

## **Hold the (Cell) Phone: The IRS Calls In**

The IRS has issued new guidance on the tax treatment of employer-provided cell phones used by employees. The guidance is in accordance with the removal of strict reporting requirements under the Small Business Jobs Act of 2010.

The IRS explains that the value of a cell phone provided to an employee where use might be both business and personal is excluded from the employee's taxable income if there are substantial business reasons for providing the cell phone. Some examples are

\*The employer needs to contact the employee for work-related emergencies.

\*The employer requires that the employee be available to speak with clients outside the office.

\*The employee must speak with clients in other time zones outside the usual work day.

Also, in a new memo to its field force, the IRS has provided instructions concerning deductions of cell phones provided to employees and reimbursements to employees for business use of their personal cell phones. For instance, IRS agents have been cautioned to look for reimbursements for personal cell phone use by employees that exceed the actual cost of the cell phone. Both the new guidance and memo relating to cell phone use are effective retroactively for tax years beginning after 2009.

Finally, note that a cell phone provided as a benefit to an employee without any business connection is not considered a tax-free fringe benefit.