



# **Comprehensive Tax Reform Comments**

**Written Statement of**

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President and Chairman of the Board**

**presented to the**

**INCOME AND TAX DISTRIBUTION WORKING GROUP  
REAL ESTATE TAX WORKING GROUP  
DEBT, EQUITY, AND CAPITAL WORKING GROUP**

**OF THE COMMITTEE ON WAYS AND MEANS**

**U.S. House of Representatives**

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**INTERNATIONAL ASSOCIATION OF FIRE CHIEFS  
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Thank you Chairman Camp, Ranking Member Levin, Chairwoman Jenkins, Vice Chairman Crowley, Chairman Johnson, Vice Chairman Pascrell, Chairman Marchant, and Vice Chairman McDermott for the opportunity to offer comments as you continue your work to reform the current tax code.

I am Chief Hank Clemmensen of the Palatine Rural Fire Protection District in Inverness, Illinois, and President and Chairman of the Board for the International Association of Fire Chiefs (IAFC). The IAFC represents the leadership of over 1.2 million firefighters and emergency responders. The IAFC's members are the world's leading experts in firefighting, emergency medical services, terrorism response, hazardous materials spills, natural disasters, search and rescue, and public safety policy. Since 1873, the IAFC has provided a forum for its members to exchange ideas, develop professionally, and discuss the latest issues affecting the fire and emergency medical service.

Several sections of the current tax code create significant impediments for jurisdictions looking to improve their emergency response capabilities as well as strong disincentives for property owners to embrace basic fire safety principles. As you consider reforming the nation's tax code, I urge you to consider the following recommendations to promote emergency preparedness and fire safety.

### **1) Ending State and Local Taxation of Incentives for Volunteer Firefighters**

Currently in the United States, 72% of all firefighters are volunteers. According to the National Fire Protection Association (NFPA), the value of the service provided by these volunteers to their communities is more than \$129 billion per year. Unfortunately, there has been a significant decline in the number of volunteer firefighters over the past two decades. According to data from the NFPA, 128,000 volunteer firefighters have left the fire service since 1983 – this represents approximately one-eighth of the entire volunteer fire service. Their absence represents a substantial public safety threat to communities relying upon these firefighters to provide fire protection, emergency medical care, and responses to other life-threatening emergencies.

This dramatic loss of volunteer firefighters is due to a variety of factors such as increased family- and job-related time commitments and longer training programs. In response to the decline in volunteers, many states and local jurisdictions have begun offering various incentives to recruit and retain volunteer firefighters, such as clothing, recognition dinners, reduced-cost municipal water, and small local property tax waivers.

The ability of these incentives to actually entice prospective volunteers is greatly diminished by the fact that the current tax code considers these state and local incentives to be taxable income. Currently, in order to provide a service to their community, local volunteer firefighters have to pay federal taxes on the shirt, award, or property tax benefit that they have received. The increased federal tax and paperwork burden on these public servants ends up negating the benefit from the state or locality.

In 2007, Congress passed the Volunteer Responder Incentive Protection Act (P.L. 110-142) which protected local property tax abatements and a total of \$360 worth of other incentives from federal taxation. This legislation passed with bipartisan support in the House and Senate. Unfortunately this protection expired in 2010, effectively resulting in a tax increase for volunteer firefighters. I urge Congress to support volunteer firefighter recruitment and retention efforts by making the following change to restore this tax protection and prevent taxation of property tax abatements and other incentives valued at a total of \$600 per year:

*(A) Amend subparagraph (B) of Section 139B(c)(2) of the Internal Revenue Code of 1986: strike ‘\$30’ and insert ‘\$50’*

*(B) Amend subsection D of Section 139B of the Internal Revenue Code of 1986: strike “after December 31, 2010” and insert “before January 1, 2014.”*

## **2) Accurately Classifying Volunteer Firefighters**

Historically, when volunteer firefighters have reported their incentives, they have done so on a Form 1099. A Form 1099 is more appropriate than a Form W-2 in these cases, because the relationship between a volunteer firefighter and a fire department is very different from a traditional employer-employee relationship. For example, an August 2006 letter by the Wage and Hour Division of the U.S. Department of Labor created a “bright line” test clarifying that fire departments and other entities can provide volunteers up to 20% of the prevailing wage that a public agency would otherwise pay to hire a full-time firefighter. Since volunteer firefighters are not employees of their fire departments, a Form 1099 more accurately represents their relationship with their community.

Since the mid-2000s however, the IRS has required that fire departments issue a Form W-2 to their volunteers. This requirement has been enforced in a wildly inconsistent manner by regional IRS offices - resulting in a random patchwork of states requiring a Form W-2, while others permit using a Form 1099. The IRS has remained adamant that volunteers be considered employees regardless of their lack of compensation, despite the ruling of the U.S. Department of Labor.

Fire chiefs often find themselves caught between the conflicting FLSA and IRS decisions and unsure of which form to issue. Furthermore, when chiefs err on the side of caution and issue a Form W-2, it then requires a burdensome administrative process which most volunteer fire departments are unable to complete due to limited resources. In addition, by issuing a Form W-2 to their volunteers, a fire department may be forced to account for pensions, unemployment insurance, and other complications. With these concerns in mind, I recommend Congress enact the following change to the current tax code:

*(A) Amend Subsection (a) of section 3508 of the Internal Revenue Code of 1986: Strike ‘or as a direct seller’ and insert ‘, as a direct seller, or as a qualified emergency service volunteer’.*

**(B) Amend Subsection (b) of section 3508:** Redesignate paragraph (3) as paragraph (4) and insert after paragraph (2) the following new paragraph:

**(3) QUALIFIED EMERGENCY SERVICE VOLUNTEER-**

**(A) IN GENERAL-** The term *qualified emergency service volunteer* means any bona fide volunteer performing qualified services for an eligible employer.

