## Internal Revenue Manual Section 4.23.5.13.3.1 (08-31-2012)
Employer Provided Cell Phones

1. For taxable years after December 31, 2009, cell phones were removed from the definition of listed property by Section 2043 of the Small Business Jobs Act of 2010. The Act did not otherwise alter the requirement that an employer-provided cell phone was a fringe benefit, the value of which must be included in the employee's gross income unless an exclusion applies.

2. Notice 2011-72, **Tax Treatment of Employer-Provided Cell Phones**, issued September 14, 2011 in Internal Revenue Bulletin 2011-38, provides guidance on the treatment of employer-provided cell phones or other similar telecommunications equipment (collectively "cell phones" ).

3. The Notice provides that, when an employer provides an employee with a cell phone primarily for noncompensatory business reasons, the IRS will treat the employee's use of the cell phone for reasons related to the employer's trade or business as a working condition fringe benefit. The value of this use will be considered excludable from the employee's income and, solely for purposes of determining whether the working condition fringe benefit provision in IRC 132(d) applies, the substantiation requirements that the employee would normally have to meet in order for a deduction to be allowable under IRC 162 are deemed to be satisfied.

4. In addition, the IRS will treat the value of any personal use of a cell phone provided by the employer primarily for noncompensatory business purposes as excludable from the employee's income as a de minimis fringe benefit.

5. The application of the working condition and de minimis fringe benefit exclusions under the notice apply solely to employer-provided cell phones and should not be interpreted as applying to any other fringe benefits.

6. Tablet devices, such as iPads, are considered "similar telecommunications equipment."

7. The rules of the Notice apply to any use of an employer-provided cell phone occurring after December 31, 2009.