

ERIC State Retirement Savings Program Activity

Oregon

The OregonSaves program is a personal Roth IRA contributions program created in 2017 which is overseen by the Oregon Retirement Savings Board and administered by a third-party program service provider. The program provides an exemption for employers who already provide a tax-qualified retirement savings plan but imposes reporting requirements on employers in order to gain exemption from the program's participation requirements. ERIC sued the OregonSaves program, arguing that, according to federal ERISA law, these reporting requirements infringed on the administration of tax-qualified retirement savings programs by the employers who offer them.

ERIC and OregonSaves reached a settlement agreement by which ERIC members are automatically exempt from the reporting requirements of the OregonSaves employer exemption process. Under this agreement, if an ERIC member organization is contacted by OregonSaves with regard to any compliance inquiry, the ERIC member need only respond with an assertion of ERIC membership. OregonSaves will then reach out to ERIC to verify membership and, upon receiving such verification, will register the organization as entirely exempt from the program's requirements.

Illinois

The Illinois Secure Choice Retirement Savings Program is a personal Roth IRA contributions program created in 2018 which is overseen by the Illinois Secure Choice Savings Board and administered by a third-party program service provider. The program provides an exemption for employers who already provide a tax-qualified retirement savings plan but requires employers to provide additional information on IL Form 941 in order to gain exemption from the program's participation requirements.

In order to avoid litigation similar to the suit involving the OregonSaves program, ERIC and Illinois Secure Choice created a Memorandum of Understanding by which ERIC members are automatically exempt from the reporting requirements of the Illinois Secure Choice employer exemption process. Under the MOU, ERIC member organizations have two options to claim their exemption:

- First, if an ERIC member organization is contacted by Illinois Secure Choice with regard to any compliance inquiry, the ERIC member need only respond with an assertion of ERIC membership. Illinois Secure Choice will then reach out to ERIC to verify membership and, upon receiving such verification, will register the organization as entirely exempt from the program's requirements.

- Second, if an ERIC member organization would like to establish exemption from administrative and reporting requirements before they are contacted by Illinois Secure Choice, they can provide ERIC with a list of all affiliate and subsidiary organization names operating within the state of Illinois, as well as the FEIN information for those organizations. ERIC will then contact Illinois Secure Choice administrators, who will register the provided organizations as entirely exempt from the program's requirements.

California

The CalSavers Retirement Savings Program is a personal Roth IRA contributions program created in 2019 which is overseen by the California Secure Choice Retirement Savings Investment Board and administered by a third-party program service provider. The program provides an exemption for employers who already provide a tax-qualified retirement savings plan. Unlike similar programs in Oregon and Illinois, CalSavers cross-references a list of organizations operating in California with federal Form 5500 filings in order to determine which organizations already provide tax-qualified retirement savings plans and are, therefore, exempt from the reporting and participation requirements of CalSavers. Because affiliate and subsidiary organizations are not always included in Form 5500 filings, CalSavers has created a voluntary registration portal to allow these organizations to register themselves as exempt. While the registration process is voluntary, CalSavers has adopted the practice of sending contact letters to exempt companies urging them to register.

ERIC reached an agreement with CalSavers by which ERIC member companies can register all affiliate and subsidiary organizations at once and avoid communications from CalSavers. If an ERIC member company would like to do so, they can provide ERIC with a list of all affiliate and subsidiary organization names operating within the state of California, as well as the FEIN information for those organizations. ERIC will then contact CalSavers administrators, who will register the provided organizations as exempt from the program's requirements.

New Jersey

Early in 2019, New Jersey passed AB 4134 establishing the New Jersey Secure Choice Savings Program which is to be overseen by the New Jersey Secure Choice Savings Board and administered by a third-party program service provider. The text of the legislation includes a legal definition of employer that excludes organizations that already provide a tax-qualified retirement savings plan. Despite this, regulations pertaining to implementation and administration of the program have yet to be developed, and it is unclear how this employer exemption will be claimed by organizations in the future. During the regulatory development process, ERIC will be working with New Jersey regulators in order to establish a burden-free employer exemption process for our member organizations.