

When talk isn't cheap—cell phones and employee taxable benefits (July 2011)

When T4s are issued at the end of February each year, it sometimes comes as a surprise to employees that something they considered to be work-related is treated as a taxable benefit, the value of which must be included in income and upon which tax must be paid. In the view of the Canada Revenue Agency (CRA), the use of employer-provided cell phones can fall into that category.

Providing a cell phone to one's employees is, of course, about as common now as the office coffee machine. In many cases, the employer can obtain better cell phone rates through a group contract than the employees would be able to negotiate on an individual basis. However, even where having a cell phone is a requirement of one's employment, it's still possible that the use of that cell phone can give rise to a taxable benefit.

The CRA's basic position on employer-provided cell phones and taxable benefits is that where an employee is provided with a cell phone or smart phone in order to help him or her carry out employment duties, there is no taxable benefit to the employee. Where, however, part of the use of that phone is personal, then a taxable benefit can arise, depending on the circumstances.

The CRA recognizes that it's almost inevitable that an employer-provided cell phone will be used on occasion for personal calls, and the Agency is prepared to provide some latitude in this area on an administrative basis. Its assessing position is that personal use of an employer-provided cell phone will not give rise to a taxable benefit if the plan's cost is reasonable, the plan is a basic one with a fixed cost and the employee's personal use of the cell phone service does not result in charges that are more than the basic plan cost. All three of these criteria must be met in order to avoid having a taxable benefit assessed.

Based on those criteria, it seems that the best plan when it comes to employer-provided cell phones and the tax authorities is for the employer to buy the plan which provides the most generous airtime provision that can be reasonably justified by the employee's business-related use of the phone, to keep the total (business and personal) use minutes under the basic airtime limit provided by the plan and not to incur any charges (i.e., long distance or roaming charges) which result in charges above and beyond the basic monthly bill.

Where those limitations aren't followed, and the employee's personal use of the employer-provided cell phone does result in additional charges, then the employer must treat the fair market value of those charges (less any reimbursement provided by the employee to the employer) as a taxable benefit, to be included on the employee's T4 for the year. In the CRA's view, it's the employer's responsibility to determine the percentage of business versus personal use for each employee as well as the fair market value of any taxable benefit received.

The CRA was recently asked whether a taxable benefit would arise where an employee purchased a basic cell phone service plan, which allowed for a specific number of airtime minutes each month, from the employer's cell phone service provider, and used that phone for business use. The employee paid the monthly invoice for the plan and was then reimbursed by the employer. Any additional charges over the basic monthly cost incurred by the employee

would not be reimbursed unless the employee could show that those charges were related to business use of the cell phone. The CRA confirmed that in determining whether a taxable benefit would arise in this situation, the same criteria which would apply where the employer paid the cell phone bill directly would be used – that is, no taxable benefit would arise where the plan cost was reasonable, the plan was a basic one with a fixed monthly cost and the employee's personal use of the service did not create charges in excess of the basic monthly cost.

One of the questions addressed in the technical interpretation which is not dealt with in the CRA's guide to taxable benefits is the question of whether a benefit could be assessed with respect to the purchase and ownership of the cell phone or smart phone itself. The answer, in most cases, was yes. Specifically, the CRA was asked whether an employee who purchased and owned the phone and was then reimbursed for the cost of that purchase by the employer would be considered to have received a taxable benefit. The CRA confirmed that a taxable benefit would be assessed in such circumstances, as the employee had received an economic benefit from the reimbursement of his cost of purchasing the phone. That taxable benefit would be equal to the amount of such reimbursement, even where the employee was required to use the phone in the course of his or her employment duties.

The technical interpretation did not shed any light on the question of whether an employee who is given a cell phone which was purchased by the employer would similarly be considered to have received a taxable benefit. However, following on the reasoning applied where the employee purchased the phone and was subsequently reimbursed by the employer for its cost, it seems likely that the CRA would consider a similar taxable benefit to have been received by the employee in those circumstances.