Form **14568-D** (September 2017)	Department of the Treasury - Internal Revenue Service **Model VCP Compliance Statement - Schedule 4 SIMPLE IRAs**	OMB Number 1545-1673

Include the plan name, Applicant's EIN and plan number on each page of the compliance statement, including attachments

Plan name

EIN	Plan number

Section I - Identification of Failure(s) and Proposed Method(s) of Correction

The following failure(s) occurred with respect to the SIMPLE IRA plan identified above *(Check failure(s) that apply. Within each failure, check applicable boxes, and provide the information requested.)*

☐ **A. Employer Eligibility Failure**

☐ The plan was adopted by a plan sponsor who was (or subsequently became) ineligible to sponsor a SIMPLE IRA plan under the requirements of Section 408(p) of the Internal Revenue Code (IRC) because the plan sponsor (and, if applicable, its related controlled group or affiliated service group employers) had more than 100 employees (including leased employees, if applicable) who earned $5,000 or more in compensation during the following plan year(s) ________________________________

☐ The plan was adopted by a plan sponsor who was not eligible to sponsor a SIMPLE IRA plan under the requirements of IRC Section 408(p) because the plan sponsor established or maintained a another tax favored retirement plan under IRC Sections 401(a), 403(b) and 408(k)with respect to which contributions were made (or under which benefits were accrued) during any plan year of the SIMPLE IRA plan. The failure occurred during the following plan year(s) ________________________________

Description of the Proposed Method of Correction

All contributions to the plan ceased as of ________________________ (insert a date no later than the date this VCP submission is filed with the IRS). The plan sponsor will not permit any new employer or salary reduction contributions to be made to the plan.

☐ **B. Failure to Make Required Employer Contributions**

The plan sponsor failed to make employer contributions on behalf of eligible employees as required under the terms of the plan.

☐ The failure occurred on account of the erroneous exclusion of eligible employees

☐ The failure occurred due to errors in the determination of compensation for eligible employees

☐ Other *(describe)*

☐ The failure occurred for the following plan year(s) ________________________________

For the applicable plan years, the provisions of the plan document required the plan sponsor to make employer contributions based on the following formula:

☐ 2% nonelective contribution on behalf of each eligible employee who earned at least $5,000 in compensation for the year.

☐ Matching contribution on behalf of each eligible employee equal to deferrals up to 3% of compensation.

☐ Grace period applied. The plan provided for a matching contribution on behalf of each eligible employee equal to deferrals up to ___ % of compensation.

(Note: If the failure occurred for multiple plan years and different employer contribution criteria applied during those years, check the applicable box, and indicate the plan years for which the formula applied.)

Plan name

EIN	Plan number

Description of the Proposed Method of Correction

The plan sponsor has contributed (or will contribute) additional amounts to the plan on behalf of each affected employee. For each affected employee, the corrective contribution will be determined by calculating the contribution the employee would have been entitled to receive under the terms of the plan and subtracting any contributions already made on behalf of the employee for the plan year. The corrective contribution made on behalf of an affected employee will be adjusted for earnings. Earnings will be calculated from the last day of the plan year for which the failure occurred through the date of the corrective contribution. The corrective contribution (adjusted for earnings) will be made to each affected employee's SIMPLE IRA. If an affected employee does not have a SIMPLE IRA, an account will be established for that employee.

If the plan did not provide eligible employees with the opportunity to make elective deferrals and the plan provides for matching contributions, the corrective matching contribution will be based on the assumption that the eligible employee would have made an elective deferral equal to 3% of compensation.

The total corrective contribution (before adjusting for earnings) for each plan year is

Year	Corrective Contribution

The earnings calculation for an affected employee will be based on one of the following methods *(check one)*

☐ Actual investment results of the affected employee's SIMPLE IRA.

☐ The interest rate incorporated in the Department of Labor's Voluntary Fiduciary Correction Program Online Calculator (VFCP Online Calculator) (http://www.dol.gov/ebsa/calculator/main.html), since the actual earnings of the affected employee's IRA cannot be ascertained.

☐ Actual investment results for years in which data for the affected employee is available, and the rate incorporated in the VFCP Online Calculator for years in which the actual investment results of the affected employee's IRA cannot be ascertained. The VFCP Online Calculator was or will be used for the following year(s)

Former employees affected by the failure *(check one)*

☐ There are no former employees affected by the failure.

