

# California Code of Regulations

## Title 10: Investment

### Chapter 15: CalSavers Retirement Savings Board

#### § 10000. Definitions.

Words shall have their usual meaning unless the context or a definition clearly indicates a different meaning. Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. "Shall" means mandatory. "May" means permissive.

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 the increase in Contribution Rate by an additional 1% of a Participating Employee's Compensation, up to a maximum of 8%, annually on January 1, following the Participating Employee's enrollment in the Program~~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 subsection (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 subsection (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 subsection (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) ~~H~~has one or more Employees, as determined under the methodology described in Section 10001 subsection (a), at least one of whom is an Eligible Employee;
  - (ii) ~~D~~oes not maintain or contribute to a Tax-Qualified Retirement Plan; and
  - (iii) ~~I~~s 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 meets one of the following criteria. The Employer:

(i) ~~H~~has zero Employees, as determined under the methodology described in Section 10001 subsection (a), ~~has one or more Employees, but does not employ any Eligible Employees,~~ or who does not employ any individuals other than the owners of the business;

(ii) ~~M~~maintains or contributes to a Tax-Qualified Retirement Plan; or

(iii) ~~l~~is the federal government, the state, any county, any municipal corporation, or any of the state's units or instrumentalities.

(iv) Is federally recognized as an Indian tribe by the United States Department of the Interior, by an act of the United States Congress, or by the decision of a United States Court.

(v) Is a religious organization.

(r) “IRA” means an individual retirement account or individual retirement annuity under Section 408 subsection (a), 408 subsection (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) “Noncompliance” means the failure of an Eligible Employer to allow an Eligible Employee to participate in the program.

(u) “Opt-Out Form” means the form through which Eligible Employees may note their decision to opt out of participation in the Program.

(v) “Participant” means any person who is or was a Participating Employee, Participating Individual, or Beneficiary.

(w) “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.

(x) “Participating Employer” means an Eligible Employer that registered with the Program to provide its Eligible Employees access to the Program.

(y) "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.

(z) "Program" means the CalSavers Retirement Savings Program offered by the CalSavers Retirement Savings Trust.

(aa) "Tax-Qualified Retirement Plan" means a retirement plan that qualifies for favorable federal income tax treatment under Sections 401 subsection (a), 401 subsection (k), 403 subsection (a), 403 subsection (b), 408 subsection (k), or 408 subsection (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, 100032 and 100033, Government Code.

## **§ 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 the 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 a 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 subsection (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 it ceases to employ any Employees.

(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 following methods established in Section 10002 (e).

(1) By email (clientservices@calsavers.com).

(2) By phone (855-650-6916).

(3) By overnight mail addressed to CalSavers, 95 Wells Avenue, Suite 155, Newton, MA 02459.

(4) By regular mail addressed to CalSavers, P.O. Box 55759, Boston, MA, 02205-5759.

~~(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)~~(d) Multi-Party Employment Relationships.

(1) For a temporary services Employer or leasing Employer defined in California Unemployment Insurance Code Section 606.5 subsection (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 subsection (f)(4), the Eligible Employer shall be the motion picture production company defined in California Unemployment Insurance Code Section 679 subsection (f)(5).

NOTE: Authority cited: Sections 100010 and 100048, Government Code.

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

## **§ 10002. Employer Registration.**

(a) Registration Deadlines.

(1) Eligible Employers employing more than 100 Employees shall register and establish a retirement savings arrangement with the Program no later than September 30, 2020.

(2) Eligible Employers employing more than 50 Employees shall register and establish a retirement savings arrangement with the Program no later than June 30, 2021.

(3) Eligible Employers that have employed five or more Employees for more than one continuous calendar year, based on the criteria established in Section 10001 subsection (a), shall register and establish a retirement savings arrangement with the Program no later than June 30, 2022.

(4) Eligible Employers with four or fewer Employees shall register and establish a retirement savings arrangement with the Program no later than December 31, 2025.

(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 subsection (a), shall register and establish a retirement savings arrangement with the Program no later than December 31 of the year in which the Employer became an Eligible Employer ~~is notified by the Program about their eligibility.~~

~~(c) An Employer's number of employees shall be determined under the methodology prescribed in Section 10001(a).~~

~~(d)~~(c) Exempt Employers are prohibited from participating in the Program.

~~(e)~~(d) 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)~~(e) In order to register, an Eligible Employer shall provide the following information to the Administrator through one of the methods listed in subsection ~~(ed)~~:

- (1) Employer name, legal name, and "doing business as" name, if applicable;
- (2) Federal Employer Identification Number and the 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.