**(B) DEFINITIONS-** Terms used in subparagraph (A) shall have the respective meanings given such terms by paragraphs (1) and (11) (B) and (C) of section 457(e).'

**(C) Amend the section heading for section 3508:** Strike *and direct sellers'* and insert *, direct sellers, and certain emergency service volunteers'*.

**(D) Amend the item relating to section 3508 in the table of sections for chapter 25:** Strike *and direct sellers'* and insert *, direct sellers, and certain emergency service volunteers'*.

### **3. Incentivizing the Installation of Fire Sprinklers**

As a fire chief, I know one of the most effective ways to minimize the loss of life and property in a fire is through automatic fire sprinklers. Encouraging property owners to sprinker their buildings makes good sense from a public policy perspective, especially when facing a staggering 2,520 deaths and \$6.9 billion in direct property damage caused by fire each year. Sprinklered buildings have a reduced death rate per fire of 86%, and reduced damage rate per fire of up to 69%. However, current property depreciation rules create a strong disincentive for building owners to invest in a sprinkler system due to the 39-year depreciation schedule for commercial buildings and 27.5-year schedule for residential structures.

After the devastating 2003 Station night club fire, which killed 100 people in Rhode Island, Congress began considering legislation to provide incentives for building owners to install fire sprinklers. A coalition of fire service organizations, educators, and victims of fires support legislation that would provide two important benefits. First, our organizations recommend allowing small- and medium-sized property owners to deduct up to \$125,000 for the cost of a fire sprinkler system by classifying automatic fire sprinkler systems as a Section 179 deduction. This tax deduction would accommodate most high-risk properties, such as off-campus housing, night clubs, nursing homes and assisted living facilities. Second, we recommend that the depreciation period for automatic fire sprinklers installed in high-rise buildings be reduced to 15 years. When reforming the tax code, I urge you to create a strong incentive for fire sprinkler installation by making the following changes:

**(A) Amend Subparagraph (B) of section 179(d)(1) of the Internal Revenue Code of 1986 to read as follows:**

*“(B) which is—*

*“(i) automated fire sprinkler system retrofit property (as defined in section 168(i)(20) determined without regard to subparagraph (A)(ii) thereof, or*

*“(ii) section 1245 property (as defined in section 1245(a)(3)), and”’.*

**(B) Amend Subparagraph (E) of section 168(e)(3) of the Internal Revenue Code of 1986:** Strike “and” at the end of clause (viii), strike the period at the end of clause (ix) and insert “, and”, and by adding at the end the following:

“(x) any automated fire sprinkler system retrofit property.”

**(C) Amend paragraph (3) of section 168(b) of the Internal Revenue Code of 1986:** add at the end the following new subparagraph:

“(J) Any automated fire sprinkler system retrofit property.”

**(D) Amend the table contained in section 168(g)(3)(B) of the Internal Revenue Code of 1986:** Insert after the item relating to subparagraph (E)(ix) the following:

“(x) ..... 39”.

**(E) Amend subsection (i) of section 168 of the Internal Revenue Code of 1986:** add at the end the following new paragraph:

“(20) AUTOMATED FIRE SPRINKLER SYSTEM RETROFIT PROPERTY.—The term ‘automated fire sprinkler system retrofit property’ means any property which comprises a sprinkler system which—

“(A) is installed in a building or structure which—

“(i) was placed in service before the date on which such sprinkler system is placed in service, and

“(ii) has an occupiable story, the floor of which is more than 75 feet above the lowest level of fire department vehicle access, and

“(B) is classified under one or more of the following:

“(i) National Fire Protection Association 13, Installation of Sprinkler Systems.

“(ii) National Fire Protection Association 13 D, Installation of Sprinkler Systems in One and Two Family Dwellings and Manufactured Homes or International Residential Code Section P2904, Dwelling Unit Fire Sprinkler Systems.

“(iii) National Fire Protection Association 13 R, Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height.’

#### **4) Maintaining Tax-Exempt Municipal Bonds**

Tax-exempt municipal bonds play a crucial role in allowing municipalities to expand and improve critical elements of their infrastructure, such as building fire stations and buying fire apparatus. They are successful, because they present a great opportunity for both municipalities and investors – the low interest rates associated with these bonds result in a relatively small cost for municipalities, while investors are enticed by the tax-exempt status and are willing to accept the low interest rate in exchange. According to a report by the National Association of Counties, National League of Cities, United States Conference of Mayors, and the Government Finance Officers Association, in just the last ten years, these bonds have allowed communities across the United States to finance more than \$1.65 trillion of infrastructure improvements, including approximately \$2.6 billion worth of fire stations and equipment. The bonds are an especially vital funding lifeline in these difficult economic times.

In recent years however, proposals have been made to either eliminate the tax-exempt status of these bonds or to institute a tax benefit cap on the tax-exempt interest from these bonds. These proposals create a strong disincentive for individuals to invest in these bonds by reducing, if not eliminating, their tax advantages. Proposals to cap or eliminate the tax-exempt status create a serious threat to public safety by removing a crucial funding source for many fire departments.

When evaluating various tax reforms, I strongly urge this committee to immediately reject proposals affecting municipal bonds, which would severely impede fire protection operations and place communities across the nation in great danger.

### **Conclusion**

I would like to thank the committee and working groups again for the opportunity to contribute to this important process. Reforms to the federal tax code can have very significant implications for public safety, even though they are not often seen in that light. By encouraging volunteering in the fire service, incentivizing the installation of fire sprinklers, and protecting the tax-exempt status of municipal bonds, this committee can help save countless lives and improve the level of safety and emergency preparedness in countless communities throughout the United States.