

## California Code of Regulations

**Title 10: Investment**

**Chapter 15: CalSavers Retirement Savings Board**

**Section 10000. Definitions.**

The following definitions shall apply wherever the terms are used throughout this Chapter:

- (a) "Account" means a Participant's Individual Retirement Account ("IRA") held within the Program.
- (b) "Administrator" means the third-party administrator that operates the Program.
- (c) "Automatic Escalation" means an automatic annual increase in a Participating Employee's Contributions as set forth in Section 10005.
- (d) "Beneficiary" means the individual(s) or entity(ies) entitled to receive the proceeds of a Participating Employee's or Participating Individual's Account upon their death.
- (e) "Board" means the CalSavers Retirement Savings Board.
- (f) "Client Employer" means an Employer that is involved in a Multi-Party Employment Relationship due to obtaining the services of a third-party entity.
- (g) "Compensation" has the same meaning as defined in Title 26 Code of Federal Regulations Section 1.415(c)-2(d)(4) (April 5, 2007), which is incorporated herein by reference. In the case of a sole proprietor, a partner in a partnership, a member of a limited liability company treated as a sole proprietor or partner, or another self employed individual, Compensation means such individual's Earned Income.
- (h) "Contribution" means any monies contributed to an Account.
- (i) "Contribution Rate" means the percentage of a Participating Employee's Compensation to be withheld and contributed to their Account via payroll deduction under the Program.
- (j) "Earned Income" means an individual's net earnings from self-employment from the Participating Employer as determined under Section 401(c)(2)(A) of Title 26 of the United States Code.

- (k) "Electronic Fund Transfer" has the same meaning as the term established under Section 1693a(7) of Title 15 of the United States Code.
- (l) "Eligible Employee" means any Employee of an Eligible Employer who is at least eighteen years of age.
- (m) "Eligible Employer" means an Employer that (i) has five or more Employees, as determined under the methodology described in Section 10001(a), at least one of whom is an Eligible Employee; (ii) does not maintain or contribute to a Tax-Qualified Retirement Plan; and (iii) is not the federal government, the state, any county, any municipal corporation, or any of the state's units or instrumentalities.
- (n) "Employee" means any individual who has the status of an employee under Unemployment Insurance Code Sections 621, 621.5, 622, or 623 and who receives a W-2 with California wages. In the case of an Eligible Employer that is a sole proprietorship, partnership, or a limited liability company treated as a sole proprietorship or partnership for federal income tax reporting purposes, Employee shall also mean a sole proprietor, partner, or member of a limited liability company treated as a sole proprietor or partner for federal tax purposes.
- (o) "Employee Information Packet" means the packet of information provided by the Program that includes the Opt-Out Form, instructions on how to opt out of the Program, and other information required under Government Code Section 100014.
- (p) "Employer" means a sole proprietor, partnership, limited liability company, Subchapter C or Subchapter S corporation, trust, or other entity, whether for profit or not for profit, that is an employer under California Unemployment Insurance Code Division 1, Part 1.
- (q) "Exempt Employer" means an Employer that (i) has fewer than five Employees, as determined under the methodology described in Section 10001(a) or has five or more ~~than five~~ Employees, but does not employ any Eligible Employees; (ii) maintains or contributes to a Tax-Qualified Retirement Plan; or (iii) is the federal government, the state, any county, any municipal corporation, or any of the state's units or instrumentalities.
- (r) "IRA" means an individual retirement account or individual retirement annuity under Section 408(a), 408(b), or 408A of Title 26 of the United States Code.
- (s) "Multi-Party Employment Relationship" means a relationship in which an Employer enters into a service contract with a third-party entity(ies) for services including, but

not limited to, payroll, staffing (both temporary and non-temporary), human resources, and Employer compliance with laws and regulations.

- (t) “Opt-Out Form” means the form through which Eligible Employees may note their decision to opt out of participation in the Program.
- (u) “Participant” means any person who is or was a Participating Employee, Participating Individual, or Beneficiary.
- (v) “Participating Employee” means any person who is an Eligible Employee, is enrolled in the Program, maintains a Program IRA, and is not a Participating Individual.
- (w) “Participating Employer” means an Eligible Employer that registered with the Program to provide its Eligible Employees access to the Program.
- (x) “Participating Individual” means any person who enrolled in the Program independent of an employment relationship with an Eligible Employer, as further defined in Section 10006; maintains an Account; and is not a Participating Employee.
- (y) “Program” means the CalSavers Retirement Savings Program offered by the CalSavers Retirement Savings Trust.
- (z) “Tax-Qualified Retirement Plan” means a retirement plan that qualifies for favorable federal income tax treatment under Sections 401(a), 401(k), 403(a), 403(b), 408(k), or 408(p) of Title 26 of the United States Code. An employer-provided payroll deduction IRA program that does not provide for automatic enrollment is not a Tax-Qualified Retirement Plan.

Note – Authority Cited: Sections 100010 and 100048, Government Code.

Reference: Sections 100000, 100012, 100014 and 100032, Government Code.

### **Section 10001. Eligible Employers.**

- (a) To determine whether an Employer is an Eligible Employer for a calendar year, an Employer’s number of employees shall be the average number of employees during the previous calendar year, as reported to the Employment Development Department on Form DE 9C, “Quarterly Contribution Return and Report of Wages (Continuation),” for the quarter ending December 31 and the preceding three quarters.

(1) Employers that have not submitted Form DE 9C, “Quarterly Contribution Return and Report of Wages (Continuation),” for a full calendar year are Eligible Employers if they have submitted at least one Form DE 9C, “Quarterly Contribution Return and Report of Wages (Continuation),” for

the preceding quarter and otherwise meet the definition of an Eligible Employer.

