

Anthony P. Curatola, Editor

Tax Relief for Firefighters and EMTs

BY ANTHONY P. CURATOLA AND A.J. CATALDO, CMA, CPA

The Mortgage Forgiveness Debt Relief Act of 2007 (MFDR) provides tax relief for more than just mortgages. In particular, it created a new Internal Revenue Code (IRC) section that gives tax relief to volunteer firefighters and EMT responders. For you to appreciate this issue, some background review is helpful.

Internal Revenue Code §61 states that gross income includes all income from whatever source derived, except as otherwise provided by law. Therefore, the performance of any service in return for a benefit, whether in the form of money, property, fringe benefit, etc., is a taxable event under IRC §61 as compensation for services. Questions have arisen over time as to the extent of this provision. Chief Counsel Advice (CCA) 200302045 addressed the issue of whether partial property tax abatements and exemptions offered to volunteer emergency responders (volunteers) by municipalities in the State of Connecticut constituted taxable income to the recipients.

In CCA 200302045, Chief Counsel recognized that volunteers will have a lower property tax liability regard-

less if the program is established as an abatement or exemption. Thus, the form is irrelevant; the substance is the issue. As a result, this reduction in the property taxes for volunteers is an in-kind payment in recognition of the services performed by the volunteers and, as such, results in taxable income to the volunteers.

Section 5 of MFDR adds IRC §139B and makes it effective for tax years beginning after December 31, 2007, and before January 1, 2011. This new IRC section

provides qualified volunteer emergency response members with the opportunity to exclude, from gross income, qualified state or local tax benefits or reimbursements they receive as qualified volunteers.

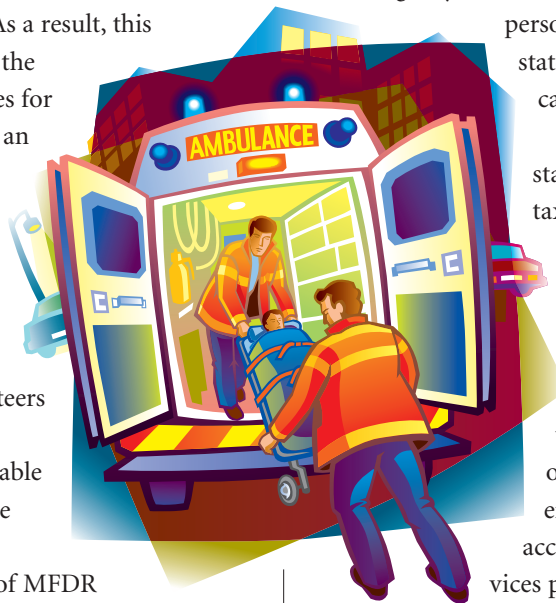
IRC §139B(c)(3) states, in part, that a qualified volunteer emergency response organization is any volunteer organization organized, operated, and required (by written agreement) to provide firefighting or emergency medical services for

persons in the state or its political subdivision.

A qualified state or local tax benefit is any reduction or rebate of certain taxes provided by state or local governments on

account of services performed by individuals as

members of a qualified volunteer emergency response organization. These taxes, however, are limited to



state or local income taxes, state or local real property taxes, and state or local personal property taxes.

A qualified reimbursement payment is a payment provided by a state or political subdivision to reimburse volunteers for expenses incurred in connection with the performance of services as a member of a qualified volunteer emergency response organization.

It's important to note at this point that the benefits are limited to those originating from the state or local government. Any benefits received from the volunteer organization itself aren't qualified and, thus, are taxable.

The new Code section states other limitations. IRC §139B(c)(2)(B) provides that qualified reimbursement payments for any taxable year shall not exceed \$30 multiplied by the number of months during such year

that the taxpayer serves as a volunteer. As many have noted, the limitation doesn't appear to be strictly applied to each month but rather throughout the year. Thus, a volunteer who performs services during eight months of the year is able to deduct up to \$240 ($\30×8 months) of the benefits or reimbursements received during that same eight-month period.

IRC §139B(b) also denies the volunteer the opportunity to double up on benefits. For example, the volunteer can deduct only the out-of-pocket portion of the state and local taxes paid; the volunteer may not deduct any of the qualified benefits given by the state or local government. Likewise, the volunteer can deduct as a charitable contribution any portion that is spent performing the volunteer service that isn't a qualified reimbursement payment that is excluded from income.

The following two examples illustrate these points.

Example 1: Joe is a volunteer EMT for his county, which provides all volunteer firefighters and EMT personnel with a special 20% reduction in property taxes up to a maximum of \$1,500. In Joe's case, his property taxes for 2008 are \$10,000. Joe also receives \$52 per month from the fire station to cover some of the costs he incurs as a volunteer.

In 2008, Joe would exclude from his gross income \$1,500 property tax benefit and would include \$624 ($\52×12 months), which is the reimbursement amount received from the fire station. If the reimbursement were from the county or state (instead of the fire station), Joe could exclude the lesser of the amount received (\$624) or \$360 ($\$30 \times 12$ months). In addition, Joe could deduct \$8,500 ($\$10,000$ less the

\$1,500 reduction) in property taxes as an itemized deduction.

Example 2: Tina and Sunn are both volunteer firefighters for the county. Each receives \$42 per month from the county as reimbursement for their out-of-pocket expenses. In the couple's case, they could deduct \$744 as a charitable contribution on a joint tax return, which is the difference between the \$1,464 out-of-pocket costs ($\$42 \times 12 \times 2$ people) less the nontaxable reimbursement amount of \$720.

Although this benefit is a nice one, it (like so many other tax provisions) has a limited life: This tax relief is good for tax years 2008 through 2010. Reality returns in 2011 when the sun sets. ■

A.J. Cataldo, II, CMA, CPA, Ph.D., is a professor of accounting in the School of Business and Public Affairs at West Chester University, West Chester, Pa. He can be contacted at acataldo@wcupa.edu.

Anthony P. Curatola is the Joseph F. Ford Professor of Accounting at Drexel University in Philadelphia, Pa. You can reach Tony at (215) 895-1453 or curatola@drexel.edu.

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