FOCUS: TAXATION

A 9-1-1 Call for Volunteer Firefighters

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If you live on Long Island, it is safe to say that you have seen at least one sign proclaiming, "Join the (insert neighborhood name here) volunteer fire department." On Long Island, the overwhelming majority of fire departments are staffed by volunteers;[1] consequently, volunteer firefighters on the Island vastly outnumber paid firefighters. Volunteer fire departments are comprised of members from all segments of the community: young and old, male and female, business owners, professionals, tradespeople, civil servants, rank-and-file employees and many others.

Recently, the Internal Revenue Service ("IRS") published final regulations (the "Final Regulations") modifying Internal Revenue Code ("Code") Section 274[2] and the associated treasury regulations. Specifically, the Final Regulations add "unmarked firefighter, rescue squad or ambulance crew vehicles" to the list of "qualified nonpersonal use vehicles."[3] While important (as discussed below), the terms and definitions in the regulations leave one question unanswered: do the Final Regulations apply to volunteer firefighters?

Background—Code Section 274

Code Section 274 deals with whether deductions and credits are allowed for certain expenses. As a general rule, in order to receive a deduction, an expense must be substantiated (by receipts or other records).[4] A notable exception to the substantiation rule is a qualified nonpersonal use vehicle ("QNUV").[5] A QNUV is a vehicle designed for a specific business function and is unlikely to be used for anything beyond limited personal use. The regulations[6] provide a non-exhaustive list of such vehicles: "clearly marked police, fire, and public safety officer vehicles," ambulances, hearses, cement mixers, combines, tractors, unmarked vehicles used by law enforcement and several other types of vehicles. With respect to unmarked law enforcement vehicles, any personal use must be authorized by the police department and must be "incident to" law enforcement functions.[7]

The regulations provide an example of a detective with an unmarked car in which the department allows the detective to commute and run personal errands (but does not permit the detective to use the vehicle for recreational or personal purposes outside of the state). The regulations conclude that the detective's use of the vehicle is not subject to the substantiation requirement (as a QNUV), and the value of the commuting errands uses is not included in the detective's gross income.[8]

Final Regulations

The Final Regulations add "unmarked firefighter, rescue squad, or ambulance crew vehicles" to the list of QNUVs and largely treat these vehicles in the same way as unmarked police cars (discussed in the example above). The IRS noted that extending QNUV status to unmarked vehicles used by firefighters, members of rescue squads and ambulance crews was important to allow these first responders to travel inconspicuously for security reasons without risk of harassment, vehicle damage (caused by vandals) or financial hardship.

The Final Regulations[9] also define the following terms:

- Unmarked firefighter, rescue squad or ambulance crew vehicle is defined (in relevant part) as "an unmarked vehicle used by a firefighter, or member of a rescue squad or ambulance crew, that is owned or leased by a governmental unit, or any agency or instrumentality thereof etc."
- A firefighter is "an individual who is employed by a governmental unit, or agency or instrumentality thereof, that is responsible for firefighting etc."
- A member of a rescue squad or ambulance crew is defined, by reference to 34 U.S.C. 10284(10)(A), as "an officially recognized or designated employee or volunteer member of a rescue squad or ambulance crew…that is a public agency."

The public apparently thought that these definitions were straightforward enough, as no comments on the proposed changes to the regulations were received. However, the Final Regulations left one question unanswered: do these regulations apply to volunteer firefighters as well?

Tax Treatment of Volunteer Firefighters

The Final Regulations (including the example given) explicitly state that a firefighter/rescue squad member is someone who is employed by a governmental unit, and that the relevant qualified vehicle is one that is owned or leased by a governmental unit. "Governmental unit" is defined as a "state, territory, possession of the United States, the District of Columbia, or any political subdivision thereof."[10]

Interestingly, although not overly relevant for the purposes of this article, the federal government is not explicitly included in the regulations' definition of a "governmental unit." Similarly, it should also be noted for the sake of completeness that the definition of "members of a rescue squad/ambulance crew" specifically excludes 34 U.S.C. 10284(10)(B), which deals with rescue squads/ambulance crews that are (or are parts of) nonprofit entities, such as the Mineola Volunteer Ambulance Corps[11] or Hatzalah.

