

FEDERAL TAX ISSUES FOR FIREFIGHTERS

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The Office of Federal, State and Local Governments (FSLG) of the Internal Revenue Service is responsible for promoting compliance with Federal tax laws among the more than 90,000 governmental entities in the United States. This discussion addresses some of the common questions we receive from firefighters and their employing organizations.

Compensation

Generally, tax laws apply to firefighters in the same manner as for other types of workers. It does not matter whether firefighters are termed “volunteers”, are considered employees, or are identified by any other name, if the work they do is subject to the will and control of the payer, under the common-law rules, they are employees for Federal tax purposes. The determination of whether workers are common-law employees or independent contractors is the same for firefighters as for other workers. See [IRS Publication 15](#), Employer’s Tax Guide, for more information on determining whether a worker is a common-law employee.

Similarly, it does not matter whether they are paid on a “call” basis, monthly, hourly, etc.; or whether the worker is full-time or part-time. These payments are wages that should be reported on Form W-2, subject to withholding for Federal income tax, social security, and Medicare purposes. Employers are responsible for withholding on these wages and filing Form 941.

If a worker is a common-law employee, any amounts they receive, that are not exempt under some special provision, is reported on Form W-2 as wages to the employee. It does not matter what the payments are called.

Income Tax

Generally, all amounts employees received are taxable for Federal income tax purposes. Some fringe benefits are excluded by specific provisions of law. Some common benefits that may qualify to be excluded from include:

- Certain de minimis (minimal) fringe benefits
- Meals provided for the convenience of the employer
- Employee discounts
- Achievement awards
- Health insurance
- Educational benefits.

For more information, see [IRS Publication 15-B](#), Employer's Tax Guide to Fringe Benefits.

Reimbursements for expenses may be excludable from wages if they meet the accountable plan rules, discussed below.

Social Security Tax

After July 1, 1991, state and local government employees are generally mandatorily subject to social security tax for wages paid unless they either (1) participate in a qualifying public retirement system, or (2) are covered by a voluntary ("Section 218") agreement between their state and the Social Security Administration. The requirements for a qualifying public retirement system are discussed in IRS [Publication 963](#), Federal-State Reference Guide.

Your State Social Security Administrator can tell you whether a Section 218 agreement is in effect for a specific group of workers. See www.ncsssa.org for a list of State Social Security Administrators.

Medicare Tax

With few exceptions, employees (including firefighters) hired after March 31, 1986, are covered by the Medicare tax. Employees hired before that date may be exempt if they have remained in continuous employment since then.

For more information on social security and Medicare coverage rules for government employees, see IRS [Publication 963](#), Federal-State Reference Guide.

Emergency Workers

The Internal Revenue Code provides an exception under IRC 3121(b)(6)(C) from social security and Medicare tax for a worker "serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency." This exception applies only for temporary workers hired in response to an unforeseen emergency. It does not apply to firefighters who work on a recurring, routine or regular basis, even if their work involves situations that may be considered emergencies, including responding to fires.

Expenses and Reimbursements

Firefighters may receive amounts that are designated as expenses for transportation, equipment, clothing, etc. In general, these are treated as taxable wages. However, if the amounts are paid under an *accountable plan*, they may be excluded from wages and no tax reporting is required. An accountable plan must:

- (1) Require workers to substantiate actual expenses,
- (2) Allow no reimbursements for unsubstantiated expenses, and
- (3) Require any excess reimbursements to be returned timely.

Ordinary and necessary expenses firefighters incur in the course of performing their jobs would be excludable from income if paid under an accountable plan. A fixed cash amount which does not require documentation of expenses is treated as ordinary wages. They are subject to income tax, social security and Medicare tax withholding.

For a detailed explanation of the accountable plan rules, see section 5 of [Publication 15](#).

State or Local Tax Benefits

In some cases, volunteer firefighters receive benefits in the form of state or local tax credits or rebates. If these benefits are offered in return for services performed, their value represents income to the worker for Federal tax purposes and should be included in taxable wages.

For More Information

The FSLG [web site](#) has more information on all these topics. Our [FSLG Newsletter](#) includes a directory of local FSLG Specialists throughout the country who can assist you with questions involving the tax responsibilities of government entities.