

SUPPORTING STATEMENT

Employee Plans Compliance Resolution System
(Revenue Procedures 2015-27 & 2015-28, 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 (<http://www.irs.gov/Retirement-Plans/EPCRS-Overview>), 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 (RP 2015-27), modifies Rev. Proc. 2013-12, 2013-4 I.R.B. 313. The Service is issuing this revenue procedure to improve and update EPCRS by making limited modifications to Rev. Proc. 2013-12. These modifications to EPCRS are described in Section 3, and revisions to Rev. Proc. 2013-12 implementing these modifications are set forth in Section 4.

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 revenue procedures.

Form 8951, “Compliance Fee for Application for Voluntary Correction Program (VCP),” is used to determine and submit the applicable compliance fee for the VCP submission.

Forms 14568, “Appendix C Part I, Model VCP Submission Compliance Statement,” and Forms 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

There are no new significant consequences of less frequent collection on the documents under this OMB approval number.

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. 2008-50 (2008-35 I.R.B. 468), modified and superseded Rev. Proc. 2006-27, 2006-1 C.B. 945 (as modified by Rev. Proc. 2007-49, 2007-30 I.R.B. 141), which was the prior consolidated statement of the correction programs under EPCRS.

Rev. Proc. 2013-12 (2013-4 I.R.B. 313) modified and superseded Rev. Proc. 2008-50. This revenue procedure updated the comprehensive system of correction programs for sponsors of retirement plans that were intended to satisfy the requirements of § 401(a), 403(a), 403(b), 408(k), or 408(p) of the Internal Revenue Code (the “Code”), but that had not met the requirements for a period of time.

The Service is issuing this revenue procedure (RP 2015-27), to improve and update EPCRS (<http://www.irs.gov/Retirement-Plans/New-Rev-Proc-Updates-EPCRS>), by making limited modifications and clarifications to Rev. Proc. 2013-12. The modifications to Rev. Proc. 2013-12 reflected in this revenue procedure include miscellaneous changes made to improve EPCRS, such as reducing VCP compliance fees relating to failures to meet the requirements of § 72(p) with respect to participant loans, and clarifying that for certain Overpayments, as defined in sections 5.01(3)(c) and 5.02(4) of Rev. Proc. 2013-12, a plan may use correction methods other than the correction methods set forth in section 6.06(3) and 6.06(4) of Rev. Proc. 2013-12. This revenue procedure also requests public comments on recoupment of Overpayments.

The Service will also issue a separate revenue procedure (RP 2015-28), with the following modifications to Rev. Proc. 2013-12:

- New safe harbor EPCRS correction methods relating to automatic contribution features (including automatic enrollment and automatic escalation of elective deferrals) in plans described in § 401(k) and § 403(b); and
- Special safe harbor correction methods established for plans (including those with automatic contribution features) that have failures that are of limited duration involving elective deferrals.

This second revenue procedure, will also requests public comments.

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, 8951, 14568, and Forms 14568-A thru 14568-I.

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

No payment or gift has been provided to any respondents.

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

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Business Master File (BMF)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 24.046-Customer Account Data Engine Business Master File. The Internal Revenue Service PIAs can be found at <http://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

	# Respondents	# Responses Per Respondent	Annual Responses	Hours Per Response	Annual Burden
Rev. Proc. 2015-27 which include Forms 14568 & 14568-A thru I	4,300	1	4,300	20.03	86,148
Rev. Proc. 2015-28	1,075	1	1,075	5.25	5,643
Form 8950	1,250	4	5,000	9.81	49,050
Form 8951	1,250	4	5,000	10.02	50,100
			15,375		190,941

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

The likely respondents are individuals, state or local governments, businesses or other for-profit institutions, nonprofit institutions, and small businesses or organizations. There are no estimated start-up cost burden's related to the collections under this approval number. Estimates of capital or start-up cost and costs of operation, maintenance, and purchase of services to provide information are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no estimated annualized cost to the federal government.

15. REASONS FOR CHANGE IN BURDEN

The collection of information, in Rev. Proc.2015-28, is in sections 4.01 and 4.02. This information is required to enable the Commissioner, Tax Exempt and Government Entities Division of the Internal Revenue Service to consider the issuance of various types of closing agreements and compliance statements. 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 is retained. The addition of these new procedure will result in an increase in the number of responses by 1,075 and annual burden by 5,643 hours.

The revenue procedure provides simplified and less burdensome correction methods for certain retirement plan failures involving elective deferrals. In order to be eligible for these safe harbor correction methods, a plan sponsor must satisfy certain conditions, including a participant notice requirement. To satisfy this requirement, a notice must be given to an affected participant within forty-five days after correct deferrals begin that includes the following content: (i) general information relating to the failure, such as the percentage of eligible compensation that should have been deferred and the approximate date that the compensation should have begun to be deferred (the general information need not include a statement of the dollar amounts that should have been deferred); (ii) a statement that appropriate amounts have begun to be deducted from compensation and contributed to the plan (or that appropriate deductions and contributions will begin shortly); (iii) a statement that corrective contributions relating to missed matching contributions have been made (or that corrective contributions will be made) (information relating to the date and the amount of corrective contributions need not be provided); (iv) an explanation that the affected participant may increase his or her deferral percentage in order to make up for the missed deferral opportunity, subject to applicable limits under section 402(g); and (v) the name of the plan and plan contact

information (including name, street address, e-mail address, and telephone number of a plan contact).

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

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

There are no exceptions to the certification statement.

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.