

MY CELL PHONE - CAN THE IRS REALLY MAKE ME DO THAT?

The IRS sees a cellular telephone as an instrument wherein the business purpose and the personal use are so intertwined they must be separated through the use of impeccable records. The tax code imposes strict, voluminous and cumbersome substantiation requirements that must be met for a minister either to claim the cost of the phone as a business deduction or for a church to reimburse the costs under an accountable reimbursement plan. Many feel since their phone expenses are so small, the cumbersome requirements are not worth the effort. As a consequence, they simply claim the business expense without having met the requirements.

The United States Tax Court for the 5th Circuit in a January 2003 ruling dealt with

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a taxpayer who took this position in *Vaksman v. Commissioner*. Here is the court's conclusion:

“Cellular telephones are ‘listed property’ subject to the substantiation requirements of the [tax code]. The taxpayer failed to submit any documentation to establish the business use of his cellular telephone, the amount he paid for the service, or even the identity of the telephone company.”

In consequence, the \$750.00 expense the taxpayer claimed was denied. A taxpayer must be diligent to keep personal use and business use separate. If you are not doing that with proper documentation, the IRS has and can make you do it, or forfeit the right to the deduction.

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