

Cell Phones and Home Internet Service – State-provided, Employee Allowances or Reimbursements.

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Purpose

This policy defines the policies and procedures of the Division of Finance regarding state-provided cell phones or home internet service and employee reimbursements and allowances for cell phones, internet access services, and other business related telecommunication expenses. Agencies and employees should ensure this policy is followed in order to properly comply with applicable Internal Revenue Service (IRS) regulations. This policy is subject to change at any time as IRS regulations change.

This policy does NOT cover state-provided mobile computers or allowances for business use of employee's personal mobile computers, including I pads, notebooks, or laptops. Mobile computers will be covered in a separate policy.

Definitions (for purposes of this policy)

Cell Phone	A portable telephone that uses wireless cellular technology to send and receive phone signals, including but not limited to iPhones, smart phones, Blackberries, and Personal Digital Assistants (PDAs).
Home Internet Service	A cable, phone line, or other type of service that allows access to the internet from the employee's home.
Employee	Includes employees, board members, interns, volunteers, consultants, and contractors or anyone to whom a state agency provides the services or allowance for the services covered under this policy.

Background

As a requirement of their jobs, some employees must have access to cell phones, data plans, and/or internet services. Employees may be given an ongoing allowance, reimbursed for actual costs incurred for these services or may be provided these services by their employer/agency.

Cell Phones

In the past, the IRS required heightened substantiation rules in order for the value of an employer-provided cell phone to be non-taxable to the employee. However, in 2011, the IRS issued guidance which eliminated the need to account for personal vs. business minutes used on employer-provided cell phones if certain criteria are met¹. The guidance "provides that, when an employer provides an employee with a cell phone primarily for noncompensatory business reasons, the IRS will treat the employee's use of the cell phone for reasons related to the employer's trade or business as a working condition fringe benefit, the value of which is excludable from the employee's income....". The IRS also issued similar guidance on allowances received by employees for the cost of an employee-provided cell phone that is used partly for business purposes². This guidance extends to both the cost of the phone and any related voice or data plans.

Home Internet Service

The IRS has not clarified or reduced the record keeping requirements when the employee receives an allowance

¹ IRS Notice 2011-72

² IRS Memorandum For All Field Examination Operations, control number SBSE-04-0911-083

for the business use of an employee's home internet service or when home internet service is provided or paid for by the employer. According to IRS regulations, personal use of this home internet service is taxable to the employee unless the employee's use is considered de minimus, meaning the personal use is short and infrequent or if thorough and timely records are kept showing the amount of time of personal vs. business use, and any excess allowances are returned by the employee in a timely manner.

However, due to the administrative burden of tracking and auditing these records, the value of state-provided home internet service or any allowance for home internet service will be processed as a taxable amount through the State's payroll system. The only exception is if the state-provided home internet service is on a separate dedicated line used exclusively for business purposes only.

Policy

A. Business Need Must be Justified

The agency must justify an employee's business need for cell phone or home internet service. If the business need cannot be clearly identified, no such services or allowances shall be provided.

B. Most Cost Effective Method Considering Business Needs

The agency shall determine the most cost effective method of providing employees with the services that meet the agency's business needs, including agency or Department of Technology Services (DTS) data security requirements. For example the employer may provide a cell phone or the employee may be given an allowance for the business use of their own cell phone or internet service. The agency should select the option that minimizes costs to the State while still providing the service needed for the employee to do their job and securing business data as the agency deems necessary. If an employee uses their personal cell phone for business occasionally, a reimbursement to the employee based on actual expenses makes sense. If an employee uses their cell phone on a regular basis for business, then an allowance given each pay period may be a good idea. If an employee is required to use a cell phone extensively for state business, then a state-provided cell phone could be more appropriate.

C. Documentation Required – Agreement between employee and agency

For state-provided cell phone or home internet services or allowances paid for business use of an employee's own service, the agency shall prepare an agreement clearly justifying the business need for the service, how the service will be provided, allowance amount if applicable, and any related conditions. (See examples at the end of the policy.) This agreement is to be signed by the employee, supervisor, and agency head or designee. The agreement shall be reviewed and initialed by the agency and employer at least once each year. A new agreement shall be completed when changes to the plan or business need occur.

