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Torrillo & Associates

Benefit Plan Audit Specialists

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IRS Revenue Procedure 2021-30 updates EPCRS



With Revenue
Procedure 2021-30,
the IRS has updated
its Employee Plans

Compliance Resolution System (EPCRS).

EPCRS permits any plan sponsor of a retirement plan to correct plan failures. EPCRS offers three correction programs:

- **Self-Correction Program (SCP)** – Correct certain plan failures without contacting the IRS or paying a user fee
- **Voluntary Correction Program (VCP)** – Correct failures not eligible for SCP and to get the approval of the IRS that the failures were properly corrected
- **Audit CAP** – Resolve failures discovered during an IRS audit that can't be corrected using SCP

The IRS made significant changes and revisions to EPCRS in [Revenue Procedure 2021-30 \(PDF\)](#) that may be beneficial to plan sponsors, participants, and the retirement plan community.

Overpayments Correction Options: Expanded correction principles to allow plan sponsors to fix operational failures when plan participants or beneficiaries receive payments from defined benefit plans that exceed what is permitted by the terms of the plan, effective July 16, 2021. The new principles reduce the need to seek repayment from participants or beneficiaries who received overpayments, and in some cases, do not require the plan sponsor to reimburse the plan for overpayments to participants.

Expansion of Self Correction for Significant Operational Failures: Extends the correction period of significant operational failures from two to three years, effective July 16, 2021.

Expansion of Self Correction for Retroactive Plan Amendments: Makes it easier to use retroactive plan amendments to correct operational failures by removing the requirement that all participants in the plan benefit by the retroactive

amendment, effective July 16, 2021.

Anonymous VCP submissions: Effective January 1, 2022, Rev. Proc. 2021-30 eliminates anonymous submissions under VCP.

Anonymous Pre-Submission Conferences: Effective January 1, 2022, the IRS will permit plan sponsors or their representatives to make an anonymous written request for a pre-submission conference to discuss a potential VCP submission at no cost to the plan sponsor. Following the pre-submission conference, if the plan sponsor submits a VCP request, it can no longer be anonymous.

Extension of Automatic Enrollment Failures: Extends the sunset of the safe harbor correction method to correct missed elective deferrals for eligible employees subject to an automatic contribution feature in Section 401(k) or 403(b) plans (from December 31, 2020, to December 31, 2023).

Increased Threshold for De Minimis Correction Amounts: Increase from \$100 to \$250 the threshold for certain de minimis amounts for which a Plan Sponsor is not required to implement correction.

Below are more details on the changes. Plan sponsors should consult the [new revenue procedure](#), for more guidance.

Correction of Overpayment (Defined Benefit Plans)

In general, Rev. Proc. 2015-27, 2015-16 I.R.B. 914, clarified the permissible methods for correcting Overpayments under EPCRS by noting that, depending on the facts and circumstances, correcting an Overpayment under EPCRS may not need to include requesting that Overpayments be returned to the plan by plan participants and beneficiaries. The Department of the Treasury ("Treasury Department") and the IRS also requested comments in Rev. Proc. 2015-27 on potential changes relating to the recoupment of Overpayments. In light of comments received, the Treasury Department and the IRS are

modifying Rev. Proc. 2019-19 to further clarify and expand options available for the recoupment of Overpayments.

Modifications to Current Correction Methods

Sections 6.06(3), 6.06(4), and Appendix B, section 2.05, are revised to provide that Plan Sponsors may provide Overpayment recipients the option of repaying an Overpayment in a single sum payment, through an installment agreement, or through an adjustment in future payments.

New Correction Methods

Section 6.06(3) is revised to provide two new Overpayment correction methods, the funding exception correction method and the contribution credit correction method. These methods reduce the need for defined benefit plans to seek recoupment from Overpayment recipients and ease the process for Overpayment recipients repaying Overpayments, while balancing the interest of other participants in the plan.

▪ Funding exception correction method

Section 6.06(3)(d)(i) sets forth the new funding exception correction method, which provides that corrective payments are not required for a plan subject to § 436, provided that the plan's certified or presumed adjusted funding target attainment percentage ("AFTAP") determined under § 436 that is applicable to the plan at the date of correction is equal to at least 100 percent (or, in the case of a multiemployer plan, the plan's most recent annual funding certification indicates that the plan is not in critical, critical and declining, or endangered status (as defined in § 432), determined at the date of correction). Future benefit payments to an Overpayment recipient must be reduced to the correct benefit payment amount. For purposes of EPCRS, no further corrective payments from any party are required, no further reductions to future benefit payments to an Overpayment recipient, or any spouse or

beneficiary of an Overpayment recipient, are permitted, and no further corrective payments from an Overpayment recipient, or any spouse or beneficiary of an Overpayment recipient, are permitted. See section 6.06(3)(d)(i) and Appendix B, section 2.05(3).

