

Form **8951**
(Rev. August 2012)
Department of the Treasury
Internal Revenue Service

**Compliance Fee for Employee Plans
Voluntary Correction Program Submission**

OMB No. 1545-

For IRS Use Only
Amount paid

▶ Attach to VCP application, Form 8950.

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

2 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 compliance 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 General Compliance Fee

Number of Plan Participants	Compliance Fee Amount
(a) 0-20	<input type="checkbox"/> \$750
(b) 21-50	<input type="checkbox"/> \$1,000
(c) 51-100	<input type="checkbox"/> \$2,500
(d) 101-500	<input type="checkbox"/> \$5,000
(e) 501-1,000	<input type="checkbox"/> \$8,000
(f) 1,001-5,000	<input type="checkbox"/> \$15,000
(g) 5,001-10,000	<input type="checkbox"/> \$20,000
(h) Over 10,000	<input type="checkbox"/> \$25,000

8 Exceptions to General Compliance Fee Schedule

Special Discount Eligibility	Compliance Fee Amount
(a) VCP submission is limited to failures involving late adoption of interim/optional law change amendments as described in Rev. Proc. 20XX-XX, section 6.05(3)(a)	<input type="checkbox"/> Compliance fee amount is reduced to \$375.
(b) VCP submission is limited to late non-amender failures described in Rev. Proc. 20XX-XX, section 6.05, and the VCP submission is made within a one-year period following the expiration of the plan's remedial amendment period for complying with such changes.	<input type="checkbox"/> Applicable general compliance fee amount is discounted by 50%. Also, check the applicable box in line 7 and include a worksheet showing how you computed the compliance fee you have enclosed with this VCP application.
(c) Plan type is SEP, SARSEP, or SIMPLE IRA	<input type="checkbox"/> Compliance fee amount is reduced to \$250.
(d) VCP submission is limited to a failure to comply with section 401(a)(9) minimum distribution rules affecting 50 or fewer plan participants.	<input type="checkbox"/> Compliance fee amount is reduced to \$500.
(e) VCP submission is limited to a failure of participant loans to comply with section 72(p)(2) rules affecting no more than 25% of plan sponsor participants in any of the years in which the failure occurred.	<input type="checkbox"/> Applicable general compliance fee amount is discounted by 50%. Also, check the applicable box in line 7 and include a worksheet showing how you computed the compliance fee you have enclosed with this VCP application.

For Paperwork Reduction Act Notice, see instructions.

Cat. No. 37771W

Form **8951** (Rev. 8-2012)

Exceptions to General Compliance Fee Schedule, continued

Special Discount Eligibility	Compliance Fee Amount
(f) VCP submission is limited to a failure to timely adopt an amendment (upon which a favorable determination letter is conditioned) within the applicable remedial amendment period provided the required amendment was/is adopted within three months of the expiration of the remedial amendment period for adopting the amendment.	<input type="checkbox"/> Compliance fee amount is reduced to \$500.
(g) Terminating orphan plan. See Rev. Proc. 20XX-XX, section 5.03, for a definition of an orphan plan.	<input type="checkbox"/> Request for a waiver of the compliance fee. Therefore, no fee needs to be submitted.
(h) VCP submission is limited to 403(b) plans where the only issue is the failure to timely adopt a written plan document and such VCP submission is mailed to the IRS by XXXXX, XXXX, 2013. See section 12.02(5).	<input type="checkbox"/> Applicable general compliance fee amount is discounted by 50%. Also, check the applicable box in item 7 and include a worksheet showing how you computed the compliance fee you have enclosed with this VCP application.
(i) Group submission from an eligible organization as defined in Rev. Proc. 20XX-XX, section 10.11(2). Enter the number of individual plans that are expected to be covered by the submission.	<input type="checkbox"/> Initial fee for the first 20 plans is \$10,000 plus \$250 times the number of plans in excess of 20. Total compliance fee is capped at \$50,000. Include a worksheet showing how you determined the compliance fee that you have included with this VCP application. # of Plans <input style="width: 150px; height: 20px;" type="text"/>
(j) VCP submission is limited to a request for a minor modification of a previously issued compliance statement and it has been mailed within the correction period set forth in the compliance statement.	<input type="checkbox"/> Compliance fee is the lesser of: 50% of the original compliance fee or \$1,500. Also, check the applicable box in line 7 and include a worksheet showing how you computed the compliance fee you have enclosed with this VCP application.
<p>Note. (1) If a VCP submission consists of failures limited to exceptions (a), (b), (d), (e), and (f), the compliance fee will be the lesser of the sum of the reduced fees or the general compliance fee (see instructions).</p> <p>(2) In some situations, the compliance fee ultimately owed on a VCP submission may be higher than the amounts reflected on pages 1, 2, and 3 of this form. See <i>Determining the Proper Compliance Fee</i> in the instructions, and Rev. Proc. 20XX-XX.</p>	

