

IRS, Treasury want cell phone tax repealed

June 17 2009, By STEPHEN OHLEMACHER , Associated Press Writer

(AP) -- Remember the last time you used a company cell phone for a quick personal call - or text or e-mail? Did you record the value of that call and pay taxes on it as income?

A widely ignored law from 1989 says you should have. But don't worry, the IRS thinks it's a stupid law, too.

The Obama administration asked Congress on Tuesday to repeal the tax on the personal use of company cell phones after sparking an outcry last week when it sought ideas for enforcing the law.

The law says that personal use of a company cell phone should be taxed like other fringe benefits, such as a company car. The cell phone tax, however, can be a pain for workers who increasingly use mobile devices for texting, e-mailing and browsing the Internet - sometimes for work, sometimes for personal use.

IRS Commissioner Doug Shulman called the tax burdensome, confusing and "poorly understood by taxpayers." He acknowledged it was difficult to enforce consistently.

"The passage of time, advances in technology and the nature of communication in the modern workplace have rendered this law obsolete," Shulman said in a statement.

Shulman said he and Treasury Secretary Timothy Geithner were asking Congress to repeal the tax, which has been widely criticized as outdated

by the mobile industry and lawmakers.

"We just think that this law was put into effect in a bygone era," said John Walls, vice president of public affairs for CTIA-The Wireless Association, a trade group.

"In 1989, cell phones were considered a luxury item that were actually referred to as car phones," Walls said. "Now, we have unlimited calling on our cell phones. We have free nights and weekends. The company is not even paying for that. Why should I get taxed for that?"

The House passed a bill to repeal the tax last year, but it stalled in the Senate. This year, bipartisan bills have been introduced in both the House and Senate.

"We need to modernize the laws to reflect the reality that cell phones, Blackberrys and text messaging are an everyday extension of the workplace and are here to stay," said Sen. John Kerry, D-Mass. "Cell phones are no longer executive perks or luxury items, and our tax code cannot treat them that way anymore."

Kerry's bill to repeal the tax has 45 co-sponsors in the Senate. A similar bill in the House has 32.

Just last week, the Internal Revenue Service issued a request for comments on ways to improve compliance with the law. One option suggested by the IRS would assume that personal use accounts for a quarter of the phone's overall use. Another would require workers to document their personal use of company cell phones.

Shulman denied the IRS was trying to "crack down" on workers who don't pay the tax. Instead, he said, the IRS was "attempting to simplify the rules and eliminate uncertainty for businesses and individuals."

The IRS has hit some employers with big fines for not complying with the law.

In 2008, the IRS audited two University of California branches, in Los Angeles and San Diego. As part of a settlement, UCLA paid a tax assessment of \$238,474 and UCSD paid \$186,471.

Howard Woolley, senior vice president with Verizon Wireless, said a [cell phone](#) is no more of a fringe benefit than a desk phone, especially when many employees are expected to be on call at any hour.

"There are certain types of employees that you want on the job all the time," Woolley said. "The last thing you want is a worker sitting around all day trying to figure out which calls were personal and which ones were business."

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