Federal income tax law generally treats volunteer firefighters as not being employed by a governmental unit. In Revenue Ruling 74-361, the IRS ruled that volunteer fire departments can be tax-exempt entities under either Code Section 501(c)(3) or 501(c)(4), assuming other requirements are met; 501(c)(3) organizations are generally charities, while 501(c)(4) organizations are usually civic leagues or social welfare groups. For example, the South Farmingdale Volunteer Fire Department is a 501(c)(3) organization,[12] and the Bayville Fire Company is a 501(c)(4) organization.[13]

Rev. Rul. 74-361 also contrasts volunteer fire departments with "tax-supported" (i.e., governmental) fire companies. The IRS has reiterated that volunteer firefighters are generally not considered to be government employees in both informal (PLR 8045106) and formal (Revenue Ruling 89-49) guidance.

Similarly, Code Sections 139B(c)(3) and 150(e)(2) define "qualified volunteer emergency response organization" (in the case of Code Section 139B) and "qualified volunteer fire department" as an entity organized and operated to provide firefighting or emergency medical services in a political subdivision and required (by written agreement) to provide the services in that area. These two sections treat volunteer fire departments as essentially vendors—they are not part of the governmental unit, rather they provide services to the government on a purely contractual basis. Paid civil servants, by contrast, provide services because their state or municipal employer requires them to do so.

As under federal law, New York law classifies volunteer fire companies as charitable corporations.[14] Operationally, in New York most volunteer fire departments are not part of the government (although they may be).[15]

Next Steps

A close reading of the Final Regulations in connection with other IRS guidance related to volunteer firefighters makes it appear that volunteer firefighters (except for those who are specifically considered part of a governmental unit) are deliberately excluded from the tax benefits of the Final Regulations. For example, the IRS could have just as easily defined "firefighter" as "an individual who has a primary function of fighting fires, providing emergency medical services and promoting general public safety." By excluding most volunteer firefighters, the IRS is affording them different treatment despite performing the same roles as paid, municipal firefighters. The effects of this apparent disparate treatment are particularly acute on Long Island, where nearly all firefighting is performed by volunteers.

So, what does this mean for the legions of volunteer firefighters across the country, and especially on Long Island? The IRS can modify the definition to include volunteer firefighters (and rescue squad members) who are attached to not-for-profit entities. The IRS can issue other guidance that extends the tax benefits to volunteer firefighters. If challenged, the courts could step in. By the same token, the IRS is just as likely to do nothing or to issue guidance confirming that the Final Regulations exclude most volunteer firefighters. For now, volunteer firefighters must be judicious in their use of unmarked vehicles and wait and see how this issue shakes out going forward.

1. *Governor Hochul Announces Major Investments for Long Island Volunteer Firefighters' Facilities and Training* (Oct. 15, 2024), https://www.governor.ny.gov/news/governor-hochul-announces-major-investments-long-island-volunteer-firefighters-facilities-and.
2. 26 U.S.C. § 274.
3. 26 C.F.R. §§ 1.274-5(k)(2)(ii), (ii)(S) (2026).
4. 26 U.S.C. § 274(d).
5. *Id.* § 274(d)(3).
6. 26 C.F.R. § 1.274-5(k)(2)(ii)(A).
7. *Id.* § 1.274-5(k)(6).
8. *Id.* § 1.274-(5)(k)(9)(i), Example 1.
9. *Id.* § 1.274-(5)(k)(7).
10. 26 C.F.R. § 1.103-1(a) (2026).
11. *The Mineola VAC Story*, Mineola VAC, https://mvac.mimocad.io/ (last visited March 25, 2026).
12. *Donate*, South Farmingdale Fire Dep't, https://southfarmingdalefd.org/about/donate/ (last visited Marh 25, 2026).
13. *Bayville Fund Drive*, Bayville Fire Co. https://www.bfc1.net/donate/ (last visited March 25, 2026).
14. N.Y. Not-for-Profit Corp. Law Section § 1402(b) (Westlaw 2026).
15. N.Y. Gen. Mun. Law § 205-G (Westlaw 2026).

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