Section references are to Rev. Proc. 20XX-XX, unless otherwise noted.

Instructions

Purpose of Form

Generally, a compliance fee is required with each application for an employee plan voluntary correction program (VCP) submission. Use Form 8951 to determine and submit the applicable compliance fee for the VCP submission. The compliance fees are shown on page 1. For more information, see Rev. Proc. 20XX-XX, 20XX-XX I.R.B. XXX.

Effective Date

The compliance fee schedule on Form 8951 is effective for VCP application postmarked on or after XXXX, XX, XXXX.

Where To File

Include Form 8951 and the compliance fee with your VCP application.

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 Compliance Fee

Unless your submission is for a terminating orphan plan as defined in section 5.03, a compliance fee is due.

Attach a check or money order payable to "United States Treasury" for the full amount of the compliance fee to Form 8951. In addition, please include a photocopy of such check or money order with your application. If you do not include the full amount, your application may be returned.

If you have multiple plans (for example a profit sharing and a money purchase plan), submit a separate VCP application and Form 8951 for each plan. Please submit separate checks, including a photocopy of the applicable checks or money orders, for each application. Your check may be converted to an electronic fund transfer. An electronic fund transfer is the process in which we electronically instruct your financial institution to transfer funds from your account to our account, rather than processing your check. By sending your completed, signed check to us, you authorize us 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 us 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 us your check. Your financial institution will not return your cancelled check to you.

Anonymous Submissions

If the attached VCP application is an anonymous submission, the following special instructions are applicable:

- On line 1, enter "Anonymous" and include the name of the plan sponsor's representative as well as the unique identifying label or number you have assigned to this specific anonymous submission as required by section 10.10. It should correspond to the information you have entered for line 1a on the related Form 8950, Application for Voluntary Correction Program (VCP) Under the Employee Plans Compliance Resolution System (EPCRS), that you have completed.
- On line 2, enter the EIN of the power of attorney's employer (for example, law firm, accounting firm, actuarial firm, etc.).
- For line 3, enter "401" for the first anonymous VCP submission made with this form. For subsequent anonymous VCP submission made by the specific power of attorney listed on line 1, the plan number to be entered on each compliance fee form will be the next number following 401 (for example, 402, 403, 404, etc.) resulting in unique plan numbers for each subsequent anonymous submission made to the IRS. This numbering will differentiate the anonymous submissions submitted by the specific power of attorney. The number assigned to a specific anonymous VCP submission must not be changed or used for any other anonymous submission made by the power of attorney listed on line 1. It should correspond to the information you have entered for line 1a on the related Form 8950.
- Line 4 can be left blank.
- For line 5, follow the instructions in Step 1 on this form to determine the number of plan participants.
- Line 7 and 8 should be completed.

Determining the Proper Compliance Fee

Step 1: On line 5, enter the total number of plan participants recorded on line 7(f) of the most recently filed Form 5500 series return for the plan. For plans that are exempt from filing a Form 5500 series return, enter the number of plan participants as of the last day of the most recently ended plan year. See sections 11.03(3) and 12.08 for additional instructions in determining the number of plan participants.

Step 2: For those VCP submissions that do not qualify for any of the special fee exceptions, the amount of the compliance fee for a given submission is determined by checking one of the boxes in line 7 based on the number of participants reported in line 5. The compliance fee is based on the number of plan participants. See section 12.02(1).

Step 3: If any of the general compliance fee exceptions are applicable, check the applicable boxes in line 8 relating to the general compliance fee exceptions. The fee exceptions are as follows.

