



Guidance on Act 172 of 2016

The Pennsylvania Municipal League, the Pennsylvania State Association of Boroughs, the Pennsylvania State Association of Township Commissioners, and the Pennsylvania State Association of Township Supervisors prepared this guidance in consultation with the Pennsylvania State Fire Commissioner and the Department of Community and Economic Development. The guidance includes a sample ordinance.

Act 172 of 2016 provides 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. Active volunteers who meet the service credit criteria established by the municipality in consultation with the fire chief or supervisor of the EMS agency would be eligible for the tax credit. Each municipality may choose whether to offer the earned income tax credit, the real estate tax credit, or both.

Real estate tax credit: The real estate tax credit is limited to 20 percent of the municipal real estate tax liability for residential real property owned and occupied as the domicile of an active volunteer.

- The real estate tax credit will work as follows: an active volunteer would pay their municipal real estate tax bill and then file an application for the real estate tax credit with the municipality. If approved, the municipality would issue a check to the active volunteer as a real estate tax credit rebate. The municipality would need to approve the application if it was for residential real property owned and occupied by the applicant and they met the criteria required by the municipality to be considered an active volunteer for the prior year.
- The credit will **not** be printed on real estate tax bills.
- The municipality should verify with the county that an active volunteer is an owner-occupant of property within its jurisdiction by verifying that the property is registered for the Homestead Exemption. The tax bill that is submitted with the application may contain this documentation.

Earned income tax credit: The municipal 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 municipality 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 municipality who are active volunteers could apply for the tax credit. A nonresident option is not available.
- The state Department of Community and Economic Development will update the statewide earned income tax form to account for the new flat rate tax credit for municipalities that choose to implement the credit and will provide for separation of the school earned income tax liability from the municipality'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 2017 in 2018 and in later years and will provide documentation from the municipality that they are entitled to the tax credit.

Ordinance adoption process: At least 30 days prior to adoption of the ordinance, the municipality must place a legal advertisement of its intent to adopt an ordinance implementing the tax credit and then must conduct at least one public hearing on the issue. Once adopted, the ordinance would need to be sent to the Office of the State Fire Commissioner, as well as the county law library and the tax officer for the municipality's tax collection district (*if adopting an EIT tax credit.*)

Who would qualify for the tax credit? A member of a volunteer fire company or a nonprofit emergency medical services agency identified by the municipality that meets service criteria established by the municipality in consultation with the VFC and EMS companies. Members who are volunteer emergency responders would qualify, as well as volunteers who are members, but serve in other roles, such as ladies auxiliary. The municipality should set criteria or participation levels for the different classes of membership.

What happens if many of our volunteers live outside of our municipality? Since each municipality 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.

Eligibility period: If implementing the tax credit, it may be set up so that the service is earned in 2017 and the credit would apply toward the 2018 real estate tax or the 2017 earned income tax liability when filing tax forms in 2018. These timeframes could be adjusted for future years.

How will the volunteers earn credit? While the tax credit program must be established by ordinance, program criteria for earning the credit should be set by the municipality by resolution. Act 172 states that the municipality 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.

Other considerations for earning credit:

- Municipalities should also consider the total number of years the volunteer has served.
- If the fire company has a Length of Service Award Program (LOSAP) in place, the municipality should consider using the criteria for that program for consistency and to limit recordkeeping for the fire chief.
 - For existing LOSAP programs, most require a participation level of 20 to 35 percent of activities for volunteer firefighters to qualify for the program benefits. This could include participation in emergency calls, meetings, training, certifications earned, work detail, time spent on standby, and holding an elected or appointed position within the organization.
 - Non-firefighter members are usually required to have a higher participation level, often at 30-35 percent participation. This could include meetings, fundraisers, administrative support, equipment maintenance, and holding an elected or appointed position within the organization.
- The municipality 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.
- 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 under Act 172. The injured volunteer must submit self-certification and an application with documentation from a licensed physician. An injured emergency responder may receive the credit for up to five consecutive tax years.

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 municipality 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. Note that tax notices are distributed between January 15 and March 1 of each year. In order to comply with the 45 day notice timeframe, the annual credit period may need to end as early as November 30.

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 municipality for review.

Review process: The municipality cross-references the application with the notarized eligibility list. If the active volunteer is on the notarized list, they should be approved by the governing body at a public meeting and the municipality then issues a tax credit certificate to the active volunteer. If adopting an EIT tax credit, the municipality 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 municipality 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 municipality must provide a process for appealing a denial of an earned income tax credit and/or real property tax credit. Appeals of the earned income tax credit denials should be made under municipality's procedure in its Local Taxpayer Bill of Rights ordinance. Appeals of real estate tax credit denials should be made under the Local Agency Law.

Please keep in mind that this guidance document is intended to be an informational resource only. PSATS does not guarantee its legal effectiveness nor its appropriateness to any particular situation. PSATS encourages township officials to review and discuss all proposed ordinances and resolutions with their solicitor.



