



*i*nformational Bulletin

David Harris, Director

Enforcement of the Illinois Secure Choice Savings Program Act

To: Illinois employers with at least five (5) employees, that have been in business for two or more years, and that do not offer a qualified retirement plan

This bulletin is written to inform you of recent changes; it does not replace statutes, rules and regulations, or court decisions.

For Illinois Secure Choice Savings Program enforcement information
Visit our website at:
tax.illinois.gov

Call us at:
1 800 732-8866 or
217 782-3336

Call our TDD
(telecommunications device
for the deaf) at:
1 800 544-5304

For Illinois Secure Choice Savings Program registration or exemption information
Visit Secure Choice's website at:
ilsecurechoice.com

Call Secure Choice at:
1 855 836-5379 (if you have received the
IDOR-2P-NT) or
1 855 650-6913 (for all other inquiries)

Email Secure Choice at:
clientservices@ilsecurechoice.com

What is the Illinois Secure Choice Savings Program Act?

Under the Illinois Secure Choice Savings Program Act ([820 ILCS 80/](#)), Illinois employers with at least five (5) employees, that have been in business for two or more years, and that do not offer a qualified retirement plan must either begin offering a qualified plan or automatically enroll their employees into the [Illinois Secure Choice Savings Program](#) ("Secure Choice"). Secure Choice is a program administered by the Illinois Secure Choice Savings Board for the purpose of providing a retirement savings option to private-sector employees in Illinois who lack access to an employer-sponsored plan. Employers who do not meet their required enrollment deadlines or report an exemption from Secure Choice may be subject to financial penalties. For information on registration, reporting an exemption, and related deadlines, visit ilsecurechoice.com.

What is the Illinois Department of Revenue's role in Secure Choice?

The Illinois Department of Revenue (IDOR) is responsible for enforcement of the penalty provisions for Secure Choice after Secure Choice notifies IDOR of noncompliant employers. IDOR is required to determine total employee counts for noncompliant employers using employer-reported data and is required to notify employers of and demand payment for penalty assessments related to noncompliance with Secure Choice. IDOR also reviews claims for refunds of overpaid Secure Choice penalties and issues either a refund or a claim denial. In addition, IDOR oversees the administrative hearing process for protests of penalties assessed for noncompliance and for protests of claim denials related to Secure Choice.

What action will IDOR take?

IDOR will begin issuing the following penalty assessment letters in February 2023 to employers who were referred to IDOR for Secure Choice noncompliance:

- IDOR-2P-NT, Notice of Proposed Assessment
- IDOR-2-BILL-NT, Notice of Assessment

Note: You can avoid paying a proposed penalty assessment by coming into compliance with Secure Choice **within 120 days** of the issue date on your IDOR-2P-NT. See the “Secure Choice Information” section on the next page of this bulletin for more information.

If you have questions about notices issued to you by IDOR related to Secure Choice, contact IDOR at 1 800-732-8866 or 217 782-3336.

IDOR cannot approve exemptions from Secure Choice. If you believe you are exempt, see the “Report an exemption from Secure Choice” section below.

How should I respond to my IDOR-2P-NT, Notice of Proposed Assessment?

If you receive an IDOR-2P-NT letter, you should respond by completing one or more of the following:

- **Register for and facilitate Secure Choice**

If you do not offer a qualifying retirement plan to your employees, you can avoid paying the proposed penalty assessment by coming into compliance with Secure Choice by registering for and facilitating this program. See the “Secure Choice Information” section of this bulletin for more information.

Note: You must come into compliance **within 120 days** of the issue date on the IDOR-2P-NT for the proposed penalty assessment to be removed.

- **Report an exemption from Secure Choice**

If you believe you are exempt from Secure Choice, visit employer.ilsecurechoice.com/exempt.

Note: An approved exemption indicates you are in compliance with Secure Choice, and the proposed penalty assessment will be removed.

