

employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

It's Here!

The New and, of course, Improved EPCRS Revenue Procedure

For benefits practitioners and plan sponsors alike, it's just like Christmas in May, finding a ten spot in an old pair of pants or solving a hard Sudoku puzzle for the first time...in pen. Indeed, few things compare to the excitement of reading and using a new, more user-friendly and expanded eligibility version of the Employee Plans Compliance Resolution System (EPCRS) revenue procedure.

On May 5, EP issued the long-anticipated update, [Rev. Proc. 2006-27](#), which revises EP's popular EPCRS, the comprehensive system of correction programs for sponsors of retirement plans that have failed to meet one or more requirements of the Internal Revenue Code. This new revenue procedure expands not only the types of failures that can be corrected under EPCRS but also the allowable correction methods.

Introducing the updated program, Carol Gold, Director of EP, said, "The ever-changing laws and regulations covering retirement plans necessitate a correction program that is flexible and responsive to the needs of plan participants as well as sponsors."

The new revenue procedure makes several significant improvements, including:

- A new correction method that estimates the economic loss to an employee excluded from participating in a 401(k) or 401(m) plan;
- New correction methods for certain plan loan failures under the Voluntary Correction Program (VCP);
- Rules on the availability of programs under EPCRS in cases where the plan or plan sponsor is a party to an abusive tax avoidance transaction;
- Expanded availability of the VCP and the Audit Closing Agreement Program (Audit CAP) to terminating orphan plans and, with respect to those plans, more flexibility for the correction of qualifications failures and the payment of a fee;
- A new streamlined submission process and fee under VCP for failures to amend a plan timely for good faith and interim amendment requirements;
- An alternative correction method for a failure to obtain spousal consent;
- A new correction method in Appendix B regarding the availability of a participant loan program;
- Expanded ability of plan sponsors to obtain waivers of the section 4974 excise tax in certain circumstances under Audit CAP;
- The ability under VCP to obtain relief from the excise taxes under sections 4972 and 4979 in certain circumstances;
- Reduced VCP compliance fees for a submission with a request for a waiver of the excise tax under section 4974 where the sole failure in the submission relates to the violation of the minimum distribution rules and there are 50 or fewer affected participants;
- Reduced VCP compliance fees for SEPs and SIMPLE IRA plans;

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- Elimination of the requirement under VCP and Audit CAP for submitting a determination letter application under certain circumstances;
- A fee schedule for plans submitted under the determination letter program which are discovered by EP to be non-amenders of tax law changes; and
- New various procedural enhancements.

In explaining these changes to EPCRS, Joyce Kahn, Manager of Voluntary Compliance, said, "We feel the enhancements to EPCRS, such as the expansion of the program to orphan plans and certain plan loan failures, are responsive to the needs of plan sponsors. We hope that the simplifications and enhancements in this revenue procedure help plan sponsors correct failures in their retirement plans and preserve the tax-favored status of their plans."

EP encourages all stakeholders to submit their comments and suggestions. Many of the improvements in the new revenue procedure were the result of feedback from the retirement community.

Rev. Proc. 2006-27 is generally effective September 1, 2006. However, plan sponsors are permitted, at their option, to apply the provisions of the revenue procedure on or after May 30, 2006. Note that certain sections of the revenue procedure are effective May 30, 2006. For example, beginning May 30, 2006, a plan sponsor who wishes to receive a letter from the IRS acknowledging receipt of a VCP submission must include in its submission a letter written in accordance with the format provided in Appendix E of the revenue procedure.

In conjunction with the issuance of Rev. Proc. 2006-27, EP is introducing a new and improved Corrections page on the [Retirement Plans Community web site](#) under the title of "Correcting Plan Errors." This new and improved page includes a variety of tools designed to highlight the changes in the new procedure:

- [Summary of Changes](#) describing the differences between Rev. Proc. 2006-27, and its predecessor, Rev. Proc. 2003-44.
- [Topical Index to Rev. Proc. 2006-27](#): A detailed index with entries keyed to rev. proc. section numbers.
- [EPCRS Update Presentation](#).

Look for a new Corrections Programs CD-ROM, to be issued soon, with video clips and a comprehensive overview of the EP Corrections Programs. •

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