

**§174. Rules**

**1. Authority.** The board may adopt rules as necessary to implement this chapter, except that the board shall adopt rules required pursuant to subsection 2. Rules adopted pursuant to this chapter are routine technical rules as defined in chapter 375, subchapter 2-A. [PL 2021, c. 356, §1 (NEW).]

**2. Required rules.** The board shall adopt rules to:

A. Establish the processes for enrollment and contributions to an IRA under the program, notwithstanding any provision of state law related to payroll deductions to the contrary, including withholding by covered employers of employee payroll deduction contributions from wages and remittance for deposit to an IRA, automatic enrollment in a payroll deduction IRA and opt-outs by covered employees, voluntary contributions by others, including self-employed individuals and independent contractors, through payroll deduction or otherwise, the making of default contributions using default investments and participant selection of alternative contribution rates or amounts and alternative investments from among the options offered under the program; [PL 2021, c. 356, §1 (NEW).]

B. Establish the processes for withdrawals, rollovers and direct transfers from an IRA under the program in the interest of facilitating portability of benefits; [PL 2021, c. 356, §1 (NEW).]

C. Establish processes for implementing the program in accordance with section 173, subsection 3; [PL 2023, c. 167, §9 (AMD).]

D. Establish requirements for the determination of whether a part-time, seasonal or temporary employee is a covered employee eligible to participate in the program; [PL 2021, c. 356, §1 (NEW).]

E. Establish a process for a participant to make nonpayroll contributions to accounts under the program; [PL 2021, c. 356, §1 (NEW).]

F. Establish a process for an employer to be determined to be exempt from the program because the employer sponsors a specified tax-favored retirement plan; and [PL 2021, c. 356, §1 (NEW).]

G. Conduct outreach to individuals, employers, other stakeholders and the public regarding the program, including specifying the contents, frequency, timing and means of required disclosures from the program to covered employees, participants, other individuals eligible to participate in the program, covered employers and other interested parties. These disclosures must include, but are not limited to, the following:

- (1) The benefits and risks associated with tax-favored retirement saving under the program;
- (2) The potential advantages and disadvantages associated with contributing to a Roth IRA and, if applicable, a traditional IRA under the program;
- (3) The eligibility rules for a Roth IRA and, if applicable, a traditional IRA;
- (4) That the individual and not the employer, the State, the board, any board member or other state official or the program is solely responsible for determining whether, and, if so, how much, the individual is eligible to contribute on a tax-favored basis to an IRA;
- (5) The penalty for excess contributions to an IRA and the method of correcting excess contributions;
- (6) Instructions for enrolling, opting out of participation, making contributions and making withdrawals, including the possibility of contributing to an IRA, whether offered under the program or not, by means other than automatic enrollment in a payroll deduction IRA;

- (7) Instructions for opting out of each of the Roth IRA, the default contribution rate and the default investment if the covered employee prefers a traditional IRA, including the possibility of contributing to a traditional IRA, if offered as an option under the program, a higher or lower contribution rate or different investment alternatives;
- (8) The potential availability of a saver's tax credit, including the eligibility conditions for the credit and instructions on how to claim it;
- (9) That employees seeking tax, investment or other financial advice should contact appropriate professional advisors and that covered employers are not in a position to provide such advice and are not liable for decisions individuals make in relation to the program;
- (10) That the payroll deduction IRA is intended not to be an employer-sponsored retirement plan and that the program is not an employer-sponsored retirement plan;
- (11) The potential implications of account balances under the program for the application of asset limits under certain public assistance programs;
- (12) That the participant is solely responsible for investment performance, including market gains and losses, and that IRAs and rates of return are not guaranteed by any employer, the State, the board, any board member or state official or the program;
- (13) Additional information about retirement and saving and other information designed to promote financial literacy and capability, which may take the form of links to, or explanations of how to obtain, such information; and
- (14) How to obtain additional information about the program. [PL 2021, c. 356, §1 (NEW).]  
[PL 2023, c. 167, §9 (AMD).]

#### SECTION HISTORY

PL 2021, c. 356, §1 (NEW). PL 2023, c. 167, §9 (AMD).

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