



Social Security Coverage and Reporting

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What **NOT** to do with Government Provided Cell Phones

Slowly, but surely, government agencies are becoming aware that government provided cell phones have an employment tax liability. In short, any personal use of a government issued cell phone is a taxable fringe benefit. Cell phones are considered by the Internal Revenue Service (IRS) as "listed property," and therefore, are subject to taxation.

As part of our employment tax training, we offer several possible solutions that will help your agency become compliant with the IRS. It is vital that each agency realize they must have an **accountable plan** for the government issued cell phones. However, some agencies have responded to the news that government issued cell phones are taxable by attempting to waive a sweeping, generalized policy over the personal cell phone usage.

Some agencies indicate they do not want to keep up with personal use nor do they want to send out detailed phone bills for the employees to mark. Therefore, they make a generalized estimate that employees probably average about 20-to-25 percent personal use so they tax them on this percentage.

This is **not an accountable plan**.

See **Cell Phones** on page 2, col. 1

Election Workers Reminder

With the potential of multiple elections in the Commonwealth this calendar year, we thought it timely to remind every one of the election worker exclusion. Election workers are considered employees and not independent contractors. Election workers should never receive a 1099.

Kentucky election workers who receive less than \$600 per year for their services generally are not required to have their county report these earnings to the Internal Revenue Service (IRS). Revenue Ruling 2000-6 provides guidance concerning the tax reporting requirements for wages paid election workers.

Wages paid for election worker services are not subject to federal income tax withholding according to IRS regulation §31.3401(a)-(b)(2). Wages paid to election workers are not subject to FICA (neither social security nor Medicare) if the remuneration paid is less than an established threshold (\$1,300 in 2006) according to section 218(c)(8) of the Social Security Act.

KRS 141.010 excludes income earned by precinct workers from gross income for state income tax purposes. Various KRS sections also prohibit the imposition of a license fee or

See **Election Workers** on page 2, col. 2

Remember: taxable fringe benefits are for **personal use of a government issued cell phone**, not a group estimated tax. You may have some employees who use a much greater percentage of personal use and they need to be taxed accordingly. And you may have someone who is using the phone at a much smaller percentage of personal use and you are overtaxing that individual.

Some agencies have said they only allow personal use during the free nights and weekends, therefore it should not be taxed. This is **not an accountable plan**. There is no such thing as free nights and weekends. This is built into the cost of the phone plan. It does not matter when the personal calls are made. All personal use is a taxable fringe benefit.

Please contact our office if you have questions concerning the development of an accountable plan that will ensure your compliance with the Internal Revenue Code.

The Social Security Coverage & Reporting Newsletter is published for Kentucky Governmental Employers

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Printed with state funds

occupational tax against election worker income. Section 6041(a) of the Internal Revenue Code, and the regulations there under, is the applicable section for information return reporting requirements for election workers.

There is no reporting requirement with respect to an election worker who is paid less than \$600 per calendar year. The wages are, however, reportable on Form W-2 if the election worker is paid \$600 or more. Annual wages of \$1,300 or more in 2006 are subject to FICA withholding and Form W-2 reporting, but not federal income tax withholding.

NOTE: Special rules apply if a regular county employee also serves as an election worker. Contact the Division of Local Government Services for details.

The applicable laws, withholding and reporting requirements are illustrated in the following examples:

- 1) An election worker is paid \$599 in 2007.
* No FICA, federal income, state income or local occupational tax withholding is required and no Form W-2 is required.
- 2) An election worker is paid \$1,299 in 2007.
* No FICA, federal income, state income or local occupational tax withholding is required, but a Form W-2 will be issued reflecting \$1,299 in box 1 (Wages, tips and other compensation).
- 3) An election worker is paid \$1,300 in 2007.
* FICA withholding is required, but no federal income, state income or local occupational tax is withheld. The election worker will be issued a Form W-2 reflecting \$1,200 in boxes 1, 3 and 5 and the appropriate FICA tax withholding in boxes 4 and 6.

Reporting Taxable Fringe Benefits

Many questions have arisen in the last year as our office has traveled the state conducting Employment Tax Educational Meetings. As we have discussed the importance of taxable fringe benefits, such as personal use of a government issued cell phone, meals reimbursement for travel that does not include an overnight stay, uniforms and vehicles that are not excluded, many payroll offices have become uncertain how to report the taxable fringe benefits.

Some entities have erroneously thought that this may simply be added to wages. That is not the case. Never add taxable fringe benefits to base pay. The Internal Revenue Service (IRS) must see all taxable fringe benefits listed separate from base salary.

For example, an employee receives \$50 a month to pay for a cell phone plan that his/her agency wants them to purchase for business purposes. The base pay would not be raised \$50 a month. The \$50 a month would be added to taxable fringe benefits on your payroll accounting line item.

Do this with all taxable fringe benefits. If an employee receives \$45 for meals that were reimbursed and the travel did not include overnight accommodations and the employee receives \$50 for a cell phone plan, the taxable fringe benefit for the month in question is \$95.

If you have any other questions regarding taxable fringe benefits, please contact James Driver at james.driver@ky.gov or 502-564-3952 ext. 2.

Jailers and Provided Meals

A question was recently asked at the Kentucky Association of County Treasurers and Finance Officers that could be beneficial to others; therefore we will pass it on. The question was: When jailers are supervising prisoners at a facility and a jailer eats at the facility along with the prisoners, is his meal taxable?

The issue concerns the taxing of meals that did not include overnight travel. Generally, meals are a taxable fringe benefit if the employee does not spend the night away from home.

In this instance with the jailer, **the meal is not taxable**. Additionally, when a jailer is transporting a prisoner and pulls through a drive-through to purchase a meal for himself and the prisoner, **the meal is not taxable**. In these instances, the meals are for the convenience of the employer and serve an obvious necessity.

However, if the jailer travels to a training for the performance of his job, which does not require overnight travel and he eats a meal that is reimbursed, the meal is a taxable fringe benefit.

The Commonwealth of Kentucky does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the providing of services and will provide, upon request, reasonable accommodation including auxiliary aids and services necessary to afford individuals with disabilities an equal opportunity to participate in all programs and activities.

Employment Tax Training Update

Employment tax training now has been conducted in 33 counties and various cities and local governments around the state. The goal is to ensure each local government agency is prepared should there be an Internal Revenue Service (IRS) compliance check. The Government Employer Tax Sheet is an opportunity for us to share what the IRS will be looking for and how to be prepared. All employment tax matters the IRS indicates are hot button compliance activity issues are discussed.

Note: We do not look at your employment records and we do not ask for any confidential information. In fact, we do not ask to see anything. We are simply sharing information that the IRS has shared with us.

If you are ready for your employment tax checkup, you can contact James Driver at james.driver@ky.gov or call 502-564-3952.