### **§ 10003. Participating Employer Duties.**

(a) Within 30 calendar days of registration with the Program, a Participating Employer shall provide the following information to the Administrator for each Eligible Employee:

The Eligible Employee's:

- (1) ~~Eligible Employee's F~~full legal name;
- (2) ~~Eligible Employee's S~~ocial Security Number or Individual Taxpayer Identification Number;
- (3) ~~Eligible Employee's D~~ate of birth;
- (4) ~~Eligible Employee's P~~hysical address;
- (5) ~~Eligible Employee's P~~hone number, if available; and
- (6) ~~Eligible Employee's E~~mail address(es), if available.

(b) For each Eligible Employee hired by a Participating Employer after registering with the Program, the Participating Employer shall provide the information specified in subsection (a) to the Administrator within 30 calendar days of the Eligible Employee's hire date.

(c) Participating Employers shall remit each Participating Employee's Contribution for each payroll period to the Administrator at the applicable Contribution Rate no later than the first payroll period following 30 calendar days after ~~notification by the Administrator~~ of the Participating Employee's enrollment. The Contribution Rate ~~shall be~~ established ~~by the Participating Employee and~~ pursuant to Section 10005 shall be reported to the Participating Employer by the Administrator through the Program's website ([employer.calsavers.com](http://employer.calsavers.com)).

(1) Participating Employers shall remit all withheld Compensation to the Administrator ~~as soon as administratively practicable, not to exceed~~ by no later than seven business days from the date of deduction.

(d) Participating Employers shall not:

- (1) Require, endorse, encourage, prohibit, restrict, or discourage ~~e~~Employee participation in the Program.
- (2) Provide Participating Employees or Beneficiaries of deceased Participating Employees advice or direction regarding investment choices, Contribution Rates, participation in Automatic Escalation, or any other decision about the Program.

(3) Remit any Contributions to the Program for any Eligible Employee who opted out of the Program.

(4) Exercise any authority, control, or responsibility regarding the Program, other than as set forth in this Section.

(e) Participating Employers shall provide the information specified in subsection (a) to the Administrator within 30 calendar days of any Employee becoming an Eligible Employee.

(f) Participating Employers shall provide Eligible Employee information required by subsections (a), (b), and (e) to the Administrator electronically (employer.calsavers.com).

NOTE: Authority cited: Sections 100010 and 100048, Government Code.

Reference: Sections 100000, 100012, 100014, 100032, 100034, 100043 and 100046, Government Code.

## **§ 10004. Employee Enrollment.**

(a) ~~The Program Administrator shall deliver the Employee Information Packet to each Eligible Employee within 10 days of the Participating Employer completing the actions required under Section 10003 subsections (a), or 10003(b), or (e).~~

(b) An Eligible Employee shall be enrolled into the Program if they do not opt out within 30 calendar days after the date the Employee Information Packet is ~~delivered~~ furnished to the Eligible Employee. The information prescribed in Section 10003 subsection (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.~~

(d) 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~~ an 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) to the Administrator.

~~(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.~~

(1) To opt out electronically or by phone, Eligible Employees shall provide the last four digits of their Social Security Number or Individual Taxpayer Identification Number, ZIP Code, date of birth, and the name of their Participating Employer.

(2) To opt out by overnight mail or regular mail, Eligible Employees shall complete the Opt-Out Form by providing their access code or the last four digits of their Social Security Number or Individual Taxpayer Identification Number, ZIP Code, date of birth, the name of their Participating Employer, and sign the Opt-Out Form.

(e) Eligible Employees who opt out of the Program may enroll at any time ~~through one of the methods established in subsection (d)~~ electronically ([saver.calsavers.com](http://saver.calsavers.com)), by phone (855-650-6918), 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), by providing the information specified in Section 10003 subsection (a) to the Administrator.

(f) If the Administrator is unable to enroll an Eligible Employee, the Administrator shall notify the Participating Employer within 15 calendar 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.

## **§ 10005. Default Program Options and Alternative Elections for Contributions, Automatic Escalation, and Investment Options for Participants.**

(a) Upon enrollment, a Participating Employee who has not made an alternative election as specified in this Section shall make Contributions to the Program according to the following default elections:

(1) At a Contribution Rate of 5% of Compensation.

