature: _____

Date: _____