**Model Ordinance to Implement Act 172 of 2016, Incentives for
Municipal Volunteers of Fire Companies and Nonprofit Emergency
Medical Services Agencies.**

Township of _____
_____ County, Pennsylvania

Ordinance No. ____ of 20__

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF _____
TOWNSHIP, _____ COUNTY, PENNSYLVANIA, ESTABLISHING A
VOLUNTEER SERVICE CREDIT PROGRAM; ENACTING TAX CREDITS
FOR VOLUNTEER MEMBERS OF VOLUNTEER FIRE COMPANIES AND
NONPROFIT EMERGENCY MEDICAL SERVICE AGENCY; AND
ESTABLISHING ADMINISTRATIVE PROCEDURES AND APPEALS**

SECTION 1. DEFINITIONS.

The following words and phrases when used in this ordinance shall have the meanings given to them in this section unless the context clearly indicates otherwise.

“Active Volunteer.” A volunteer for a volunteer fire company or nonprofit emergency medical service agency listed under Section 2(c) who has complied with, and is certified under, the Volunteer Service Credit Program.

“Earned Income Tax.” A tax on earned income and net profits levied under Chapter 3 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

“Eligibility Period.” The timeframe when volunteers may earn credit under the Volunteer Service Credit Program.

“Emergency Responder.” A volunteer who responds to an emergency call with one of the entities listed under Section 2(c).

“Emergency Response Call.” Any emergency call to which a volunteer responds, including travel directly from and to a volunteer’s home, place of business or other place where he/she shall have been when the call was received.

“Qualified Real Property.” A residential real property owned and occupied as the domicile of an active volunteer.

“**Volunteer.**” A member of a volunteer fire company or a nonprofit emergency medical service agency.

SECTION 2. VOLUNTEER SERVICE CREDIT PROGRAM.

A) **Establishment.** _____ Township hereby establishes a Volunteer Service Credit Program. The goal of the program is to encourage membership and service in the community’s volunteer fire companies and nonprofit emergency medical service agencies.

B) **Program Criteria.** The Board shall establish, by resolution, the annual criteria that must be met to qualify for credits under the program based on the following:

- (1) The number of emergency response calls to which a volunteer responds.
- (2) The level of training and participation in formal training and drills for a volunteer.
- (3) The total amount of time expended by a volunteer on administrative and other support services, including but not limited to:
 - (i) fundraising
 - (ii) providing facility or equipment maintenance
 - (iii) financial bookkeeping
- (4) 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 service agency.
- (5) The total number of years the volunteer has served.

C) **Eligible Entities.** The Volunteer Service Credit Program is available to residents of the township who are volunteers of the following volunteer fire companies and nonprofit emergency medical service agencies that provide service to _____ Township:

- (1) _____ (volunteer fire company or nonprofit emergency medical service agency)
- (2) _____ (volunteer fire company or nonprofit emergency medical service agency)

D) **Eligibility Period.** A volunteer must meet the minimum criteria, set by resolution under this section, during the eligibility period to qualify for the tax credits established under Section 3.

(1) For 2017, the eligibility period under the Volunteer Service Credit Program shall run from January 20, 2017 until _____ 2017. **[Note: January 20, 2017 is the effective date of Act 172 of 2016. The end date shall be more than 45 days before the tax bills are sent.]**

(2) For 2018, and each subsequent year thereafter, the eligibility period shall run from January 1st until _____.

E) **Recordkeeping.** The chief of each volunteer fire company or the supervisor of the nonprofit emergency medical service agency listed under Section 2(c) shall keep specific records of each volunteer's activities in a service log to establish credits under the Volunteer Service Credit Program. Service logs shall be subject to review by the Board of Supervisors, the State Fire Commissioner and the State Auditor General. The chief, or supervisor, shall annually transmit to the Township a notarized eligibility list of all volunteers that have met the minimum criteria for the Volunteer Service Credit Program. The notarized eligibility list shall be transmitted to the Township no later than _____ of each year. The chief or supervisor shall post the notarized eligibility list in an accessible area of the volunteer agency's facilities. **[Note: Act 172 states the eligibility list must be transmitted to the township no later than 45 days before the tax notice is sent. Tax notices could be sent as early as January 15th.]**

F) **Application.** Volunteers that have met the minimum criteria of the Volunteer Service Credit Program shall sign and submit an application for certification to their chief or supervisor. The chief or supervisor shall sign the application if the volunteer has met the minimum criteria of the Volunteer Service Credit Program, and forward it to the township secretary. Applications shall not be accepted by the township after April 1st of each year.

G) **Municipal Review.** The township secretary shall review the applications for credit under the Volunteer Service Credit Program and shall cross reference them with the notarized eligibility list. The Board of Supervisors shall approve all applicants that are on the notarized eligibility list. All applicants approved by the Board of Supervisors shall be issued a tax credit certificate by the Township Secretary.

H) **Official Tax Credit Register.** The Township shall keep an official Tax Credit Register of all active volunteers that were issued tax credit certificates. The township secretary shall issue updates, as needed, of the official Tax Credit Register to the following:

(1) Board of Supervisors;

(2) Chief of the volunteer fire company(ies);

(3) Chief or supervisor of the nonprofit emergency medical services agency(ies);

(4) Tax officer for the township Tax Collection District [**Note:** *If Earned Income Tax Credit is enacted*]

I) Injured Volunteers.

