



UNIVERSITY OF MICHIGAN
GENERAL UNIVERSITY POLICIES AND SERVICES
Employee Use of Mobile Communication
Technology Equipment FAQ

Frequently Asked Questions

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Responses to Frequently Asked Questions

General Questions

1. Why does the University need a written policy specifically to address the employee's use of mobile communication technology?

Business Reasons

Recent extraordinary proliferation of such equipment and its significant contribution to our success dictate that the University put forth consistent and universal procedures to maximize its effectiveness and minimize costs.

Proper management of this equipment can result in higher quality service and produce significant cost savings to the University. For example, a unit that seeks cost-effective products, such as, flat rate, fixed charges, mega minutes, and other discounted service plans will reduce overall costs. Cellular phone contracts that are selected to reflect the level of expected business needs (e.g. number of minutes per month) will prevent under usage of the equipment.

Tax Reasons

This policy demonstrates clearly to the Internal Revenue Service (IRS) that we are complying with an issue that is becoming a growing concern, and it protects our employees from unexpected and unbudgeted tax assessments and invasive inquires from tax agencies.

The Internal Revenue Service (IRS) is increasingly concerned with the explosive use of mobile communication technology equipment over the last decade, and the 'tax gap' that it is creating. The concern is that the significant "tax" dollars resulting from the taxable use of such equipment are not being collected.

The "tax gap" is defined as items subject to taxation that the IRS cannot clearly identify and quantify with official documentation. For instance, a good example of an official document is a bank that provides its account holders and the IRS with copies of forms 1099-INT that report the interest income that was earned on each account during the calendar year.

However, since there is no such official document with respect to the employees' use of such equipment, the IRS questions whether the "tax" dollars have been paid in full to the federal government. In response, the IRS must audit this issue in the field. Accordingly, the audit procedure, with no official documentation but for logs and other reimbursement methods supplied by the employees, is to subject employees to invasive inquiries and, in some cases, assess them unexpected tax liabilities which may include back taxes, penalties and interest for unreported personal use in previous years.

2. Why does the University, as an exempt organization, need to comply with these tax rules?

Payment of tax on the personal use of mobile communication technology equipment is an employment tax issue that applies to all employers and the University must adhere to the same reporting responsibilities.

The University, however, as an exempt organization is more “at-risk” for not complying than for-profit companies and businesses due to certain laws that pertain to them.

The IRS conducts examinations that include this issue for major industries, including the higher education community.

Nine of the eleven “Big 10” institutions have recently or are in the process of revising their policies on mobile equipment, specifically regarding the use of cell phones by employees. The higher education community is following the example put forth by the “Big 10”.

3. How is mobile communication technology equipment any different from the phones and computers that we have used at our desks for decades?

The mobility of this equipment makes it difficult for the IRS to presume that these tools are being used for business purposes. Desk phones and desktop computers are located on the employer’s premises, and, thereby, are presumed to be used for business purposes. Accordingly, mobile technology equipment is held to a higher standard of proof or substantiation. For instance, the Code requires the employee to list the business purpose for each telephone call made on cellular phones. This standard is considered by many tax practitioners to be impractical or impossible to meet. Thus, the University has taken an approach that protects the interests of its employee.

4. What is the ‘gist’ of this policy?

In accordance with tax law, personal use of mobile technology tools by an employee will generate taxable income unless an exception is met. To lessen the tax risks to its employees, the University will include into its employees’ wages the value of the equipment and, if applicable, the related service contract when no exceptions apply. This position is similar to most Big 10 schools.

The rationale is to reduce tax risks and invasive measures to the employee while minimizing tax risks and reducing the administrative burdens to the University. Further, this policy supports the University’s position to serve as steward and fiduciary for University assets appropriately.

5. What risks are there with this issue?

The employee is “at-risk” for the taxes due on the fair market value of the use of each mobile technology tool for each year it is in use, and may be subject to invasive inquiries from field agents upon examination.

The University must protect its accountable plan that allows employees to receive expense reimbursements tax-free, and ensure that there are no violations that may jeopardize its exemption.

6. Who benefits from such a policy?

The employee is given assurance that he or she is protected from unexpected tax assessments and invasive inquiries upon examination.

The University minimizes its tax risks as an employer and an exempt organization, and will reduce the administrative burdens involved in processing the use of such equipment.

7. Does this policy pass muster with the IRS reporting requirements?

Yes, although, as mentioned, it is extremely challenging for the use of mobile equipment to receive tax-free treatment, this policy complies with positions put forth by the IRS. This policy is similar in part to the policy used by the IRS with respect to its employees that use mobile technology tools.

8. Are there any exceptions to taxation?

Yes, certain equipment provided under the ‘purchase method’, as discussed in the policy, is entitled to an exclusion from tax. The first exception includes certain types of equipment, such as, pooled cell phones, pooled laptops, other pooled equipment and pagers. A second exception includes equipment used by certain types of positions, such as, police and other employees who are vital to the safety and welfare of the community. A third exception includes employees who limit their personal use to ‘incidental’ use. ‘Incidental’ use is defined as (i) use that does not interfere with the performance of official duties or reduce the work productivity, and (ii) does not result in additional expense to the University. Examples include using small amounts of electricity, printing out a few pages of material, infrequently sending personal e-mail messages and limited use of the internet for personal reasons.

Note that certain equipment, such as, those cell phones and other technology tools that indicate or track personal use by phone numbers must, in addition, meet the ‘de minimis’ standard. De minimis is defined as using the equipment for personal use for an hour or less per month or 12 hours per year on average.

Administrative Questions

1. Is there taxable income to an employee who does not meet any exceptions if his or her use, including personal use, of the cellular phone does not exceed the contracted use or “minutes” included in the package?

Yes, the IRS is not concerned whether the personal use results in additional minutes to the plan, it focuses on the fact that the employee received a tax benefit for using the phone for personal use, and the value of such use can be determined based on an allocation of the total cost of the package.

For example, assume than an employee has a University-provided cell phone plan that provides 500 minutes a month for a fixed fee of \$60 but the employee only uses 300 minutes for that month, 100 minutes of which are for personal use. Under the University’s policy, the personal use does not meet any exceptions,

thus, the value of the entire package, \$60, is included into taxable income and reported as wages.

2. How does the policy treat dual-use lines of a cell phone that specifically distinguish the personal use from the business use?

Dual-use lines help identify the personal use of the phone calls. If such use exceeds the “de minimis” exception, then the entire amount is included in the employee’s wages.

3. Does the taxable stipend or imputed taxable income affect my retirement contributions?

No, the taxable allowance or the imputed taxable income is considered to be taxable reimbursements and not as part of the employee’s salary.

4. How does the use of IT property affect Contract and Grant Accounts?

Sponsored grants and contracts could be charged for the allowance on a pro rata basis that would be in line with the individual’s current appointment. Regarding the issue of the laptop computers, the actual purchase price may be included as a direct cost to the project if it is in line with the proposed and awarded budget. As a part of the budget process, justification must be presented as to the specific direct benefit to the project. It would be reviewed as part of the routine A-21 monitoring, enforcing the costing principles set forth by the government.