

## EMPLOYEE BENEFITS ALERT

### IMPORTANT INFORMATION REGARDING THE OREGON RETIREMENT SAVINGS PLAN

Only about half of working Oregonians have access to employer retirement plans. To promote retirement savings, Oregon has established the Oregon Retirement Savings Plan, a mandatory state-run savings plan for *private sector* workers who don't have a plan at work (this plan is different from, and unrelated to, PERS). The rules for the plan are now final, and the compliance date for large employers is November 15, 2017. Smaller employers have slightly longer to comply (see below).

Every private sector employer will be affected, but differently. Employers that offer a qualified plan to employees (such as a 401(k), 403(b) or profit sharing plan) are exempt, but must nevertheless file a certificate with the state every three years. Employers that don't offer a qualified plan have a variety of duties to help their employees participate in the plan.

The Oregon Retirement Savings Plan works like a 401(k) plan, in that employees elect the percentage of their pay they want to contribute to the plan. The contributions go to a state-run Roth individual retirement account established by the plan for each participating employee. Unlike a traditional IRA, contributions to a Roth IRA are taxable when made, but neither contributions to the account nor earnings on those contributions are taxed when withdrawn at age 59½ or upon the occurrence of certain other events.

Under the state-mandated plan, employees are automatically enrolled at a standard, default contribution level of 5% of the employee's pay, with automatic increases of 1% each year until 10% is reached. Employees can increase or decrease their elections at any time, and can choose not to make any contributions at all. Employers may not contribute to the plan.

While employers themselves don't participate in the plan, they are required to help their employees participate. It remains to be seen how intrusive those obligations will be. Among other requirements, employers covered by the Oregon Retirement Savings Plan must:

#### EMPLOYEE BENEFITS AND LABOR AND EMPLOYMENT PRACTICE GROUPS

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provide employee data to the state so the state can set up employee accounts; distribute state-provided information to employees; deduct the employee's contributions from the employee's pay and send those contributions to the state; and keep track of employees who opt-out of the plan, as well as any contribution changes that employees make. Employers can delegate some of those obligations to the plan.

Because the Oregon Retirement Savings Plan imposes certain duties on employers, to avoid liability under Oregon law and ERISA, companies should do no more than the statute requires. For example, employers should avoid endorsing or disparaging the plan, providing investment advice to employees, or acting on the plan's behalf. The plan is wholly independent of the employer, and should be treated that way.

What should you do now? First, figure out your compliance date, which is determined by the number of employees on your most recent Oregon Quarterly Tax Report:

- 100 or more employees: November 15, 2017
- 50 – 99 employees: May 15, 2018;
- 20 – 49 employees: December 15, 2018
- 10 – 19 employees: May 15, 2019
- 5 – 9 employees: November 15, 2019
- 1 -4 employees: May 15, 2020

Next, determine whether you are required to comply with the plan because you do not already offer a qualified plan to your employees. If you are not required to comply with the plan, you should register online (<https://employer.oregonsaves.com/home/program-details/eligibility.html>) and file a certificate of exemption by the applicable compliance date. If you are required to comply with the plan, you can learn more about your obligations here: <https://employer.oregonsaves.com/home.html>.

Finally, those subject to the plan should make sure that payroll systems and office procedures are in place to handle payroll deductions and employee elections by the compliance date.

If you have questions, please contact any member of our [Employee Benefits Practice Group](#) or [Labor and Employment Practice Group](#):

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*This article provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with an attorney concerning your own situation.*

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