

OFFICE OF THE STATE FIRE COMMISSIONER

Program Guidance

Incentives for Municipal Volunteers of Fire Companies and Nonprofit Emergency Medical Services Agencies

Act 91 of 2020 and Act 172 of 2016

35 Pa. C.S. §§79A01-79A33

Act 172 of 2016 established incentives for volunteers of fire companies and nonprofit emergency medical services agencies by providing municipalities with the option to offer a real estate or earned income tax credit to active members of volunteer fire companies and nonprofit emergency medical service agencies through a volunteer service credit program. Each local government may choose whether to offer the earned income tax credit, the real estate tax credit, or both. Active volunteers who meet the service credit criteria established by the local government in consultation with the fire chief or supervisor of the EMS agency are eligible for the tax credit, if offered by the local government. Act 91 of 2020 expanded the tax relief incentive to counties and school districts and established statewide reporting requirements on the tax credits. Act 91 also increased the allowable value of the real estate tax credit from 20% of the tax liability to 100% of the tax liability imposed by a local government.

Real estate tax credit: The real estate tax credit may establish a credit of up to 100% percent of the real estate tax liability for residential real property owned and occupied as the domicile of an active volunteer.

- The real estate tax credit operates as follows: an active volunteer pays their municipal real estate tax bill, then files an application for the real estate tax credit with the local government. If the application is approved, the local government issues a check to the active volunteer as a real estate tax credit rebate. The local government must approve the application if the real estate in question is real property owned and occupied by the applicant, and the applicant meets the active volunteer certification requirements implemented by the local government.
- The credit will **not** be printed on real estate tax bills.
- The local government should verify that an active volunteer is an owner-occupant of property within its jurisdiction. The local government may determine this by verifying that the property is registered for the Homestead Exemption or by developing any other criteria it deems appropriate. The tax bill that is submitted with the application may contain this documentation.

Earned income tax credit: The earned income tax credit must be set at a flat amount.

- If a volunteer’s tax liability is less than the flat amount, their credit is limited to their total tax liability.
- The credit only applies to an earned income tax levied by the local government under the Local Tax Enabling Act.
- It does **not** apply to an earned income tax levied for open space purposes or to replace the occupational assessment tax.
- Only residents of the local government who are active volunteers may apply for the tax credit. A nonresident option is not available.
- The Pennsylvania Department of Community and Economic Development (DCED) will update the statewide earned income tax form to account for the new flat rate tax credit for local governments that choose to implement the credit and will provide for separation of the school earned income tax liability from the local government’s earned income tax liability. (Note that under Act 150 of 2016, DCED is responsible for developing statewide forms for earned income tax collection, which all tax officers must accept.)
- The active volunteer would apply for the credit when they file their EIT taxes for the prior tax year in the current calendar year (for example, in 2023 an applicant will file documentation related to 2022) and in later years and will provide documentation from the local government that they are entitled to the tax credit.
- Local governments must provide an option for volunteers filing joint returns to still claim the credit. The return form shall also “provide a mechanism for separating the liability of an individual for any earned income tax imposed by the school district of residence from the liability of an individual for any earned income tax imposed by the municipality.”

Ordinance or Resolution adoption process: At least 30 days prior to adoption of the ordinance, the local government must place a legal advertisement of its intent to adopt an ordinance or resolution implementing the tax credit and then must conduct at least one public hearing on the issue. Once adopted, the ordinance or resolution needs to be sent to the Office of the State Fire Commissioner, as well as the county law library and the tax officer for the local government’s tax collection district (*if adopting an EIT tax credit.*) Before adopting any such ordinance or resolution the local government should consult with their solicitor to ensure that they are following all rules applicable to passing tax related legislation as these vary for different types of local government.

