INTERNAL REVENUE
BULLETIN

Bulletin No. 2023–24
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HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

EMPLOYEE PLANS

Notice 2023-43, page 919.

Section 305 of the SECURE 2.0 Act expands the Self-Correction Program under EPCRS and requires that Rev. Proc. 2021-30 be revised to take into account the provisions of section 305 no later than two years after the date of enactment of the SECURE 2.0 Act. This notice is intended to assist taxpayers by providing interim guidance in advance of the update to Rev. Proc. 2021-30.

Finding Lists begin on page ii.

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.
This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.
This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.
To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.
This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

Part III

Guidance on Section 305 of the SECURE 2.0 Act of 2022 with Respect to Expansion of the Employee Plans Compliance Resolution System

Notice 2023-43

I. PURPOSE

This notice provides guidance in the form of questions and answers with respect to section 305 of Division T of the Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat. 3559 (2022), known as the SECURE 2.0 Act of 2022 (SECURE 2.0 Act), enacted on December 29, 2022. Section 305 provides for the expansion of the Employee Plans Compliance Resolution System (EPCRS), currently set forth in Rev. Proc. 2021-30, 2021-31 IRB 172, and directs the Secretary of the Treasury or the Secretary's delegate (Secretary) to revise Rev. Proc. 2021-30, or any successor guidance, to take into account the provisions of section 305 not later than the date that is two years after the date of enactment of the SECURE 2.0 Act.

This notice is intended to assist taxpayers by providing interim guidance in advance of an update to Rev. Proc. 2021-30 and is not intended to provide comprehensive guidance with respect to section 305 of the SECURE 2.0 Act. Among other issues addressed, this notice (1) provides that a plan sponsor may self-correct an eligible inadvertent failure (as defined in section 305(e) of the SECURE 2.0 Act) before Rev. Proc. 2021-30 is updated if certain conditions are satisfied and certain exceptions do not apply, (2) provides that a custodian of an individual retirement account described in section 408(a) of the Internal Revenue Code (Code) or an individual retirement annuity described in section 408(b) (IRA) may not correct an eligible inadvertent failure under EPCRS before Rev. Proc. 2021-30 is updated, and (3) provides interim interpretive guidance that applies with respect to corrections of eligible inadvertent failures. This notice does not address section 301 of the SECURE 2.0 Act, which relates to the recovery of plan overpayments, or section 350 of the SECURE 2.0 Act, which relates to correcting automatic contribution errors in a plan described in section 401(a), 403(b), 408, or 457(b) of the Code. This notice also does not address any elements of section 305 of the SECURE 2.0 Act over which the Department of Labor has authority.[1]

The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) invite comments on the guidance in this notice and any other aspect of section 305 of the SECURE 2.0 Act.

II. BACKGROUND

Rev. Proc. 2021-30 sets forth EPCRS, a system of correction programs for sponsors of qualified plans, section 403(b) plans, SEPs, and SIMPLE IRA plans that have failed to satisfy the requirements of section 401(a), 403(a), 403(b), 408(k), or 408(p) of the Code, as applicable. The components of EPCRS are: (1) the Self-Correction Program (SCP), under which a plan sponsor that has established compliance practices and procedures may self-correct certain plan failures without payment of any fee or sanction, provided certain conditions are satisfied; (2) the Voluntary Correction Program (VCP), under which a plan sponsor, at any time before examination, may pay a limited fee and receive the IRS's approval for correction of a plan failure; and (3) the Audit Closing Agreement Program, under which a plan sponsor may correct certain plan failures identified on examination and pay a sanction. In addition to setting forth the requirements of the correction programs, Rev. Proc. 2021-30 sets forth correction principles, rules of general applicability, and certain acceptable correction methods under EPCRS.

Rev. Proc. 2021-30 provides that, under SCP, a plan sponsor of a qualified plan or a section 403(b) plan generally may self-correct certain significant operational failures and plan document failures by the last day of the third plan year following the plan year for which the failure occurred and may correct certain insignificant plan failures even if they are discovered on examination. A plan sponsor of a SEP or SIMPLE IRA plan may self-correct certain insignificant operational failures in the SEP or SIMPLE IRA plan, even if the failures are discovered on examination, but may not self-correct a significant plan failure in the SEP or SIMPLE IRA plan under SCP. To be eligible to self-correct a failure in a plan eligible for correction under EPCRS, section 4.04 of Rev. Proc. 2021-30 provides that a plan sponsor must have established practices and procedures designed to promote and facilitate overall compliance with applicable Code requirements. In addition, to be eligible for correction of significant plan failures under SCP, a qualified plan or a section 403(b) plan must, as of the date of correction, be the subject of a favorable letter, as defined in section 5.01(4) or 5.02(5) of Rev. Proc. 2021-30, as applicable, and, to be eligible for correction of insignificant operational failures in a SEP or SIMPLE IRA, the plan must meet the document requirements set forth in section 4.03(2) of Rev. Proc. 2021-30. Under SCP, a plan sponsor must self-correct a failure in accordance with the principles and rules of general applicability set forth in section 6 of Rev. Proc. 2021-30.

