



A RETIREE HEALTHCARE BENEFIT BY FIRE FIGHTERS FOR FIRE FIGHTERS



IAFF MERP
MEDICAL EXPENSE
REIMBURSEMENT PLAN

2024

GENERAL INFORMATION
FOR EMPLOYERS AND
IAFF LOCALS

What is the IAFF MERP?

A NEW KIND OF RETIREE HEALTH PLAN

IAFF MERP is a Retiree Medical Trust™ that takes advantage of the power of pooled financing to help defray the costs of medical expenses after retirement by providing a regular monthly benefit payment to eligible members. It is especially attuned to the circumstances of firefighters of public employers, who regularly experience a longer period for high-cost health coverage between termination of employment and commencement of coverage under Medicare.

This type of Trust program enjoys significant tax benefits: it is structured to enable financing with pre-tax monthly contributions during active employment, which are in turn used to reimburse eligible claims for medical expenditures after retirement. No taxes are due on these reimbursements. Also, investment earnings of the Trust are tax-exempt. The Trust assets are protected in perpetuity by federal law, to be spent only on permissible medical expense reimbursement benefits.

Membership in IAFF MERP is based on national affiliation with the IAFF. Hence, participation is available to any IAFF Local associated with a governmental entity.

LEGAL FOUNDATION

IAFF MERP is a multi-employer Trust established under IRC 501(c)(9) (a “Voluntary Employees’ Beneficiary Association” or “VEBA”) and essentially has the same tax exemptions for public sector employers as an IRC Section 115 trust. A VEBA however is an independent pass-through entity rather than an extension of a governmental employer’s essential functions.

IAFF MERP must meet the requirements stated in IRC Sections 501(c)(9)-1 through 501(c)(9)-8, including the requirement that virtually all the VEBA’s operations take place to provide eligible benefits to members.

The VEBA must be controlled by its members, independent trustees, or outside fiduciaries appointed by its membership to act on their behalf. IAFF MERP is controlled by a board of firefighter trustees who are plan fiduciaries and most of whom participate in the Trust.

BASIC PLAN DESIGN

CONTRIBUTIONS. The participating firefighter unions and their employers negotiate to make mandatory, defined contributions into the Trust fund during employment. Each employer and Local select a contribution amount (e.g., \$100/month/employee). Even though there are several unions and employers who participate in the Trust, the contribution amount can vary by bargaining unit and employer. Minimum contribution to participate is \$75 per month; there is no maximum monthly contribution.

Each Local will negotiate its own contribution rate (some may be at \$100/month, others at \$200/month, etc.). Contributions may be uniform across the bargaining unit or may vary by defined eligible classes. For example, bargaining units with different retiree medical benefits, usually based on date of hire, may structure contributions to address the specific needs of the various tiers of employees. Therefore, employees with more robust retiree benefits may participate in IAFF MERP at a reduced level, or be fully excluded, so as not to be a barrier to participation by junior employees who lack similar benefits.

Note: Contributions cannot be based on a percentage of an individual employee's salary. However, contributions can be based on a percentage of a specific benchmarked salary step (e.g., "all employees shall contribute a monthly amount equivalent to 1% of top step firefighter base salary")

POOLING OF CONTRIBUTIONS. The IAFF MERP is designed to pool all recurring contributions to provide a lifetime stream of payments to retirees. This is roughly analogous to a defined benefit pension plan. Although no benefits are vested, the Trustees work with an actuary and investment manager to set benefit levels based on investment returns, demographics, etc. The pooled plan design has the following advantages over an individual account plan:

1. **LIFETIME, MONTHLY BENEFIT PAYMENTS.** By comparison, an individual account might run out when retirees may need it most, in older age.
2. **HIGHER AGGREGATE BENEFITS** than HRA or other individual account plan, due to pooling of contributions. Investment of an individual HRA (or individual account "VEBA") normally gets more conservative at retirement age. There is no need for that move to conservatism when there is a continual stream of contributions from new employees joining the pool, resulting in the long-term smoothing of investment returns.
3. **PROFESSIONAL INVESTMENT MANAGEMENT** of all contributions to get access to more high-quality investment options, expert advice, and reductions in investment fees.