D. Cell Phone Service – Nontaxable

According to IRS regulations, personal use of an employer-provided cell phone or allowances for an employee provided cell phone may be treated as de minimis (short and infrequent) fringe benefits and as such are non-taxable. Personal use of the cell phone no longer has to be documented and accounted for to be nontaxable. However, there must be a valid business need for providing the cell phone service, the cell phone service must not be provided for compensatory reasons, the service provided must not exceed what is necessary for business purposes, and any allowance must not exceed the cost of the service.

Employee allowances for business use of personal cell phones shall be processed through the State Payroll System as a nontaxable item.

The Division of Finance has set the following "standard maximum" allowance amounts:

- Up to \$30 per pay period for a voice-only plan or data plan (\$65 per month.)
- Up to \$50 per pay period for voice and data plans combined (\$108 per month.)

Agencies may set a higher or lower amount for an employee or group of employees depending on the business needs, costs, and other applicable factors. However, any allowance amount that is greater than the above amounts must be approved by the Director of the Division of Finance. The allowance amount must never exceed the actual cost of the service and should be calculated on the services needed for business, and not include extra services used for personal reasons. The employee will keep a copy of their cell phone bills on file for at least one year for audit purposes. For state-provided cell phones, the employee is required to pay for any personal use that increases the cost of the service.

E. **Cell Phone Service – Taxable**

According to IRS regulations, the cost of an employer-provided cell phone or an employer-paid allowance for a cell phone to promote goodwill, boost morale, attract prospective employees, or to provide additional compensation is taxable to the employee and must be reported on their W-2 form. Cell phone service in this category must be approved by the agency executive director and the Director of Finance and reported in a manner determined by the Division of Finance so the value can be added to the employee's taxable income on their W-2 form.

F. **Home Internet Service – Usually Taxable**

If there is a valid business need, agencies may provide an employee with home internet service, pay for their actual internet costs, or give the employee an allowance to cover all or a portion of the cost of their personal home internet service.

IRS regulations require that any employer-paid cost or allowance for home internet service be taxable unless thorough and accurate records are kept of all business use vs. personal use. **Due to the administrative burden of keeping and auditing these records, state provided home internet service or allowances paid to an employee for home internet service will be treated as taxable to the employee and be processed through the State's payroll system, except for the situation described in Policy G below.**

The Division of Finance has set the following "standard maximum" allowance amounts:

- Up to \$23 per pay period (\$50 a month.)

Agencies may set a higher or lower allowance amount for an employee or group of employees depending on their business needs, costs, and other applicable factors. The allowance must never be higher than the actual cost of the service and should be calculated on the services needed for business purposes, and not include extra services used for personal reasons. Any allowance amount that is greater than \$23 per pay period (\$50 per month) for home internet service must be approved by the Director of the Division of Finance. The employee must keep a copy of their home internet bills on file for at least one year for audit purposes.

G. **Home Internet Service – Nontaxable exception**

State-provided home internet service which is dedicated exclusively for business use and never used for personal use is not taxable to the employee. For example, if an employee works at home full-time and the State provides a dedicated internet service separate from their personal home internet service, the value of the service would not be taxable. The employee must sign an agreement stating that they have a separate personal home internet service and that the state-provided home internet service is never used for personal reasons. The employee must agree that the State may review or audit the use of the state-provide internet service to verify that it is not being used for personal reasons.

H. Occasional Reimbursement of Actual Expenses

Employees may be reimbursed for approved state expenses incurred by the employee on their own cell phone or home internet service. To be eligible for reimbursement, the employee must incur out-of-pocket costs that must be approved by their supervisor and must submit the original bill or other valid receipt substantiating the costs. These reimbursements will be processed through FINET or the payroll system as a **nontaxable** amount.

I. Security and Acceptable Use of State-Provided Information Technology Resources

Employees who receive a state-provided cell phone or use a personal cell phone for business are required to adhere to applicable security policies or rules issued by their own agency or DTS. (Note: DTS is currently developing a policy covering the use and security of state-owned mobile devices and employee-owned devices used for state business.)

When using state-provided cell phones or home internet access, employees will comply with Administrative Rule R895-7, Acceptable Use of Information Technology Resources. This rule outlines the allowable personal use of state provided resources and also makes it clear that the employee should not have any expectation of privacy regarding any data or communication stored or made with a state-provided cell phone or home internet service.

J. Privacy of Data on Personal Equipment

When an employee receives an allowance or reimbursement for business use of their personal cell phone or home internet service, their personal information is considered private. However, because personal data is comingled with business data, the personal data may be viewed by a state officer or court in response to a GRAMA request or court action related to the business data.