Who qualifies for the tax credit? A member of a volunteer fire company (VFC) or a nonprofit emergency medical services (EMS) company identified by the local government that meets service criteria established by the local government in consultation with the VFC and EMS companies. Local governments are required to consult with leaders of local VFCs and EMS companies that will be affected by their program. Members who are volunteer emergency responders would qualify, as well as volunteers who are members, but serve in other roles. The local government has final authority to set criteria or participation levels for the different classes of membership, subject to the required criteria outlined in section 79A21 of Title 35 (35 Pa. C.S. § 79A21).

What happens if many of our volunteers live outside of the boundaries of the local government? Since each local government can only offer the credits to volunteers who are residents, we recommend working with the neighboring municipalities that are also served by the same VFC or EMS agency to see if they would be willing to implement the program and consider using the same tax credit levels and requirements for all municipalities served.

Intergovernmental Cooperation. Section 79A32 of Title 35 (35 Pa. C.S. § 79A32) specifically authorizes units of local government to designate a council of governments, consortium, or similar organization to administer volunteer service credit programs, as well as rejections and appeals. If multiple local governments in one area all use the same entity it may ease the burden on volunteers to gain access to the benefits provided by these programs. If a local government desires to take advantage of this provision it needs to formally delegate its authority by resolution or ordinance.

How will the volunteers earn credit? Section 79A21 of Title 35 (35 Pa. C.S. § 79A21) states that the local government must consider the following activities when creating its tax credit program:

- the number of emergency calls to which a volunteer responds;
- the level of training and participation in formal training and drills for a volunteer;
- the total amount of time expended by a volunteer on administrative and other support services, including, but not limited to: fundraising, providing facility or equipment maintenance, financial bookkeeping; and
- the involvement in other events or projects that aid the financial viability, emergency response, or operational readiness of a volunteer fire company or a nonprofit emergency medical services agency.

The local government will determine the guidelines and criteria for participation in its program in consultation with the chief of a volunteer fire company and the supervisor of a nonprofit emergency medical services agency. The required criteria should be adopted by resolution and reference or include forms and applications necessary to implement the program. Purely social members should not be eligible for the tax credit.

Injured Volunteer: If a volunteer who is an emergency responder is injured during a response to an emergency response call and can no longer serve as an active volunteer because of the injury he or she is entitled to receive the tax credit. The injured volunteer must submit self-certification and an application with documentation from a licensed physician. An injured otherwise eligible volunteer may receive the credit for up to five consecutive tax years after the injury.

Tracking service activities: The chief of a volunteer fire company and the supervisor of a nonprofit emergency medical services agency are responsible for logging service records of active volunteers to document the activities of each volunteer that qualifies for credit and the calculation of total credits earned for each volunteer in their organization. These records are subject to periodic review by the Fire Commissioner, the Auditor General, and the local government enacting the ordinance.

Notarized list: The chief and supervisor must provide a notarized list of volunteers that qualify for the tax credit each year, no later than 45 days before the tax notices are distributed. The ordinance or resolution authorizing the program should state how to calculate the date for each tax year.

Application process: An active volunteer who wants to take advantage of the credit must sign and submit an application for certification to their chief or supervisor, who will sign and attest that the active volunteer meets the qualifications of the program or can no longer serve due to an injury. The application is then forwarded to the local government for review.

Review process: The local government cross-references the application with the notarized eligibility list. If the active volunteer is on the notarized list, they should be approved and the local government then issues a tax credit certificate to the active volunteer. If adopting an EIT tax credit, the local government should work with the tax officer for its tax collection district to develop a certificate acceptable to the tax officer, which the active volunteer would include with their EIT return. The local government maintains an official tax credit register of all active volunteers that were issued tax credit certificates for a particular year and provides the list and any updates to the fire chief, EMS supervisor, and the tax officer for the tax collection district (*if applicable*).

Appeals: The local government must provide a process for appealing a denial of an earned income tax credit and/or real property tax credit. The resolution or ordinance authorizing the tax credit should establish the process that will be used to reject applications as well as the process for applicants to appeal a rejection.

Please keep in mind that this guidance document is intended to be an informational resource only. Local government officials should review and discuss all proposed ordinances and resolutions with their solicitor.