

October 2, 2009

The Honorable Max Baucus
Chairman
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles Grassley
Ranking Member
Senate Finance Committee
135 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Baucus and Ranking Member Grassley:

The undersigned colleges and universities urge the House and Senate to remedy an outdated IRS record-keeping requirement governing use of employer-provided cell phones and other electronic communication devices. Current IRS rules impose an onerous burden on higher education and other employers across the country.

To correct this outdated policy, which treats employer-provided cell phones as a taxable fringe benefit, Representatives Earl Pomeroy (D-ND) and Sam Johnson (R-TX) and Senators John Kerry (D-MA) and John Ensign (R-NV) have introduced the MOBILE Cell Phone Act of 2009 (H.R. 690 and S. 144). A similar proposal was approved by the House in April 2008 as part of the Taxpayer Assistance and Simplification Act, but was never enacted.

In 1989, when Congress passed legislation treating employer-provided cell phones as a fringe benefit similar to company cars and other executive perks, cell phone technology was in its infancy and no one imagined they would become the critical tools of convenience for business and daily life they are today. In 1989, they were big and bulky, expensive and rarely used. Today, they are practically an appendage. They are much less expensive to use and practically no one goes anywhere without their cell phone.

Because the 1989 cell phone law has not been updated to keep pace with changes in technology and business practices, the current IRS regulations consider employer-provided cell phones to be a fringe benefit taxable to the employee. Recently the Service began enforcing these rules requiring employees to maintain detailed records of their business and personal use of employer-provided cell phones, BlackBerrys and similar devices. If these records are not kept, current law recognizes cell phones as a fringe benefit, the value of which must be included as taxable income to the employee, increasing the tax burdens and costs for both employers and employees.

As Senator Kerry points out, “the tax code should keep pace with technological advances. There is no longer a reason that cell phones and mobile communication devices should be treated differently than office phones or computers.”

Even the IRS now acknowledges that the current law is burdensome, and on June 16th, IRS Commissioner Doug Shulman said he was joining with Treasury Secretary Tim Geithner to urge Congress to repeal current law. “The passage of time, advances in technology and the nature of communication in the modern workplace,” Shulman said, “have rendered this law obsolete.”

We agree with the IRS that it makes no sense for the tax rules to treat employer-provided desk phones in offices any differently than employer-provided cell phones and electronic communications devices. Both are necessary communications tools to conduct work efficiently. Under the current rules governing cell phones, institutions of higher education and all businesses face tax penalties if they do not require employees to keep detailed logs of their cell phone use.

We respectfully ask the Congress to approve the MOBILE Cell Phone Act of 2009 and to relieve higher education and employers across America of these outdated, unreasonable, and costly record-keeping requirements.

Sincerely,

University of Alabama
University of Arizona
Arizona State University
Asbury College
Auburn University
Bates College
Berea College
Brescia University
Brown University
California Lutheran University
California State University
Case Western Reserve University
Centre College
University of California
California Institute of Technology
University of Chicago
Clemson University
College of New Rochelle
Columbia University
Cornell College
Cornell University
Creighton University
Dominican College
Dordt College
Duke University
Emory University
Emporia State University
Ferrum College
University of Florida
Fort Hays State University
Fresno Pacific University
Georgetown University
Harvard University

Hiwassee College
Indiana University
University of Iowa
Iowa State University
Johns Hopkins University
Kansas State University
Kentucky Community & Technical College
System
University of Kentucky
Lehigh University
LeTourneau University
Loyola University New Orleans
University of Massachusetts
University of Michigan
University of Missouri System
University of Montana
University of Nevada, Las Vegas
Nevada System of Higher Education
University of New Mexico
New York University
University of North Carolina-Chapel Hill
Northwestern University
Northern Illinois University
Norwich University
The Ohio State University
Ohio University
University of Oregon
Penn State University
University of Pennsylvania
University of Pittsburgh
University of Rochester
Rochester Institute of Technology
Roosevelt University

Rutgers, The State University of New Jersey
University of San Francisco
University of South Carolina
South Dakota State University
St. Francis College
Stanford University
State University of New York
Syracuse University
Temple University
Tennessee State University
University of Texas System
Texas A&M University System
Tulane University

University of Utah
Vanderbilt University
University of Washington
University of Vermont
University of Virginia
Washington University in St. Louis
West Virginia University
Western University of Health Sciences
Wheelock College
University of Wisconsin-Madison
University of Wyoming
Yale University

cc: Members of the Senate Finance Committee