Procedures

Responsibility

Action

State-Provided Cell Phone – Nontaxable

Agency

1. Identify the business requirements that justify an employee's need for a cell phone.
2. Determine the most cost effective way to provide the employee with just the services needed for business purposes.
3. Reasonable personal use of the cell phone is allowed and does not have to be tracked for the value of the cell phone to be nontaxable to the employee if the following conditions are met:
 - a) The cell phone service is provided for valid business reasons;
 - b) The service plan fits the business need and does not include extra features not needed for work; and
 - c) The cell phone is not provided for compensation or incentive purposes.
4. The employee is required to pay for any personal use that increases the cost of the service.
5. Complete an agreement form signed by both the agency and the employee, documenting the business need, the cost of the service and any related conditions, (see example.) Maintain a file of these agreements for audit purposes. The

original agreement should be reviewed and initialed by the employee and agency at least once each year or a new agreement should be completed as changes to the plan or business need occur.

6. Use FINET to pay the cell phone bill and use object code 6126 Wireless Communication Service.

Employee-Provided Cell Phone – Nontaxable Allowance

Agency

1. Identify the business requirements that justify the employee's need for access to a cell phone.
2. Determine the most cost effective way to provide the employee with needed service.
3. Complete an agreement form signed by both the agency and the employee, documenting the business need, the cost of the service, how the service will be provided, the reimbursement amount, payment method and any related conditions (see example.) Attach a copy of the original bill used to calculate the allowance to the signed agreement and maintain a file of these agreements for audit purposes.
4. The Division of Finance has set the following "standard maximum" allowance amounts:
 - Up to \$30 per pay period for a voice-only plan or data-only plan (\$65 per month.)
 - Up to \$50 per pay period for voice and data plans combined (\$108 per month.)

Agencies may set a higher or lower allowance amount for an employee or group of employees depending on their business needs, costs, and other applicable factors. However, any allowance amount that is greater than the above amounts must be approved by the Director of the Division of Finance. Agencies should only include the costs of services needed for business purposes, and not include extra services used for personal reasons, in the calculation of the allowance amount.

5. The allowance is non-taxable to the employee using the cell phone and the personal vs. business use of the cell phone does not need to be documented if:
 - a) The allowance is provided for business reasons;
 - b) The service plan fits the business need and does not include extra features not needed for work; and
 - c) The allowance is not provided for compensation or as an incentive.
6. The employee will keep a copy of their cell phone bills on file for at least one year for audit purposes.
7. The original agreement should be reviewed and initialed by the employee and agency at least once each year or a new agreement should be completed when changes to the plan or business need occur.
8. Submit a copy of the agreement to State Payroll and request State Payroll to set up a recurring payroll payment using the nontaxable Wage Type 1182 (Telephone Reimbursement)..

Home Internet Service Allowance – Taxable

Agency

1. Identify the business requirements justifying the employee's need for home internet service.
2. Determine the most cost effective way to provide the employee with the needed service.
3. Complete an agreement form documenting the business need, the cost of the service, the way the service will be provided, the allowance amount, payment method and any related conditions (see example.) Include a copy of the original bill used to calculate the allowance amount with the agreement and maintain a file of these agreements for audit purposes. Ensure the allowance does not exceed the cost of the service.
4. The employee will keep a copy of their personal home internet service bills on file for at least one year for audit purposes.
5. The Division of Finance has set the following "standard maximum" allowance amount:
 - Up to \$23 per pay period (\$50 per month.)

Agencies may set a higher or lower allowance amount for an employee or group of employees depending on the business needs, cost, and other applicable factors. The allowance must never be more than the actual cost of the service and an allowance amount greater than the amount above requires approval from the Director of the Division of Finance. Agencies should only include the costs of services needed for business purposes, not extra services used for personal reasons, in the calculation of the allowance amount.

6. The original agreement should be reviewed and initialed by the employee and agency at least once each year or a new agreement should be completed when changes to the plan or business need occur.
7. Submit a copy of the agreement to State Payroll and request State Payroll to set up a recurring payroll payment using Wage Type 1121 (Equipment Rental).

Note that reimbursements using Wage Type 1121 are taxable and the amounts will be added to the employee's taxable earnings on their W-2 form.

