

ALTERNATIVE TO CALSAVERS: ESTABLISH A PRIVATE QUALIFIED RETIREMENT PLAN

Effective June 30, 2021, California law now requires that all employers with fifty or more employees must have either an employer sponsored retirement plan or a CalSavers plan. The CalSavers law will eventually require employers with five or more employees to comply.

There are many benefits for employers to maintain an employer sponsored retirement plan for their companies, as well as their employees. In order to be exempt from CalSavers the employer must maintain a qualified retirement plan (i.e. 401(k) Profit Sharing Plan, Profit Sharing Plan, Defined Benefit Pension Plan or Cash Balance Pension Plan). Below is an illustration of the differences between an employer sponsored 401(k) Profit Sharing plan and a CalSavers plan:

| | 401(k) Profit Sharing 2021 Limits | CalSavers 2021 Limits |
|---|---|--|
| Maximum employee contribution limit | \$19,500 | \$6,000 |
| Additional contribution if age 50 or older | \$6,500 | \$1,000 |
| Employee contributions | Pre-tax or after-tax (ROTH) | After tax only (ROTH) |
| Employee contribution percentage | Discretionary percentage | 5% automatic unless elect different rate or opt out (increases by 1% per year, up to 8% maximum) |
| Employer match | Discretionary up to \$19,500 (or \$26,000 if age 50 or older) | Not Allowed |
| Employer Profit Sharing | Discretionary total allocation up to \$58,000 (reduced by employee deferral and employer match) | Not Allowed |
| Tax credit for establishing new plan | Up to \$5,000 per year for the first three years | None |
| Employer Responsibilities | Hire a Third Party Administrator (TPA) to handle plan administration | Track employee eligibility Send data to CalSavers Distribute annual notices Auto-enroll new employees Adjust contributions every January 1st |

Employers maintain an employer sponsored retirement plan or enroll in CalSavers by the following deadlines:

| Business Size | Deadline |
|------------------------|-----------------|
| More than 50 employees | June 30, 2021 |
| Five or more employees | June 30, 2022 |

Employers that fail to either maintain an employer sponsored retirement plan or enroll in CalSavers, by the implementation deadline, may be subject to penalties. The penalties start at \$250 and can increase up to \$500, per eligible participant.