

# **University of Nebraska - Lincoln**

## **Communication Equipment & Services Policy**

### **Reason for Policy**

Increased national attention has been focused on the use of cell phones and personal digital assistants provided by employers to their employees. There are concerns about the taxation of the personal use of this equipment and, for public institutions, the concern over whether the personal use is appropriate under state law. We know that some employees maintain both a personal and a business cell phone. However, even an inadvertent receipt of a personal call on a University phone is a taxable event and might be contrary to state law. We are all at risk when even through inadvertence we use University equipment for personal use. We also recognize the inconvenience of carrying two cell phones, a personal phone and a University phone, as well as the inconvenience of having to maintain elaborate records of personal and business use of a University phone. We have constructed this policy to protect the University and its employees as well as to reduce the inconvenience as much as possible.

### **Background**

According to the Internal Revenue Service (IRS), the cost of communication equipment and services used by employees, either off-premises or at home, is excludable from the employee's gross income to the extent that its use is substantiated as business related. To the extent that the use is personal, the cost is includable in the employee's gross income (and therefore subject to tax).

Within communication equipment and services, the IRS considers cell phones and personal digital assistants (PDAs) to be "listed property" for which detailed recordkeeping is required. The details include the business purpose, the person(s) contacted, the cost, the time and place of the calls. The IRS can declare that all undocumented use is personal, and therefore taxable as wages, regardless of the amount of business use. If, on the other hand, a taxable allowance for mobile communication devices is provided, no detailed recordkeeping is required.

### **Applicability**

This policy applies to all UNL faculty, staff, and student employees who require use of a mobile communication device to perform their job responsibilities.

### **Communication Equipment & Services**

University departments have a business need for communication equipment/services. Some equipment is fixed in the departments. Examples include corded telephones on desks and personal computers at work stations. The services that support these examples are also “fixed” in the sense that the service is delivered to the fixed work site. Some equipment is “mobile” (i.e., not fixed in one location). Examples include pagers, cell phones, personal digital assistants, and portable computers. Related communication services include paging, cellular phone service, and Internet access.

Departments are responsible for identifying those employees who require the use of fixed and/or mobile communication equipment/services to carry out their assigned duties. (See “Business Need” later in this policy for guidance in making these determinations.) The cost of fixed communication equipment/services is not includable as taxable income to the employee even if occasionally used for personal purposes. The cost of mobile equipment/service, however, is treated differently and is considered taxable income to the employee if used for personal convenience or purpose.

## **Options for Obtaining Mobile Equipment/Service**

For any employee a department identifies as having an ongoing business need for mobile communication equipment/services, the department may choose between two options. Please note that the department is not required to choose the same option for all departmental employees. *The employee has no authority in this election.* These options are available for faculty, staff, and student employees.

### **Option 1: Employee-Provided Equipment/Service**

Departments may provide a taxable stipend that will cover the business use of communication equipment and services. The stipend can take either the form of a one-time payment or continuous payments. It is understood that the employee’s stipend is sufficient to cover the business use of the equipment/service. There is no additional reimbursement for business use (e.g., occasional roaming charges). This arrangement allows for personal use of the equipment/service. The equipment remains the property of the employee. Departments may provide only the equipment and rate plan appropriate for the business use associated with the employee’s University function. Employees wanting to enhance the equipment or the rate plan for personal use may do so at their own expense.

Advantage: No record-keeping is required. Permits mixed business/personal use.

Disadvantage: 100% taxable

### **Option 2: University-Provided Equipment/Service, Personal Use Allowed and Reimbursed**

The University acquires the communication equipment/service and assigns it to a specific individual who may use it for personal use as well as business use. The employee must sign an agreement to submit a record of business and personal use. Personal use will be reimbursed by the employee to the University. The equipment remains the property of UNL. At the request of the supervisor or at employee’s separation, the employee must return the equipment. (This is also the case when changing from this option to Option 1.) If the employee does not report personal use by the quarterly deadline (see “Reimbursement of Personal Use” below), the entire cost of the service for that quarter will be treated as a reimbursement from the employee to the University via payroll deduction.

When the University is providing the communication equipment/service, ***the lowest cost option available to accommodate the particular business need shall be utilized.***

University-paid calling plans must provide call detail to enable monitoring of business use.

Advantage: If the device is never used for personal purposes and the quarterly report of personal use is completed in a timely manner, the employee incurs no cost.

Disadvantage: Requires signed agreements, employee and departmental recordkeeping, filing and review of quarterly reports, and reimbursement if the device is used for personal purposes.

The two options above may be applied individually, or to groups. In other words, a work unit is not obligated to select one option for all of its members. This recognizes that individual business needs may vary within organizations. When choosing either option, it is recommended that campus units consider the administration effort for each option.

PDA's (personal digital assistants, i.e., Blackberries) may be purchased by the University for an employee's use while allowing a stipend (Option 1) for the employee's monthly service plan. In this case, the PDA remains the property of the University and must be returned to UNL by the employee when the employee no longer requires the PDA for business purposes.

## **Exclusions & Other Arrangements**

Pagers are considered business only applications. They may be provided by the University with no additional record keeping and no taxability to the employee. This is because they only indicate when the person carrying the pager is to contact someone via another communication device. Pagers do not allow direct communication. Additionally, any effort to identify personal pages versus business pages would exceed the cost of the paging service.