- The VCP submission is limited to failures involving late adoption of interim/optional law change amendments as described in section 6.05(3)(a). The compliance fee is reduced to \$375. See section 12.03(2).
- The VCP submission is limited to just late non-amender failures described in section 6.05 and the VCP submission is made within a one year period following the expiration of the plan's remedial amendment period for complying with such changes. The general compliance fee is reduced by 50%. See section 12.03(1).
- The compliance fee for a SEP, SARSEP, or a SIMPLE IRA submission is generally \$250. See section 12.06.
- The VCP submission is limited to a failure to comply with section 401(a)(9) minimum distribution rules affecting 50 or fewer plan participants. The compliance fee is reduced to \$500. See section 12.02(2).
- The VCP submission is limited to just a failure of participant loans to comply with section 72(p)(2) rules affecting no more than 25% of plan sponsor participants in any of the years in which the failure occurred. The general compliance fee is reduced by 50%. See section 12.02(3).
- The VCP submission is limited to a failure to timely adopt an amendment (upon which a favorable determination letter is conditioned) within the applicable remedial amendment period provided the required amendment was/is adopted within 3 months of the expiration of the remedial amendment period for adopting the amendment. The compliance fee is reduced to \$500. See section 12.03(3).
- The orphan plan is terminating. See section 5.03 for a definition of an orphan plan. A VCP applicant who is an eligible party as defined in section 5.03 can request that the compliance fee be waived. Section 12.02(4) gives the IRS discretionary authority to waive the compliance fee if requested. Include a written explanation that explains why a waiver should be granted.
- It is a group submission from an eligible organization as defined in section 10.11(2). The general compliance fee is not applicable. The compliance fee for a group submission is based on the number of plans affected by the failure as described in the compliance statement. The initial fee for the first 20 employers, who have adopted the plan that is the subject of the group submission, is \$10,000. An additional fee is due equal to the product of the number of plans in excess of 20 multiplied by \$250. The maximum compliance fee for a group submission is \$50,000. For pre-approved plans, the compliance fee and number of VCP submissions is determined based on the number of basic plan documents submitted rather than the number of approved adoption agreements. See section 12.05.
- 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. The compliance fee for such request is the lesser of: 50% of the original compliance fee or \$1,500. See section 10.07(10).

• If a VCP submission consists of failures limited to page 1, line 8, exceptions (a), (b), (d), (e) and (f), the compliance fee will be the lesser of: the sum of the reduced fees or the general compliance fee. See section 12.04. If the general compliance fee is lower simply check the appropriate box in line 7 and do not check any of the fee exception boxes in line 8. If the total of the exceptions is less than the general compliance fee check the applicable boxes in line 8 and include a worksheet showing how you determined the compliance fee for your submission.

• For 403(b) plans, the general VCP compliance fee is reduced by 50% if the VCP submission meets the following conditions:

(A) Is limited to a single failure involving a failure to timely adopt a written 403(b) Plan document,

(B) No other failures are part of the VCP submission, and

(C) The VCP submission has been made within the one-year period beginning with the date of publication of this revenue procedure. The VCP submission must be submitted no later than XXXX, XX, 2013 in order to be eligible for this reduced fee. See Rev. Proc. 20XX-XX section xx.xx.

• The compliance fee owed on some VCP submissions may ultimately be higher than the amounts previously mentioned on this

form. Additional compliance fees could be owed if the VCP submission involves egregious or intentional qualification failures; SEP, SARSEP or SIMPLE IRA plans that choose to allow excess amounts to remain within the affected IRAs; or those special situations where the plan sponsor has requested that the IRS waive the additional tax imposed by Internal Revenue Code section 72(t) on certain plan distributions. Refer to Sections 6.09(6), 12.06, and 12.07. If applicable, the IRS will discuss the matter with the plan sponsor and solicit the additional compliance fee during the review of the VCP submission.

Submission of Additional Compliance Fees

The IRS's office of Employee Plans Voluntary Compliance may contact you regarding additional compliance fees that may be owed with respect to a previously submitted VCP case. Submit Form 8951 along with a copy of the check for the additional compliance fee and any applicable cover letter. Complete lines 1-5. It is important that you complete line 6 by checking the box and entering the amount of the additional compliance 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.

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 Internal Revenue Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is XX hours, XX minutes.

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 write to the:

Internal Revenue Service
Tax Products Coordinating Committee
SE:W:CAR:MP:T:S
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

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

DRAFT AS OF
August 6, 2012