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PAYMENTS & BENEFITS TO VOLUNTEER FIREFIGHTERS

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Volunteers Under The FLSA

- Individuals working for civic, charitable or humanitarian reasons, without promise, expectation or receipt of compensation.
- Volunteers may be paid expenses, reasonable benefits, a nominal fee, or any combination thereof.

FLSA- Expense Reimbursement

- Uniform allowance, reasonable cleaning expense, wear & tear on personal clothing worn during volunteer services
- Cost of meals & transportation expense
- Tuition, transportation & meal costs in attending classes intended to teach them to perform efficiently the services they provide/will provide as volunteers
- Costs of books, supplies or other materials essential to volunteer training.

FLSA - “Reasonable” Benefits

- Pension plans
- Including individual volunteers in group insurance plans (liability, health, life, disability, workers compensation, unemployment compensation)
- Length of service awards, commonly or traditionally provided to volunteers of State and local government agencies

FLSA – ‘Nominal Fee’

- Cannot be tied to productivity, but, nominal amount on a ‘per call’ or similar basis is OK. **Factors** include:
 - distance traveled & time and effort expended by the volunteer.
 - Is volunteer available around-the-clock or only during certain specified periods?
 - Does the volunteer provide services as needed or throughout the year?
 - An individual volunteering to provide periodic services on a year-round basis may receive a nominal monthly or annual stipend or fee without losing volunteer status.

FLSA - The 20% Rule

- August 7, 2006 DOL Opinion Letter
 - Can Pay A Volunteer Firefighter up to 20% of the Cost to Hire A Firefighter
 - What you pay a Career Firefighter; or
 - What are other Departments Paying
- Must Total All Payments and Benefits
- DOL Applies “Economic Realities” Test
- No Court DecisionYet

Volunteer Firefighter Pension Act

- A “Volunteer Firefighter”:
 - Renders service to a fire department in a municipality or district; and,
 - Does not receive **compensation** under a contract of employment as a firefighter
- Compensation does not include:
 - Reimbursement for actual expenses
 - Reimbursement for Lost Salary

FLSA

vs.

Pension Act

- Expense Reimbursement
 - Benefits
 - Insurance(liability, life, health, disability, workers comp, unemployment comp)
 - Length of Service Award
 - Pension Plan
 - Nominal Fee (20% Rule)
- Expense Reimbursement
 - No Benefitsbut
 - Unemployment Comp
 - Worker's Comp
 - No Nominal Fee

Pending Legislation – HB07-1031

- IRS §457(e)(11) Length of Service Award Plan.
- Up to \$3K per Volunteer per Year.
- Must be Paid When Volunteer Leaves – Cannot Be Rolled Over.
- Taxed at Time of Disbursement.
- District Administers. FPPA Plan Not Available.
- Probably Not Available to Firefighters Otherwise Receiving Taxable Income
- IRS Non-Discrimination Rules Probably Do Not Apply

Pending Legislation – SB07-007

- Volunteer Firefighter Is Someone Who:
 - Does not receive **compensation**; and,
 - Not Classified as Employee under FLSA based on Payments, Fees or Benefits received
- Compensation does not include:
 - Reimbursement of Actual Expenses
 - Reimbursement of Actual lost Salary
 - Volunteer Pension
 - Length of Service Award Plan
 - Federal Money for Temporary Emergency Incident
 - Nominal Fees or Benefits Paid on a Per-Call Basis or as Part of an Annual Merit or Recognition Award Program

IRS Rules

- Expense Reimbursement Must Be Through An “Accountable Plan”
 - Business Connection
 - Substantiation
 - Excess Returned
- Per-Call and Per-Shift Stipends Taxable Income
- Money from Feds (Wild Lands) Taxable Income
- Life/Disability Insurance above 50K- Premium Taxable (except FPPA)
- Length of Service Award Plan OK
- Pension Plan OK
- Worker’s Comp OK
- W-2s Not 1099s



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QUESTIONS?

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