(2) Have Contributions subject to Automatic Escalation ~~whereby the Contribution Rate shall increase by an additional 1% of Compensation on each January 1 following the Participating Employee's enrollment, up to a maximum Contribution Rate of 8%.~~

~~(A) Participating Employees who choose an alternative Contribution Rate shall have Contributions subject to Automatic Escalation unless they choose to opt out of Automatic Escalation by notifying the Administrator using one of the methods identified in Section 10004(d).~~

~~(B) A Participating Employee who has not participated in the Program for at least six consecutive calendar months during a calendar year shall not have Contributions subject to Automatic Escalation until the January 1 that follows the next calendar year in which the Participating Employee has at least six calendar months of participation.~~

~~1. The Administrator shall notify the Participating Employee of the Automatic Escalation increase at least 60 days before January 1 to provide the Participating Employee an opportunity to opt out of Automatic Escalation.~~

(3) Have Contributions made to a Roth IRA. The Program will establish the Roth IRA on behalf of Participating Employees that have not established an Roth IRA for themselves utilizing the information provided by the Participating Employee's Participating Employer as required by Section 10003 subsection (a).

(4) Have Contributions invested in the default investment option.

A Participating Employee who has not made an alternative election shall have all Contributions invested in a capital preservation investment for 30 calendar days. After those 30 calendar days have elapsed, unless the Participating Employee makes an alternative election, the Participating Employee's Contributions shall be invested in a

Target Date Fund based on the Participating Employee's age as reported on the Program's records and an assumed retirement at age 65.

The applicable Target Date Fund shall be determined as described in the following table:

<b><i>Date of Birth Month, Day, and Year</i></b>	<b><i>Target Retirement Years</i></b>	<b><i>CalSavers Fund Name</i></b>
12/31/1947 or Earlier	2012 or earlier	CalSavers Target Retirement Fund
1/1/1948 - 12/31/1952	2013 - 2017	CalSavers Target Retirement 2015 Fund
1/1/1953 - 12/31/1957	2018 - 2022	CalSavers Target Retirement 2020 Fund
1/1/1958 - 12/31/1962	2023 - 2027	CalSavers Target Retirement 2025 Fund
1/1/1963 - 12/31/1967	2028 - 2032	CalSavers Target Retirement 2030 Fund
1/1/1968 - 12/31/1972	2033 - 2037	CalSavers Target Retirement 2035 Fund
1/1/1973 - 12/31/1977	2038 - 2042	CalSavers Target Retirement 2040 Fund
1/1/1978 - 12/31/1982	2043 - 2047	CalSavers Target Retirement 2045 Fund
1/1/1983 - 12/31/1987	2048 - 2052	CalSavers Target Retirement 2050 Fund
1/1/1988 - 12/31/1992	2053 - 2057	CalSavers Target Retirement 2055 Fund
1/1/1993 - 12/31/1997	2058 - 2062	CalSavers Target Retirement 2060 Fund
1/1/1998 - 12/31/2002	2063 - 2067	CalSavers Target Retirement 2065 Fund
1/1/2003 - 12/31/2007	2068 - 2072	CalSavers Target Retirement 2070 Fund
1/1/2008 or later	2073 - or later	[Funds to be added later - not a valid Participant age]

~~(b) Participants may make an alternative election at any time through one of the methods established under Section 10004(d).~~ Alternative Election Rules

(1) Participants may make an alternative election at any time.

~~(4)~~(2) A Participating Employee may elect a Contribution Rate other than the default Contribution Rate at any integer whole number between 0% and 100% of Compensation. Electing a Contribution Rate other than the default Contribution Rate may be made electronically (saver.calsavers.com), by phone (855-650-6918), or by completing the IRA Account Maintenance 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) to the Administrator.

(A) To elect a Contribution Rate electronically, Participating Employees shall select "Manage contributions" on the Program's website (saver.calsavers.com), identify which Employer is remitting Contributions to the Program, and input the Contribution Rate of their choice.

(B) To elect a Contribution Rate by phone, Participating Employees shall provide their full legal name, physical or mailing address, the Contribution Rate of their choice and one of the following.

(i) Account number.

(ii) Social Security Number.

(iii) Individual Taxpayer Identification Number.

(iv) Date of birth.

(C) To elect a Contribution Rate by overnight or regular mail, Participating Employees shall provide their account number, full legal name, telephone number, Participating Employer name, select "Contribution Rate", mark the Contribution Rate they want to Contribute to their Account, sign and date on the IRA Account Maintenance Form.

(D) A Participating Employee who chooses an alternative Contribution Rate shall have Contributions subject to Automatic Escalation.

