

# IRS finally gives direction on reimbursing employees' internet access



If at first you don't succeed, try, try again. For three years running—ever since the Tax Cuts and Jobs Act removed computers and peripherals from the listed property category—we've asked the IRS reps who show up at the APA's annual Congress about which reimbursement rules apply when employers pick up the tab for employees' internet access.

This is a rather salient issue now, as so many employees are working from home.

We finally got the answer: You can, but it's not hassle-free.

## Background

Listed property (technically, tax code Section 280F) is luxury property. If luxury property is used for business, heightened substantiation requirements apply. At one time, cell phones and computers were both listed property. Cell phones were removed early in the last decade. The TCJA removed computers and peripherals.

After cell phones, tablets, etc., were removed from the listed property category, the IRS released guidance waiving the accountable plan rules' requirements for employer-provided equipment. Employees don't have to keep track of their business use. Their personal use is considered a tax-free *de minimis* fringe benefit. A sweet

deal.

The only limitation is that employers must have a substantial non-compensatory reason for providing phones to employees. But even there, the bar is set pretty low. You have a substantial non-compensatory business reason if you need to contact employees in a work-related emergency. Conveniently, “work-related emergency” was never defined.

Importantly, the IRS applied the same [rules](#) to employees who use their own phones for business. So, you can reimburse employees for their substantiated basic monthly phone and data plan charges (i.e., employees have to submit their bills to you) and employees don’t have to account to you for the percentage of their business use.

The IRS, however, never released similar guidance after computers and peripherals were removed. That has left everyone to guess what rules apply when employers reimburse employees who use their home internet access for business.

## Reimbursement rules

Joe Tiberio, the IRS chief of employment tax examination in the Small Business/Self-Employed Division, said you can reimburse employees’ home internet access as a business expense, but the regular accountable plan rules apply. Under those rules:

- Employees must have a **business connection** for accessing the internet. That they are working at home would suffice.
- Employees must **substantiate their business use** by submitting an accounting of their internet use by providing you with their cable or phone bill and the percentage used for business.
- Employees must **return any excess reimbursement** within a reasonable period of time.