

REMINDER

A monthly guide about IMRF topics of interest.

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IMRF and independent contractors

An IMRF employer cannot simply designate an employee 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 the 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.

Contractor vs. employee

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

- **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 and 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?

The IRS and classification

The IRS has the authority to make official determinations regarding the classification of an employee. If your employer and IMRF cannot resolve a dispute over a job classification, your employer will be required to seek an official determination regarding the position from the IRS ([refer to the IRS guidelines](#) for more information).

Potential penalties

IMRF cautions employers to carefully examine the classification of anyone who works IMRF's 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. There may be additional financial considerations for retirees.

For more information

Employers are encouraged to review [Section 3.10A](#) (schools) and [Section 3.60A](#) (others) of the *Manual for Authorized Agents* to help determine and classify an independent contractor.

Employer Access, current forms, booklets, legislative information, and more are 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)

Employer-only Phone Number: 1-800-728-7971 *Monday - Friday, 7:30 AM—5:30 PM (CST)*

