



Summary and References

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

The University of Tennessee
Municipal Technical Advisory Service
1610 University Avenue
Knoxville, TN 37921-6741
865-974-0411 phone
865-974-0423 fax
www.mtas.tennessee.edu

Table of Contents

Summary and References	3
------------------------------	---

Summary and References

Reference Number: MTAS-1427

Volunteer firefighters perform valuable emergency and essential services for their communities and are cost effective. The Fair Labor Standards Act includes provisions to recognize the public benefits of volunteers and prevent the manipulation of the law by employers seeking to avoid paying fair wages and overtime for work performed. Important points to remember include:

- Public employees may volunteer with their agency in a capacity that is different from what they are paid to do.
- Both FLSA and IRS rules and regulations apply to volunteers.
- Volunteers may receive a reasonable nominal fee for their service, and the municipality is responsible for determining the amount of the nominal fee.
- If volunteer firefighters receive compensation, the municipality must report the compensation using a W-2, not a 1099.
- Optionally, volunteers may serve under a valid accountable plan, which is not considered compensation by the IRS.
- The policies, rules, and regulations of the municipality apply to volunteers working for a municipally operated fire department.

It is important for a municipality to classify, supervise, and compensate volunteers appropriately. Failure to do so causes internal administrative and financial problems, discord with the volunteers, may result in fines or penalties, and may result in liability for back employment taxes.

References and Additional Information:

29 CFR Part 553, Fair Labor Standards Act Regulations, Application of the Fair Labor Standards Act to Employees of State and Local Government. Available at: <https://www.gpo.gov/fdsys/pkg/CFR-2013-title29-vol3/pdf/CFR-2013-title29...> [1]

Employer's Supplemental Tax Guide. IRS publications 15-A. [2]

Employer's Tax Guide to Fringe Benefits. IRS publication 15-b [3].

Internal Revenue Service [4]

Rynecki, Steven B. and Korom, James. Computing Costs Under FLSA. von Briesen & Redmond, S.C. (1985).

Stokes, Richard. The Fair Labor Standards Act: Revised and Updated. MTAS (2009).

U. S. Department of Labor. Wage and Hour Opinion Letter FLSA2006-28. [5]

U. S. Department of Labor. Wage and Hour Opinion Letter FLSA2005-51. [6]

Links:

[1] <https://www.gpo.gov/fdsys/pkg/CFR-2013-title29-vol3/pdf/CFR-2013-title29-vol3-part553.pdf>

[2] <http://www.irs.gov/pub/irs-pdf/p15a.pdf>

[3] <http://www.irs.gov/pub/irs-pdf/p15b.pdf>

[4] <http://www.irs.gov/>

[5] http://www.dol.gov/whd/opinion/FLSA/2006/2006_08_07_28_FLSA.htm

[6] http://www.dol.gov/whd/opinion/FLSA/2005/2005_11_10_51_FLSA.htm

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

Source URL (retrieved on 01/21/2020 - 5:45am): <https://www.mtas.tennessee.edu/reference/summary-and-references>