▪ **Contribution credit correction method**

Section 6.06(3)(d)(ii) sets forth the new contribution credit correction method, which provides that the amount of Overpayments required to be repaid to the plan is the amount of the Overpayments reduced (but not below zero) by: (A) the cumulative increase in the plan's minimum funding requirements attributable to the Overpayments (including the increase attributable to the overstatement of liabilities, whether funded through cash contributions or through the use of a funding standard carryover balance, prefunding balance, or funding standard account credit balance), beginning with (1) the plan year for which the Overpayments are taken into account for funding purposes, through (2) the end of the plan year preceding the plan year for which the corrected benefit payment amount is taken into account for funding purposes; and (B) certain additional contributions in excess of minimum funding requirements paid to the plan after the first of the Overpayments was made. This reduction is referred to as a "contribution credit." Future benefit payments to an Overpayment recipient must be reduced to the correct benefit payment amount. For purposes of EPCRS, if the amount of the Overpayments is reduced to zero after the contribution credit is applied, no further corrective payments from any party are required, no further reductions to future benefit payments to an Overpayment recipient, or any spouse or beneficiary of an Overpayment recipient, are permitted, and no further corrective payments from an Overpayment recipient, or any spouse or beneficiary of an Overpayment recipient, are permitted. However, if a net Overpayment remains after the

application of the contribution credit, the Plan Sponsor or another party must take further action to reimburse the plan for the remainder of the Overpayment. See section 6.06(3)(d)(ii) and Appendix B, section 2.05(4).

Description of Other Modifications

The other modifications to [Rev. Proc. 2019-19](#) that are made by this revenue procedure include the following –

- 1. Eliminating the condition previously set forth in section 4.05(2)(a)(ii) (relating to correction by plan amendment of Operational Failures under SCP for Qualified Plans and § 403(b) Plans) that requires a plan amendment that increases a benefit, right, or feature to apply to all participants eligible to participate under the plan.**
- 2. Increasing from \$100 to \$250 the threshold for certain de minimis amounts for which a Plan Sponsor is not required to implement correction. See sections 6.02(5)(c), 6.02(5)(e), and 6.11(5)(c).**
- 3. Modifying the structure of section 6.06(4) and Appendix B, section 2.04, to be more consistent with changes made to section 6.06(3) and Appendix B, section 2.05, and to clarify the correction principles relating to Overpayments from defined contribution plans and § 403(b) Plans.**
- 4. Extending the end of the SCP correction period for significant failures (set forth in section 9.02) from the last day of the second plan year following the plan year for which the failure**

occurred to the last day of the third plan year following the plan year for which the failure occurred (which has the result of also extending the safe harbor correction method set forth in Appendix A, section .05(9)(b) for Employee Elective Deferral Failures lasting more than three months but not beyond the extended SCP correction period for significant failures) and modifying the examples in section 9.04 to reflect this extension.

5. Revising section 10.01 to add an option, effective January 1, 2022, for Plan Sponsors to request a no-fee anonymous VCP pre-submission conference under specified circumstances.
6. Eliminating the anonymous submission procedure described in section 10.09 of Rev. Proc. 2019-19, which permits submission of a Qualified Plan, § 403(b) Plan, SEP, or SIMPLE IRA Plan under VCP without initially identifying the applicable plan, the Plan Sponsor, or the Eligible Organization, effective January 1, 2022, and making conforming revisions to sections 11.04(16) and 11.08(2) to reflect the elimination of this procedure. See section 10.10 of this revenue procedure.
7. Requiring that Audit CAP sanctions be paid through the Pay.gov website (instead of by certified check or cashier's check) beginning January 1, 2022. See section 13.02.
8. Revising Appendix A, section .05(8), to extend by three years (from December 31, 2020, to December 31, 2023) the sunset of the safe harbor correction

method available for certain Employee Elective Deferral Failures associated with missed elective deferrals for eligible employees who are subject to an automatic contribution feature in a § 401(k) plan or § 403(b) Plan.

Future Enhancements



It is expected that the Treasury Department and the IRS will continue to update the EPCRS revenue procedure, in whole or in part, from time to time, including further improvements to EPCRS based on comments received. Accordingly, the Treasury Department and the IRS continue to invite further comments on how to improve EPCRS.



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Who We Are

Torrillo & Associates, LLC specializes in employee benefit plan audits including 401k audits, 403b audits, pension plan audits, and other retirement plan audits. We are licensed in 10 states including Pennsylvania, New Jersey, Delaware, New York and Florida. We are also able to practice in additional states that have passed firm mobility.

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