Under Rev. Proc. 2021-30, certain failures (for example, certain plan document failures, certain loan failures, employer eligibility failures, and demographic failures) are not eligible for correction under SCP; to obtain reliance on the correction of those failures, a plan sponsor must seek approval from the IRS by filing an application under VCP. Section 6.07 of Rev. Proc. 2021-30 sets forth permitted correction methods for loan failures and identifies the loan failures that may not be corrected under SCP.

[1] *See generally* Amendment and Restatement of Voluntary Fiduciary Correction Program, 88 FR 9408 (Feb. 14, 2023).

Section 305(a) of the SECURE 2.0 Act provides that, except as otherwise provided in the Code, regulations, or other guidance of general applicability prescribed by the Secretary of the Treasury or the Secretary's delegate (Secretary), any eligible inadvertent failure to comply with the rules applicable under section 401(a), 403(a), 403(b), 408(p), or 408(k) of the Code may be self-corrected under EPCRS, except to the extent that the failure was identified by the Secretary prior to any actions that demonstrate a specific commitment to implement a self-correction with respect to such failure, or the self-correction is not completed within a reasonable period after identification of the failure. Section 305(a) of the SECURE 2.0 Act also provides that, for purposes of self-correction of an eligible inadvertent failure, the correction period under section 9.02 of Rev. Proc. 2021-30 (or any successor guidance), except as otherwise provided in the Code, regulations, or other guidance of general applicability prescribed by the Secretary, is indefinite and has no last day, other than with respect to failures identified by the Secretary prior to any actions that demonstrate a specific commitment to implement a self-correction with respect to the failure or with respect to a self-correction that is not completed within a reasonable period, as described in the preceding sentence.

Section 305(b)(1) of the SECURE 2.0 Act provides that an eligible inadvertent failure relating to a loan from a plan to a participant may be self-corrected under section 305(a) according to the rules of section 6.07 of Rev. Proc. 2021-30, or any successor guidance, including the provisions related to whether a deemed distribution must be reported on Form 1099-R.

Section 305(c) of the SECURE 2.0 Act provides that the Secretary shall expand EPCRS to allow custodians of IRAs to address eligible inadvertent failures with respect to an IRA, including, but not limited to: (a) waivers of the excise tax that would otherwise apply under section 4974 of the Code, and (b) rules permitting a non-spouse beneficiary to return distributions to an inherited IRA described in section 408(d)(3)(C) in a case where, due to an inadvertent error by a service provider, the beneficiary had reason to believe that the distribution could be rolled over without inclusion in income of any part of the distributed amount.

Section 305(d) of the SECURE 2.0 Act provides that the Secretary shall issue guidance on correction methods required to be used to correct eligible inadvertent failures, including general principles of correction if a specific correction method is not specified by the Secretary.

Section 305(e) of the SECURE 2.0 Act defines an eligible inadvertent failure as a failure that occurs despite the existence of practices and procedures that satisfy (a) the standards set forth in section 4.04 of Rev. Proc. 2021-30 (or any successor guidance), or (b) similar standards in the case of an IRA. Under section 305(e), an eligible inadvertent failure does not include any failure that is egregious, relates to the diversion or misuse of plan assets, or is directly or indirectly related to an abusive tax avoidance transaction.

Section 305(f) of the SECURE 2.0 Act provides that section 305 of the SECURE 2.0 Act shall not apply to any failure unless the correction of the failure is made in conformity with the general principles that apply to corrections of such failures under the Code, including regulations or other guidance issued thereunder, and including principles and corrections set forth in Rev. Proc. 2021–30 (or any successor guidance).

Section 305(g) of the SECURE 2.0 Act provides that the Secretary shall revise Rev. Proc. 2021-30, or any successor guidance, to take into account the provisions of section 305 not later than the date that is two years after the date of enactment of the SECURE 2.0 Act.

