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Pennsylvania Governor Signs Act Authorizing Municipalities to Provide Fire and EMS Volunteers with Tax Credits

On November 21, 2016, Governor Tom Wolf signed Act 172 of 2016 (Act 172) into law. Act 172 authorizes municipalities to offer tax credits against the earned income and real estate tax liability of certified fire company and nonprofit emergency medical services agency (EMS) volunteers. The purpose of the law is to incentivize current fire and EMS volunteers to remain active and increase recruitment of new volunteers.

Under Act 172, municipalities may establish, by ordinance, an earned income tax credit up to the full amount of the volunteer's municipal income tax liability, and a real property tax credit up to 20 percent of the volunteer's municipal real estate tax liability. In this ordinance, the municipality must, among other things, set forth the total amount of the tax credit that will be offered to a volunteer, a process to reject a request by a volunteer who does not satisfy the criteria for a tax credit, and a procedure by which a volunteer can appeal a rejected request.

In order to qualify for a tax credit authorized by Act 172, a volunteer must be an active volunteer, subject to the tax of a municipality that has authorized a credit pursuant to Act 172, and certified pursuant to the municipality's established "volunteer service credit program."

Once a municipality authorizes an earned income and/or real estate tax credit, it must create a "volunteer service credit program" with annual volunteer certification requirements. Pursuant to this program, municipalities must consider the following factors when determining a volunteer's certification eligibility: (1) the number of emergency calls to which the volunteer responds; (2) the volunteer's level of training and participation in formal training and drills; (3) the amount of time the volunteer spends on administrative and other support services in aid of the fire company or EMS; and (4) the amount of time the volunteer spends on other events and activities that aid the financial viability, emergency response or operational readiness of the fire company or EMS.

In conjunction with the establishment of a volunteer service credit program, a municipality, with advice from the fire chief and/or EMS supervisor, must adopt guidelines necessary to implement the credit program. The guidelines must include an application form for certification. A volunteer becomes certified and thus eligible for the tax credit(s) after the fire chief and/or EMS supervisor approves his or her application pursuant to these guidelines. In order to remain qualified for the tax credit(s), a certified volunteer must obtain re-certification from the municipality annually. If a volunteer is injured during a response to a call and his or her injury prevents service as an active volunteer, the volunteer remains eligible for the tax credit(s) for five tax years following the injury.

Once a tax credit program is in effect and volunteers are certified to receive tax credit(s), Act 172 requires that the fire chief and/or EMS supervisor maintain a log documenting the activities carried out by the certified volunteers. These logs are subject to review by the State Fire Commissioner, the Auditor General and the governing body or bodies where the fire company or EMS is located and/or provides service.

A municipality considering the adoption of an ordinance providing tax credits to qualified volunteers must provide public notice of its intent to adopt the ordinance at least thirty days prior to adoption. The municipality must also hold at least one public hearing, pursuant to public notice, on the ordinance prior to adoption. Finally, upon adoption of an ordinance establishing a tax credit, the municipality must notify the State Fire Commissioner.

Act 172 took effect on January 13, 2017. If you have any questions about enacting a tax credits in your municipality, please contact Stephen L. Korbel at 412-394-5627 or skorbel@babstcalland.com or Alyssa Golfieri at 412-773-8701 or agolfieri@babstcalland.com.