(1) An emergency responder that is injured during an emergency response call may be eligible for future tax credits. The injury must have occurred while responding to, participating in, or returning from an emergency response call with one of the entities listed under Section 2(c).

(2) An injured emergency responder shall provide documentation from a licensed physician with the application required under Section 2 stating that their injury prevents them from performing duties to qualify as an active volunteer. In such a case, the injured emergency responder shall be deemed an active volunteer for that tax year.

(3) An injured emergency responder shall annually submit the application required under Section 2, along with updated documentation from a licensed physician stating that the injury still exists and prevents them from qualifying as an active volunteer. The injured emergency responder shall again be deemed an active volunteer for that tax year. An injured emergency responder shall only be deemed an active volunteer for a maximum of five consecutive tax years.

SECTION 3. EARNED INCOME TAX CREDIT.

A) **Tax Credit.** Each active volunteer who has been certified under the _____ Township Volunteer Service Credit Program shall be eligible to receive a tax credit of up to _____ [**Note:** *Specify specific dollar amount*] of the Earned Income Tax levied by the township. When an active volunteer's earned income tax liability is less than the amount of the tax credit, the tax credit shall equal the individual's tax liability.

B) Claim.

(1) An active volunteer with a tax credit certificate may file a claim for the tax credit on their township earned income tax liability. When filing a final return for the preceding calendar year with the tax officer for the _____ Tax Collection District.

B) Rejection of Tax Credit Claim.

(1) The tax officer shall reject a claim for a tax credit if the taxpayer is not on the official Tax Credit Register issued by the township secretary.

(2) If the tax officer rejects the claim, the taxpayer shall be notified in writing of the decision. The notice shall include the reasons for the rejection and provide the method of appealing the decision pursuant to Section 5.

(3) Taxpayers shall have 30 days to appeal the decision of the tax officer.

SECTION 4. REAL PROPERTY TAX CREDIT.

A) **Tax Credit.** Each active volunteer who has been certified under _____ Township Volunteer Service Credit Program shall be eligible to receive a real property tax credit of _____% [**Note:** *Act 172 limits the percentage to 20%*] of the township tax liability on qualified real property. If the tax is paid in the penalty period, the tax credit shall only apply to the base tax year liability.

B) Claim.

(1) An active volunteer with a tax credit certificate may file a claim for the tax credit on their qualified real property tax liability for the township's real estate tax levy. The tax credit shall be administered as a refund by the township treasurer. An active volunteer shall file the following with the township secretary [**Note:** *This may include the township's general fund millage and special tax levies.*]:

(i) A true and correct receipt from the township real estate tax collector of the paid township real property taxes for the tax year which the claim is being filed.

(ii) The tax credit certificate.

(iii) Photo identification.

(iv) Documentation that the tax paid was for qualified real property as defined in this ordinance.

(2) If the active volunteer provides all documents required under this subsection, the township treasurer shall issue the tax refund to the active volunteer.

C) Rejection of the Tax Credit Claim.

(1) The township secretary shall reject the claim for a township real property tax credit if the taxpayer fails to provide the documents required under subsection (B)(1).

(2) If the township secretary rejects the claim, the taxpayer shall be notified in writing of the decision. The notice shall include the reasons for the rejection and provide the method of appealing the decision pursuant to Section 5.

(3) Taxpayers shall have 30 days to appeal the decision of the township secretary.

SECTION 5. APPEALS.

A) Earned Income Tax Credit Appeals.

(1) Any taxpayer aggrieved by a decision under Section 3 shall have a right to appeal said decision.

(2) A taxpayer shall have 30 days to appeal a decision or rejection of claim.

(3) All appeals of decisions under Section 3 shall follow the provisions of the Act of May 5, 1998, P.L.301, No. 50, known as the Local Taxpayers Bill of Rights.

(4) [**Note:** Reference the procedure identified by the township's Local Taxpayer Bill of Rights ordinance]

B) Real Property Tax Credit Appeals.

(1) Any taxpayer aggrieved by a decision under Section 4 shall have a right to appeal said decision.

(2) A taxpayer shall have 30 days to appeal a decision or rejection of claim.

(3) All appeals under Section 4 shall follow the provisions of 2 Pa.C.S. Chapter 5, Subchapter B (relating to practice and procedure of local agencies), and 2 Pa.C.S. Chapter 7, Subchapter B (relating to judicial review of local agency action), also known as the "Local Agency Law."

SECTION 6. SEVERABILITY.

In the event that any provision, section, sentence, clause, or part of this Ordinance is held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of the Ordinance, it being the intent of the _____ that such remainder shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.

SECTION 7. EFFECTIVE DATE.

This ordinance shall be effective _____.

The sample ordinance can be used by townships to develop their own ordinances. Please keep in mind that this example is merely an informational resource for you to use in developing your own ordinance. PSATS does not guarantee the legal effectiveness of this example, nor its appropriateness to any particular situation. This is for your judgment in consultation with your legal representative. PSATS encourages township officials to review and discuss all proposed ordinances with their township solicitor.