III. INTERIM GUIDANCE REGARDING SECTION 305(a) AND (b) OF THE SECURE 2.0 ACT – EXPANSION OF SELF CORRECTION

Q-1. May a plan sponsor self-correct an eligible inadvertent failure, as defined in section 305(e) (Eligible Inadvertent Failure), including an Eligible Inadvertent Failure relating to a loan from a plan to a participant that is corrected in accordance with section 6.07 of Rev. Proc. 2021-30, before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act?

A-1. Except as provided in Q&A-2 of this notice and subject to additional guidance in this notice, a plan sponsor may self-correct an Eligible Inadvertent Failure, including an Eligible Inadvertent Failure relating to a loan from a plan to a participant that is corrected in accordance with section 6.07 of Rev. Proc. 2021-30, before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, if the following conditions are satisfied:

(1) The failure was not identified by the Secretary prior to any actions demonstrating a specific commitment to implement a self-correction with respect to the failure.

(2) The self-correction is completed within a reasonable period after the failure was identified.

(3) The failure is not egregious, as described in section 4.10 of Rev. Proc. 2021-30, does not directly or indirectly relate to an abusive tax avoidance transaction, as described in section 4.12(2) of Rev. Proc. 2021-30, and does not relate to the diversion or misuse of plan assets.

(4) The self-correction satisfies all of the provisions applicable to self-correction set forth in Rev. Proc. 2021-30 (other than the provisions listed in Q&A-3 of this notice), including that –

- A plan sponsor must have established practices and procedures reasonably designed to promote and facilitate overall compliance with applicable Code requirements, as described in section 4.04 of Rev. Proc. 2021-30;
- A plan sponsor must apply the correction principles and rules of general applicability set forth in section 6 of Rev. Proc. 2021-30;
- A plan sponsor may, but is not required to, self-correct using a correction method set forth in Appendix A or B of Rev. Proc. 2021-30 (and correction methods described in Appendices A and B are deemed to be reasonable and appropriate methods of correcting a failure); and
- A plan sponsor may not use a correction method that is prohibited under Rev. Proc. 2021-30.

Q-2. Before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, are there any Eligible Inadvertent Failures that a plan sponsor may not self-correct?

A-2. Yes. Before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, a plan sponsor may not self-correct the following Eligible Inadvertent Failures:

(1) A failure to initially adopt a written plan under section 401(a), 403(a), 403(b), 408(k), or 408(p) of the Code, including the failure to adopt a written section 403(b) plan timely to meet the requirements of the final regulations under section 403(b).
(2) A failure in an orphan plan (as defined in section 5.03(1) of Rev. Proc. 2021-30).
(3) A significant failure (that is, a failure that is not an insignificant failure, as determined in accordance with the factors set forth in section 8.02 of Rev. Proc. 2021-30) in a terminated plan.
(4) A failure that involves excess contributions to a SEP or SIMPLE IRA plan and that is corrected by permitting the excess contributions to remain in an affected participant's IRA.
(5) A demographic failure that is corrected using a method other than a method set forth in Treas. Reg. § 1.401(a)(4)-11(g) (for example, a demographic failure under section 401(a)(4) may not be corrected by using a special testing provision set forth in §1.401(a)(4)-8 or §1.401(a)(4)-9, or by providing benefits primarily to short-service or low-paid employees).
(6) An operational failure that is corrected by a plan amendment that conforms the terms of the plan to the plan's prior operations in a manner that is less favorable for a participant or beneficiary than the original terms of the plan.
(7) A failure occurring in a SEP with a plan document that does not consist of either (a) a valid Model Form 5305-SEP or 5305A-SEP adopted by an employer in accordance with the instructions on the applicable form, or (b) a prototype SEP that has a current favorable opinion letter and that has been amended in accordance with the procedures set forth in Rev. Proc. 2002-10, 2002-1 CB 401.
(8) A failure occurring in a SIMPLE IRA plan with a plan document that does not consist of either (a) a Model Form 5305-SIMPLE or 5304-SIMPLE adopted by the plan sponsor in accordance with the instructions on the applicable form, or (b) a prototype SIMPLE IRA Plan that has a current favorable opinion letter and that has been amended in accordance with the procedures set forth in Rev. Proc. 2002-10.
(9) A failure in an ESOP that involves section 409 in which tax consequences other than plan disqualification are associated with the failure, for example, a failure under section 409(p).

Q-3. Before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, are there any provisions of Rev. Proc. 2021-30 relating to self-correction that do not apply with respect to a self-correction of an Eligible Inadvertent Failure?