- (2) Employers that have not submitted Form DE 9C, “Quarterly Contribution Return and Report of Wages (Continuation),” for a full calendar year shall be subject to the registration deadline established in Section 10002(b) only after it has submitted a Form DE 9C, “Quarterly Contribution Return and Report of Wages (Continuation),” for the Quarter ending December 31 and the preceding three quarters.
- (b) An Employer shall cease to be an Eligible Employer either upon the effective date of its adoption of, or participation in, a Tax-Qualified Retirement Plan or if its average number of employees drops below five for a calendar year, as determined under the methodology prescribed in subsection (a).
- (c) Each Participating Employer that ceases to be an Eligible Employer shall notify the Administrator within 30 days of the Employer’s change in status through one of the methods established in Section 10002(e).
- (d) Exempt Employers may, but need not, inform the Administrator of their exemption from the Program using one of the methods established under Section 10002(e).
- (e) Multi-Party Employment Relationships.
- (1) For a temporary services Employer or leasing Employer defined in California Unemployment Insurance Code Section 606.5(b), the Eligible Employer shall be the temporary services Employer or leasing Employer.
- (2) For a professional employer organization defined in Section 7705 of Title 26 of the United States Code that enters into a contract with a Client Employer, the Eligible Employer shall be the Client Employer regardless of whether the professional employer organization is certified pursuant to Section 7705.
- (3) For a motion picture payroll services company defined in California Unemployment Insurance Code Section 679(f)(4), the Eligible Employer shall be the motion picture production company defined in California Unemployment Insurance Code Section 679(f)(5).

Note – Authority Cited: Sections 100010 and 100048, Government Code.

Reference: Sections 100000, 100012, 100032 and 100043, Government Code.

## **Section 10002. Employer Registration.**

### **(a) Registration Deadlines.**

- (1) Eligible Employers employing more than 100 employees shall register with the Program no later than September 30, 2020.
- (2) Eligible Employers employing more than 50 employees shall register with the Program no later than June 30, 2021.
- (3) Eligible Employers ~~employing that have employed 50 or fewer~~ five or more employees for more than one continuous calendar year, based on the criteria

established in Section 10001(a), shall register with the Program no later than June 30, 2022.

- (b) An Employer that becomes an Eligible Employer due to having an average of five or more employees for a calendar year, as established in Section 10001(a), after July 1, 2019 shall register with the Program no later than ~~the applicable date specified in subsection (a) or within 24 months of the date upon~~ December 31 of the year in which the Employer is notified by the Program about their eligibility became an Eligible Employer, whichever is later.
- (c) An Employer's number of employees shall be determined under the methodology prescribed in Section 10001(a).
- (d) Exempt Employers are prohibited from participating in the Program.
- (e) An Eligible Employer shall register with the Program using the Program's website (employer.calsavers.com), by phone (855-650-6916), by overnight mail (CalSavers, 95 Wells Avenue, Suite 155, Newton, MA 02459), or by regular mail (CalSavers, P.O. Box 55759, Boston, MA 02205-5759).
- (f) In order to register, an Eligible Employer shall provide the following information to the Administrator through one of the methods listed in subsection (e):
  - (1) Employer name, legal name, and "doing business as" name, if applicable;
  - (2) Federal Employer Identification Number, or, if unavailable, the ~~and~~ California Employer Payroll Tax Account Number;
  - (3) Employer mailing address;
  - (4) Employer physical address; and
  - (5) Name, title, phone number, and email address of an individual designated by the Employer as the primary contact for the Program.

Note – Authority Cited: Sections 100010 and 100048, Government Code.  
Reference: Sections 100032 and 100043, Government Code.

#### **Section 10004. Employee Enrollment.**

- (a) The Program shall deliver the Employee Information Packet to each Eligible Employee within 710 days of the Participating Employer completing the actions required under Section 10003(a) or 10003(b).
- (b) An Eligible Employee shall be enrolled into the Program if they do not opt out within 30 days after the date the Employee Information Packet is delivered. The information prescribed in Section 10003(a) will be used by the Administrator to execute the enrollment.
- (c) An Eligible Employee is deemed to have read and understood the content in the Employee Information Packet if the Eligible Employee has been furnished a copy of the Employee Information Packet pursuant to subsection (a) and has been provided an opportunity to opt out of the Program.
- (c) An Eligible Employee may opt out of the Program at any time. Eligible Employees may opt out either electronically (saver.calsavers.com), by phone (855-650-6918), or by

completing the Opt-Out Form and submitting the form by overnight mail (CalSavers, 95 Wells Avenue, Suite 155, Newton, MA 02459) or by regular mail (CalSavers, P.O. Box 55759, Boston, MA, 02205-5759).

- (1) To opt out by overnight mail or regular mail, Eligible Employees must provide the last four digits of their Social Security Number or Individual Tax Identification Number, date of birth, ZIP Code, and sign the form.
  - (2) To opt out electronically or by phone, Eligible Employees must provide the last four digits of their Social Security Number or Individual Tax Identification Number, date of birth, and ZIP Code.
- (d) Eligible Employees who opt out of the Program may enroll at any time through one of the methods established in subsection (d), by providing the information specified in Section 10003(a) to the Administrator.
- (e) If the Administrator is unable to enroll an Eligible Employee, the Administrator shall notify the Participating Employer within 15 days after the Administrator's attempt to enroll the Eligible Employee. Within the notice, the Administrator will provide instructions to the Participating Employer not to remit Contributions for the Eligible Employee.

Note – Authority Cited: Sections 100010 and 100048, Government Code.

Reference: Sections 100000, 100012, 100014, 100032, 100043 and 100046, Government Code.