
Maryland Employers – Requirement To Establish Retirement Savings Program

7 Sep 2023

[Roy L. Kaufmann](#)

In recognition of the advantages of employees establishing retirement savings accounts, with few exceptions, Maryland employers (including non-profits) are now required to establish a payroll deposit retirement program for employees and must file an annual certification of compliance every December 1. Employers could offer 401(k), SEP or Simple IRA, or similar programs, but, fortunately, the State of Maryland offers a simple, cost-free solution called “MarylandSaves” with information at <https://marylandsaves.com/> that allows employees to contribute to a retirement plan.

Employers are required to offer retirement programs if they have at least one W-2 employee with Maryland income.

There are several exemptions from this requirement.

Exemptions:

- Startups that have operated for fewer than 2 years
- Businesses that do not use a payroll service
- Businesses that offer or have offered within the past 2 years a voluntary payroll-based retirement savings plan such as a 401(d)
- Government entities (federal, state, local).

If a business does not already have a retirement program, enrolling in MarylandSaves takes only about 15 minutes. Employers can register at <https://www.marylandsaves.org/register-my-business/> and, thereafter, either the employer or the payroll provider will submit a list of employees.

Employers are *not* required to make any contributions (either matching or for administration costs) but employees would certainly benefit from participation. There are even opportunities for others to participate. Sole proprietors and 1099 employees can enroll themselves in this easy program and make contributions directly from their checking accounts. Similarly, business owners, family members, and stockholders can participate, as long as they are considered employees for tax purposes.

A signup will prompt an email to the employee, announcing that the retirement program is available, setting up their new “WorkLife” Roth-IRA, and suggesting that the employee contribute 5% of their paycheck as a contribution to their IRA. The first \$1,000 contributed by the employee will go into an Emergency Savings Account. Any employee over 18 years of age with a Social Security number or a Tax Identification number may participate and there is an opportunity to opt-out. Otherwise, the Roth account will be established for the employee and the payroll service will start the 5% deductions.

Employees may move their retirement account among employers, change their contribution rate, make withdrawals and make investment decisions.

The employers need not report the contributions on the employees’ W-2s because it is a payroll deduction IRA, as opposed to a traditional retirement plan. MarylandSaves will file an IRS Form 5498 – IRA Contributions Information, and

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send the employee a copy by May 31 of each year.

Mark your calendar. Each December 1, the employer must certify that it has either offered a 401(k) program to employees or participates in MarylandSaves. There is a \$300 fee which can be waived if you show compliance.

Employers should resist giving financial or other advice to employees on this topic, apart from explaining that an IRA is a win-win situation for employees and the earlier that an employee starts making contributions, the better. Apart from that, the law protects employers from fiduciary liability and, giving advice could erase that protection. Instead, employees should be directed to the MarylandSaves website.

For more information:

Directed to Employees (highlighting the advantages of retirement savings): <https://www.marylandsaves.com/>
833-811-7437

Directed to Employers <https://www.marylandsaves.org/> 833-811-7438

For more information on this new program, or other advice on employment matters for your business please do not hesitate to contact the Business & Employment Group at Jackson & Campbell at (202) 457-5457, or jmatteo@jackscamp.com.

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