GAO Technical Bulletin

Arizona Department of Administration ♦ General Accounting Office

Subject:	***Wireless Devices Used to Conduct State Business***	Issued:	10/31/11
Manual Section(s):	N/A	Effective:	10/31/11
Supersede(s):	N/A	Page:	1 of 11

TO: Technical Bulletin Administrators
Human Resources Personnel
Payroll Personnel
All Agencies

FROM: D. Clark Partridge
State Comptroller

AUTHORITY

A.R.S. § 41-703	Duties of director
A.R.S. § 41-722	Powers and duties relating to finance
A.R.S. § 41-732	Powers and duties relating to general accounting activities
USC 26-132	Certain fringe benefits
USC 26-162	Trade or business expenses
IRS Notice 2011-72	Tax Treatment of Employer-Provided Cell Phones
SBSE-04-0911-083	Department of the Treasury: Interim Guidance on Reimbursement of Employee Personal Cell Phone Usage in Light of Notice 2011-72

DEFINITIONS

Actual reimbursement: An amount paid to an employee to reimburse him for the actual increased costs incurred under a wireless plan in connection with use of a wireless device on behalf of the State.

AFIS: Arizona Financial Information System; the State's principal automated accounting system.

Agency: Any department, authority, board, commission, council, administration, court, registrar, office, institution, or other entity in the Executive, Legislative, or Judicial branch of Arizona State Government. In contexts that are directive in nature, the use of the term "agency" may imply that employee or those employees within the organization responsible for carrying out the procedures under consideration.

Data service: A wireless service for which the signal carrier charges an additional fee, typically measured by data usage rather than by the passage of time, for high volume and/or high speed transmissions. Such service is generally required for the transmission of large data files, frequent access to websites or recurrent use of email.

Employee: Any individual being paid compensation under the authority of any payroll system of the Government of the State of Arizona.

<u>Employee-owned wireless device</u>: A wireless device owned by an employee but used partially or wholly to support State business and for which use the employee is partially or wholly reimbursed by the State.

<u>He/him/his</u>: For brevity and clarity, masculine singular pronouns are consistently used in reference to a person and occasionally used where the context would support reference to either a person or some other entity that might perform a given action. Feminine, neuter or plural pronouns, as appropriate, may be substituted.

<u>HRIS</u>: Human Resource Information Solution; the principal automated system for payroll and personnel of the State.

<u>IRS</u>: Internal Revenue Service; the division within the U.S. Department of the Treasury responsible for, among other things, the administration and collection of Federal income taxes.

<u>Pay code</u>: An identifier used in HRIS to specify appropriate treatment and reporting of compensation, reimbursements, allowances, stipends, etc.

<u>P-Card</u>: A card provided through State contract to State employees, State organizations, or State departments for the purpose of conducting purchase or payment activities for a valid public purpose.

<u>Shared minutes plan</u>: Also known as a family plan. A wireless plan under which a number of persons share communal minutes, data volume, etc. This may result in lower per individual costs than might be attained by other arrangements.

<u>Signal carrier</u>: The commercial enterprise providing wireless communication service.

<u>Standard reimbursement</u>: A fixed, monthly amount paid to an employee to wholly or partially subsidize the use of an employee-owned wireless device.

<u>State-issued wireless device</u>: A wireless device owned by the State but issued to an employee to be principally used in support of State business.

<u>Voice service</u>: A wireless service for which the signal carrier does not charge an additional fee for high volume and/or high speed transmissions. Such service is generally limited to voice transmissions, texting, limited access to websites, and infrequent use of email. Voice service is generally billed by increments of time used rather than volume of data transmitted.

<u>Wireless device</u>: For purposes of this technical bulletin, a wireless device is any piece of equipment that can transmit signals using an internal radio. The term wireless device includes cellular telephones and mobile phones as well as any portable equipment that supports wireless voice and/or data telecommunications by any means and bearing any brand name. Wireless devices may include, but are not limited to: mobile Internet and e-mail devices, wireless network interface devices and cards, smart phones, multimedia phones, BlackBerry® devices, Droids,

iPhones, pagers, personal digital assistants, wireless routers, palm top computers, tablet computers, hand held computers, etc.

Wireless plan: The agreement, entered into between the signal carrier and the user, that sets forth the terms of use, such as number of monthly minutes allowed, per minute charges that relate to voice and data transmissions, etc.

Working condition fringe benefit: A benefit, related to the employer's business, offered to an employee by his employer, the value of which is excludable from the employee's income for tax purposes.

