



## District Business & Advisory Services

Nimrat Johal: Director- DBAS: 408-453-6599

Cathy McKim, Manager-DBAS: 408-453-6588

Bulletin: 12-052

Date: September 25, 2011

To: District Fiscal Directors  
District Personnel and Payroll Directors

From: Nimrat Johal

Re: Cell Phone Stipend Change

---

On September 16, 2011, the Internal Revenue Service (IRS) issued clarifying guidance related to the tax treatment of employer-provided cell phones and cell phone stipends. Cell phone stipends and the business and personal use of employer provided cell phones are generally nontaxable to the employee, and the IRS will not require recordkeeping of business use in order to receive this tax-free treatment. However, the following criteria must be met in order to maintain non-taxable status of cell phone stipends:

- The stipend must not be a wage substitute i.e., it is not being offered as a means of providing an attractive compensation package.
- There must be a documented business reason for providing the cell phone stipend.
- The stipend must be reasonably calculated i.e., the amount of the stipend cannot exceed the total cost of service for the cell phone.
- The coverage area of the cellular service must be reasonable to the needs of the business.

According to §132(a)(3) of the Internal Revenue Code (IRC) gross income does not include any fringe benefit which qualifies as a working condition fringe. The IRS considers employer provided cell phones a working condition fringe using the basis that, if the employee paid for the use of the cell phone, such payment would be an allowable deduction for the employee under IRC § 162.

**The non-taxable treatment of cell phone stipends is retroactive back to January 1, 2011.** Districts that process their payroll on the Santa Clara County Quintessential School Systems (QSS) business system must code cell phone stipends with the statutory deduction (Stat- ded) code of NNNN. Cell phone stipends previously coded as taxable wages should be corrected through payroll prior to October 31, 2011 to ensure the accurate reporting of annual wages.

Please use the following links for additional guidance on this topic.

IRS Tax Treatment of Cell Phones

<http://www.irs.gov/newsroom/article/0,,id=245741,00.html>

EDD Taxability of Employee Benefits

[http://www.edd.ca.gov/pdf\\_pub\\_ctr/de231eb.pdf](http://www.edd.ca.gov/pdf_pub_ctr/de231eb.pdf)