- **Amend your IL-941**

If you do not agree with the employee count listed on your IDOR-2P-NT, please review your Illinois Withholding Income Tax Account for the year in question. The total employee count is determined by averaging the total number of employees showing tax withheld (non-zero entries) on the Schedule P, Illinois Withholding Payroll Schedule, from all four quarters of the tax year in question.

If you determine your employee count is incorrect, you will need to amend any period in which the employee count is incorrect. The fastest way to amend your IL-941 return is to submit an IL-941-X electronically via MyTax Illinois or an IDOR-approved tax-prep software program (software you develop or purchase off-the-shelf).

Note: While an IL-941-X can be submitted at any time to make corrections to a previously filed return, you should file your IL-941-X as soon as possible after receiving the IDOR-2P-NT to potentially lower or remove the proposed penalty assessment for Secure Choice and to avoid receiving additional penalty assessment letters. Filing your IL-941-X electronically will result in a faster correction of your account.

If you have already filed an IL-941-X or believe there is a data reporting error, please call IDOR at 1 800 732-8866 or 217 782-3336. You may also email IDOR at REV.TA-BIT-WIT@illinois.gov.

- **Pay a balance due**

If you agree with the proposed penalty assessment, IDOR encourages you to use MyTax Illinois at mytax.illinois.gov or the voucher issued with the letter to make your payment.

Note: Paying the proposed penalty assessment will **not** bring you into compliance with Secure Choice. See the “Secure Choice Information” section of this bulletin for more information.

- **Request an administrative hearing**

If you do not believe any of the options previously listed apply to your business, and you wish to request an administrative hearing with IDOR to protest the proposed penalty assessment, follow the instructions in the “Protest Rights” section of the IDOR-2P-NT. You must submit a request for an administrative hearing to IDOR **within 120 days** of the issue date on the IDOR-2P-NT.

What are the penalties for failing to act?

Secure Choice monitors compliance, reaches out to employers, and provides technical assistance to help employers meet deadlines and requirements. Employers who do not comply with the Illinois Secure Choice Savings Program Act may be subject to penalties as described in [820 ILCS 80/85](#) and as outlined below:

- Tier I penalty: \$250 per employee, calculated for the employer’s first calendar year of noncompliance
- Tier II penalty: \$500 per employee, calculated for each subsequent calendar year the employer is noncompliant

Note: Noncompliance after the first calendar year does not need to be consecutive to qualify for application of the Tier II penalty.

If you do not register for and start facilitating Secure Choice, report your exemption from Secure Choice, request an administrative hearing, or pay the penalty assessment in full **within 120 days** of the issue date on your IDOR-2P-NT, IDOR will proceed with finalizing the penalty assessment and may take collection action against you for the balance due. Collection action may include levy of your bank accounts, filing of a lien, or other enforcement action.

What should I do if I took action in response to the IDOR-2P-NT but still received another penalty assessment letter?

If you took one or more of the recommended actions listed in this bulletin in response to the IDOR-2P-NT but then received the IDOR-2-BILL-NT, Notice of Assessment, you should follow the instructions provided on the letter. You may also contact IDOR by calling 1 800 732-8866 or 217 782-3336 or by emailing REV.TA-BIT-WIT@illinois.gov.

Secure Choice Information

How can I come into compliance with Secure Choice?

You can come into compliance with Secure Choice by either registering for and facilitating this program or by reporting an exemption. To start the registration process, visit employer.ilsecurechoice.com, and use the “access code” identified at the top right of the IDOR-2P-NT, Notice of Proposed Assessment. To report an exemption, visit employer.ilsecurechoice.com/exempt, and enter the required information.

Note: Employees who are automatically enrolled in Secure Choice by their employers can opt out of this program and opt back in at any time after initial enrollment.

Whom should I contact with questions regarding Secure Choice?

For more information about Secure Choice, you can call the Secure Choice Client Services team at 1 855 836-5379 (if you have already received the IDOR-2P-NT) or 1 855 650-6913 (for all other inquiries) between 8:00 a.m. and 8:00 p.m. CST, Monday through Friday, or email clientservices@ilsecurechoice.com. You can also visit employer.ilsecurechoice.com for additional resources and tutorials.