



Client Alert

September 15, 2011

Relief For Employees and Employers - IRS Issues Guidance on Taxation of Employer-Provided Cell Phones

On September 14, 2011, the IRS issued long-awaited guidance on the taxation of employer-provided cell phones that will give many employers and employees reason to celebrate—by making personal phone calls on their employer-provided cell phones. The IRS guidance provides that when an employer provides a cell phone to an employee primarily for non-compensatory business reasons, the business and personal use of the cell phone is generally non-taxable to the employee. Further, the IRS will not require recordkeeping of an employee's business use to substantiate the tax-free treatment.

An employer will be considered to have provided an employee with a cell phone primarily for non-compensatory business purposes if there are substantial business reasons, other than providing compensation to the employee, for providing the employee with a cell phone. For example, the need for an employer to contact an employee for work-related emergencies or the need for an employee to contact clients outside the office are non-compensatory purposes for providing a cell phone.

IRS Circular 230 Notice

Internal Revenue Service regulations state that only a formal opinion that meets specific requirements can be used to avoid tax penalties. Any tax advice in this communication is not intended or written to be used, and cannot be used by a taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer, because it does not meet the requirements of a formal opinion.

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