

California Secure Choice Retirement Savings Investment Board



Draft Regulations Workshop

Sacramento: December 5, 2017

Los Angeles: December 7, 2017

Public Comment Opportunities

- Email anytime until 5 pm December 7: SecureChoice@sto.ca.gov

- Public Regulations Workshops:

December 5, 2017

10:00 a.m. – Noon

State Personnel Board Building

801 Capitol Mall, Room 150

Sacramento, CA 95814

December 7, 2017

10:00 a.m. – Noon

Ronald Reagan State Building, Auditorium

300 South Spring Street

Los Angeles, CA 90013

- Board Meeting(s) December 18, 2017 and possibly again in early-2018
- Formal public comment during emergency rulemaking (early-January or early-February 2018)
- Formal public comment during regular rulemaking (spring of 2018)

What is Secure Choice?

Simple, portable, low-fee vehicle for workers to save and grow their own money.

- **Automatic payroll deduction IRA** (Individual Retirement Account). Contributions can go directly from your paycheck to the administrator of the program who will manage the investment accounts you choose with government oversight
- **Transparently Governed** by a public board chaired by State Treasurer
 - Zero cost to state and taxpayers; Program is self-sustaining with participant fees
- **Completely Voluntary** for employees; participants may pause contributions or opt-out any time
- **No employer contributions allowed**; and no fees or charges to employers

How were regulations developed?

- Statutory basis: Government Codes 100000 – 100050; and enabling legislation SB 1234 signed by Governor Brown Sept. 29, 2016
- Employee and employer stakeholder working group meetings on regulations – Summer 2017
- Series of Board meetings to present findings from stakeholder meetings
- Consultation with industry representatives, external experts, consultants, the Board, and legal counsel

Rulemaking Process

See detailed timeline provided in workshop materials.

- Informal public comment, revisions as necessary and appropriate
- Board approval: at Board's discretion, December 18 or January 22
- Submission to Office of Administrative Law (OAL)
- OAL formal review and public comment
- Effective date: late-January or mid-February 2018
- Permanent rulemaking: start in February or March 2018
- Permanent regulations effective: Summer 2018

Employer Eligibility

10001(j),(k),(m),(o),(r),(y); 10004

- Eligibility: 5+ employees and does not offer a tax-favored retirement plan
- Number of employees: based on employees reported in DE 9C form submitted to EDD for 3rd quarter ending September 30.
- Retirement plan coverage: any tax-favored retirement plan defined in 10001(z)
- Government employers: not eligible

Employee Eligibility

10001(i),(k)

- Eligibility: Any employee working for an eligible employer
- Minimum age: 18
- No minimum hours worked, no distinction for part-time, seasonal, or temporary employees
- Must have California income reported in W-2 from participating employer and have pay subject to California Unemployment Insurance taxes
- IHSS workers: staff recommendation is to include if possible, but Board can't include without certification by Department of Finance & Department of Social Services and, potentially, legislative amendment

Employer Registration

10003(a)-(c), (k)

- Registration date by employer size:
 - 100+ employees: ~January 2020
 - 50+ employees: ~January 2021
 - 5+ employees: ~January 2022
- Employers may register at any time prior to registration date
- Procedure: electronic enrollment through web portal
- Employers can request enrollment via other means (i.e. paper) at least 15 days before the registration date
- Registration will require transmitting certain essential information about the employer and their eligible employees
- New or newly-eligible employers must register within 12 months of eligibility

Identifying Exempt Employers

10004(b)

- Option 1: Encourage Optional Self-Certification via web (draft Regs)
 - Consider phasing into a requirement after successful Program launch
- Option 2: Required Self-Certification via web (Oregon model)
 - Require employers to self-certify via web; takes 2 minutes on average
 - Basis of pending litigation in Oregon
- Option 3: Required Self-Certification via State tax form (Illinois model)
 - Cost and time to modify existing form

Employee Enrollment

10003(i)-(j)

- Information packet: provided to eligible employees within 30 days; includes opt-out form and method to acknowledge receipt of disclosures
- Participants can opt out at any time
- Contributions begin as soon as possible, but no later than the first pay period after 30 days
- Employees may choose to enroll at any time

