

CAPITOL CITY FIREFIGHTER REGION
VOLUNTEER FIRE RELIEF ASSOCIATION
IRS TAX EXEMPT STATUS AND 990 FILING FORM ISSUE
MARCH 30, 2011

URGENT ACTION NEEDED – MOST IF NOT ALL VOLUNTEER RELIEFS WILL BE IMPACTED

Impacts:

1. As of March 22, 2011, four Minnesota Volunteer Relief Associations have received IRS penalty letters with fines ranging from \$5,000 to \$10,000 for penalties for tax year 2007 and 2008. Fines will be imposed for 2009 as well.
2. Steve Clark who is an IRS Agent in the DC Exempt Organization Office has stated all Minnesota Volunteer Fire Reliefs that have not filed a 990 form will receive a revocation of tax exempt status letter in the near future (he indicated within the next several weeks). Absent your tax exempt status you will have to report and pay taxes on all investment gains.
3. The IRS has published a list of all revocations as of October 15, 2010. There are over 5,570 organizations in Minnesota alone who have lost their status. A quick review shows at least three-three (up through the letter L) fire relief associations. Go to <http://www.irs.gov/charities/article/0,,id=225889,00.html> and click on Minnesota. **NOTE – the list is known to have errors and is a few months old!**
4. Filing the 990 form typically requires the assistance of a professional consultant (CPA or Audit Firm) and costs between \$1,000 and \$3,000).
5. For Reliefs who have received a letter from the IRS stating you are exempt from filing a 990, you will most likely receive a letter that you do not qualify as an affiliate and therefore are not exempt from filing the 990 form.

Background:

This is a complex issue in which the full history and background would consume several pages. This “Readers Digest” version is an attempt to briefly capture the history.

- Minnesota Volunteer Fire Relief Associations (VFRA) are organized under Minnesota Statute 317 Non-Profit corporations.
- VFRA’s have established themselves as either a 501(c)(3) or 501(c)(4) tax-exempt organizations under the IRS Code of Regulations. A very small number (less than 5 that we know of) have done this via a qualification letters, most have done this via the filing of a 990 which is simply the nomenclature for the tax return for 501(c)(3& 4’s).
- There were no exceptions to filing the 990 until the Treasury Department issued Revenue Procedure 95-48 in 1995 which created/allowed affiliates of governmental units to be exempt from having to file the 990 form.
- Based on the 95-48 ruling, many reliefs; based on the advice of their auditors/consultants discontinued filing the 990 form the following year citing the ruling. Some reliefs may have never filed a 990 tax return form.
- The 2006 Congress tax reform bill renewed the 990 filing requirement as part of a more global solution to closing loopholes in the tax law associated with organizations who were sheltering income via the tax exempt status and in fact, did not meet the criteria established to qualify for such. The law provided all tax exempt organization to file a 990 starting in 2007 tax year and established the 2010 filing as the automatic revocation threshold for those who did not file.

Current Status:

The League of Minnesota Cities General Counsel Tom Grundhoefer facilitated a meeting of stakeholders on March 22, 2011 at the League Offices in St. Paul. Representatives from the Minnesota Fire Chiefs, Minnesota Fire Department Association, Minnesota Area Relief Association Coalition, a local impacted relief, the State Auditor, several CPA firms and two legal firms familiar with the issue.

The group formed a consensus that the following needs/strategies are required to resolve the issue. The overall goal would be to ensure that VFRA's are in fact tax exempt, are governmental units (or affiliates) and are therefore exempt from filing the 990 form.

At this time, the IRS is taking the position that a "blanket" solution is not available, thus, each relief must respond individually.

To accomplish this:

1. Communicate with all fire relief associations. The State Auditor will be drafting a "Special Newsletter" specific to this issue and distributing via their email broadcast list as well as sharing with the League and Fire Associations who will disseminate the information. The goal is to educate all reliefs and to assemble a list of those relief associations that have received letters, fines or penalties or lost their tax exempt status.
2. The League of Minnesota Cities has agreed to act as a facilitator and coordinator for all parties. This role is yet to be fully defined but does not include providing professional legal advice.
3. The state fire associations will take the lead in the formation of a coalition to raise funds to hire legal representation and guide the process.
4. The resolution requirements include:
 - a. Drafting of correspondence to the IRS that would be made available to VFRA's that receive a letter imposing fines or penalties and/or notice of revocation of tax exempt status. Relief associations that receive such a letter or notification would be able to "purchase" this correspondence at a much reduced rate (yet to be determined) as compared to hiring legal counsel on their own.
 - b. Working with the IRS to resolve the issue in a "blanket" fashion with the most likely approach the seeking of "Governmental Unit" status for VFRA's which the IRS clearly states are exempt from the 990 requirement which simultaneously resolves the tax exempt issue. In order to utilize this approach the applicant must include a \$10,000 processing fee with the current determination taking more than two years.
 - c. Simultaneously work with our federal congressional members to seek a permanent legislative solution.

For more information contact:

Nyle Zikmund

Fire Chief SBM Fire

nzikmund@sbfire.com

612-860-7442