

New Mandatory Auto-IRA Law

- On October 21, New York joined the ranks of states mandating that certain employers either offer a qualified retirement plan or join a state-facilitated retirement savings program. Earlier this year, NYC became just the second city to enact a mandatory auto-IRA law.
- This Secure Choice Savings plan applies to for-profit and non-profit employers in New York state that meet the following requirements:
 1. the employer had at all times during the previous calendar year at least ten employees in the state,
 2. the employer has been in business for at least two years, and
 3. the employer does not offer a "qualified retirement plan" such as a 401(k) or 403(b) (though the definition includes other types of retirement plans too).
- All three of these requirements have to be met in order for an employer's participation in the program to be mandatory.
- The legislation became effective immediately, but it calls for enrollment of employees to begin no later than December 31, 2021. Additionally, participating employers must setup their payroll deposit arrangements within 9 months of the program opening for enrollment. However, the New York Secure Choice Savings Program Board may delay implementation of the program by up to 12 months if they determine it is necessary. All of this is to say that it's currently unclear exactly when employers will have to enter the program.

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- What must participating employers do?
 - A participating employer's duties under the program are designed to be purely administrative. As such, participating employers must:
 1. set up a payroll deposit retirement savings arrangement,
 2. automatically enroll each employee who does not opt out of the program,
 3. withhold and remit employee contributions to the program, and
 4. disseminate the state's employee informational materials.
- This program is designed with the intention of not creating an employer-sponsored retirement plan subject to ERISA.
- The legislation itself does not identify a penalty for noncompliance. Nonetheless, regulations will be issued to implement this program and it is likely these regulations will address penalties for noncompliance. So, stay tuned.
- For more information: <https://www.hodgsonruss.com/newsroom-publications-13585.html>.

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