Like pagers, two-way radios are also considered business only applications. Their range and their two-way nature inherently limit them to business-only use.

Shared phones, also known as duty phones, present special challenges since they are not continuously controlled by one person. These are typically assigned to a group of persons on a rotating or shift basis, or to individuals for a specific period of time (e.g., summer conference). Of the options available under this policy, Option 2, University-Provided Equipment/Service is for this situation. However, in this case, no personal calls are allowed, and a supervisor must review all bills to assure business-only use.

## **Effective Date & Period of Transition to Full Implementation**

This policy will be implemented by June 30, 2008. By that date, all divisions/departments must have policies and procedures in place to implement this policy. Earlier implementation is encouraged. Existing communications contracts in effect on June 30, 2008, should be honored but should not be extended or renewed. Typically, such contracts are inflexible regarding their duration, but are flexible regarding the types of plans available. Therefore, even when a contract will continue in effect, the type of plan should be reviewed to determine if it should be modified (e.g., for the calling area, the number of minutes, etc.).

Departments should review which employees are assigned University-provided communication equipment/service to carry out their assigned duties, and should ensure there remains a business need for them to have the equipment/service. If not, the department should reassign the equipment/service where

there is a need, or retrieve the equipment and cancel the service. University property may not be sold to, or given to, anyone. This means, for example, that if transitioning from a University supplied cell phone and service (Option 2) to a stipend for an employee owned cell phone and service (Option 1), the University supplied cell phone must be either reassigned to another employee under Option 2, turned in to the service provider, or turned into the University for disposal as surplus equipment.

## **Business Need**

The department is responsible for determining the business need for any communication equipment/service, be it fixed or mobile. Cell phones should not be selected as an alternative to other means of communication -- e.g., land-lines, pagers, and radio phones -- when such alternatives would provide adequate but less costly service to the university. Examples of business needs for mobile equipment/service include:

- A requirement to travel frequently to do business, across a geographic area away from the home office, and great amounts of time are spent in transit.
- A need for others to communicate with the employee about University business when the employee is away from his/her office or other UNL worksite.
- A need for the employee to communicate with others regarding University business when the employee is away from his/her office.
- The employee supports or is responsible for programs, services or systems that necessitate frequent and immediate communications throughout the day or after hours.

Use of University-provided communication equipment/service in any manner that is contrary to local, state, or federal laws constitutes misuse and may result in disciplinary action, up to and including confiscation of communication equipment/service, and termination of employment.

## **Cell Phone Plan Rates for Stipends (Option 1)**

The rates for cell phone stipends are produced by Business & Finance. They include plans that recognize geographic communication requirements (i.e., local, regional, national) and the volume requirements (i.e., number of minutes per month) of employee job responsibilities. The amounts included in the rates include taxes. These amounts will inform the departments as they consider the appropriate stipend for individuals or groups. This leaves the determination of how much business use is anticipated to the departments by allowing a percentage of the rates to be applied. For example, if a department determines that an employee's responsibilities would require half of the minutes allowed for the least expensive local calling plan, it could decide to apply 50% of that rate as a stipend. (Note in this example that the employee would be taxed on the stipend. However, there is a benefit to the employee of not having to maintain detailed records of calls, and for unlimited personal use.)

Note: the stipend is not intended to cover the actual cost of the cell phone selected, and owned, by the employee. Employees are thereby free to choose services and equipment that exceed their business needs (i.e., upgrade for personal reasons). Cell phone plans typically provide for discounted cell phones.

## **Reimbursement of Personal Use (Option 2)**

When an employee is computing personal use of a University service, the amount is calculated by dividing the minutes used for personal calls by the total minutes used, then multiplying the result by the

total service charges. Any additional costs incurred for personal use, such as roaming charges, should be added to the amount computed. If the computation for the preceding three months is not submitted by the reporting deadline, the entire cost of the service/equipment for those three months will be treated as a reimbursement from the employee to the University via payroll deduction.

The quarterly reporting deadlines and their related period of activity are shown below. The activity should be the bills received during the months listed.

|            |                  |
|------------|------------------|
| April 30   | January-March    |
| July 31    | April-June       |
| October 31 | July-September   |
| January 31 | October-December |

The supervisor must review and approve the reports submitted. Monthly reporting is encouraged in the place of required quarterly reporting. Exceptions to the quarterly reporting requirement must be approved by the Vice Chancellor for Business and Finance.

## **Department Responsibilities**

Deans, Directors and Department Chairs are ultimately responsible for the use of communication equipment/services. They should designate an individual to have primary responsibility to oversee the equipment/services, including:

- Making the initial recommendation on whether equipment is provided to an employee and on what basis.
- Selecting appropriate services based on business use.
- Monitoring usage on a regular basis for policy compliance, continued business need, and appropriate use by reference to the documentation necessary to prove the business use of the equipment/service.
- Annually review existing equipment/services to ensure they are needed and represent the best options (most economical) given the business use.
- Review and approve quarterly reimbursements for personal use of business equipment/service.

At the request of a supervisor or the employee's separation, all equipment (including chargers, extra batteries, hands-free devices, etc.) is returned to the department and service is cancelled.

Adopted March 10, 2008

Amended May 5, 2008