

# IRS Exhibits Clarity on Business Mobile Phone Usage

[KB Website](#)

[Publications](#)

[Community Involvement](#)

[Newsletter](#)

By: Michael Burzynski, Partner

The Internal Revenue Service is generally not regarded as exhibiting a great deal of common sense in its application of tax law. However, the IRS exhibited admirable clarity and common sense in its recent [Notice 11-72](#). This interpretation comes almost a year after the Small Business Jobs Act of 2010 which created the original law regarding company-provided mobile phones. Prior to this Act, mobile phones were subject to the same personal use reporting requirements as employer-provided vehicles.



In short, IRS Notice 11-72 categorizes most employer-provided cell phones as a “de minimus fringe benefit”, meaning the employer is not required to keep extensive recordkeeping regarding business usage and the “personal use” is not taxed to the employee. The cost of the phone is now categorized similar to the value of employer-provided office supplies and coffee rather than employer-provided vehicles. Quoting formal tax code, it is a fringe benefit whose value is “so small as to make accounting for it unreasonable or administratively impracticable.” (§132(e))

This ruling provides a basic safe harbor for most employer-provided mobile phones and similar devices, but does not open the floodgates for small business owners to provide a tax free fringe benefit across the board. In order to qualify for the exclusion, the employer has to provide the mobile phone “primarily for noncompensatory business reasons.” Without providing specific examples, we can therefore assume that a phone provided to a delivery driver definitely qualifies and a phone provided to a data entry clerk who happens to also be the business owner’s child likely does not qualify.

While there are still situations where an employer-provided mobile phone is subject to personal use rules, this notice provides welcome common sense guidance that has been long in coming.

If you have questions regarding this tax matter or any others, please do not hesitate to contact any of our highly skilled tax department members.

Andy Komisar [akomisar@komisarbrady.com](mailto:akomisar@komisarbrady.com)  
Nicole Anderson [nanderson@komisarbrady.com](mailto:nanderson@komisarbrady.com)  
Edita Rimalovsky [erimalovsky@komisarbrady.com](mailto:erimalovsky@komisarbrady.com)  
Terry Rupnick [trupnick@komisarbrady.com](mailto:trupnick@komisarbrady.com)  
Adam Smith [asmith@komisarbrady.com](mailto:asmith@komisarbrady.com)

Yelena Krayzman [ykrazzman@komisarbrady.com](mailto:ykrazzman@komisarbrady.com)  
Jenni Bieck [jbieck@komisarbrady.com](mailto:jbieck@komisarbrady.com)  
Steve Bjork [sbjork@komisarbrady.com](mailto:sbjork@komisarbrady.com)  
Dan Burzynski [dburzynski@komisarbrady.com](mailto:dburzynski@komisarbrady.com)  
Nicole Destache [ndestache@komisarbrady.com](mailto:ndestache@komisarbrady.com)