

Form **8951**

(Rev. September 2016)
Department of the Treasury
Internal Revenue Service

User Fee for Application for Voluntary Correction Program (VCP)

Under the Employee Plans Compliance Resolution System (EPCRS)
▶ Information about Form 8951 and its instructions is at www.irs.gov/form8951.
▶ Attach to Form 8950.

OMB No. 1545-1673

For IRS Use Only

Amount paid
\$ _____

1 Name of plan sponsor (employer if single-employer plan)

2 Plan sponsor's employer identification number 3 Plan number 4 Plan name

5 Number of plan participants. See instructions to determine this number.

6 If you are submitting a check for an **additional** VCP user fee that has been requested by an IRS employee in Voluntary Compliance, check this box and provide the check amount \$ _____ and the VCP case number _____.

7 For qualified retirement plans under sections 401(a) and 403(b) that do not qualify for a reduced or alternative user fee, as described below on line 8. Enter the general user fee amount \$ _____ based on the number of plan participants.

Do not complete line 7 if you qualify for a reduced or alternative fee as described below on line 8.

8 Reduced and alternative user fees for VCP submissions

Check box, if applicable and enter enclosed fee.

(a) Plan is a section 401(a) or 403(b) plan that qualifies for a reduced fee associated with specific failures and under certain conditions. See instructions.

Enter fee amount \$

(b) VCP submission relates to a request for a minor modification of a previously issued compliance statement. See instructions.

Enter fee amount \$

(c) Plan is a SEP, SARSEP, or SIMPLE IRA. See instructions.

Enter fee amount \$

(d) Group submission from an eligible organization. See instructions.

Enter fee amount \$

(e) Terminating orphan plan. A terminating orphan plan may be granted a waiver of the fee upon request. See instructions.

No fee is due at this time.

(f) Plan is a section 457(b) plan. See instructions.

No payment is due at the time of filing.

For Paperwork Reduction Act Notice, see instructions.

Cat. No. 37771W

Form **8951** (Rev. 9-2016)

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form 8951 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/form8951.

What's New

The IRS has classified fees associated with the Voluntary Correction Program (VCP) as user fees subject to section 7528. For 2016, user fees for VCP submissions are set forth in Rev. Proc. 2016-8, section 6.08. User fees for VCP submissions are currently published as part of the annual revenue procedure for the user fee program of the IRS as it pertains to requests for letter rulings, determination letters, etc., on matters under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division.

Beginning in 2017 and each year thereafter, the user fees for VCP submissions will be published as part of an annual Employee Plans revenue procedure. Taxpayers should refer to the revenue procedure in effect at the time they file their submission with the IRS to determine the VCP user fee.

The IRS no longer lists specific user fee amounts on this form. Applicants will enter the applicable fee amount when completing the form. For the current user fees, go to the applicable annual revenue procedure or IRS.gov at www.irs.gov/retirement-plans/voluntary-correction-program-fees.

General Instructions

Purpose of Form

Generally, a user fee is required with each VCP submission. Use Form 8951 to submit the applicable fee for the VCP submission.

Where To File

Include Form 8951 and the applicable fee with your VCP submission.

Send the documents to:

Internal Revenue Service
P.O. Box 12192
Covington, KY 41012-0192

VCP submissions shipped by express mail or a delivery service should be sent to:

Internal Revenue Service
201 West Rivercenter Blvd.
Attn: Extracting Stop 312
Covington, KY 41011

Payment of User Fee

Generally, you must include a user fee payment with any VCP submission mailed to the IRS. If your submission is for a terminating orphan plan or a section 457(b) plan, no fee or payment is due at the time of filing. See the instructions for line 8(e) and line 8(f) for additional information.

Attach a check to Form 8951 payable to the "United States Treasury" for the full amount of the fee. If you do not include the full amount of the fee, your submission may be returned or closed with no action. In addition, include a photocopy of the check with your VCP submission.

If you have multiple plans (for example, a profit-sharing and a money purchase plan), submit a separate VCP submission (including a separate Form 8951) for each plan. Submit a separate check, including a photocopy of the check, for each VCP submission.

Your check may be converted to an electronic fund transfer. An electronic fund transfer is the process by which the IRS electronically instructs your financial institution to transfer funds from your account to the Treasury's account, rather than processing your check. By sending your completed, signed check to the IRS, you authorize the IRS to copy your check and to use the account information from your check to make an electronic fund transfer from your account for the same amount as the check. If the electronic fund transfer cannot be processed for technical reasons, you authorize the IRS to process the copy of your check. The electronic fund transfer from your account will usually occur within 24 hours, which is faster than a check is normally processed, so it is important that you have sufficient funds available in your checking account when you send the IRS your check. Your financial institution will not return your cancelled check to you.

Information about correcting plan errors and examples of how to determine the user fee is available at www.irs.gov/retirement-plans/correcting-plan-errors.

Specific Instructions

Lines 1–5

Lines 1 through 5 should correspond to the information you entered for line 1a, 1i, 4b, 4a, and 4e, respectively, on the related Form 8950, Application for Voluntary Correction Program (VCP) under the Employee Plans Compliance Resolution System (EPCRS).

Submission of Additional Fees

Line 6

The IRS's office of Employee Plans Voluntary Compliance may contact you regarding additional fees that may be due for a previously submitted VCP case. If you are instructed to submit an additional fee, file Form 8951 along with a check for the additional user fee, a copy of the check and an appropriate cover letter. Complete lines 1–5. It is important to complete line 6 by checking the box and entering the amount of the additional fee you are submitting plus the nine-digit VCP case number that has been assigned to your VCP submission. No other items on the Form 8951 need to be completed. Once a VCP submission has been mailed to the IRS, an applicant should not mail any

checks to the IRS for any fee matters unless the applicant has received specific instructions from the IRS.

