

March 22, 2016

Update from the Annuity Committee

In January 2015 the Retired Firefighters Association (RFA) received notification from the Department of the Treasury, Office of District of Columbia Pensions (ODCP), that approximately one hundred and thirty-six members (136) of its members were receiving incorrect annuity payments. The RFA requested additional information from The Treasury Department, such as, the names of the individuals involved. The Treasury Department has denied any attempts from the RFA to become involved in a solution to this issue. The Annuity Committee has been able to identify approximately sixty-three (63) members who have been adversely affected by the actions of the District and Federal Governments.

Shortly after the RFA was notified of the issue its members began receiving letters, around the end of January 2015, the letters provided a description of the alleged errors and provided information to the retiree on how to apply for reconsideration of the reduction in their monthly annuity. Most, if not all, of the members involved have been retired for more than twenty (20) years. Of the affected members that applied for reconsideration the committee is unaware of any changes in the Governments original determination. The committee is aware of one (1) member whose initial Government demand was changed in the appeal process.

After a couple of months of receiving numerous notices from the Government asking for extensions of the time frames, so that they could complete their research, members have been receiving notices of denial of appeals, demands for recoupment and recommendations for submitting the Internal Revenue Service (IRS) form 1099-C.

Currently, the Annuity Committee is aware of twelve (12) members from whom the Government is seeking restitution. If you or someone you know is in this position we encourage you to file for a waiver of the debt amount. There are three (3) conditions that you must meet in order to be successful when applying for a waiver.

1. The overpayment must not be the result of fraud, misrepresentation or lack of good faith on your part
2. You are not at fault in causing the overpayment
3. At least one of the following applies to you:
 - A. you can demonstrate that the repayment of the overpayment would cause you a financial hardship
 - B. you can demonstrate detrimental reliance on your overpayment
 - c. You can show recovery would be unconscionable under the circumstances

The Committee believes that the Government would admit that ALL Fire Department retirees meet the first two conditions. In item 3b “detrimental reliance” the retiree relinquished his position and sought retirement based on Government errors. The employee could not return to his position after more than 20 years of retirement. In item 3c the Government uses the term “unconscionable” and then proceeds

to use its interpretation of the word. It is difficult to understand how the Government does not believe that it is unconscionable, shocking and egregious to seek recoupment, from a public service employee, who in most instances served over twenty-five years in the Department are now in their senior years having been retired for more than twenty (20) years. It is against equity and good conscience to deny a full waiver.

The Treasury Department, hiding behind the cloak of regulations, is looking for a way out of issuing waivers.

Contact a committee member and they will customize a waiver response for you. A revised sample waiver request letter is provided on the RFA web site

Since our last update we have been informed of several members who received notices that ODCP had notified IRS on 1099-C of a debt forgiveness for 2015. In a letter, dated February 12, 2016, addressed to Ms. Nani A. Coloretti Assistant Secretary for Management U.S. Department of Treasury, the RFA requested information on the application of a 1099-C to this issue. The Government suggest that the retiree seek assistance from a "professional tax advisor". The Government assumes that the retiree should continue to pay for their (the Governments) mistakes. The Government states ..."this is only a tax reporting requirement; it does not necessarily mean you will be required to pay taxes on the discharged debt". At the March 2016 RFA meeting a motion was passed to enable the Association to seek advice from a tax professional on this issue on behalf of the membership.

If anyone has received advice from a tax professional on this issue we would like to hear from you.