

The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. These shapes are primarily located on the left and right sides of the page, framing the central text. The overall aesthetic is clean and modern.

# CalSavers

What employers need to be aware of

# Agenda

- ▶ What is CalSavers?
- ▶ Employer Responsibilities and Involvement
- ▶ Fees and Penalties for Non-Compliance
- ▶ Litigation against CalSavers
- ▶ Alternative Plan Options
- ▶ Leveraging CalSavers to grow your business

What is CalSavers?



September 29, 2016 Governor Jerry Brown signed Senate Bill 1234

Welcome CalSavers!

# Law Mandating a Retirement Plan for All

- ▶ California Employers are now mandated by law that they offer a retirement plan for their employees, or join the CalSavers plan
- ▶ Beginning July 2019 employers can voluntarily start participating in CalSavers
- ▶ The mandated deadlines are as follows:
  - ▶ September 30, 2020 Businesses with 100+ employees
  - ▶ June 30, 2021 Businesses with 50+ employees
  - ▶ June 30, 2022 Businesses with 5+ employees
- ▶ CalSavers definition of an employee
  - ▶ Age 18, paid by W-2, and worked for 30 days from D.O.H.

# What is CalSavers Continued...

- ▶ Roth IRA's only
  - ▶ With the promise of adding pre-tax IRA's in the future
- ▶ Employees will be Auto-Enrolled at 5%
  - ▶ Auto-Escalated up 1% each year after that up to 8%
  - ▶ They have the option to opt-out, or make a different election
- ▶ Employees are responsible for knowing if they are eligible for the Roth IRA
  - ▶ The MAGI (Federal Modified Adjusted Gross Income) Limits still apply
    - ▶ \$137,000 for single filers and \$203,000 for married couples filing jointly
- ▶ No correction for the employees that forgot to opt-out, or that didn't qualify

# What is CalSavers Continued..

- ▶ Ascensus is handling the record-keeping for CalSavers
- ▶ The employees pay all fees associated with CalSavers
  - ▶ Estimated at 0.82% to 0.95%
- ▶ The Investment Options are all State Street:
  - ▶ Target Date Funds 2015 through 2065
  - ▶ 2 State Street Global Equity Funds
  - ▶ 1 Bond Fund
  - ▶ 1 Money Market Fund
- ▶ The Roth IRA's are portable if they leave employment

# Employer Responsibilities

The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. These shapes are primarily located on the right side of the slide, creating a modern, layered effect. The text 'Employer Responsibilities' is centered on the left side of the slide in a clean, sans-serif font.



# Employer Administration w/CalSavers

- ▶ Required to submit a full employee census to CalSavers (keep them updated)
- ▶ Track all eligible employees
- ▶ Provide enrollment packet to all employees 30 days after DOH
  - ▶ Ascensus will mail the packet to the address provided
- ▶ If no election is made in the next 30 days (60 days from DOH)
  - ▶ set up the 5% Auto Enroll in payroll to send the Roth IRA contribution to CalSavers

# Employer Responsibilities Cont.....

- ▶ Track in payroll and implement the Auto Escalate of 1% each year up to 8%
- ▶ Auto Escalate employees that did not make a separate election to opt-out of auto escalation
- ▶ Hold Open Enrollment every year (Oct 1<sup>st</sup> - Nov. 30<sup>th</sup>)
  - ▶ Re Auto Enroll anyone that is not participating for 6 months or longer
- ▶ 6 month look back each year for Auto Escalate
  - ▶ Track if employee has been participating for 6 months with no auto escalation
  - ▶ Provide 60 day notice that they will be auto escalated Jan 1<sup>st</sup> if they do not opt-out again

# Fees and Penalties for Employer

- ▶ No “cost” for Employer to join CalSavers
- ▶ Proposed penalties for non-compliance with the law
  - ▶ 90 Days after notice of non-compliance
    - ▶ \$250 per eligible employee
  - ▶ 180 Days after notice of non-compliance
    - ▶ \$500 per eligible employee

# Pending Litigation against CalSavers

- ▶ **April 1<sup>st</sup>, 2019 The U.S. District Court in California dismissed the Lawsuit**
  - ▶ The court gave 20 days to amend the lawsuit
- ▶ The Howard Jarvis Taxpayers Association
  - ▶ (A California based advocacy for taxpayers rights)
- ▶ Filed a lawsuit in May of 2018 attempting to invalidate CalSavers
- ▶ They argue that CalSavers violates the supremacy clause of the US Constitution because it is pre-empted ERISA.
- ▶ The 2 big issues raised:
  - ▶ ERISA does not allow state run retirement plans
    - ▶ President Trump rescinded an exemption President Obama created for State run plans
  - ▶ The program must be “completely voluntary” to be exempt from ERISA
    - ▶ Auto Enroll is in question of being voluntary

# Alternative Retirement Plan Options

The slide features a white background with a decorative graphic on the right side. This graphic consists of several overlapping, semi-transparent green triangles and polygons in various shades of green, ranging from light lime to dark forest green. The shapes are arranged in a way that they appear to be layered, creating a modern, abstract design.