A-3. Yes. Before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, the following provisions of Rev. Proc. 2021-30 relating to self-correction do not apply with respect to a self-correction of an Eligible Inadvertent Failure:

(1) The requirement that a qualified plan or section 403(b) plan be the subject of a favorable letter, as defined in sections 5.01(4) and 5.02(5), respectively.
(2) The prohibition of self-correction of demographic failures and employer eligibility failures, as set forth in section 4.06.
(3) The prohibition of self-correction of significant failures under SEPs and SIMPLE IRA plans, as set forth in section 4.01(c).
(4) The prohibition of self-correction of certain loan failures, as set forth in section 6.07.
(5) The provisions relating to self-correction of significant failures that have been substantially completed before the plan or plan sponsor is under examination, as set forth in sections 4.02(2) and 9.02(3).
(6) The requirement set forth in section 9 that a significant failure must be completed or substantially completed by the end of a specified correction period (in general, the last day of the third plan year following the plan year for which the failure occurred).

Q-4. Before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, when is an Eligible Inadvertent Failure under a plan treated as having been identified by the Secretary and therefore no longer eligible for self-correction?

A-4. Before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, an Eligible Inadvertent Failure is treated as having been identified by the Secretary when the plan or plan sponsor comes under examination, as defined in section 5.08 of Rev. Proc. 2021-30. Accordingly, before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, once the plan or plan sponsor comes under examination, the Eligible Inadvertent Failure is no longer eligible for self-correction unless the plan sponsor has, before the plan or plan sponsor comes under examination, demonstrated a specific commitment to implement a self-correction with respect to the Eligible Inadvertent Failure. However, see Q&A-5 of this notice relating to self-correction of an insignificant failure after a plan or plan sponsor comes under examination.

Q-5. Before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, may a plan sponsor self-correct a failure (including an Eligible Inadvertent Failure) that is insignificant, determined in accordance with the factors set forth in section 8.02 of Rev. Proc. 2021-30, even if the plan or plan sponsor is under examination, as defined in section 5.08 of Rev. Proc. 2021-30, and even if the failure is discovered on examination?

A-5. Yes.

Q-6. Before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, how will a determination be made as to whether actions taken by a plan sponsor demonstrate a specific commitment to implement the self-correction of an identified Eligible Inadvertent Failure?

A-6. Before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, a determination as to whether actions taken by a plan sponsor demonstrate a specific commitment to implement the self-correction of an identified Eligible Inadvertent Failure will be made based on all the facts and circumstances. However, these actions must generally demonstrate that the plan sponsor is actively pursuing correction of the specific identified failure. The mere completion of an annual compliance audit or adoption of a general statement of intent to correct failures when they are discovered are not actions demonstrating a specific commitment to implement the self-correction of an identified failure.

Q-7. Before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, how will a reasonable period be determined for purposes of ascertaining whether the self-correction of an Eligible Inadvertent Failure has been completed within a reasonable period after it is identified by the plan sponsor?

A-7. Before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, for purposes of ascertaining whether the self-correction of an Eligible Inadvertent Failure has been completed within a reasonable period after it is identified by the plan sponsor, a reasonable period is determined by considering all relevant facts and circumstances. Except with respect to an employer eligibility failure described in this Q&A-7, a failure that has been corrected by the last day of the 18th month following the date the failure is identified by the plan sponsor will be treated as having been completed within a reasonable period after it is identified. A self-correction of an Eligible Inadvertent Failure that is an employer eligibility failure (as defined, for qualified plans and 403(b) plans, in sections 5.01(2)(d) and 5.02(2)(d) of Rev. Proc. 2021-30, respectively, or, as determined for SEPs and SIMPLE IRA plans under similar principles) will be treated as having been corrected within a reasonable period after it is identified by the plan sponsor only if the plan sponsor ceases all contributions to the plan as soon as reasonably practicable after the failure is identified and, in no event, later than the last day of the 6th month following the date the failure is identified.

Q-8. Before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, is a plan sponsor prevented from self-correcting an Eligible Inadvertent Failure on or after December 29, 2022, merely because the Eligible Inadvertent Failure occurred prior to December 29, 2022?

A-8. No.

Q-9. Before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, does self-correction of an Eligible Inadvertent Failure with respect to which an excise tax or additional tax applies automatically result in a waiver of the tax?

