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Fire Chiefs Group Expresses Concern About Effect of ACA on Volunteer Fire Departments.

William Metcalf of the International Association of Fire Chiefs has urged the IRS to do all it can to avert the disastrous effect of any requirement that would force service agencies providing volunteer fire and emergency services protection to buy health insurance for volunteers under the Affordable Care Act.

[Editor's Note: The document appearing at this citation is one of many substantially similar letters received but not published by Tax Analysts.]

September 27, 2013

The Honorable Daniel Werfel

Acting Commissioner of Internal Revenue

Internal Revenue Service

1111 Constitution Avenue, NW

Washington, DC 20004

Re: Information Reporting by Applicable Large Employers on Health Insurance Coverage Offered Under Employer-Sponsored Plans. Docket Number: REG-136630-12

Dear Acting Commissioner Werfel:

On behalf of the nearly 10,000 fire and emergency services chiefs of the International Association of Fire Chiefs (IAFC), I am submitting the following comments in reference to Docket Number: REG-136630-12. The IAFC is concerned that the Shared Responsibility Provision presents a serious threat to fire departments relying upon volunteer emergency responders.

While this proposed rule eases reporting requirements for employers, I continue to be concerned about the impact that the Shared Responsibility Provision will have on volunteer fire departments across the United States. As you know, the Internal Revenue Service (IRS) has classified nominally compensated volunteer firefighters as common-law employees of their fire departments. Unfortunately, the IRS' interim final rule on the Shared Responsibility Provision makes no clear mention of nominally compensated volunteer firefighters and emergency medical personnel; as a result, many fire departments may be unintentionally forced to comply with the Shared Responsibility Provision — an action which will pose a threat to public safety.

Recent data from the National Fire Protection Association show that approximately 27,595 fire departments, or 92% of all fire departments in the United States, have volunteer firefighters and/or volunteer emergency medical personnel. In many rural and suburban areas, volunteers may work

multiple 12- or 24-hour shifts per week, and provide the only fire and emergency medical response. These fire departments, which are often funded by private donations and local taxes, do not have the capacity to offer insurance to their volunteers. If the IRS defines nominally compensated volunteers as “employees” for the purposes of the Shared Responsibility Provision, fire departments may be forced to choose between eliminating volunteer emergency responders or significantly reducing training hours and the number of firefighters and emergency medical personnel who respond to life-threatening emergencies.

As you determine the final regulations for implementing the Shared Responsibility Provision, I urge you to clearly exempt nominally compensated volunteer firefighters and emergency medical personnel from being considered “employees.” Without this clear, common-sense guidance, volunteer fire departments may be forced to take measures which could seriously harm public safety in communities across the nation.

If nominally compensated volunteers are considered employees, I encourage you to count only hours spent on-duty, in training, or responding to emergency incidents. In many volunteer fire departments, volunteers are not assigned to a shift and are permitted to remain at home or work, and only respond to emergencies when alerted. In these cases, volunteers are free to control their own activities when not responding to emergencies and are not required to remain in any geographic location. Hours of service should not be counted when a volunteer merely has their pager or cell phone and are not responding to an emergency.

Both Congress and the Administration have taken strong steps to support fire departments and incentivize increased staffing levels; the IRS should not force the fire service to take a step back by incentivizing reduced training and eliminating firefighters and emergency medical personnel.

Sincerely,

Chief William R. Metcalf,

EFO, MIFireE

International Association of Fire

Chiefs

President and Chairman of the Board

Fairfax, VA