

Montgomery County Fire and Rescue Service



DIVISION OF VOLUNTEER SERVICES

DIRECTIVE

NUMBER: 10-06

August 11, 2010

TO: All MCFRS Volunteers

FROM: Division Chief Alan Hinde 

SUBJECT: Personal Data Form

The Montgomery County Department of Finance has determined, based on the attached document from the U.S. Department of the Treasury, Internal Revenue Service, that W2 forms must be issued for tax reporting purposes to all Montgomery County volunteers who receive Nominal Fees. As a result, volunteers who are eligible for Nominal Fees, regardless of the amount, were entered into the County's Office of Human Resource Human Resource Management System database to generate W2 forms.

Effective immediately, to ensure you receive a W2 form, you ***must*** complete and return a **Personal Data Form** (attached) to the Division of Volunteer Services LOSAP Office whenever you have a change of address. You can download the Personal Data Form from the DOVS Quicklinks at <http://tiny.cc/dovs>.

FAILURE TO UPDATE YOUR ADDRESS WILL AFFECT YOUR FINANCIAL BENEFITS!!!

If you have any questions, please contact Linda Dowdy, LOSAP Administrator, at 240-777-2428 or email Linda.Dowdy@montgomerycountymd.gov.

Attachment: Personal Data Form, U.S. Department of the Treasury
INFO 2009-0156

Your Social Security Number:

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MONTGOMERY COUNTY, MARYLAND

PERSONAL DATA FORM



CURRENT EMPLOYEE MAKING A CHANGE

PLEASE PRINT CLEARLY!

Name: _____
LAST FIRST MIDDLE INITIAL

FORMER Name, if reporting name change: _____
▲ Legal documentation for name change must be attached ▲

Department Name: _____ Work Phone: _____

NEW Home Address: _____
Street Name City
COUNTY State Zip Code

NEW Home Phone: _____
Area Code

NEW Emergency Contact Name: _____ Relationship: _____

NEW Emergency Contact Phone: _____ **Only ONE phone number can be recorded.**

NEW EMPLOYEE

PLEASE PRINT CLEARLY!

Name: _____
LAST FIRST MIDDLE INITIAL

Home Address: _____
Street Name City
COUNTY State Zip Code

Home Phone: _____
Area Code

Emergency Contact Name: _____ Relationship: _____

Emergency Contact Phone: _____ **Only ONE phone number can be recorded.**

SEX: • M • F BIRTHDATE: _____
Month Day Year

ETHNICITY: (Check one. Optional, but needed for compliance with federal EEOC reporting requirements)

- [A] American Indian or Alaskan Native
- [B] Black/African American
- [C] White
- [S] Hispanic/Latino
- [R] Asian/Pacific Islander

EDUCATIONAL LEVEL: (Check one and show year achieved)

- [1] No academic credentials
- [2] High School Diploma
- [3] Trade Certificate
- [4] Some College
- [5] Associate Degree
- [6] Bachelor's Degree
- [7] Master's Degree
- [8] Professional Degree
- [9] Other Doctorate
- [10] PhD

Year Achieved: _____

MILITARY STATUS: (Check one if appropriate)

- [A] Active Reserve
- [N] Inactive Reserve
- [R] Retired
- [V] Vietnam Era
- [O] Other Veteran

EMPLOYEE'S SIGNATURE: _____

DATE: _____

NOTE: PLEASE RETAIN YELLOW COPY FOR YOUR RECORDS.



CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

July 16, 2009

UIL 6051.00-00

Number: **INFO 2009-0156**
Release Date: 9/25/2009

CONEX-132566-09

Dear

Your letter dated June 10, 2009 to IRS Commissioner Douglas H. Shulman was forwarded to me for response. You expressed concern with our position on the information reporting requirements for payments made to volunteer firefighters.

As explained in detail below, the law has historically provided, and continues to provide, that the information reporting requirements for payments to a volunteer firefighter differ depending on the individual firefighter's status as an employee or an independent contractor. Our interpretation of these provisions is well established and has remained constant over many years.

We appreciate the critical role volunteers at our nation's fire departments play in maintaining the public safety. For this reason, we have worked to educate firefighting organizations about their tax obligations through various outreach programs. We remain committed to partnering with them to help them correctly understand and apply the tax and reporting requirements.

The tax laws generally apply to volunteer firefighters in the same way they do to other workers. In most cases, the information reporting requirements for payments made or benefits provided to a worker depend on the worker's status as either a common law employee or an independent contractor (non-employee). The fact that a firefighter may be called a "volunteer" does not determine his or her status as an employee or an independent contractor. Neither does it determine the nature of required federal information reporting.

The regulations that provide the criteria for determining a worker's status as an employee or an independent contractor for the Federal Insurance Contributions Act (FICA) tax and for federal income tax withholding purposes are found in sections 31.3121(d)-1 and 31.3401(c)-1 of the Employment Tax Regulations. These regulations provide rules, frequently referred to as the common law rules, that state, in general, that

if the worker provides services under the direction and control of the service recipient, the worker is considered an employee for employment tax and related information reporting purposes. The rules reflect common law principles, developed and affirmed over decades by the courts, which govern IRS policy in this area.

Whether a worker is an employee or an independent contractor for federal tax and related information reporting purposes is determined under the Internal Revenue Code and the Employment Tax Regulations. The Fair Labor Standards Act does not affect whether an individual is an employee for federal tax purposes. Thus, a worker may be an employee for federal tax purposes and not an employee for Fair Labor Standards Act purposes.

The term "wages" for purposes of FICA is all remuneration for employment, with certain exceptions. (section 3121(a) of the Code). The law provides a similar definition of wages for purposes of federal income tax withholding. (section 3401(a) of the Code). An employer who pays wages to an employee must furnish the employee with a Form W-2 showing the amount of wages paid. (section 6051 of the Code). Wages paid to workers who are independent contractors generally must be reported on a Form 1099-MISC. (section 6041 of the Code).

The law excepts from the definition of wages for FICA tax purposes any benefit or payment that an employee can exclude from gross income under Code section 139B. (section 3121(a)(23) of the Code). The Mortgage Forgiveness Debt Relief Act of 2007 adopted section 139B of the Code to provide members of qualified volunteer emergency response organizations (including firefighters) an exclusion from gross income for certain state or local tax benefits or payments. These benefits or payments may be in the form of reimbursement or otherwise, but the exclusion is limited to \$30 a month. The law provides a similar exception from wages for income tax withholding purposes. (section 3401(a)(23) of the Code).

In short, employers do not need to report on Form W-2 or Form 1099-MISC any payments made or benefits provided to volunteer firefighters that are excluded from income under section 139B. However, employers must report on Form W-2 or Form 1099-MISC amounts that are not excludable under section 139B, or any other Code provision, depending on the status of the volunteer firefighter as an employee or independent contractor.

CONEX-132566-09

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I appreciate and share your interest in this subject and in the well-being of firefighting organizations. If you have further questions, please call me or at

Sincerely,

Lynne Camillo
Branch Chief, Employment Tax Branch 2
(Exempt Organizations/Employment
Tax/Government Entities)
(Tax Exempt & Government Entities)