~~(2) A Participating Employee may opt out of Automatic Escalation or elect an alternative Automatic Escalation percentage at any time by notifying the Administrator using one of the methods established in Section 10004(d).~~

~~(3) A Participating Employee may elect to make recurring non-payroll Contributions of at least \$10 each to their Account. Such recurring non-payroll Contributions may be made at least as frequently as weekly, once every two weeks, twice monthly, or monthly and must be made through Electronic Fund Transfer.~~

~~(4) A Participating Employee may also elect to make non-recurring non-payroll Contributions. Such Contributions must be made through Electronic Fund Transfer or by personal check and must be a minimum of at least \$10.~~

~~(5)~~(3) A Participant may elect one or more investment options for any portion of their existing balance or future Contributions. Participants may make this alternative election by notifying the Administrator electronically (saver.calsavers.com) or by phone (855-650-6918) using one of the methods established in Section 10004 (d).

(A) To elect an investment option electronically, Participants shall select "Manage investments" on the Program's website (saver.calsavers.com) and elect to exchange their assets or choose different investment options for future contributions.

(B) To elect a Contribution Rate by phone, Participants shall provide their full legal name, physical or mailing address, elect to exchange their current assets or choose different investment options for future Contributions, and provide one of the following.

(i) Account number.

(ii) Social Security Number.

(iii) Individual Taxpayer Identification Number.

(iv) Date of birth.

(C) Investment options selected pursuant to subsection (b)(3) include:

(i) Target Retirement Fund.

(ii) Target Retirement Fund by year starting with the year 2020 and increasing every 5 years until the year 2070.

(iii) Money Market Fund.

(iv) Core Bond Fund.

(v) Global Equity Fund.

(vi) Environment, Social, and Governance Fund.

(D) The sum total of investment options elected pursuant to subsection (b)(3) must equal 100% of Contributions made by the individual.

~~(6)(4) Alternative contribution~~Contribution elections established pursuant to this Section (including Contribution Rates, Automatic Escalation and opt out elections) shall be implemented as soon as administratively practicable but by no later than the first payroll period following 30 calendar days after notification to the Administrator of the alternative election.

(c) A Participating Employee may opt out of Automatic Escalation by notifying the Administrator electronically (saver.calsavers.com) or by completing the IRA Account Maintenance 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) to the Administrator.

(1) To opt out of Automatic Escalation electronically, Participating Employees shall select "Manage contributions" on the Program's website (saver.calsavers.com), identify which employer is remitting contributions to the Program, and select that they do not want to have Contributions subject to Automatic Escalation.



(2) To opt out of Automatic Escalation by overnight mail or regular mail, Participating Employees shall complete the IRA Account Maintenance Form by providing the following on the form.

(i) Account number.

(ii) Full legal name.

(iii) Telephone number.

(iv) Participating Employer name.

(v) Mark "Automatic Annual Increase".

(vi) Mark that they do not wish to have their Contributions automatically increased each year.

(vii) Signature and date of the IRA owner.

(d) A Participating Employee who has not participated in the Program for at least six consecutive calendar months during a calendar year shall not have Contributions subject to Automatic Escalation until the January 1 that follows in the next calendar year in which the Participating Employee has at least six calendar months of participation.

(e) The Administrator shall notify the Participating Employee of the Automatic Escalation increase at least 60 calendar days before January 1 to provide the Participating Employee an opportunity to opt out of Automatic Escalation.

~~(e)~~(f) Other Contribution and Investment Election Rules

(1) Participating Employers are prohibited from contributing to a Participating Employee's Account.

(2) An individual who is both a Participating Employer and a Participating Employee may make Contributions to their own Account under the same terms and conditions that apply to Participating Employees under this Chapter as other Participating Employees.

(3) Amounts withheld by the Participating Employer shall not exceed the amount of the Participating Employee's Compensation remaining after any payroll deductions required by law to have higher precedence, including a court order.

(4) A Participant may elect to recharacterize all or some of their Contributions to a Traditional IRA by phone (855-650-6918) or by completing the Recharacterization Election 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) to the Administrator.

(A) To recharacterize Contributions to a Traditional IRA by phone, Participants shall provide the following to the Administrator.

(i) Their full legal name.

(ii) Physical or mailing address.

(iii) One of either their Account number, Social Security Number, Individual Taxpayer Identification Number, or date of birth.

(iv) Their original Contribution Rate to their Roth IRA.

(v) Original Contribution amount to be recharacterized.

(vi) The total amount to be recharacterized.

(vii) The Traditional IRA Account number.

(viii) The recharacterization amount including either the full balance of the Participant's investment options, a partial amount provided by the Participant to be allocated proportionately from all current investment options, or a partial amount to be recharacterized from investment options provided by the Participant.