INDIVIDUAL ACCOUNTS. In combination with the pooled account above, the IAFF MERP offers an Individual Account component for Locals that negotiate the transfer of lump sums to the Trust. Generally, this would include the transfer of vacation and/or sick leave either during active service or at separation of employment. Individual Accounts offer participants self-directed investment options and a secondary funding source to augment the monthly pooled benefit.

Assets in the Individual Account may also be transferred to the pooled account and converted into lifetime benefits or be utilized to meet Active Service requirements to qualify for lifetime benefits as an Eligible Retiree.

FUNDING SOURCES. In addition to recurring payroll contributions from employees and/or employers and annual or terminal leave transfers, IAFF MERP can accept contributions of monetary incentives in lieu of an employer-sponsored health plan or surplus flexible benefits dollars.

MONTHLY BENEFIT LEVELS. The Lifetime¹ Monthly Benefit is determined by the number of Active Service Units (ASUs) one has accrued during his/her active employment (or accrued because of conversion of leave transfer, other Lump Sum Transfer, or Individual Account balance) and the Unit Multiplier (UM). The UM is an actuarially derived number based on the Trust plan design, investment performance, and various demographic factors. Higher contribution rates and longer plan participation mean more ASUs which equate to higher benefit levels after retirement.

RETIREE CONTRIBUTIONS. IAFF MERP can accept tax-exempt employer contributions on behalf of retired employees provided that the retiree contributed to IAFF MERP as an active employee. Retiree contributions eliminate the administrative need for employers to verify the retiree utilized these funds for qualifying healthcare expenses, as the IAFF MERP assumes this responsibility.

¹ Monthly Benefit Levels are intended to last for the lifetime of the Eligible Retiree. However, benefits are not vested, and the Trustees have the right to increase, decrease or terminate benefits at any time to preserve the financial stability of the Plan.

EMPLOYER CONSIDERATIONS

All contributions to IAFF MERP must come directly from the employer. The employer may not transfer any contributions to the Local for payment to the Trust. The employer must agree to provide identifying employee demographics, withhold, transfer, and report contributions to the IAFF MERP Trust Office. For most employers this will likely be a similar administrative process to group insurance programs.

LIMITATIONS OF LIABILITY. As stated above, VEBAs are not a component of an employer benefit program. Therefore, employers are not a party to the Trust. Except for the obligation to make and report contributions to the Trust per the collective bargaining agreement, a participating employer shall have no obligation to provide benefits to which its employees may be entitled from the VEBA. A participating employer shall not be a fiduciary of the Trust, or any employee benefit plan funded through the Trust, and shall have no responsibility or liability for Trust investments, the income tax treatment of Trust earnings or benefits provided under the employee benefit plans of the Trust.

JOINDER AGREEMENT. Local and employer representatives will be asked to execute a Joinder Agreement for participation in IAFF MERP. The employer signs acknowledging the Local's terms of participation in the Trust and agrees to withhold, transfer, and report contributions.

EMPLOYER OBLIGATION. The employer's sole obligation is to transfer and report contributions in compliance with the collective bargaining agreement with the Local. As benefit levels from the Trust are not vested, the Trust will adjust benefit levels based upon the bargained contributions, investment returns, and demographics of the Trust. Unlike a defined benefit pension plan, the Trust has no right to request or require a change in contributions. The level of contributions to fund the Trust benefits is purely subject to negotiation with the Local in collective bargaining.

TAX ADVANTAGES

Participation in the IAFF MERP can offer one or more of the following tax advantages:

- a. **TAX ADVANTAGE TO THE EMPLOYER.** Employers avoid payroll taxes on the contributions, which they generally would be required to pay if the amount were paid in salary.
- b. **TAX ADVANTAGE TO THE EMPLOYEE.** Contributions are generally deposited pre-tax and earnings on the contributions are tax-exempt. The contributions can be negotiated by the Local so that they reduce the taxable income of the employee (i.e., pre-tax contributions). Also, the contributed funds in the pool realize significant earnings over time, none of which are taxed.
- c. **NO CONSTRUCTIVE RECEIPT.** To allow pre-tax treatment and avoid constructive receipt of Trust contributions, contributions are mandatory for the entire bargaining unit or a designated class of the bargaining unit. These contributions are made mandatory through collective bargaining agreements that prohibit the employee from electing whether to participate and at what level. Bargaining agreements must prohibit any election to receive the contribution in cash. For tax purposes, income is not constructively received if the taxpayer's control of its receipt is subject to substantial limitations or restrictions. The IRS has determined on multiple occasions that mandatory collectively bargained contributions to this type of plan without a cash option for the employee are not constructively received and are instead excludable from the taxable income of the employee.

