

EMPLOYMENT LAW SUMMARY

Illinois: Secure Choice Retirement Savings Program

Beginning in 2018, Illinois implemented its state-sponsored retirement program—the Illinois Secure Choice Retirement Savings Program (Secure Choice). This program offers a Roth Individual Retirement Arrangement (IRA) to employees in Illinois who do not have access to a tax-qualified retirement program through work. While covered employers do not need to pay costs or fees in connection with Secure Choice, they must distribute informational materials about Secure Choice to their employees, facilitate enrollment in the program, set up payroll deductions and remit employee contributions. Covered employers who do not comply with Secure Choice’s requirements may be subject to fines and penalties, including a penalty of at least \$250 for each employee (per calendar year) who is not properly enrolled in the program. Effective Jan. 1, 2022, a \$500 penalty will apply for each subsequent calendar year the employer is noncompliant.

Covered Employers

Employers in Illinois must participate in Secure Choice if they meet the following criteria:

- Have 5 or more employees;
- Have been in operation for at least two years; and
- Do not offer an employer-sponsored retirement plan.

Employers that have fewer than 5 employees*, have been in business for less than two years or that already offer an employer-sponsored retirement plan are exempt from participating in Secure Choice.

**Effective Jan. 1, 2022, employers with at least 5 employees (previously, the threshold was 25 employees) during every quarter of the previous calendar year will be required to participate in Secure Choice. The Illinois Department of Revenue will determine total employee count using the annual average from employer-reported quarterly data.*

An employer-sponsored retirement plan includes a tax-qualified retirement plan under the federal tax code, such as a 401(k) plan, 403(b) plan, 457(b) plan, a SEP plan, a SIMPLE IRA plan, a defined benefit pension plan or a Taft-Hartley plan. It does not include payroll deduction IRAs. Also, employees are counted in the same way as the Illinois Department of Employment Security (IDES) counts employees for unemployment insurance. This means that, if an employer is reporting at least 5 employees to IDES for unemployment insurance, the employer would have 5 or more employees for purposes of Secure Choice. This definition includes part-time and full-time workers, but it does not include independent contractors (or 1099 workers).

Employer Requirements

REGISTRATION

The deadlines for employers to register with Secure Choice are staggered based on employer size, as described below:

- The enrollment deadline for employers with 16-24 employees will be no sooner than Nov. 1, 2022.
- The enrollment deadline for employers with 5-15 employees will be no sooner than Nov. 1, 2023.

Employers receive a welcome notification from Secure Choice through e-mail or U.S. mail to begin their registration. Once an employer receives this notification, it can go to Secure Choice's website and enter its access code to register its business or indicate its exemption. An employer checklist that provides an overview of each step in the registration process is available from Secure Choice.

OTHER RESPONSIBILITIES

Employers that register with Secure Choice have a limited role with the program's benefits and operations. Secure Choice does not include any employer fees or employer matching contributions. Employers' responsibilities include only the following:

- Giving program materials to current and future employees;
- Adding new employees as they become eligible and marking employees as inactive when they leave or are terminated;
- Processing payroll contributions;
- Updating employee contribution rates with the employer's payroll software or provider; and
- Timely remitting employee contributions. Employee contributions should be sent to Secure Choice within seven days of taking the money out of employees' paychecks. These contributions can be made by ACH debit, wire transfer or check.

Retirement Benefits

The Secure Choice program contacts employees after they are enrolled by their employer. Employees then have 30 days to customize their accounts or opt out of the program. If they do not make changes after 30 days, they are automatically enrolled in a Roth IRA with the program's standard contribution rate and investment fund options. The standard contribution rate is 5% of an employee's gross pay, which is deducted on an after-tax basis. Effective Jan. 1, 2022, the program will include annual, automatic increases to the contribution rates, up to a maximum of 10% of an employee's wages. Employees can opt out at any time or change the amount that they contribute to the program. Employee contributions must stay within the Roth IRA contribution limits set by the federal tax code. If an individual earns more than the Roth IRA income limits set by the federal government, he or she may need to opt out of the Secure Choice program.

What Is a Roth IRA?

A Roth IRA is an individual retirement plan that is subject to many of the same rules that apply to a traditional IRA. However, unlike with a traditional IRA, an individual cannot deduct contributions to a Roth IRA. But, if the participant satisfies certain requirements, his or her qualified distributions are tax-free. For more information on Roth IRAs, including the federal limits on annual contributions, see IRS Publication 590-A.

To pay for Secure Choice's operation and underlying fund expenses, participants are charged an annual asset-based fee of approximately .75% (or \$.75 for every \$100 in an employee's Roth IRA). More information on the Secure Choice program, including available investment options and withdrawal rules, is available through the program's website.

More Information

Contact Employco USA, Inc. for more information on the Illinois Secure Choice Retirement Savings Program.

Source: Illinois Secure Choice Retirement Savings Program, <https://www.ilsecurechoice.com/>

This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. It is provided for general informational purposes only. Readers should contact legal counsel for legal advice. © 2021-2022 Zywave, Inc. All rights reserved.