(B) Recharacterization of Contributions to a Traditional IRA by phone shall be complete once the Participant logs into their online user account with the Program

(saver.calsavers.com) and completes the following.

(i) Select "view" under the Traditional IRA Account profile.

(ii) Confirm the investment options and Employer Contribution elections made pursuant to this Section. Participant's may elect to keep their current investment options, Employer Contributions, or both by selecting their current investments, Employer Contributions, or both. Participants that do not select their current investments or Employer Contributions will have their investment and Contribution elections established as the default elections identified in subsection (a)(1) and (a)(4).

(iii) Select "Activate".

(iv) Review the Program Documents and mark that Participant has read and received the Program Documents.

(C) To recharacterize Contributions to a Traditional IRA by overnight mail or regular mail, Participants shall complete the Recharacterization Election Form by providing the following on the form.

(i) Account number.

(ii) Social Security Number or Individual Taxpayer Identification Number.

(iii) Full legal name.

(iv) Telephone number.

(v) Date of birth.

(vi) Input their original Contribution Rate to their Roth IRA.

(vii) Original Contribution amount to be recharacterized.

(viii) Net income attributable.

(ix) The total amount to be recharacterized.

(x) The name of the accepting organization including whether the organization is a trustee or a custodian of the IRA owner.

(xi) The address of the accepting organization.

(xii) The Traditional IRA Account number.

(xiii) Input a recharacterization amount including either the full balance of the Participant's investment options, a partial amount provided by the Participant to be allocated proportionately from all current investment options, or a partial amount to be recharacterized from investment options provided by the Participant.

(xiv) Signature and date of the IRA owner or authorized individual.

(5) A Participating Employee may elect to make recurring non-payroll Contributions of at least \$10 each to their Account electronically (saver.calsavers.com) or by phone (855-650-6918). Such Contributions may be made at least as frequently as weekly, once every two weeks, twice monthly, or monthly and must be made through Electronic Fund Transfer.

(A) To make recurring non-payroll Contributions electronically, Participating Employees shall log into their online user account with the Program, select "Manage contributions" on the Program's website (saver.calsavers.com), select the frequency of Contributions they would like to make, input the Contribution amount they want, the start date for

Contributions, and provide their banking information including bank name, routing number, bank account number, and bank account type (checking or savings).

(B) To make recurring non-payroll Contributions by phone, Participants shall provide the following to the Administrator.

(i) Their full legal name.

(ii) Their physical or mailing address.

(iii) One of either their Account number, Social Security Number, Individual Taxpayer Identification Number, or date of birth.

(iv) The Contribution amount they would like to make.

(v) The frequency they would like to make the Contributions.

(6) A Participating Employee may elect to make non-recurring non-payroll Contributions of at least \$10 to their Account electronically (saver.calsavers.com), by phone (855-650-6918), 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) to the Administrator. Such Contributions must be made through Electronic Fund Transfer or by personal check.

(A) To make non-recurring non-payroll Contributions electronically, Participating Employees shall log into their online user account with the Program, select "Manage contributions" on the Program's website (saver.calsavers.com), select one-time Contribution, input the Contribution amount they want to make, the date for the Contribution to be made, and provide their banking information including bank name, routing number, bank account number, and bank account type (checking or savings).

(B) To make non-recurring non-payroll Contributions by phone, Participating Employees shall provide the following to the Administrator.

(i) Their full legal name.

(ii) Their physical or mailing address.

(iii) One of either their Account number, Social Security Number, Individual Taxpayer Identification Number, or date of birth.

(iv) The Contribution amount they would like to make.

(C) To make non-recurring non-payroll Contributions by overnight mail or regular mail, Participating Employees shall mail a completed check referencing the name of the

Account owner to the Administrator in the amount they would like Contributed to their Account.

NOTE: Authority cited: Sections 100010 and 100048, Government Code.

Reference: Sections 100002, 100004, 100008, 100012, 100032 and 100043, Government Code.

## **§ 10006. Individual Participation.**

(a) An individual who is at least eighteen years of age, and who is not an Eligible Employee may elect to participate in the Program as a Participating Individual ~~outside of an employment relationship with an Eligible Employer~~. An individual may enroll in the Program by creating an online user account with the Program electronically ([saver.calsavers.com](http://saver.calsavers.com)) through any of the methods established in Section 10004(d) by providing the following information required in Section 10003(a)(1) through (a)(6) to the Administrator.

(1) The individual's:

(A) Full legal name.

(B) Social Security Number or Individual Taxpayer Identification Number.

(C) Date of birth.

(D) Physical address.

(E) Phone number.

(F) Email address.

