

REMINDER

A monthly guide about IMRF topics of interest.

Independent contractors and IMRF

ROUTE TO:

- | | |
|---|---|
| <input type="checkbox"/> Director | <input type="checkbox"/> Personnel/HR |
| <input type="checkbox"/> Manager | <input type="checkbox"/> Data Processing |
| <input type="checkbox"/> Department Head(s) | <input type="checkbox"/> Payroll Dept. |
| <input type="checkbox"/> Authorized Agent | <input type="checkbox"/> Accounting/Finance |
| <input type="checkbox"/> Asst. to AA | <input type="checkbox"/> Other |

A person performing services for an employer is not an independent contractor merely because there is a contract and the employer designates the person as an independent contractor. A worker is either an employee or an independent contractor based on the facts of the relationship between the employer and the worker. IMRF uses Internal Revenue Service (IRS) guidelines when performing employer audits to determine if the proper wages were reported. There are specific characteristics of an independent contractor that employers need to consider before classifying a worker as such.

Independent contractor criteria

A person performing services for an employer as an independent contractor is **NOT** an employee. The facts that provide evidence of whether a person is an employee or an independent contractor fall into three categories per the IRS:

- **Behavioral:** Does the employer control or have the right to control what the worker does and how the worker does his or her job?
- **Financial:** Are the business aspects of the worker's job controlled by the employer (including how the worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.)?
- **The type of relationship:** Are there written contracts or employee-type benefits offered to the worker (i.e. a pension plan, insurance, vacation pay, etc.)? Will the relationship continue and is the work performed a key aspect of the business?

Potential penalties

The IRS has the authority to make official determinations regarding the classification of an employee. IMRF cautions employers to *carefully* examine the classification of anyone who works the employer's IMRF hourly standard (600 or 1,000 hours annually) and is not treated as an IMRF-participating employee. If your employer incorrectly classifies an employee as an independent contractor, the employer will be assessed retroactive IMRF contributions on the compensation paid to the incorrectly classified employee.

To learn more...

The [IRS provides extensive reference material and links](#) employers may review to determine an independent contractor. Additionally, review [Section 3.10 A of the IMRF Manual for Authorized Agents](#).

Employer Access, current forms, booklets, legislative information and more is available at www.imrf.org.

Mailing address: 2211 York Road, Suite 500, Oak Brook, IL 60523-2337

Member-only Phone Number: 1-800-ASK-IMRF (275-4673) Monday - Friday, 7:30 AM-5:30 PM (CST)

Employer-only Phone Number: 1-800-728-7971

