

LIAISON MEMORANDUM NUMBER 12-07

To: Agency Liaison and Payroll Officers

From: Cindy Rougeou
Executive Director

Re: Employer Provided Cell Phones

Date: February 23, 2012

The Internal Revenue Service has recently issued additional guidance related to clarification of the tax treatment of employer-provided cell phones. The guidance references a provision in the Small Business Jobs Act of 2010, enacted last fall that removed cell phones from the definition of listed property, a category under tax law that normally requires additional recordkeeping by taxpayers.

This Notice, IR-2011-93, provides guidance on the treatment of employer-provided cell phones as an excludable fringe benefit. The Notice provides that when an employer provides an employee with a cell phone primarily for non-compensatory business reasons, the business and personal use of the cell phone is generally nontaxable to the employee. The IRS will not require recordkeeping of business use in order to receive this tax-free treatment. Additional information is also available in Notice 2011-72 and in the Taxable Fringe Benefit Guide of January 2012.

If the agency includes cell phone usage or an allowance as an income item to the member, subject to federal and state income tax, then this is reportable income to LASERS, with Employee and Employer contributions due on the amount, as well as regular earnings. However, a reimbursement for cell phone expenses would not be considered taxable or retirement eligible. Please refer to Liaison Memorandum Number 07-10 on emoluments and Louisiana Revised Statute 11:403 (10) for the definition of "earned compensation" to include items subject to federal and state taxation.

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