

## TREASURY ENSURES FAIR TREATMENT FOR VOLUNTEER FIREFIGHTERS AND EMERGENCY RESPONDERS UNDER THE AFFORDABLE CARE ACT

**By: Mark J. Mazur, Assistant Secretary for Tax Policy**

The Affordable Care Act requires that an employer with 50 or more full-time employees offer affordable and adequate health care coverage to its employees. For this purpose, full time means 30 hours or more per week on average, with the hours of employees working less than that aggregated into full-time equivalents. Employers that do not fulfill this obligation may be required to make a payment in lieu of meeting their responsibilities, which are described in what are called the employer shared responsibility provisions. An important question arises about how the hours of volunteer firefighters and other volunteer emergency responders should be taken into account in determining whether they are full-time employees and for counting toward the 50-employee threshold. Treasury is acting to ensure that emergency volunteer service is accorded appropriate treatment under the Affordable Care Act.

Treasury and the IRS issued proposed regulations on the employer shared responsibility provisions (Section 4980H of the Tax Code) in December 2012 and invited public comments. Numerous comments were received from individuals and local fire and Emergency Medical Service departments that rely on volunteers. The comments generally suggested that the employer responsibility rules should not count volunteer hours of nominally compensated volunteer firefighters and emergency medical personnel in determining full-time employees (or full-time equivalents). In addition, Treasury heard from numerous members of Congress who expressed these same concerns on behalf of the volunteer emergency responders in their states and districts.

Treasury and the IRS carefully reviewed these comments and spoke with representatives of volunteer firefighters and volunteer emergency personnel to gain a better understanding of their specific situations. Treasury and the IRS also reviewed various rules that apply to such volunteer personnel under other laws. These include the statutory provisions that apply to bona fide volunteers under Section 457(e)(11) of the Tax Code (relating to deferred compensation plans of state and local governments and tax-exempt organizations) and rules governing the treatment of volunteers for purposes of the Federal wage and hour laws. As a result of that review and analysis, the forthcoming final regulations relating to employer shared responsibility generally will not require volunteer hours of bona fide volunteer firefighters and volunteer emergency medical personnel at governmental or tax-exempt organizations to be counted when determining full-time employees (or full-time equivalents).

These final regulations, which we expect to issue shortly, are intended to provide timely guidance for the volunteer emergency responder community. We think this guidance strikes the appropriate balance in the treatment provided to traditional full-time emergency responder employees, bona fide volunteers, and to our Nation's first responder units, many of which rely heavily on volunteers.

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