

Requirement for California Small Business Retirement Plans Takes Effect Today

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If you own a small business in California, you may be one of an estimated 240,000 employers required to offer retirement plans to all adult employees. Last year, California mandated that employers with more than 50 employees must offer a retirement plan through either the state-run CalSavers program or a private-market option. Starting today, the requirement extends to California employers with five or more employees. Failure to comply may result in financial penalties enforced by the Franchise Tax Board.

CalSavers has represented that it will contact small businesses that missed the deadline to try to get them to comply before seeking penalties. Eligible employers currently not offering a plan are nonetheless encouraged to provide one of the options below as soon as reasonably possible.

CalSavers

CalSavers, a state-sponsored retirement savings program, allows employers to register online and automatically enroll employees in a Roth IRA. Once enrolled, employees can choose their own contribution rate, use the default rate, or opt out. Employees may use a default target date fund or pick specific funds from an investment menu.

Employers that wish to use CalSavers may register on the program's website at <https://www.calsavers.com/>. There is no registration fee or employer contribution requirement.

Private-Market Options

As an alternative to CalSavers, employers may offer a qualified, private-market option, including:

- 401(a) qualified plan (including profit-sharing plans and defined benefit plans);
- 401(k) plans (including multiple employer plans or pooled employer plans);
- 403(a) qualified annuity plan or 403(b) tax-sheltered annuity plan;
- 408(k) simplified employee pension (SEP) plans;
- 408(p) savings incentive match plan for employees of small employers (SIMPLE) IRA plan; and

- Payroll deduction IRAs with automatic enrollment.

Employers that intend to contribute to a plan should explore a private-market option as employer contributions are unavailable with CalSavers. If an employer already offers a qualified, private-market option, the employer must notify CalSavers through the employer portal on the CalSavers website. Exempt employers that have been pre-cleared must also report the exemption.

Penalties for Noncompliance

Employers that fail to allow eligible employees to participate in CalSavers or a qualified, private-market option, on or before 90 days after service of notice of the failure to comply, must pay a penalty of \$250 per eligible employee if noncompliance extends 90 days or more after the notice. If an employer is noncompliant 180 days or more after the notice, there is an additional penalty of \$500 per eligible employee.

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