112th Congress
1st Session

H. R. 2630

To amend the Internal Revenue Code of 1986 to clarify the treatment of emergency service volunteers as independent contractors.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2011

Mr. Wu (for himself, Mr. Burton of Indiana, Mr. Courtney, Mr. DeFazio, Mr. Sablan, and Mr. Murphy of Connecticut) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to clarify the treatment of emergency service volunteers as independent contractors.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Volunteer Firefighter Fairness Act of 2011”.

4 SECTION 2. FINDINGS.

5 The Congress finds that—

6 (1) the number of volunteer firefighters in the United States has decreased from 880,000 in 1984
to 827,150 in 2008 according to the National Fire Protection Association;

(2) according to the National Fire Protection Association, volunteers comprise 72 percent of our Nation’s fire and emergency service;

(3) the fire service is witnessing a reduced number of volunteers due to increasing emergency call volumes, the large time demands that accompany ongoing training, and the struggle to balance the career and family obligations of today’s two-income families;

(4) to help recruit and retain volunteer firefighters, some State and local governments may offer paid expenses, reasonable benefits, a nominal payment, or any combination thereof;

(5) historically, fire departments used the Internal Revenue Service’s (IRS) Form 1099 to report these reasonable benefits and nominal payments for their volunteers;

(6) increasingly, many volunteer fire departments are being instructed by local offices of the IRS that they must use the Form W–2 to report these nominal payments and reasonable benefits, instead of the Form 1099;
(7) the use of IRS Form 1099 for volunteer firefighters has been the long-standing practice of many volunteer fire departments because it accurately reflects the relationship between the volunteer firefighter and the volunteer fire department;

(8) by requiring the use of W–2 forms, the IRS is putting an onerous burden on fire departments and redefining the treatment of volunteer firefighters by Federal, State, and local regulations;

(9) because of this reason, IRS Form W–2s may greatly alter the historic role of volunteer responders and the cost-saving benefits that they provide to their local communities;

(10) a volunteer firefighter performing specific duties should not be considered as an employee, and the fire department for whom such services are performed should not be considered as an employer of their services; and

(11) fire departments should be allowed to follow their historic practice of issuing Form 1099s to their volunteers.

SEC. 3. TREATMENT OF EMERGENCY SERVICE VOLUNTEERS AS INDEPENDENT CONTRACTORS.

(a) In General.—Subsection (a) of section 3508 of the Internal Revenue Code of 1986 (relating to treatment
of real estate agents and direct sellers) is amended by striking “or as a direct seller” and inserting “, as a direct seller, or as a qualified emergency service volunteer”.

(b) Qualified Emergency Service Volunteer.—Subsection (b) of section 3508 of such Code is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) Qualified Emergency Service Volunteer.—

“(A) In General.—The term ‘qualified emergency service volunteer’ means any bona fide volunteer performing qualified services for an eligible employer.

“(B) Definitions.—Terms used in subparagraph (A) shall have the respective meanings given such terms by paragraphs (1) and (11) (B) and (C) of section 457(e).”.

(c) Conforming Amendments.—

(1) The section heading for section 3508 of such Code is amended by striking “AND DIRECT SELLERS” and inserting “, DIRECT SELLERS, AND CERTAIN EMERGENCY SERVICE VOLUNTEERS”. 
(2) The item relating to section 3508 in the table of sections for chapter 25 of such Code is amended by striking “and direct sellers” and inserting “, direct sellers, and certain emergency service volunteers”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed after December 31, 2011.