(2) Select an investment option including:

(A) The standard investment option.

(B) A combination of one or more available investment options, as fractions of 100% of the individual's Contribution election, made in subsection (a)(3). Investment options elected pursuant to this subsection must equal 100% of Contributions made by the individual. Investment options include:

(i) Target Retirement Fund.

(ii) Target Retirement Fund by year starting with the year 2020 and increasing every 5 years until the year 2070.

(iii) Money Market Fund.

(iv) Core Bond Fund.

(v) Global Equity Fund.

(vi) Environment, Social, and Governance Fund.

(3) Contribution option including bank account or payroll direct deposit (if available).

(A) To contribute by bank account an individual shall provide:

(i) A Contribution amount which must be a minimum of \$10.

(ii) The frequency of Contributions either one time, weekly, bi-weekly, semi-monthly, or monthly.

(iii) A start date for contributions.

(iv) Bank information including bank name, routing number, bank account number, and bank account type (checking or savings).

(B) To contribute by payroll direct deposit, an individual shall provide the Contribution amount they wish to contribute to their Account which must be a minimum of \$10, complete the Direct Deposit Form, and provide the form to their Employer.

(i) To complete the Direct Deposit Form, an individual shall provide the Contribution amount they wish to be deducted from their paycheck, their Social Security Number, and sign and date the form.

(4) A username for their online user account with a minimum of 6 to 25 characters and password which must be a minimum of 8 characters with three of the following criteria.

(A) Upper case letter.

(B) Lower case letter.

(C) Number.

(D) Special character.

(5) Select three security questions and provide security question answers.

(6) Review the Electronic Consent Disclosure.

(7) Review the Program Documents and mark that the individual enrolling has read and received a copy of the Program Documents.

(8) Electronically sign the Program Documents acknowledgement.

(b) Any recurring Contribution by a Participating Individual shall ~~must~~ be made at least as frequently as weekly, once every two weeks, twice monthly, or once monthly and must be made through Electronic Fund Transfer, and must be at least \$10. Recurring Contributions may be made electronically ([saver.calsavers.com](http://saver.calsavers.com)) or by phone (855-650-6918).

(1) To make recurring Contributions electronically, Participating Individuals shall log into their online user account with the Program, select “Manage contributions” on the Program’s website (saver.calsavers.com), select the frequency of Contributions they would like to make, input the Contribution amount they want, the start date for Contributions, and provide their banking information including bank name, routing number, bank account number, and bank account type (checking or savings).

(2) To make recurring Contributions by phone, Participants shall provide the following to the Administrator.

(A) Their full legal name.

(B) Their physical or mailing address.

(C) One of either their Account number, Social Security Number, Individual Taxpayer Identification Number, or date of birth.

(D) The Contribution amount they would like to make.

(E) The frequency they would like to make the Contributions.

(c) Participating Individuals may make non-recurring Contributions.

Non-recurring Contributions ~~shall must~~ be in an amount of at least \$10 and must be made through Electronic Fund Transfer or by personal check. Non-recurring Contributions may be made electronically (saver.calsavers.com), by phone (855-650-6918), 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) to the Administrator. Such Contributions must be made through Electronic Fund Transfer or by personal check.

(1) To make non-recurring Contributions electronically, Participating Individuals shall log into their online user account with the Program, select “Manage contributions” on the Program’s website (saver.calsavers.com), select one-time Contribution, input the Contribution amount they want to make, the date for the Contribution to be made, and provide their banking information including bank name, routing number, bank account number, and bank account type (checking or savings).

(2) To make non-recurring Contributions by phone, Participating Individuals shall provide the following to the Administrator.

(A) Their full legal name.



(B) Their physical or mailing address.

(C) One of either their Account number, Social Security Number, Individual Taxpayer Identification Number, or date of birth.

(D) The Contribution amount they would like to make.

(3) To make non-recurring Contributions by overnight mail or regular mail, Participating Individuals shall mail a completed check referencing the name of the Account owner to the Administrator in the amount they would like Contributed to their Account.

(d) Notwithstanding any provision of this Section, Exempt Employers may ~~Businesses that use the services of Participating Individuals have not elected to participate in the Program merely because they,~~ at the request of Participating Individuals, choose to facilitate remittance to the Administrator for deposit into a Participating Individual's Account all or a portion of the money owed to such Participating Individuals. Exempt Employers that choose to facilitate deposits to a Participating Individual's Account shall take all steps necessary to ensure their payroll deduction IRA program is not an employee benefit plan regulated under Title 1 of the Employee Retirement Income Security Act (ERISA).

