

AMERICAN COUNCIL ON EDUCATION



OFFICE OF THE PRESIDENT

October 26, 2009

The Honorable Max Baucus
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Charles B. Rangel
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Dave Camp
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

RE: Modernization of the Tax Treatment of Cell Phones

Dear Chairman Baucus, Chairman Rangel, Ranking Member Grassley and Ranking Member Camp:

On behalf of the American Council on Education and the undersigned higher education associations, I am writing to express our strong support for the MOBILE Cell Phone Act of 2009 (S. 144/H.R. 690). This legislation will modernize the tax treatment of employer-provided cell phones or other similar telecommunications devices by removing such devices from the listed property tax rules. We urge you to incorporate this measure into any tax extenders legislation to be enacted by the end of 2009.

This legislation has broad bipartisan support, with 142 co-sponsors in the House and 67 in the Senate, including a majority of the House Ways and Means and Senate Finance committees. In 2008, it passed the House as part of the Taxpayer Assistance and Simplification Act of 2008 (H.R. 5719). In addition, Internal Revenue Service (IRS) Commissioner Douglas Shulman and Treasury Secretary Timothy Geithner recently urged Congress to repeal the current law. As Commissioner Shulman stated, “[t]he passage of time, advances in technology, and the nature of communication in the modern workplace have rendered this law obsolete.”

To comply with the current tax rules, employers are supposed to require their employees to maintain detailed logs distinguishing their business and personal use of employer-provided cell or smart phones. Personal use of such devices is considered a taxable fringe benefit to be counted in an employee’s wages. This includes individual

personal calls or emails, as well as a pro rata share of monthly service charges. Employers must maintain these records to support the exclusion of the phone use from the employee's wages.

Like other employers, it is now very common for colleges and universities to provide their employees with cell or smart phones. Unfortunately, the 20-year-old listed property rules have not been modernized to respond to changes in technology and the workplace. As a result, IRS agents have applied these rules during examinations of institutions, and some institutions have been subject to additional tax liability when they could not produce required documentation.

Changing the current law now would be particularly helpful to colleges and universities. As large, labor-intensive organizations, colleges and universities individually employ thousands of staff and faculty who have employer-provided cell or smart phones. Particularly during the current economic recession, which has created significant financial challenges for many colleges and universities, maintaining costly record-keeping systems to comply with outdated rules is especially burdensome and a waste of precious education resources.

We respectfully urge you to include this measure as part of any tax extenders legislation enacted by the end of 2009 to help relieve colleges, universities and their employees of these burdensome, costly and outdated record-keeping requirements.

Sincerely,



Molly Corbett Broad
President

MCB/ldw

On behalf of:

American Association of Community Colleges

American Association of State Colleges and Universities

American Council on Education

Association of American Universities

Association of Jesuit Colleges and Universities

Association of Public and Land-grant Universities

Council for Advancement and Support of Education

EDUCAUSE

National Association of College and University Business Officers

National Association of Student Financial Aid Administrators