Employer Duties

10005

- Provide essential information to the Administrator
- Distribute employee information packet provided by Program within 30 days of employer registration
 - Available electronically and by mail, if requested
- Facilitate collection of opt-out forms and record of employees' acknowledgement of receipt of disclosures, per method to be established by Program in consideration of employer org. feedback
- Remit contributions for each participating employee
- Remain neutral about all aspects of participation
- No fiduciary duty, no liability for participant decisions

Contributions

10006(a)(2), (b)(1); 10007

- Employees may choose a contribution rate between 0-100% of compensation or a minimum contribution amount of \$1
- Default contribution: 5%
- Non-payroll contributions: permitted
- First contribution: made as soon as possible, but no later than first pay period following 30 days
- IRS contribution limits: program will alert participants
- Employer contributions: prohibited

Comparison of IRA Types

“Roth” (After-tax) and “Traditional” (Pre-tax)

	Age Limit	Max Contributions Per Year	Income Limits	Tax Deduction for Contributions	Taxes on withdrawals after 59.5	Early Withdrawal Penalty	Can money be left in the account
Roth IRA	None	\$5,500 under age 50 \$6,500 over age 50	Contributions can't exceed the maximum or your earned income. Also, your AGI can reduce or eliminate your ability to participate.	None. Contributions are made after tax.	No taxes on any withdrawals after 59.5	Contributions can be withdrawn without taxes or penalties. If earnings are withdrawn it is taxed as income for that year.	Money can be left in with no forced withdrawals for your lifetime
Traditional IRA	No contributions after age of 70.5	\$5,500 under age 50 \$6,500 over age 50	Contributions can't exceed the maximum or your earned income	Depending on AGI some or all of your contributions can be tax deductible	All withdrawals (contributions and earnings) are taxed as income for the year they are taken	Withdrawals will be taxed as income and subject to a 10% IRA penalty	Required Minimum Distributions start at age 70.5

IRA Type Considerations: Roth v. Traditional

Section 10006(a)(1)

- Staff and consultants recommend Roth default.
- Benefits of Roth default:
 - Roth offers ability to access contributions tax- and penalty-free
 - Lower-income individuals get minimal, if any, tax benefit from Traditional
 - Participants get to keep more of their earnings upon retirement through tax-free distributions, incentivizing long-term savings
 - Strong stakeholder feedback in support of Roth
 - Drawback: earners above \$133,000 would need to choose Traditional, if available
- Benefits of Traditional default:
 - Penalties for early-withdrawal incentivizes long-term savings
 - Higher-income earners (\$133,000+) not allowed to participate in Roth

Default Settings 10006(a)

If participants make no changes to their enrollment...

- An Individual Retirement Account (IRA) – The Board will decide if it will be Roth or Traditional
- Contribution rate: 5%
- Automatic Escalation: 1% annual increase up to 8% max (can modify rate or opt out)
- Investment option: to be determined at Board's discretion

Alternate Elections 10006(b)

Participants may choose alternate elections at any time; however, employers may choose to limit changes to no more frequently than once every 30 days

Individual Participation

10006 (c)

- If/when explicitly authorized by the Board, individuals may also participate directly without an employer arrangement
- Minimum age: 18
- Contributions: must be whole dollar amounts
- Minimum contributions: none in regulations, but the Program may establish if necessary
- Auto-escalation: individuals can participate if making automatic contributions through administrator, subject to same limits as employees

Withdrawals and Rollovers

10008

- Withdrawals from the plan will be subject to any applicable federal laws and regulations
- Pre-retirement age withdrawal: program will prompt participant with educational material on impact of pre-retirement withdrawal
- Rollover procedures: to be established in accordance with federal laws and regulations

Confidentiality and Disclosures

10010

- All account information is confidential
- Release of any individual account information shall require written authorization from the individual
- The Board may disclose aggregated anonymized data

Investments

10006(a)(4)

- Board will select a menu of investment options available to all participants
- Board will select a default investment option with an appropriate balance of risk and return opportunities
- Board will decide investment options in the spring of 2018

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