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Employers With 5 to 50 California Employees Must Register in CalSavers Retirement Program by June 30

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California law requires small employers with 5 to 50 California-based employees to offer a retirement savings program or enroll as a participating employer in the CalSavers Retirement Savings Program by June 30, 2022. The requirement is based on a company's having California-based employees, regardless of the company's state of incorporation or headquarters location.

Small employers that sponsor their own retirement savings program are required to register as exempt from the CalSavers program by the June 30 deadline. Information about the CalSavers program and employer registration may be found on the CalSavers program's employer website.

CalSavers program structure

Generally, the CalSavers program permits eligible employees to make after-tax contributions to a Roth IRA, and employer contributions are not required or permitted.

- Eligible employees are automatically enrolled at a 5% deferral rate if they do not make a deferral election.
- As the savings vehicle is a Roth IRA, employees with higher modified adjusted gross income (MAGI) are phased out of eligibility completely at $144,000 for a single filer and $214,000 for a married/joint filer.
- The maximum annual contribution is $6,000 ($7,000 if age 50+), subject to reduction for higher MAGIs.

Employer size determination

Employer size is based on the employer's average number of employees throughout the prior calendar year, determined by averaging the number of employees reported to the California Employment Development Department on the four Form DE9C filings for that prior calendar year.

Noncompliance penalties

A small employer that does not currently sponsor its own retirement savings program or implement such a program by June 30, is required to participate in the CalSavers program. Failure to register as a participating employer may result in a penalty of $250 per employee for noncompliance within 90 days after receipt of a notice of failure to comply. The penalty increases to $500 per employee if noncompliance continues for more than 180 days after notice.

Exempt employers

Employers that currently sponsor their own retirement savings program are exempt but should nevertheless timely register as exempt.

The various types of plans that satisfy the retirement savings plan requirement include:

- 401(k) plano
- Profit sharing plano

- Simplified Employee Pension (SEP)
  or
- Simplified Incentive Match Plan for Employees (SIMPLE) IRA

Larger employers

As a reminder, the CalSavers program applies to all employers with at least 5 California employees. Larger employers (more than 50 California employees) were required to register as participating or exempt (by September 30, 2020, if more than 100 California employees, and by June 30, 2021, if more than 50 California employees). If you are a larger employer, you should have already received a notice of noncompliance if you did not timely register. The $500 penalty described above may apply if you were required to participate in the CalSavers program and did not timely register.

Please contact us if you have questions about the CalSavers program, implementing your own retirement savings program, or whether your company is exempt.

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