INTRODUCTION

Wireless devices raise special concerns for a number of reasons:

- Wireless devices are frequently provided by the State to its employees for job-related use.
- The costs associated with employee-owned wireless devices are frequently wholly or partially paid by the State.
- Wireless devices owned by or subsidized by the State are sometimes inappropriately used.
- Inappropriate use of wireless devices owned or subsidized by the State may have tax and disciplinary consequences for the employee.

The purpose of this technical bulletin is to establish guidelines for the provision of State-owned wireless devices to employees and to outline the procedures for reimbursing employees for the use of personally owned wireless devices.

The treatment of the provision and reimbursement related to wireless devices outlined below is, to a certain extent, based upon the guidance provided by a U.S. Department of the Treasury Memorandum concerning IRS field examinations. This guidance, as it currently stands, expires on September 19, 2012. It is anticipated, however, that, either by codification or other means, this guidance will be extended; the provisions of this technical bulletin, therefore, will remain in effect until rescinded.

POLICIES AND PROCEDURES

1. The provision of or payment for wireless devices is limited to those situations in which the employee's use of the wireless device is in the best interest of the State. Those situations include, but are not necessarily limited to:

a. The employee's job requires considerable time outside the office (travel, meetings, etc.).

b. The use of the wireless device facilitates the effective and efficient conduct of State business.

c. In circumstances that so warrant, the availability of a wireless device reduces risks to State employees or their charges.

2. An agency may provide an employee a State-owned wireless device or reimburse an employee for the use of his wireless device in connection with State business. In determining, of the three available options, whether the payment of an **actual reimbursement** or a **standard reimbursement** or the provision of a **State-issued wireless device** is appropriate, agencies should take the following considerations into account:

   a. The needs of the agency.

   b. The nature of the employee's duties.

   c. The number of wireless devices with which the agency needs to deal to operate efficiently.

   d. The cost of reviewing and reconciling monthly wireless plan documents such as call records and invoices.

   e. The cost associated with paying vendor invoices on a monthly basis.

   f. The administrative resources available to the agency.

   g. The relative costs, both short- and long-term, of various wireless plans and wireless devices.

3. An agency has three options in providing or paying for a wireless device to be used by an employee in the conduct of State business:

   a. An **actual reimbursement** in which the agency reimburses the employee for the actual costs incurred by the employee for the use of his wireless device to conduct State business.

      i. The calculation for any amounts due the employee should be based upon the employee's actual costs incurred on behalf of the State.

      ii. The amount due should be limited to the amount by which actual usage on behalf of the State exceeds base voice and/or data plan costs.

iii. The reimbursement should be paid and reported through HRIS as a non-taxable reimbursement using pay code 650.

iv. This option is best suited for situations in which the employee only sporadically and infrequently is required to use a wireless device for State business and the occasional administrative costs would amount to less than the costs involved in granting a standard reimbursement or providing a State-owned wireless device.

b. The agency may provide a **standard reimbursement** to an employee for the use of an employee-owned wireless device.

i. The monthly standard reimbursement amounts are:

1) Twenty-five dollars ($25) for voice service.

2) Twenty-five dollars ($25) for data service.

3) Fifty dollars ($50) for combined voice and data service.

ii. The standard reimbursement amounts are fixed, irrespective of the type of wireless equipment the employee owns or the type of wireless plan to which the employee subscribes.

iii. Standard reimbursements are to be paid through HRIS in two semi-monthly installments, using pay code 650:

1) Half of the standard reimbursement is to be paid with the first payroll of each month.

2) Half of the standard reimbursement is to be paid with the second payroll of each month.

3) No standard reimbursement is to be paid in the third payroll of a month, should one occur.

iv. A standard reimbursement is to be offered only when the receiving employee agrees, in writing, to the arrangement.

v. An employee is only eligible for one standard reimbursement at a time. A plan that combines voice and data service is considered one plan.

vi. An employee’s standard reimbursement is not to exceed the cost of his wireless plan.

1) The cost of an employee's wireless plan should be verified by review of the employee's bills for wireless device service at the time the standard reimbursement is established and regularly, but no less frequently than once a year, thereafter.

2) When it appears that the standard reimbursement has regularly materially exceeded or will regularly materially exceed the cost of an employee's wireless plan, converting the employee to an actual reimbursement arrangement should be considered.

vii. An employee who receives a standard reimbursement must immediately report any change—monthly rate, signal carrier, equipment change, discontinuance of service, decrease of service, etc.—in the wireless plan upon which the standard reimbursement is predicated. Failure to do so may be grounds for recovery of previously paid standard reimbursements and disciplinary action.

viii. An employee granted a standard reimbursement shall acknowledge and agree, in writing, that:

1) The employee cannot and will not seek payment for the use of a wireless device, irrespective of use or charges, in addition to the standard reimbursement.