- d. **TAX ADVANTAGE TO THE RETIREE.** Benefits received from the Trust are non-taxable income to the retiree (and his/her dependents). When the retiree eventually takes benefits from the plan to reimburse for premiums or miscellaneous medical expenses the Trust Office will verify that reimbursements are tax-deductible IRS medical expenses in accordance with IRS regulations and guidance, including IRS Publication 502.

BARGAINING LANGUAGE REQUIREMENTS

For employers and Locals subject to collective bargaining, IAFF MERP terms of participation are made mandatory pursuant to the Memorandum of Understanding/Collective Bargaining Agreement between the employer and the Local. Required MOU/CBA provisions include:

1. Defined Class of employees participating (no employee in the Defined Class is permitted to opt-out of participation or receive any portion of contributions in cash)
2. Source(s) and amount(s) of contributions (i.e., employee and/or employer, leave transfer, etc.)
3. Employer commitment to withhold, transfer, report contributions to the Trust

Note regarding *Janus* decision: Employees opting out of union membership, but who are still bound by the terms of the MOU/CBA, must mandatorily participate in IAFF MERP if they would otherwise be included in the Defined Class of participating employees.

IAFF MERP will assist with development of approved bargaining language. Trust legal counsel will review and approve all bargaining language for IRS compliance prior to adoption and commencement of contributions to the Trust.

PROMOTING EMPLOYEES. Employees promoting out of the Local and into another bargaining unit (i.e., management unit) may only continue contributions to IAFF MERP pursuant to the terms of the MOU/CBA applicable to that unit. If the management unit MOU/CBA does not contain IAFF MERP provisions, contributions must cease.

Employees promoting out of the Local to a non-represented classification may only make contributions to IAFF MERP subject to a Resolution adopted by the employer's governing body. The Resolution shall make mandatory continued contributions at terms mirroring those of the participating Local. IAFF MERP will assist with the development of such a Resolution.

HIGHLY COMPENSATED INDIVIDUALS (HCIs). To satisfy IRS discrimination testing and avoid discrimination in favor of HCIs, promoted management employees cannot contribute to IAFF MERP at a higher recurring amount than rank and file employees represented by the Local. This is also the reason that the Trust cannot accept contributions based upon a percent of individual salary.

NON-BARGAINING CONSIDERATIONS

For Locals without collective bargaining, IAFF MERP contributions can be made pre-tax or post-tax. Contributions can be employer-funded or employee-funded but must be restricted to dues-paying members of the IAFF Local. Non-Association members must be excluded from participating.

PRE-TAX CONTRIBUTIONS require:

1. Special Agreement in place between the Trust, the Employer, and the Local
2. The Special Agreement must make contributions mandatory on behalf of all Local members within the Defined Class

IAFF MERP will assist with development of an approved Special Agreement. Trust legal counsel will review and approve the Special Agreement for IRS compliance prior to adoption and commencement of contributions to the Trust.

POST-TAX CONTRIBUTIONS are permissible and no Special Agreement is needed with the Employer. However, a Joinder Agreement is required to be signed by the Local that commits to reporting for contributions on behalf of Local members. Individual approval for employee payroll deduction is permissible for post-tax contributions.

THE IAFF MERP TRUST OFFICE

Vimly Benefits Solutions is the IAFF MERP Trust Office.

Vimly administers all aspects of the IAFF MERP that interact with plan participants and employers.

Vimly Benefit Solutions

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RESOURCES

DiMartino Associates is the IAFF MERP Benefits Consultant.

Contact our office to learn more about how to bring this important benefit to your firefighters.

DiMartino Associates

206-623-2430 or 800-488-8277

Email: IAFFTrust@dimarinc.com



Scan this QR code for
more information at:

IAFFMERP.org



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