NOTE: Authority cited: Sections 100010 and 100048, Government Code.

Reference: Sections 100002 and 100012, Government Code.

## **§ 10008. Enforcement of Employer Compliance.**

(a) The Board may delegate enforcement of Employer compliance with Title 21 (commencing with Section 100000) of the Government Code, including all failures by an Eligible Employer to allow its Eligible Employees to participate in the Program, to the Board staff. ~~Staff shall exercise due diligence to ensure reasonable attempts are made to bring employers into compliance prior to issuing a final notice of penalty application to a noncompliant Employer.~~

(b) Enforcement efforts by Board staff, pursuant to subsection (a), shall include email (if available) and letter notifications of penalty application to the Noncompliant Employers identifying the cause of their Noncompliance and the methods available to Employers to comply.

(c) Noncompliant Employers are subject to the penalties set forth in Government Code Section 100033 subsection (b) until compliance is satisfied.

(1) A Noncompliant Employer, who fails to achieve compliance after the initial \$250 penalty is assessed, will be fined \$500 per Eligible Employee for each subsequent penalty that is assessed upon the Noncompliant Employer. calendar year in which the employer is noncompliant;

(2) Noncompliance does not need to be consecutive to assess the penalty of \$500. Any calendar year in which an Employer is found to be Noncompliant ~~of noncompliance~~ after the initial penalty of \$250 will result in a penalty of \$500 per Eligible Employee.

(d) If, through the collection efforts of the Franchise Tax Board as described in California Code of Regs. Regulations Tit. Title 18 §§ 19285 et seq., and before the penalty payment is received by the Franchise Tax Board, a Noncompliant Employer demonstrates that they were in compliance through the submission of written documentation to the Board, ~~or as determined by review of the employer's account status~~, then the Employer shall be eligible for a refund of the penalty imposed by the Board for the period of time in which the Employer was compliant ~~staff shall inform the Franchise Tax Board that the current year penalty shall not be imposed due to the Eligible Employer's compliance with the requirements of Title 21 (commencing with Section 10000) of the Government Code. Any erroneously made payments shall be refunded.~~

(1) Written documentation submitted to the Board must demonstrate one of the following to be eligible for a penalty refund.

(i) The Employer is an Exempt Employer.

(ii) The Employer was in compliance with Section 10003 subsection (c).

(e) Eligible Employee counts for purposes of penalty assessment will be determined using the average number of employees calculated under Section 10001 subsection (a).

NOTE: Authority cited: Sections 100010 and 100048, Government Code.

Reference: Sections 100014, 100032 and 100033, Government Code.

## § 10010. Exempt Employers.

(a) Exempt Employers may inform the Board or the Administrator of their exemption from the Program by email (calsavers@treasurer.ca.gov) or electronically (employer.calsavers.com).

(b) For an Exempt Employer that is the federal government, state, county, municipal corporation, or any of the state's units or instrumentalities to notify the Board by email (calsavers@treasurer.ca.gov) the Exempt Employer shall provide the following.

(1) A letter signed by the business owner or authorized manager that includes the:

(A) Legal name of the organization.

(B) Organization's Federal Employer Identification Number.

(C) Organization's classification that explains its exemption reason.

(2) A copy of at least one of the following documents:

(A) The Form 990 "Return of Organization Exempt Form Income Tax," filed with the Internal Revenue Service that indicates that the organization is a federal, state, or local government entity or government unit that is tax exempt pursuant to the Internal Revenue Code Section 170 subsection (b)(1)(A)(v).

(c) For an Exempt Employer that is a federally recognized Indian tribe or a religious organization to notify the Board by email (calsavers@treasurer.ca.gov) the Exempt Employer shall provide the following.

(1) A letter signed by the business owner or authorized manager that includes the:

(A) Legal name of the organization.

(B) Organization's Federal Employer Identification Number.

(C) Organization's classification that explains its exemption reason.

(2) A copy of one of the following documents:

(A) A letter of determination from the Internal Revenue Service (IRS) or the Franchise Tax Board (FTB) that identifies that the organization is tax exempt due to its status as a tribal or religious organization.

(B) A letter from the Department of Labor or the Department of Industrial Relations that recognizes the organization as being exempt from the Federal Unemployment Tax Act due to the organization's status as a tribal or religious organization.

(C) A copy of the Form 990 "Return of Organization Exempt From Income Tax," filed with the Internal Revenue Service that indicates that the organization is a church, convention of churches, or association of churches or the organization is tax exempt pursuant to the Internal Revenue Code Section 170 subsection (b)(1)(A)(i). This subsection only applies to religious organizations.

