

# 401(k) – New Regulations and CalSavers

## Small Business Incentives/Tax breaks

The SECURE Act, the tax credit is increased exponentially in order to cover potentially more than half of the cost of a new small business retirement plan. As of 1/1/20, the amount of the tax credit is now capped at \$250 times the number of NHCEs eligible to participate in the plan, up to a \$5,000 annual maximum (but never less than \$500), though, as we saw with prior law, the credit is still limited to 50% of the start-up costs.

Additionally, if the new plan automatically enrolls employees into the plan, the employer will get an additional annual credit for start-up costs of \$500 per year. I would recommend doing this anyway to help with your participation rates and annual testing that is done at the end of the year. Employees can opt-out of the plan if they choose they don't want to be in it.

Here is an example that the article provided: Take a small business employer with 15 NHCEs that wants to establish a safe harbor 401(k) plan for her employees and is willing to do automatic enrollment. The provider quotes an out-of-pocket cost to the employer of \$1,500 per year. In that case, the tax credit available to this employer will be \$750 plus \$500 (for automatic enrollment) or \$1,250, which is almost the entire cost to the employer. If an employer engages in automatic enrollment, the employees can still opt-out or stop contributions into the 401(k) plan at any time.

## Do I have to do this?

Not immediately. However – by July 1, 2022, all California businesses with 5 or more employees will need to implement a 401(k) plan or enroll in the CalSavers program. The mandatory phase in process begins on June 30, 2020 for employers with 100 or more employees.

CalSavers is a state-mandated IRA program where each employee must enroll in a retirement savings product administered and advised upon by the state of California. It's the employer's responsibility to re-enroll the employee each year, and if desired, the employee must opt-out each year. In a 401(k) they can join and enter whenever they wish.

Options within the program	401(k)	CalSavers
Ability to freely select plan's investments	Yes	No
Employer contributions - incentive/match	Yes	No
Automatic Enrollment	Optional	Mandatory
Roth Feature	Yes – to everyone	Only available to those within limits *
Hire companies/select vendors	Yes	No
Amount employee can contribute annually	\$19,500	\$6,000 (IRA limits & subject to income limits)
Employee enrollment/opt-out	One time/anytime	Mandatory annual selection

\*Employee is responsible for determining income limits and deciphering how much he or she can contribute. Typically, CPAs will need to assist employees in doing this unless the employee is familiar with taxes.