2) The standard reimbursement may not cover all of the utilization costs—whether measured by time or volume—associated with the use of a wireless device, either for business or personal purposes.

3) The standard reimbursement is not intended to cover maintenance, repair or replacement of an employee-owned wireless device.

4) The agency may, in its sole discretion, discontinue the payment of a standard reimbursement and may opt for an arrangement involving either actual reimbursement or a State-issued wireless device. If practical, the agency should provide to the employee advance notice of its intent to change such arrangements.

ix. The payment of a standard reimbursement, as discussed herein, is not taxable income to the employee.

x. Standard reimbursements should be viewed as calendar-month-to-calendar-month expenses; once a standard reimbursement has been approved or a wireless device been issued, it may (but is not required to) remain in effect for a given calendar month. However, depending upon circumstances, standard reimbursements to an employee either must be or should be suspended when an employee will not be available to perform his normal work-related duties for an extended period of time.

1) If an employee will not be available to perform his work-related duties for an entire future calendar month—because of annual leave, maternity leave, leave

without pay, medical leave, military leave, etc.—his standard reimbursements must be suspended until the employee returns to duty.

2) If an employee will not be able to perform his normal work-related duties for a period of two calendar weeks or more—because of annual leave, leave without pay, maternity leave, medical leave, military leave, etc.—an agency should, if circumstances indicate it is in the best interest of the State to do so, suspend his standard reimbursements until the employee returns to duty. If reasons exist for not suspending the employee's standard reimbursements under these circumstances, they should be documented and retained for audit.

3) The agency should, if practical, provide an employee advance notice of the agency's decision to suspend standard reimbursements.

xi. This option is best suited for situations in which the employee is regularly required to make moderate to extensive use of a personally owned wireless device for State business. Under such circumstances, a monthly standard reimbursement may significantly reduce an agency's administrative costs in calculating amounts due employees and prove less costly to the State than providing the employee a State-issued wireless device.

c. The agency may provide a **State-issued wireless device** to an employee to be used to conduct State business.

i. The agency should select a plan—voice only, data only, or combined voice and data—that most closely and economically accommodates projected business use. In making this determination, an agency should consider whether the State is:

1) Paying for a material number of unused minutes because the wireless plan under consideration provides for many minutes is excess of State requirements.

2) Paying the high costs for additional minutes because the wireless plan under consideration provides insufficient minutes to meet State requirements.

3) Paying for wireless plans including data service when voice service alone would suffice in meeting the needs of the State.

4) Paying for a wireless plan for an employee when, though convenient, it is not necessary that, in order to meet the needs of the State, the employee have any wireless plan whatsoever.

ii. The agency should consider, if the situation warrants, enrolling in a signal carrier's shared minutes plan, assigning wireless devices to employees on an as-needed basis.

iii. The provision of a State-issued wireless device is a working condition fringe benefit and does not, providing it satisfies the other requirements outlined herein, constitute taxable income to the employee.

iv. Payments to the signal carrier for a State-issued wireless device should be made using the State's P-Card or by disbursement through AFIS.

v. An agency that provides a State-issued wireless device to an employee is required to have a written policy that sets forth the conditions for the provision and use of such wireless devices. This policy should:

1) Describe the appropriate business use of a State-issued wireless device.

2) Prohibit the excessive personal use of a State-issued wireless device.

3) Specify that any communications—voice, data, text, etc.—conducted on a State-issued wireless device are subject to the provisions of this technical bulletin.

4) Require an employee to authorize, in writing, that any costs for excessive personal use of the wireless device or the costs to repair or replace a damaged, lost or stolen wireless device that was issued to him may be deducted from his pay.

5) State that an employee's violation of his agency's wireless device policy may be grounds for disciplinary action.

vi. The employee's use of and need for a State-issued wireless device should be reviewed by the agency not less than annually; any change in an employee's duties should prompt such a review. The purpose of this review is to determine whether, based on usage related to State business, the wireless plan in effect is the most economical under the circumstances and that paying an actual or standard reimbursement would not be a more economical arrangement for the State.

vii. The agency should periodically review the records relating to a State-issued wireless device to affirm that:

1) The overwhelming majority of use is related to State business.

2) No excess charges were incurred related to personal, rather than State, business.

3) The level of service in effect is the most cost-effective and economical considering the needs of the State,

4) Any amounts that should have been collected from the employee in connection with personal use, loss of equipment, or retention of the equipment after termination have been collected.

viii. An employee's possession of a State-issued wireless device should be viewed as calendar-month-to-calendar-month arrangement. However, depending upon circumstances, his State-issued wireless device must be or should be recovered when an employee will not be available to perform his normal work-related duties for an extended period of time.

