
AKJ Best Practice Guide

Separating Business from Pleasure

Looking at the issue of VAT relating to personal calls made on business mobiles

Organisations from both the public and private sector are coming under increased pressure to ensure that they adopt strong corporate governance across the board. Many of these organisations are starting to become aware of the challenges that their businesses face when providing mobile phones to staff. This article looks into the issues relating to reclaiming VAT on business mobile phones.

From a corporate governance perspective there are two main issues that organisations should be starting to address:

- Financial Accountability – businesses cannot reclaim VAT for personal use of business assets, and so businesses need to ensure that they are accounting for this usage fairly and consistently and keeping accurate records.
- Responsible use of shareholder/public funds – should your staff be able to make personal calls unchallenged – in effect spending shareholder or public money personally?

Accurate VAT Apportionment

In 2002 HMRC reclassified mobiles to being a zero rated benefit in kind. This meant that businesses can provide mobiles to staff and it would not be treated as a chargeable benefit. This is good news for employers as it removed this issue from the P11d; however also allows the business to treat the costs as a tax deductible expense for calculating corporation tax.

With respect to VAT however, businesses are required to accurately account for personal usage on mobiles and are not allowed to reclaim VAT on this personal element. In recent years anecdotal evidence suggests that the “VAT on mobiles” issue is making agenda of inspections for organisations with a large mobile workforce. According to one spokesman “where companies have wrongly claimed VAT, it will be up to them to give us the correct figures, otherwise we will issue our own estimate.”

This approach is enforcing the rules governing apportionment, in which HMRC VAT Guidelines state, “You cannot treat VAT incurred on purchases of goods and services as input tax unless you intend to use those goods or services for the purpose of your business.”

Although most companies are aware of this guideline, many are unaware that it also applies to mobiles, and others may simply have been avoiding it. Those ignoring the issue may simply have found the task of identifying personal usage, and accounting separately for it, too onerous a task.

What are the VAT Requirements?

Over the past few years there has been a varied amount of hype surrounding HMRC guidelines over reclaiming VAT on personal calls made from company mobiles. Reports of firms being fined £1m for not accounting for personal usage are in our opinion probably unfounded and based at best on half truths about VAT guidelines. It is however clear that if businesses issue company mobile phones they must have clear accounting procedures and practices in respect of personal usage and demonstrate that they are keeping accurate records.

Current HMRC guidelines offer three options for businesses to account for VAT

- Option 1: Clear and enforced policy on zero usage – the business can reclaim all of the VAT on the mobile invoice, but must be able to demonstrate a zero personal usage policy and an enforcement mechanism
- Option 2: One off analysis and profiling of personal usage – the business undertakes a reasonable evaluation of the level of personal usage and does not reclaim this element of VAT on future invoices
- Option 3: On-going apportionment of VAT – the business implements suitable guidelines on the usage of mobile phones, monitors personal usage and does not reclaim VAT on the personal element, based on a fair assessment.

Where a business has failed to make any provisions to account for VAT on personal usage, then HMRC may typically look to reclaim VAT, possibly back dated for up to 3 years. In the unlikely event that your organisation decided to not to change practices going forward, then HMRC may be inclined to issue penalty fines.

What are the merits of each Option?

Option 1: Clear and enforced policy on zero personal usage

Many businesses and their employees view mobile phones as a perk, which by its very nature means that the business is sanctioning the use of the mobile for personal calls. As a result a zero personal usage policy is often not popular, especially where personal usage was previously allowed. However, where it is introduced the impact can be staggering. One of AKJ's customers claimed to have reduced mobile phone expenditure following the introduction of zero tolerance on the personal use of mobile phones by 70%.

Where business choose to take this route, they should also start (if not already in practice) to continuously reinforce the policy to employees and be able to demonstrate that they are monitoring usage to ensure that the zero personal usage can be justified. If this can't be shown then an assessment may be made.

Option 2: One off analysis and profiling of personal usage

In this option the businesses undertakes a one off analysis which is used as the basis for future VAT calculations. In effect this is similar to agreeing a dispensation over usage with HMRC. Whilst this represents the simplest route to achieving VAT compliance, it is in AKJ's opinion in conflict with best practice management and governance if it is not combined with ongoing measures to reduce personal usage.

In this option AKJ recommends that the business also creates relevant usage policies and provides staff with access to their mobile phone bills. This will encourage responsible use of the phones, and allow the business to regularly review the level of VAT that it can reclaim.

Option 3: On-going monitoring and apportionment

This option is particularly suited to organisations that acknowledge that personal usage is currently an issue. Your organisation may choose to address the problem through either reducing personal usage or recharging, or a combination of the two. There are a wide number of options that exist in the market place from in-house analysis systems through to outsourced solutions that require each user to declare business usage online monthly.

No one system works for every business, for instance online declaration systems do not work for employees which do not have internet access. E-mailed user statements don't work where the employee has no business e-mail. Also there are hidden costs associated with online declarations: AKJ estimates that an organisation using online declaration systems should factor into account about 1 man year of resource for each 1,000 mobile users. Based on a salary of £25,000 per annum this can add about £2 per handset per month to the management fee that you will pay to the supplier.

How can you start to tackle the problem?

According to the CMA's spokesman, John Wright, to address this problem companies have a choice of either managing their phones on their own and keeping correct billing records – which for most large organisations represents a significant undertaking – or farming out the whole process to an outside provider.

For those organisations wanting to take the first option the Association has issued a number of guidelines designed to help organisations tighten their procedures, including:

- Making sure their communications and IT departments work closely with the finance department to draw up usage and accounting rules
- Deciding on a company policy on personal use of mobile phones – ban personal use, allow free personal use or allow personal calls to be made and recompensed by employees
- Widely publicising the policy across the company, and closely monitoring its adherence to accounting rules
- Involving employees in the monitoring process when checking bills

How is AKJ tackling the issue?

AKJ believes that providing education and visibility of costs to the users are the best methods to drive down usage and gain control of mobile usage within a business. We believe that by making users accountable for their costs and by providing sensible guidelines (with some flexibility) organisations will get the best level of success.

We generally advise organisations to phase in a program which starts with educating users about the cost of personal mobile calls to the business as a whole. In conjunction, users should be introduced (or re-introduced) to the company policy – which may need updating. Once users understand why changes are being made to the way mobiles are monitored, the majority will start to use phones more responsibly and costs will tend to fall.

To ensure that controls remain in place we recommend providing users with regular access to their mobile phone charges. Introducing additional measures such as management reporting which can be utilised to identify users that are not acting responsibly. In more extreme cases, or within certain types of industry, it may be necessary or prudent to introduce a recharging solution for personal calls to gain full control; however we believe that this measure should not be rushed into.

If you would like to learn how you can help your larger corporate clients to gain control of their telecoms issues then please contact AKJ on 01634 673 800 or email info@akjl.co.uk for more information.