State-Provided Home Internet Service –No Personal Use - Nontaxable

Agency

1. Identify the business requirements necessitating an employee's need for the home internet service.
2. Determine the most cost effective way to provide the employee with the needed service.
3. Complete an agreement form documenting the business need, the cost of the service, the way the service will be provided, the payment method and any related conditions (see example.)
4. For the state-provided internet to be nontaxable to the employee, the internet service must be on a dedicated line or computer separate from the employee's personal home internet service. The employee must agree that the state-provided internet service will not be used for personal reasons and the employee agrees that the separate dedicated internet service may be monitored or audited by the State to verify that it is not used for personal reasons.
5. The original agreement should be reviewed and initialed by the employee and

agency at least once each year or a new agreement should be completed when changes to the plan or business need occur.

6. Use FINET to pay for the state-provided home internet service using object code 6132 Communication Services.

Occasional Reimbursement of Actual Telecommunication Expenses – nontaxable

Employee

1. Obtain approval from your supervisor before incurring business related telecommunication expenses that will be reimbursed by the State. The approval could also be obtained after the fact if the supervisor and agency agree to reimburse the employee for the expenses. These expenses include long distance calls, text messages, data usage, or cell phone minutes, etc. Complete and submit to your agency a signed Employee reimbursement/Earnings Request, Form FI 48, with the original bill or other valid receipt attached. The form is available at www.finance.utah.gov.

Agency

2. Pre-audit the form to determine the amount agrees with the bill or receipt, and that it was a valid business related expenses. Approve or disapprove the payment.
3. Enter the approved reimbursement information into the FINET System as a GAX document **OR** enter, or have DHRM enter, the approved reimbursement amount onto the Time Entry Screen of the Payroll System, using the nontaxable Wage Type 1182 (telephone reimbursement.)
3. Maintain a file of entered documents with the supporting documentation attached for audit purposes.

EXAMPLE
State-Provided Cell Phone Agreement

The Department of Administrative Services (Agency) has determined that John Doe, (employee) must have cell phone service for the following business reasons:

- The Agency needs to be able to contact the employee at all times for business emergencies.
- The Agency requires that the employee be available to communicate with customers and management and respond to important emails when the employee is away from the office or off work.

The Agency has determined that the most cost effective means of providing the employee with the needed access is to provide the employee with a state-paid cell phone for business purposes. Because the phone is provided to the employee for valid business reasons and the type of plan and coverage selected is reasonably related to the State's needs, the value of the cell phone service is not taxable to the employee. The employee does not have to keep track of how many minutes are used for personal reasons.

The following conditions apply:

- The employee agrees to use the cell phone substantially for business purposes.
- The employee agrees to abide by any applicable security policy or rule issued by the agency or by the Department of Technology Services.
- Use of the state-provided cell phone will be terminated and the cell phone returned to the State when the business need for cell phone service is no longer justified or the employee leaves employment with the agency.
- The employee agrees to report lost or stolen devices to the agency immediately.
- Personal use of the cell phone shall be minimal and shall not increase the cost of the service to the State. The employee agrees to pay for any personal use that increases the cost of the service, including any "extra" services not needed for business purposes.
- Employee understands that any data (personal or business) on the phone may be reviewed and disclosed in the event of a GRAMA request.
- Employee has read, understands, and will abide by Administrative Rule R895-7, Acceptable Use of Information Technology Resources.
- This agreement shall be annually reviewed by the employee and the agency and initialed.

Carrier, phone, monthly costs, and plan(s) selected: _____

Employee Signature: _____ Date: _____

Supervisor Signature: _____ Date: _____

Agency Head/Designee Signature: _____ Date: _____

EXAMPLE
Personal Cell Phone Allowance Agreement

The Department of Administrative Services (Agency) has determined that John Doe, (employee) must have cell phone service for the following business reasons:

- The Agency needs to be able to contact the employee outside of normal business hours for business purposes.
- The Agency requires that the employee be available to communicate with customers and department management and respond to important emails while away from the office.

The Agency has determined that the most cost effective means of providing cell phone service to the employee is for the employee to use their personal cell phone service for business purposes and give the employee an ongoing allowance to cover the business use. This allowance is NOT taxable to the employee because the allowance is provided to the employee for valid business reasons, the allowance is calculated on the services needed for business purposes and does not include extra services only needed for personal reasons, and the allowance does not exceed the cost of the service. The employee does not have to keep track of how many minutes are used for personal vs. business reasons.