User Fee for VCP Submissions

Line 7

For qualified retirement plans established under section 401(a) or 403(b), enter the amount of the applicable general user fee you are including with your VCP submission. The general user fee amounts for these types of retirement plans are based upon the number of plan participants. Follow the *Determining the Proper User Fee* section in these instructions, later. Do not complete this item if you qualify for a reduced or alternative VCP fee listed on line 8. For the current user fees, go to the applicable annual revenue procedure on IRS.gov at www.irs.gov/retirement-plans/voluntary-correction-program-fees.

Lines 8(a)–(f)

Check the appropriate box and if applicable, enter the user fee for VCP submissions involving reduced or alternative fees for certain section 401(a) and section 403(b) plans, SEP, SARSEP, or SIMPLE IRA retirement plans; group submissions; terminating orphan plans; 457(b) plans and minor modifications of a previously issued compliance statement. For the current user fees, go to the applicable annual revenue procedure on IRS.gov at www.irs.gov/retirement-plans/voluntary-correction-program-fees.

- Line 8(a). For section 401(a) and section 403(b) plans, a reduced user fee may be available under limited circumstances.
- Line 8(b). The VCP submission is limited to a request for a minor modification of a previously issued compliance statement and the request is mailed to the IRS before the end of the correction period provided for in the compliance statement.
- Line 8(c). There is a special user fee for a SEP, SARSEP, or a SIMPLE IRA VCP submission.
- Line 8(d). If the VCP submission is a group submission from an eligible organization for section 401(a) and section 403(b) plans, the user fee is based on the number of plans affected by the failure described in the VCP submission. An initial user fee payment must be included with the submission and must be attached to Form 8951. An additional user fee may also apply. The IRS will request the additional fee, if applicable.
- Line 8(e). The IRS has discretionary authority to waive the user fee in the case of a terminating orphan plan, if requested by an eligible party. A VCP applicant who is an eligible party can request that the user fee be waived. Include a written explanation that explains why a waiver should be granted.

• Line 8(f). Do not include any payment at this time if the plan is a section 457(b) plan. If the IRS chooses to process the submission, it will collect a mutually acceptable sanction payment when the applicant signs a special closing agreement.

Determining the Proper User Fee

Step 1:

On line 5, enter the total number of plan participants at the end of the plan year recorded on line 6(f) of the retirement plan's most recently filed Form 5500 return. Filers of Form 5500-SF or EZ will use the equivalent line item specified on their forms. For applicants that are exempt from filing a Form 5500 series return, enter the number of plan participants determined as of the last day of the most recently ended plan year. However, if this information is not available at the time the VCP submission is being mailed to the IRS, it is acceptable to use the most recently ended prior plan year for which information on the number of plan participants is available. The exception does not apply if the VCP submission is mailed to the IRS more than seven months after the close of the most recently ended plan year preceding the date of the VCP submission. Plans that have terminated and filed a final Form 5500 series return should enter the number of participants on the return filed for the year prior to the year all assets were distributed. Your entry should correspond to the information on Form 8950, line 4e.

Step 2:

Single employer plans:

For those VCP submissions that pertain to a qualified retirement plan under section 401(a) or 403(b) that do not qualify for any reduced user fees, the general user fee is based on the number of plan participants.

Multiemployer or multiple employer plans:

If a submission relates to a multiemployer or multiple employer plan, the general user fee will normally be determined in accordance with the instructions in Step 1 and in the first paragraph of this Step 2. However, if all of the described failures in the submission apply to fewer than all of the employers under the plan, the plan administrator may choose to have the general user fee computed separately for each affected employer based on the participants attributable to that employer rather than the total participants of the entire plan. This may apply, for example, when the plan administrator believes each failure is attributable in whole or in part to data, information, actions, or inactions that are within the control of the employers rather than the multiemployer or multiple employer plan (such as attribution in whole or in part to the failure of an employer to provide the plan administrator with full and complete information).

If you are using this special methodology to determine the general user fee, attach a written explanation that details how the user fee was determined. When completing Form 8951, the plan administrator would complete line 5 in the normal manner by using the total participant count reported on the most recently filed Form 5500 series return for the entire plan.

Step 3:

If a VCP submission consists solely of multiple failures that qualify for reduced user fees, then the user fee amount will be the lesser of: the sum of the reduced user fee amounts or the general user fee amount. If the total of the applicable reduced user fee amounts is less than the general user fee amount for qualified retirement plans under sections 401(a) and 403(b), include a worksheet showing how you determined the user fee for your submission.

Note: Additional payments to the IRS may be due under certain situations that involve:

- (a) Egregious qualification failures;
- (b) SEP, SARSEP, or SIMPLE IRA plans that choose to allow excess amounts to remain within the affected IRAs;
- (c) Situations where the plan sponsor has requested that the IRS waive the additional 10% tax imposed by section 72(t) on certain plan distributions.

Go to the correcting plan errors web page on IRS.gov to find additional information. If applicable, the IRS will discuss the matter with the plan sponsor and solicit the additional payment during the review of the VCP submission.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. If you want to have your VCP submission approved by the IRS, you are required to give us the information. We need it to determine whether your correction proposals meet the legal requirements applicable to qualified retirement plans.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The estimated average time is:

Recordkeeping	3 hr., 21 min.
Learning about the law or the form	2 hr., 39 min.
Preparing the form	3 hr., 45 min.
Copying, assembling, and sending the form to the IRS	0 hr., 16 min.

If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, we would be happy to hear from you. You can send your comments to:

Internal Revenue Service
Tax Forms and Publications Division
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Do not send this form to this address. Instead, see *Where To File*.