

# Maine's Mandatory Retirement Savings Program: What Employers Need to Know

By Lisa S. Boehm on November 3, 2023

On October 18, 2023, the Maine Retirement Savings Board adopted a final rule implementing Maine's state-run retirement savings program, the Maine Retirement Investment Trust or MERIT. MERIT is intended to help employees who do not have access to a retirement plan through their employer save for retirement by requiring automatic payroll deduction contributions to a Roth IRA. At least a dozen other states have already implemented or enacted legislation to create similar retirement savings programs.

The final rule establishes procedures and requirements for "Covered Employers" to register with MERIT, onboard "Covered Employees" with MERIT, and remit payroll deduction contributions to the program administrator. The final rule also addresses the right of Covered Employees to opt out of MERIT and includes rules regarding contribution rates and IRA investment options. This post provides an overview of the final rule from an employer's perspective.<sup>1</sup>

## Who is a "Covered Employer"?

Except as provided below, a Covered Employer is any person or entity engaged in a business, industry, profession, trade or other enterprise in Maine, whether for profit or not for profit, that has not offered to some or all of its Covered Employees at any time within the current calendar year or the two preceding calendar years a tax-favored retirement plan.<sup>2</sup>

A Covered Employer does not include:

- An employer that has fewer than five Covered Employees;
- An employer that has not been in business during both the current calendar year and the preceding calendar year; and

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<sup>1</sup> The final rule is currently being reviewed by the Maine Attorney General's office.

<sup>2</sup> A tax-favored retirement plan is a 401(k) plan, 403(b) plan, 401(a) plan (e.g., a tax-qualified profit-sharing plan or pension plan), a 457(b) plan, a 403(a) tax-qualified annuity plan, a SEP IRA, or a SIMPLE IRA.

- The federal government, the State of Maine or any other state, any county or municipal corporation, or any of Maine's or any other state's units or instrumentalities.

Importantly, to be exempt from MERIT, an employer need not offer a tax-favored retirement plan to all of its employees. So long as it offers a tax-favored retirement plan to a minimum number of employees determined under applicable federal law, the employer will not be a Covered Employer.

### **Who is a “Covered Employee”?**

A Covered Employee is an individual who is age 18 or older who is employed by a Covered Employer and who has wages or other compensation that are allocable to Maine during a calendar year.

A few items to note regarding this definition:

- If a Covered Employer employs individuals in multiple states, only employees with wages or other compensation allocable to Maine must be registered with MERIT.
- Part-time and temporary employees are taken into account for purposes of determining whether an employer has fewer than five Covered Employees.
- Seasonal employees employed by a Covered Employer for at least 120 days must be registered with MERIT.

### **What is the registration date for Covered Employers?**

April 30, 2024 is the registration date for Covered Employers with fifteen or more Covered Employees.

June 30, 2024 is the registration date for Covered Employers with five to fourteen Covered Employees.

Employers that become Covered Employers after December 31, 2024 must register with MERIT within twelve months of becoming a Covered Employer.

To register, Covered Employers will use a portal on [MaineSaves.org](https://MaineSaves.org).

If an employer that is not a Covered Employer receives a notice from MERIT directing it to register, it should provide an exemption certification on the portal.<sup>3</sup> An employer's online exemption certification will remain in effect so long as it continues to offer a tax-favored retirement plan to some or all of its Covered Employees or maintains fewer than five Covered Employees. If an exemption certification is made solely because the employer has been in business for less than two years, the exemption will expire when the employer has been in business for two calendar years.

In a November 2 webinar, MERIT's Executive Director stated that the online portal will be available in the second half of January 2024 for all Covered Employers to register with MERIT.

### **What does registration entail?**

A Covered Employer must submit the following information about itself through the online portal:

- name and assumed business name, if any;
- federal employer identification number;
- mailing address;
- name, phone number, and email address of an individual designated to serve as the point of contact; and
- any additional information identified by MERIT as necessary to complete onboarding.

In addition, with its initial registration, a Covered Employer must register all Covered Employees employed for at least 120 days and provide the following information for each Covered Employee:

- legal name;
- Social Security number or taxpayer ID number;
- date of birth;
- mailing address;
- designated email address and phone number, if available; and
- any additional information needed to complete the onboarding.

After initial registration, a Covered Employer must register new Covered Employees as soon as practicable, but no later than an individual's 120th day of employment.

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<sup>3</sup> An employer that offers a tax-favored retirement plan and is not sent a notice is not required to provide an online exemption certification.

## **What other responsibilities does a Covered Employer have?**

Essentially, a Covered Employer's role is to facilitate MERIT by registering Covered Employees and withholding and remitting payroll deduction contributions to MERIT.

MERIT will notify Covered Employers of the percentage to deduct from the W-2 wages of each Covered Employee, and Covered Employers must remit payroll deduction contributions as soon as administratively practicable, and in no event later than fourteen days from the close of the payroll period in which the wages were earned.

The program administrator for MERIT, not the Covered Employer, is responsible for notifying Covered Employees of their rights and obligations under MERIT, including the right to opt out of payroll deduction contributions, the default contribution rate and their right to choose a different rate, their right to opt out of automatic escalation, and their right to direct the investment of their payroll deduction contributions among the investment options available under MERIT.

The Covered Employee, not the Covered Employer, is responsible for determining whether they are eligible to make contributions to an IRA, whether the amount of their payroll deduction contributions complies with the annual contribution limit for IRAs under the Internal Revenue Code, and whether or not contributions are deductible.<sup>4</sup> The program administrator for MERIT will direct a Covered Employer to cease payroll deduction contributions when those contributions reach the annual legal limit.

Covered Employers are not permitted to make employer contributions to MERIT on behalf of a Covered Employee.

If a Covered Employer establishes a tax-favored retirement plan, it is prohibited from remitting payroll deduction contributions to MERIT. In this event, the Covered Employer must notify the program administrator at least 60 days prior to the cessation of payroll deduction contributions and must notify Covered Employees with an IRA established under MERIT at least 30 days before payroll deduction contributions cease.

A Covered Employer who becomes exempt because its number of Covered Employees falls below five must notify the program administrator within 30 days.

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<sup>4</sup> In lieu of a Roth IRA, a Covered Employee may choose on the employee portal to establish a traditional IRA for their payroll deduction contributions.

### **What is the payroll deduction contribution rate?**

Unless a Covered Employee elects to opt out of MERIT or elects a different contribution rate in the employee portal, the payroll deduction contribution rate is 5% of the Covered Employee's W-2 wages.

Covered Employees who have participated in MERIT for at least six months will have their payroll deduction contributions automatically increased by 1% of their W-2 wages at the beginning of each subsequent calendar year, up to a maximum of 10% of their W-2 wages. Covered Employees may opt out of the automatic increase at any time.

Are Covered Employers subject to penalties for failing to register and commence payroll deduction contributions?

Yes. The penalty amount begins at \$20 per Covered Employee and increases annually. MERIT's Executive Director has discretion to waive penalties based on facts and circumstances.

Further information about MERIT is available at [MaineSaves.org](http://MaineSaves.org). If you have any questions regarding MERIT, please contact a member of Verrill's [Employee Benefits & Executive Compensation Group](#).



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