1) If an employee will not be available to perform his work-related duties for an entire future calendar month—because of annual leave, maternity leave, leave without pay, medical leave, military leave, etc.—his State-issued wireless device <u>must</u> be recovered by the agency until the employee returns to duty.

2) If an employee will not be able to perform his normal work-related duties for a period of two calendar weeks or more—because of annual leave, maternity leave, leave without pay, medical leave, military leave, etc.—an agency <u>should</u>, if circumstances indicate it is in the best interest of the State to do so, recover a State-issued wireless device from the employee to whom it was issued until the employee returns to duty. If reasons exist for not recovering a State-issued wireless device, they should be documented and retained for audit.

3) The agency should, if practical, provide an employee advance notice of the agency's decision to recover a State-issued wireless device.

ix. At the time of termination, as with any other equipment, a State-issued wireless device is to be recovered from the employee and, if the wireless device is not to be reissued, the related wireless plan, if possible without incurring a penalty, suspended or discontinued.

x. This option is best suited for those situations in which:

1) It is in the best interests of the State or a condition of employment that an employee:

a. Be in contact or able to be contacted during all business hours. It may be the best option when the business use—in terms of time, data volume or both—is so great that the a State-issued wireless device proves to be the most economical of choices for the State. These situations include, but are not limited to, the following circumstances:

i) The employee works remotely and the agency needs to contact the employee fairly frequently (at least once a day) at irregular times.

ii) The cost to the State (not merely the inconvenience of the parties involved) of not reaching the employee quickly outweighs the cost of a State-issued wireless device.

b. Works remotely and, during the course of conducting State business, is exposed to dangerous situations such that readily available communications are necessary to mitigate risks to the employee or those within his charge.

c. Be in possession of a wireless device to conduct State business or for reasons of personal safety, but chooses not to own a wireless device or maintain a wireless plan. In these cases particularly, the agency should opt for the most economical wireless device and wireless plan to meet the requirements. Moreover, in these cases, frequent review of employee utilization is indicated.

2) Circumstances permit and the agency would benefit from enrolling in a shared minutes plan, sharing minutes, data volume and wireless devices among its employees on an as-needed basis.

4. The best interests of the State and the safety of its employees and their charges are to be taken into consideration in determining which wireless device arrangement is appropriate.

   a. The desires, preferences, or convenience of the employee are not factors determining which arrangement should be adopted.

   b. A State-issued wireless device is not to be issued nor shall a standard reimbursement for an employee-owned wireless device be paid primarily for compensatory reasons or to bolster morale.

5. If the cost related to the personal use of a State-issued wireless device cannot be wholly recovered (as might be the case in termination of his employment), such cost is to be added to an employee's taxable compensation.

6. Records of the cell phone use audits must be retained by the agency for a period consistent with the records retention schedules issued by the Records Management Division, Arizona State Library, Archives and Public Records Division, Arizona Secretary of State (http://www.lib.az.us/records/schedules_and_manuals.aspx).

7. The issuance of or reimbursement for wireless devices does not constitute an extension of an employee's work schedule.

8. An employee's use of a wireless device for State business constitutes his acknowledgement of and agreement to adhere to his agency's data security policies.

9. An employee is responsible for the purchase, maintenance, support and all other charges relating to an employee-owned wireless device.

10. An employee using either a State-issued or employee-owned wireless device for which he receives a standard reimbursement must promptly notify his agency if the wireless device is lost.

11. Any communications—voice, data, text, etc.—conducted on a State-issued wireless device or involving State business on an employee-owned wireless device cannot:

    a. Be construed to be offensive, profane, obscene, illegal, libelous, calumnious, licentious, immoral, political or religious in nature.
    b. Contain any sentiment that can be interpreted as an expression of racial, ethnic, national, religious, life-style, gender-related, or other bigotry or prejudice.
    c. Promote causes except for those causes authorized by statute as part of the purpose and mission of the issuing organization and those charitable endeavors authorized by the State.
    d. Reflect poorly upon the State of Arizona, its employees or its citizens.

ON-LINE AVAILABILITY

Copies of all Technical Bulletins and many GAO Forms are available for viewing and downloading from the General Accounting Office Website located at:

http://www.gao.az.gov

AREAS IMPACTED

All State Agencies.

CONTACTS

If you have any questions concerning this Technical Bulletin, please contact your GAO Liaison. You may also e-mail questions or comments concerning State policy and procedure to us at:

gaopolicy@azdoa.gov