

## **SUPPORTING STATEMENT**

### **Employee Plans Compliance Resolution System**

*(Revenue Procedure 2013-12, including Forms 8950, 8951, 14568, 14568-A through I)*

OMB No. 1545-1673

#### **1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

This revenue procedure updates the comprehensive system of correction programs for sponsors of retirement plans that are intended to satisfy the requirements of § 401(a), 403(a), 403(b), 408(k), or 408(p) of the Internal Revenue Code, but that have not met these requirements for a period of time. This system, the Employee Plans Compliance Resolution System (EPCRS), permits Plan Sponsors to correct these failures and thereby continue to provide their employees with retirement benefits on a tax-favored basis. The components of EPCRS are:

- o Self-Correction Program (SCP) – permits a plan sponsor to correct certain plan failures without contacting the IRS or paying any fee.
- o Voluntary Correction Program (VCP) – permits a plan sponsor to, any time before audit, pay a fee and receive IRS approval for correction of plan failures.
- o Audit Closing Agreement Program (Audit CAP) – permits a plan sponsor to pay a sanction and correct a plan failure while the plan is under audit.

This revenue procedure modifies and supersedes Rev. Proc. 2008–50, 2008–2 C.B. 464.

Form 8950, “Application for Voluntary Correction Program (VCP),” must be filed as part of a VCP submission in order to request written approval from the IRS for correction of a qualified plan, 403(b) plan, SEP, SARSEP or SIMPLE IRA that has failed to comply with the applicable requirements of the Internal Revenue Code. A VCP submission includes Form 8950, Form 8951, “Compliance Fee for Application for Voluntary Correction Program (VCP),” and all other requirement items stated in Rev. Proc. 2013-12, section 11.

New Forms 14568, “Appendix C Part I, Model VCP Submission Compliance Statement,” and 14568 A thru 14568-I were created from the model VCP submission documents, contained in Appendix C of Rev. Proc. 2013-12, to provide an electronic format that will help to ensure that applicants include all necessary information needed for processing a VCP submission.

- o Form 14568, “Appendix C, Part I, Model VCP Submission Compliance Statement,” sets forth a Model Compliance Statement, which is designed to assist VCP applicants by providing a standardized framework to complete the VCP submission process.

- o Forms 14568-A through I, set forth standardized descriptions of failures and correction methods that can be used to resolve certain qualification failures. These Schedules can be used with the Model Compliance Statement by attaching the appropriate Schedule to the applicable parts of the Model Compliance Statement.

**2. USE OF DATA**

This information will be used to issue closing agreements and compliance statements to allow individual plans to continue to maintain their tax favored status. As a result, favorable tax treatment of the benefits of the eligible employees are retained.

**3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

IRS Publications, Regulations, Notices and Letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

**4. EFFORTS TO IDENTIFY DUPLICATION**

We have attempted to eliminate duplication within the agency wherever possible.

**5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES**

The EPCRS has made it easier for retirement plans to stay within complex rules and to reduce barriers that discourage some businesses, particularly small businesses, from adopting such employee benefits. The IRS has streamlined its system of voluntary correction programs designed to help retirement plan sponsors and administrators retain the favorable tax status of their plans, including simplifying the fee structure for voluntary submissions. This system has made it easier for employee retirement plans to come into compliance with the law and to protect the retirement benefits of participating employees.

**6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES**

Not applicable.

**7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)**

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

**8. CONSULTATION WITH INDIVIDUALS OUTSIDE THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

Rev. Proc. 2013-12 modifies and supersedes Rev. Proc. 2008-50.

In response to Federal Register notice dated June 20, 2012 (77 FR 37099), we received no comments during the comment period regarding Rev. Proc. 2008-50.

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding the Revenue Procedures and Forms 8950 and 8951.

In response to the Federal Register notice dated March 31, 2011 (76 FR 17989), we received no comments during the comment period.

**9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

Not applicable.

**10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Submissions for closing agreements and compliance statements under this revenue procedure are considered tax returns and tax return information, which are confidential as required by 26 U.S.C. §6103. In general, certain matters relating to taxability and deductibility are disclosable under 26 U.S.C. §6110.

**11. JUSTIFICATION OF SENSITIVE QUESTIONS**

No personally identifiable information (PII) is collected.

**12. ESTIMATED BURDEN OF INFORMATION COLLECTION**

	# Respondents	# Responses Per Respondent	Annual Responses	Hours Per Response	Annual Burden
Rev. Proc. 2013-12, which include Forms 14568 & 14568-A thru I	4,300	1	4,300	20.03	86,143
Form 8950	1,250	4	5,000	9.81	49,050
Form 8951	1,250	4	5,000	10.02	50,100
			14,300		185,293

Estimates of the annualized cost to respondents for the hour burdens shown above are not

available at this time. These various burdens do not necessarily represent a net additional burden to taxpayers, since the closing agreement or compliance statement, if followed, will negate the need for the individual employees (taxpayers) of the employer to have to deal with the Service with respect to the items addressed in the closing agreement or compliance statement between the Service and his or her employer.

**13. ESTIMATED TOTAL ANNUAL COST BURDEN TO TAXPAYERS**

Per Federal Register notice (77 FR 37099) dated June 20, 2012, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

**14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

Not applicable.

**15. REASONS FOR CHANGE IN BURDEN**

The burden previously approved did not provide the correct accounting of burden claimed in the revenue procedures. This adjustment is an increase of 3,725 responses and 79,927 burden hours to align burden reported in the Revenue Procedure 2008-50.

The model forms in Appendix C of Revenue Procedure 2013-12 have been designed in a user-friendly, fillable PDF format to ensure that applicants are including all necessary information needed for processing a VCP submission. The model forms have also been assigned an IRS form number and are available to users through [www.irs.gov](http://www.irs.gov). Revenue Procedure 2013-12 modifies and supersedes Revenue Procedures 2008-50. Increases of 555 responses and 6,201 burden hours are due to program change.

Total burden hours requested are 185,298; a total increase of 86,128 hours.

**16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION**

Not applicable.

**17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE**

We believe that displaying the OMB expiration date is inappropriate because it would cause confusion by leading taxpayers to believe that the revenue procedure sunsets as of the expiration date. Taxpayers may not be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

Not applicable.

**Note:** The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to the collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential as required by 26 U.S.C. §6103.