A-9. No. Before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act, self-correction of an Eligible Inadvertent Failure with respect to which an excise tax or additional tax applies does not automatically result in the waiver of the tax. However, a plan sponsor may request that the IRS not pursue certain excise taxes or additional taxes that apply with respect to the Eligible Inadvertent Failure through a VCP submission to the IRS, as provided in section 6.09 of Rev. Proc. 2021-30. For an income tax or excise tax issue that cannot be corrected under EPCRS, IRS Employee Plans will accept a request for a closing agreement through the Voluntary Closing Agreement Procedure. See section 4.04 of Rev. Proc. 2023-4, 2023-1 IRB 162 (updated annually).

Q-10. May a plan sponsor submit a VCP application under Rev. Proc. 2021-30 to correct an Eligible Inadvertent Failure (including an Eligible Inadvertent Failure that is a loan failure)?

A-10. Yes.

Q-11. Does section 305 of the SECURE 2.0 Act impose any new IRS recordkeeping requirements with respect to the self-correction of an Eligible Inadvertent Failure?

A-11. No. Section 305 of the SECURE 2.0 Act does not impose any new IRS recordkeeping requirements with respect to the self-correction of an Eligible Inadvertent Failure; however, current IRS recordkeeping requirements continue to apply. Accordingly, if requested upon an examination, a plan sponsor must be able to provide documentation substantiating the self-correction, such as documentation that: (1) identifies the failure, including the years of occurrence, the number of employees affected, and the date the failure was identified; (2) explains how the failure occurred and demonstrates there were established practices and procedures (formal or informal) reasonably designed to promote and facilitate overall compliance that were in effect when the failure occurred; (3) identifies and substantiates the correction method and the date of the completion of the correction; and (4) identifies any changes made to those established practices and procedures to ensure that the same failure would not recur.

IV. GUIDANCE REGARDING SECTION 305(c) OF THE SECURE 2.0 ACT -- EPCRS FOR IRA CUSTODIANS

Q-12. May an IRA custodian correct an Eligible Inadvertent Failure under EPCRS before Rev. Proc. 2021-30 is updated pursuant to section 305(g)?

A-12. No. An IRA custodian may not correct an Eligible Inadvertent Failure under EPCRS before Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act.

V. RELIANCE AND FUTURE GUIDANCE

Plan sponsors may rely on this notice beginning on the date it is issued and ending on the date Rev. Proc. 2021-30 is updated pursuant to section 305(g) of the SECURE 2.0 Act. If a self-correction is completed by a plan sponsor on or after December 29, 2022, and before the date this notice is issued, the plan sponsor may apply a good faith, reasonable interpretation of section 305 of the SECURE 2.0 Act in completing the self-correction. A plan sponsor that completes a self-correction during this period in a manner that accords with this notice will be treated as having applied a good faith, reasonable interpretation of section 305 of the SECURE 2.0 Act.

VI. REQUEST FOR COMMENTS

The Treasury Department and the IRS invite comments on the guidance in this notice and any other aspect of section 305 of the SECURE 2.0 Act. In particular, the Treasury Department and IRS seek comments relating to –

(1) Additional correction methods that are required to be used to correct Eligible Inadvertent Failures, including general principles of correction if a specific correction method is not specified by the Secretary; and

(2) A description of common IRA failures and suggested correction methods for those failures, and the possibility of expanding EPCRS to be available for both IRA custodians and IRA owners.

Comments should be submitted in writing on or before August 23, 2023, and should include a reference to Notice 2023-43. Comments may be submitted electronically via the Federal eRulemaking Portal at *www.regulations.gov* (type "IRS Notice 2023-43" in the search field on the Regulations.gov home page to find this notice and submit comments). Alternatively, comments may be submitted by mail to:

Internal Revenue Service
Attn: CC:PA:LPD:PR
(Notice 2023-43), Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044.

The Treasury Department and the IRS will publish for public availability any comment submitted electronically or on paper to its public docket.

VII. DRAFTING INFORMATION

The principal author of this notice is Amy Moskowitz of the Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the Treasury Department and the IRS participated in the development of this guidance. For further information regarding this notice, contact Ms. Moskowitz at (202) 317-5257 (not a toll-free number).

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

Numerical Finding List[1]

Bulletin 2023–24

Announcements:

AOD:

Notices:

Notices:—Continued

Proposed Regulations:

Revenue Procedures:

Revenue Rulings:

Treasury Decisions:

[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2022–27 through 2022–52 is in Internal Revenue Bulletin 2022–52, dated December 27, 2022.

Finding List of Current Actions on Previously Published Items[1]

Bulletin 2023–24

[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2022–27 through 2022–52 is in Internal Revenue Bulletin 2022–52, dated December 27, 2022.

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INTERNAL REVENUE BULLETIN

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We Welcome Comments About the Internal Revenue Bulletin

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