

June is the deadline for most employers to register with CalSavers

Employers that don't offer retirement plans must register to avoid penalties.

By Sandy Weiner, J.D.

June 30, 2022, is the deadline for nonexempt employers with five or more California W-2 employees, at least one of whom is at least age 18, to register for the CalSavers program.

The CalSavers program is a state-administered Roth-like retirement plan that is available to California employees who are working for businesses that don't offer a retirement plan. Employers who already offer a retirement plan to their employees may not enroll in the program.¹

Failure of nonexempt employers to register with the program may result in significant penalties (discussed later).

Nonexempt employers with more than 100 employees were previously required to register by September 30, 2020, and nonexempt employers with more than 50 employees were required to register by June 30, 2021.

What to tell employees

Registered employers will provide CalSavers with a list of their employees, and CalSavers will communicate program information directly to employees and will answer any questions an employee may have. No enrollment/program questions should be answered by the employer. However, the employer will have additional responsibilities as discussed later.

Sample employee information letter

If an employer wants to send employees a letter to give them a heads-up about the program and let them know that CalSavers will be contacting them directly, a sample letter is available here: www.caltax.com/cl-calsaversemployees.

The CalSavers program has also developed a sample letter in 10 different languages available at: <https://employer.calsavers.com/home/employers/resources.html?language=en#>.

How to count to five

The employee thresholds are based on the average number of employees for the prior calendar year. So for 2022, the employer will look at the business's average number of employees (based on the quarterly DE 9C reports filed with the EDD) for 2021. The threshold includes all California employees, including part-time and seasonal employees.

Even if all employees choose to opt out of the program, the employer must still register if they meet the employee threshold.

When do new businesses have to register?

New businesses that are formed after July 1, 2019, will be notified by CalSavers once they have become an eligible employer (e.g., have five or more employees for a calendar year). The business will have until December 31 of the year they are notified to register for the program.²

Exempt employers

Employers that already offer a retirement plan cannot participate in the program. CalSavers does a search of Form 5500 data and auto-exempts all employers that offer a qualifying retirement plan. If an employer receives a registration notice from CalSavers in error, they must go to the “register” button at the following website and check the “exempt” box and provide verification of their exemption:

<https://employer.calsavers.com/californiaertpl/enroll/createEmp/viewCollectEmpPreRegDetails.cs>.

How to register

The CalSavers program will notify employers via letter of their requirement to register in the program. Employers will be provided an access code in their notification letter. They then go to the following website to register: <https://employer.calsavers.com/home.html>.

The employer can ask for their access code on the website if they didn't receive their notification or have lost the code.

When the employer registers (or shortly thereafter), they must enter an employee roster onto their CalSavers account, providing basic employee information such as name, address, phone number, e-mail address (if available), and external payroll ID (this is all done on an Excel spreadsheet). An employer will also have to update the roster to enter information for employees hired after the initial roster is submitted.

CalSavers will then contact the employees directly to determine whether the employee will opt out, and if not, what their contribution rate will be. The contribution must be a percentage rate, not a fixed dollar amount.

If the employee does not respond to CalSavers, they will be automatically enrolled with a 5% contribution rate. The amount of the contribution rate will be posted on the employer's portal on the CalSavers website. Any changes to the contribution rate will be e-mailed to the employer by CalSavers.

Then what?

Within 30 days of entering the employee list, the employer must begin to collect, remit, and report contributions for each payroll period. More information about how this is done is available at: <https://employer.calsavers.com/home/employers/resources.html>.

Employee options/responsibilities

An employee's initial default contribution rate is 5% the first year the employee is enrolled, increasing by 1% each year, up to 8%. Employees choose how their money is invested and have the option to:

- Opt out at any time; or
- Pay lower or higher contribution rates (this means employers will likely be applying different contribution rates per employee).

Note: It is up to the employee to determine if they are eligible to participate in the program. For example, if they already have an IRA or other retirement plan, the employee must determine whether participation in CalSavers will put them over their contribution maximum for the year.

Employees can also choose to "recharacterize" the account from a Roth IRA to a traditional IRA and take tax deductions for their contributions if the recharacterization is done before their individual tax return filing deadline for the taxable year (including extensions). They can do this online by submitting a form or contacting CalSavers client services to get the process started.³

Employer liabilities

Employers that fail to comply with the program requirements will be subject to a \$250 per-employee penalty after receiving a notice of noncompliance from the FTB.⁴ The penalty will be increased to \$500 per employee if the employer does not comply within 180 days. The FTB will collect the penalty.

Employers do not have any liability for an employee's decision to participate in the program, for their investment decisions, or for the performance of those investments.⁵

Additional information

More details about the program are available on the CalSavers website at: www.calsavers.com.

Information available to employers includes an employee information tool kit and Excel template, as well as a contribution tool kit and Excel template.

The CalSavers program also offers very informative live webinars for both employers and employees. The employer webinar provides detailed information about which businesses must register, what information to provide in the employee rosters, calculating the proper amount to remit to CalSavers, and how to remit the payments. This may be a great resource where you can steer your clients. A schedule of available webinars is available at:

www.calsavers.com/home/about/events.html?language=en#.

CalSavers is also offering one-on-one meetings (in a variety of languages) to assist businesses and their employees. These meetings can be scheduled at:

<https://employer.calsavers.com/home/employers/support.html>.

¹ Gov't. Code §100000 et seq.; 10 Cal. Code Regs. §10000 et seq.

² 10 Cal. Code Regs. §10002(b)

³ CalSavers FAQs at: www.calsavers.com/home/frequently-asked-questions.html?language=en#

⁴ R&TC §19285 et seq.

⁵ Gov't. Code §100034