

March 7, 1996

Ms. Marcia VanFossen, Clerk
Salem Township
P.O. Box 75002
9600 Six Mile Road
Salem, MI 48175

Dear Marcia:

The purpose of this letter is to document some of the conversations we have had recently related to the taxability of mileage allowances paid to volunteer fireman.

We discussed the fact that, according to the Internal Revenue Service, mileage allowances are taxable to employees as regular compensation. These allowances are also includable in wages subject to payroll taxes. We also discussed several mileage reimbursement policies which could reimburse the volunteer fireman for non-commuting mileage on a tax free basis. Quite honestly, the mileage policies seem to be more documentation than it's worth, and including the wage allowance in taxable income seems to me to be the more logical approach based on an efficiency and dollar amount standpoint.

Since our original discussion, you have informed me that the department personnel feel that the mileage allowance should not be included in taxable income because they carry emergency equipment to the sight of the fire. My further review of the Internal Revenue Service guidelines shows that the value from personal use (i.e. commuting) attributable to **certain** vehicles may be excluded from taxable income. These regulations include some emergency vehicles. The most applicable emergency vehicle is outlined as follows:

(3) Clearly marked police or fire vehicles.

A police or fire vehicle is a vehicle, owned or leased by a governmental unit, or any agency or instrumentality thereof, that is required to be used for commuting by a police officer or fire fighter who, when not on a regular shift, is on call at all times, provided that any personal use (other than commuting) of the vehicle outside the limit of the police officer's arrest powers or the fire fighter's obligation to respond to an emergency is prohibited by such governmental unit. A police or fire vehicle is clearly marked if, through painted insignia or words, it is readily apparent that the vehicle is a police or fire vehicle. A marking on a license plate is not a clear marking for purposes of this paragraph.

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This really does not seem to fit the circumstances of a typical volunteer fire department who would be using their own vehicle while traveling to a fire. Taking the position that volunteer fire department members' vehicles fall under this position is aggressive and may not hold up if audited. However, the risk, due to the small dollar amount and small likelihood of audit for this purpose is small.

After my further review, I continue to feel that a strict interpretation of the Internal Revenue Service guidelines would classify the mileage allowance as taxable income to the recipient. The Board must evaluate how aggressive a position they want to take for the benefit of the Township and the fire department personnel.

Please call with any further questions.

Very truly yours,

PLANTE & MORAN, LLP


Michael J. Swartz

/vb