

## MISTAKES IN BENEFIT PLANS CAN — AND DO — HAPPEN.

These Federal agencies have programs ready to help:

- Internal Revenue Service
- U.S. Department of Labor



READ ON TO LEARN MORE

### FOR MORE INFORMATION

#### IRS, TAX EXEMPT AND GOVERNMENT ENTITIES, EMPLOYEE PLANS

For information on the Employee Plans Compliance Resolution System, visit [www.irs.gov/ep](http://www.irs.gov/ep) and click on “Correcting Plan Errors” under “Retirement Plans Community Topics.” Subscribe to the IRS’s free retirement plan newsletters, *Employee Plans News* and *Retirement News for Employers*, at [www.irs.gov/ep](http://www.irs.gov/ep).

#### U.S. DEPARTMENT OF LABOR, EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Visit [www.dol.gov/ebsa](http://www.dol.gov/ebsa) for fact sheets on the agency’s two self-correction programs, guides to ERISA compliance, calculators, and more. Call toll-free 1-866-444-3272 for copies of many of the publications featured on the Web site.



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### RETIREMENT PLAN CORRECTION PROGRAMS

Minimize the effects of plan errors  
Comply with the law  
Protect participant benefits



## INTERNAL REVENUE SERVICE

### TAX EXEMPT & GOVERNMENT ENTITIES DIVISION EMPLOYEE PLANS

The IRS system of retirement plan correction programs, the **Employee Plans Compliance Resolution System (EPCRS)**, helps plan sponsors of various types of qualified retirement plans protect participant benefits and keep their plans compliant with the Internal Revenue Code requirements. The EPCRS encourages plan sponsors to correct plan errors *earlier rather than later*. More information is available at [www.irs.gov/ep](http://www.irs.gov/ep), click on “Correcting Plan Errors.”

#### IS THERE A WAY TO CORRECT MISTAKES MYSELF?

Yes! Under the **Self-Correction Program (SCP)** many plan errors can be corrected without IRS involvement.

- No notification to the IRS is required;
- No fees need to be paid to IRS; and
- Your plan and its participants will retain favorable tax benefits. Of course, you can also ask for IRS assurance about correcting these mistakes, too, through the Voluntary Correction Program.

#### WHAT IF OUR MISTAKES CAN'T BE CORRECTED IN THIS “DO-IT-YOURSELF” PROGRAM?

The **Voluntary Correction Program (VCP)** works for plan errors that are not eligible for self-correction or for any error in which you want IRS assurance about the methods used to fix the error.

- You must make a written submission and pay a compliance fee to the IRS.
- Errors are corrected and the plan’s tax benefits are preserved for plan participants and the plan sponsor with IRS help and approval.

#### AND WHAT HAPPENS IF THE IRS AUDITS MY PLAN?

- Errors corrected appropriately under SCP or VCP will not jeopardize the plan’s tax-favored status when the IRS audits your plan.
- For other errors found during an IRS examination, help is available through the **Audit Closing Agreement Program (Audit CAP)**. This program also permits you to correct errors and preserve the tax benefits for plan participants and sponsors. However, your fee to the IRS will be greater than the fee required under VCP but less than the tax, interest and penalties due if the plan lost its tax-favored status.

## U.S. DEPARTMENT OF LABOR

### EMPLOYEE BENEFITS SECURITY ADMINISTRATION (EBSA)

EBSA protects the assets of employee benefit plans (both retirement and health) under Title I of the Employee Retirement Income Security Act (ERISA). Among the key areas EBSA oversees are the critical responsibilities of those who exercise discretion over retirement and health plans.

EBSA has two voluntary self-correction programs for plan administrators who need help in meeting ERISA requirements:

- **The Delinquent Filer Voluntary Compliance Program (DFVCP)** assists late or missed Form 5500 filers in coming up to date with corrected filings.
  - Participation is a two-part process. For more information, including a calculator to help you accurately determine the penalty payment needed to participate in the DFVCP and the convenient option of paying the penalty electronically, visit [www.dol.gov/ebsa](http://www.dol.gov/ebsa) and click on “Correction Programs.”
  - To view the Form 5500, visit [www.efast.dol.gov](http://www.efast.dol.gov).
  - To speak with a DOL representative, call EBSA’s Office of the Chief Accountant at 202-693-8360 (not a toll-free number).
- **The Voluntary Fiduciary Correction Program (VFCP)** affords plan sponsors and officials the chance to identify and fully correct certain transactions such as prohibited purchases, sales and exchanges, improper loans, delinquent participant contributions and improper plan expenses. The VFCP includes 19 specific transactions.
  - The VFCP also provides immediate relief from payment of excise taxes under a class exemption which covers six transactions.
  - Violations can be fully and correctly resolved in four easy steps. For a list of violations and corrective actions, and the addresses of EBSA Regional Offices that can help with applications, visit [www.dol.gov/ebsa](http://www.dol.gov/ebsa) and click on “Correction Programs.”
  - There are a number of tools online to assist applicants in using the Program, including an online calculator, model application, and checklist.

HERE ARE SOME EXAMPLES OF COMMON ERRORS AND THE CORRECTION PROGRAM THAT YOU CAN USE TO BRING YOUR PLAN INTO COMPLIANCE:

Plan Error:	Apply to:
Form 5500 Late or Missed Filing	DFVCP
Late or Missed Deposits of Employee Salary Reduction Contributions	VFCP
Participant Loan Failures (for example, loans that exceed the maximum permitted dollar amount)	EPCRS VFCP (for certain failures – after using the EPCRS)
Failure to Timely Amend Plan to Keep it Updated with Changes in the Law	EPCRS
Plan Operational Errors arising from the failure to follow plan terms (for example, an employee who meets the plan’s eligibility requirements but is not allowed to participate)	EPCRS
Specified Plan Prohibited Transactions (for example, sales or loans between the plan and a party in interest)	VFCP
For more information on: <ul style="list-style-type: none"><li>■ DFVCP and VFCP go to <a href="http://www.dol.gov/ebsa">www.dol.gov/ebsa</a> and select “Correction Programs.”</li><li>■ EPCRS, go to <a href="http://www.irs.gov/ep">www.irs.gov/ep</a> and select “Correcting Plan Errors.”</li></ul>	