Allowance Amount Calculation: The cost of the combined voice and data plan is \$60.31 per month X 12 months = \$723.72 / 26 pay periods = allowance amount of \$27.84 per pay period. The plan does not include any extra services not needed for business purposes.

The following conditions apply:

- The employee agrees to use their cell phone for business purposes stated above.
- The employee agrees to abide by any applicable security policy or rule issued by the agency or by the Department of Technology Services.
- The employee will notify the employer if the cell phone service cost drops below \$60.31 per month.
- Allowances paid under this agreement will be discontinued when the business need for cell phone service is no longer justified or the employee is no longer employed by the agency.
- The employee agrees to report lost or stolen devices to the agency immediately.
- Employee understands that personal data on the phone may be reviewed by management or a court due to a GRAMA request.
- This agreement will be reviewed and initialed annually by the employee and the Agency.
- The employee will keep copies of their monthly cell phone bills on file for one year for audit purposes.
- The cell phone bill used to calculate the allowance amount is attached to this agreement.

Carrier, phone, plan type, and estimated monthly cost: _____

Employee Signature: _____ Date: _____

Supervisor Signature: _____ Date: _____

Agency Head/Designee Signature: _____ Date: _____

Needed only if allowance amount exceeds policy limits of up to \$30 per pay period for a voice only or data only plan or up to \$65 for a combined voice and data plan:

Director of Finance Signature: _____ Date: _____

EXAMPLE
Personal Home Internet Service Allowance Agreement

The Department of Administrative Services (Agency) has determined that John Doe, (employee) must have home internet service for the following business reasons:

- The employee must be able to initiate the PTS nightly cycle from home in the event of an emergency.
- The employee must be able to monitor and resolve any PTS cycle problems from home when the employee is on call.

The Agency has determined that the most cost effective means of providing home internet service is to give the employee a recurring allowance for using their personal internet home service periodically for business purposes. The allowance amount is based on the cost of services needed for business purposes and doesn't include an allowance for extra services used only for personal reasons.

Allowance Amount Calculation:

Monthly cost of home internet service is \$50. However, the maximum allowance allowed by the Agency is \$30 per month X 12 months = \$360 / 26 pay periods = \$13.85 allowance per pay period.

The following conditions apply:

- The employee agrees to use their personal home internet service for the business purposes stated above.
- The employee agrees to abide by any applicable security policy or rule issued by the agency or by the Department of Technology Services.
- This allowance is taxable to the employee and will be paid through the state payroll system as a taxable item.
- The employee will notify the employer if the home internet service cost drops below \$30 per month.
- Allowances under this agreement will be discontinued when the business need for home internet service is no longer justified or if the employee is not longer employed by the agency.
- This agreement will be reviewed and updated or initialed by the employee and agency annually.
- The employee will keep copies of their monthly home internet service bills for 1 year for audit purposes.
- A copy of the bill used to calculate the allowance is attached to this agreement.

Employee Signature: _____ Date: _____

Supervisor Signature: _____ Date: _____

Agency Head/Designee Signature: _____ Date: _____

Needed only if allowance amount exceeds policy limit of up to \$23 per pay period (\$50 per month):

Director of Finance Signature: _____ Date: _____

EXAMPLE

State-Provided Home Internet Service Agreement

The Department of Administrative Services (Agency) has determined that John Doe, (employee) must have home internet service for the following business reasons:

- The employee works at home full-time and must be able access business related systems, files, and information through the internet while working at home. Also see the related telecommuting agreement.

The Agency has determined that the most cost effective means of providing home internet service is for the Agency to provide and pay for the internet service directly. The state-provided internet service will not be used for any personal reasons and will be a separate line, cable, or service from the employee's personal home internet service.

The following conditions apply:

- The employee will only use the state-provided home internet service for business purposes. No personal use is allowed by the employee or any member of their family.
- The employee agrees to abide by any applicable security policy or rule issued by the agency or by the Department of Technology Services.
- Employee has read, understands, and will abide by Administrative Rule R895-7, Acceptable Use of Information Technology Resources.
- This service will be discontinued when the business need for home internet service is no longer justified.
- The employee agrees that the state-provided home internet service may be monitored or audited by the State to verify that it is not being used for personal reasons.
- This agreement will be reviewed and updated or initialed annually by the employee and Agency.

Employee Signature: _____ Date: _____

Supervisor Signature: _____ Date: _____

Agency Head/Designee Signature: _____ Date: _____