# What Can Employers do to avoid CalSavers?

- ▶ Establish your own independent Employer Sponsored 401(k) Plan
  - ▶ Administratively more manageable:
    - ▶ Employee: Age 21 with 1 Year of Service and 1000 hours
    - ▶ Semi Annual Entry: Jan.1<sup>st</sup> and July 1<sup>st</sup>
    - ▶ Your choice to add Auto Enroll and Auto Escalation
- ▶ Benefits of a 401(K) Plan
  - ▶ Employees can save \$19,500 or \$26,000 with catch-up of all pre-tax dollars
    - ▶ They can choose Roth with no income limitations
  - ▶ Employer can provide a tax deductible Employer Match or Profit Sharing Contribution
- ▶ Employee Attraction and Retention Tool
- ▶ All money in the trust is protected from bankruptcy, creditors, etc...

# What about the cost for a 401(k) Plan?

- ▶ All 401(k) Plan fees are tax deductible to the business
  - ▶ Or the participants can pay all or some of the plan fees
- ▶ Business with over 100 employees may need a large plan audit
  - ▶ We have ways to avoid the audit

# Leveraging CalSavers





# How to identify the impacted Employers?

- ▶ There is no form 5500 to search
- ▶ Connect with:
  - ▶ CPA's
  - ▶ HR Groups
  - ▶ Group Benefit Relationship
  - ▶ Payroll Reps
  - ▶ Direct to the Employer
  - ▶ P&C Shops
  - ▶ Chamber of Commerce
- ▶ Anyone that might have knowledge or access to a business
- ▶ Always exhaust your existing book of business and warm prospects first!

# Questions?

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# Hicks Pension Services

## Retirement Plan Update



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## CalSavers - California State Mandated Retirement Plan

Beginning in July 2019 California employers can voluntarily start participating in the state sponsored retirement plan, CalSavers. However, there is a three year phase-in that will mandate employers to either join the CalSavers plan, or implement their own independently sponsored retirement plan for their business. The implementation deadlines are as follows:

- **June 30, 2020: Businesses with 100 + employees**
- **June 30, 2021: Businesses with 50 + employees**
- **June 30, 2022: Businesses with 5 + employees**

### What is CalSavers?

CalSavers is Roth IRA's only at this point. Eligible employees will be auto-enrolled at 5% of their gross pay if they do not opt-out, or make an election. Their contribution will also be Auto-Escalated each year by 1% up to a maximum of 8%. Federal Modified Adjusted Gross Income (MAGI) limits apply and each employee is responsible for opting out of the plan if they do not qualify for a Roth IRA.

Employees will be offered State Street Target Dates Funds from 2015 - 2065, two State Street Global Equity Funds, one State Street Bond Fund, and a Money Market Fund.

If the employee does not make an investment election their first \$1000 will be defaulted into the Money Market Fund. All contributions after that will be defaulted into a Target Date Fund based on their date of birth.

### **Who is an Eligible Employee?**

Any employee that is at least age 18, paid by W-2, and has worked for the business for 30 days.

### **Employer Administration Requirements in the CalSavers Plan:**

Employers are required to track all eligible employees and offer them the plan within 30 days from their date of hire.

If the employee does not make an election within 30 days, the employer is required to auto-enroll the employee and set up their Roth deferral via payroll deduction. They are also required to track and auto-escalate all employees by 1% every January 1st, up to 8% if they have not opted out, or made another election.

Employers will also be required to track all eligible employees that opted out of the program at least six months prior to the Open Enrollment Period of October 1st through November 30th. If they do not opt out again by the end of this period, they will need to be auto-enrolled via payroll deduction.

### **Fees and Penalties for the Employer:**

There is no fee to register the business for the CalSavers plan. All fees are passed on to the individual employees participating in the plan.

The proposed penalties for non-compliance of either establishing an independent Retirement Plan, or

not complying with the CalSavers requirements, start at \$250 per eligible employee if the employer remains non-compliant after 90 days from being served a notice. The penalties can increase up to \$500 per eligible employee if non-compliance reaches 180 days or more after receiving a notice.

### **Pending Litigation against CalSavers:**

The Howard Jarvis Taxpayers Association, a California-based advocacy for taxpayer rights, filed a brief claim in the U.S. District Court for the Eastern District of California, alleging CalSavers violates the Supremacy Clause of the U.S. Constitution because the Employee Retirement Income Security Act (ERISA), the federal law governing private-sector retirement plans, preempts California's law.

If a court determines CalSavers falls under ERISA's definition of pension benefit plan, California's law would be preempted. If California's law is ultimately preempted by ERISA, all of the participants would retain their IRA accounts, however their automatic deductions would cease.

### **Why should you be aware of CalSavers and how it will impact California Employers?**

This could be turned into a great opportunity to reach out to current clients without a retirement plan, and prospects to provide education on what is around the corner, especially businesses' with over 100 employees. You can give them alternative Retirement Plan options that could possibly be a much better fit for their business and also administratively easier to manage.

If you would like to discuss how you can try to help your clients and grow your retirement plan book of business please do not hesitate to contact me. I am

happy to give you more information regarding CalSavers and the advantages of setting up an independent qualified retirement plan.

*If you have any questions about this or any other qualified plan topics, please do not hesitate to contact*

*Eric Petersen at (510) 790-1096 or*

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Link to the CalSavers website <https://www.calsavers.com>