(D) A copy of the Form BOE-267-SNT "Religious Exemption Change in Eligibility or Termination Notice," filed with the county assessor in which the organization is located. This subsection only applies to religious organizations.

(E) A letter from the Board of Equalization that identifies the organization as being eligible for exemption from property taxes due to its status as a tribal or religious organization.

(F) A document which demonstrates the organization is a federally recognized Indian tribe and thus meets the definition of Exempt Employer under Section 10000 subsection (g)(iv). This subsection only applies to Indian tribes.

(d) For an Exempt Employer that sold their business to notify the Board by email (calsavers@treasurer.ca.gov) the Exempt Employer shall provide the following.

(1) A letter signed by the business owner or authorized manager that includes:

(A) The legal name of the company.

(B) The company's Federal Employer Identification Number.

(C) An explanation of the reason for exemption including the closing date of the company.

(2) A copy of at least one of the following documents:

(A) A copy of the Form DE1 "Commercial Employer Account Registration and Update," filed with the Employment Development Department that indicates the Employer's account is closed or that the business was sold.

(B) An image of the Employer's account with the Employment Development Department that indicates the account is closed and contains the name of the business and the California Employer Payroll Tax Account Number.

(D) A copy of the Employer's final Form DE 9C, "Quarterly Contribution Return and Report of Wages (Continuation)," filed with the Employment Development Department that indicates the business is out of business.

(e) For an Exempt Employer that is closed to notify the Board by email (calsavers@treasurer.ca.gov) the Exempt Employer shall provide the following.

(1) A letter signed by the business owner or authorized manager that includes:

(A) The legal name of the company.

(B) The company's Federal Employer Identification Number.

(C) An explanation of the reason for exemption including the closing date of the company.

(2) A copy of at least one of the following documents:

(A) A copy of the Form DE1 "Commercial Employer Account Registration and Update," filed with the Employment Development Department that indicates the Employer's account is closed.

(B) An image of the Employer's account with the Employment Development Department that indicates the account is closed and contains the name of the business and the California Employer Payroll Tax Account Number.

(C) A copy of the dissolution form filed with the Secretary of State.

(D) A copy of the first page of the Exempt Employer's California tax return filed in the final year the business was in operation.

(E) A copy of the Chapter 7 Bankruptcy Form 309C "Notice of Chapter 7 Bankruptcy Case – No Proof of Claim Deadline" or a copy of the Form 309D "Notice of Chapter 7 Bankruptcy Case – Proof of Claim Deadline Set" filed in a district court or bankruptcy court.

(f) For an Exempt Employer that has zero Employees and will not be hiring new Employees to notify the Board by email (calsavers@treasurer.ca.gov) the Exempt Employer shall provide the following.

(1) The company's Federal Employer Identification Number or Taxpayer Identification Number, California Employer Payroll Tax Account Number, and access code provided by the Administrator.

(2) A letter signed by the business owner or authorized manager that includes:

(A) The legal name of the company.

(B) The company's Federal Employer Identification Number.

(C) An explanation of the reason for exemption including the closing date of the company.

(3) A copy of at least one of the following documents:

(A) The Form DE1 "Commercial Employer Account Registration and Update," filed with the Employment Development Department that indicates the Employer's account is closed.

(B) A letter from the Employment Development Department that indicates the Employer's account is closed.

(C) An image of the Employer's account with the Employment Development Department that indicates the account is closed and contains the name of the business and the California Employer Payroll Tax Account Number.

(D) A copy of the Employer's final Form DE 9C, "Quarterly Contribution Return and Report of Wages (Continuation)," filed with the Employment Development Department that indicates the business is closed.

(g) For an Exempt Employer that maintains or contributes to a Tax-Qualified Retirement Plan to notify the Administrator electronically (employer.calsavers.com) the Exempt Employer shall provide the following.

(1) The company's Federal Employer Identification Number or Taxpayer Identification Number, California Employer Payroll Tax Account Number, and access code provided by the Administrator.

(2) Select that their company sponsors a Tax-Qualified Retirement Plan.

(h) For an Exempt Employer that does not employ any individuals other than the owners of the business to notify the Administrator electronically (employer.calsavers.com) the Exempt Employer shall provide the following.

(1) The company's Federal Employer Identification Number or Taxpayer Identification Number, California Employer Payroll Tax Account Number, and access code provided by the Administrator.

(2) Select that their company does not have Employees other than the owners of the business.

NOTE: Authority Cited: Sections 100010 and 100048, Government Code.

Reference: Section 100000, Government Code.