☐ Affected former employees (or if deceased, their estate or known beneficiary) will be contacted, and corrective contributions will be made to their SIMPLE IRAs. To the extent that an affected former employee or beneficiary cannot be located following a mailing to the last known address, the plan sponsor will take the actions specified below to locate that employee or beneficiary

After such actions are taken, if an affected employee or beneficiary is not found but is located at a later date, the plan sponsor will make corrective contributions to the affected SIMPLE IRA at that time.

Plan name

EIN	Plan number

☐ **C. Failure to Provide Eligible Employees with the Opportunity to Make Elective Deferrals.**

The plan sponsor did not provide employee(s) who satisfied the applicable eligibility requirements with the opportunity to make elective deferrals to the SIMPLE IRA plan. The failure occurred for the following plan year(s)

Description of the Proposed Method of Correction

The plan sponsor has contributed (or will contribute) additional amounts to the plan on behalf of each affected employee. The corrective contribution will be made to compensate the affected employee(s) for the missed deferral opportunity. The corrective contribution on behalf of each affected employee is equal to 50% of what the employee's deferral might have been had he or she been provided with the opportunity to make elective deferrals to the plan. Since the employee's deferral decision is not known, the deferral amount is estimated by assuming that the excluded employee would have made an elective deferral equal to 3% of his or her compensation. (Example: N, a nonhighly compensated employee was erroneously excluded from the plan. During the year of exclusion, N made $10,000 in compensation. N's missed deferral is estimated to be: 3% times $10,000 or $300. The required corrective contribution on behalf of N, before adjusting for earnings, is 50% of $300 or $150). Thus, the required corrective contribution for an employee who was erroneously excluded from making elective deferrals from a SIMPLE IRA plan is equal to 1.5% of compensation (adjusted for earnings).

The total corrective contribution (before adjusting for earnings) on behalf of the affected employees for each plan year is

Year	Corrective Contribution

The corrective contribution made on behalf of each affected employee will also be adjusted for earnings. Earnings will be calculated from the date(s) that the contribution(s) should have been made through the date of the corrective contribution. The corrective contribution (adjusted for earnings) will be made to each affected employee's SIMPLE IRA. If an affected employee does not have a SIMPLE IRA, a SIMPLE IRA will be established for that employee. Earnings will be calculated on the basis of one of the following methods *(check one)*

☐ Actual investment results of the affected employee's SIMPLE IRA.

☐ The interest rate incorporated in the VFCP Online Calculator, since the actual earnings of the affected employee's IRA cannot be ascertained.

☐ Actual investment results for years in which data for the affected employee is available, and the rate incorporated in the VFCP Online Calculator for years in which the actual investment results of the affected employee's IRA cannot be ascertained. The VFCP Online Calculator was or will be used for the following year(s)

Plan name

EIN	Plan number

Former employees affected by the failure *(check one)*

☐ There are no former employees affected by the failure.

☐ Affected former employees (or if deceased, their estate or known beneficiary) will be contacted, and corrective contributions will be made to their SIMPLE IRA. To the extent that an affected former employee or beneficiary cannot be located following a mailing to the last known address, the plan sponsor will take the actions specified below to locate that employee or beneficiary.

After such actions are taken, if an affected employee or beneficiary is not found but is located at a later date, the plan sponsor will make corrective contributions to the affected SIMPLE IRA at that time.

☐ **D. Excess Amounts Contributed**

The plan sponsor contributed excess amounts to the plan on behalf of participants as follows *(check boxes that apply)*

☐ Amounts were contributed in excess of the benefit the participants were entitled to under the plan.

☐ Elective deferrals were made to the SIMPLE IRA in excess of the limitation under the terms of the SIMPLE IRA (the applicable limit under IRC Section 408(p)(2)(E)).

The total of the excess amounts for each affected plan year was as follows

Year	Excess Amounts	Number of Participants Affected

Description of the Proposed Method of Correction *(check all correction methods that apply)*

☐ Distribution of excess elective deferrals

The plan sponsor has effected (or will effect) a distribution of the excess amounts, adjusted for earnings through the date of correction, to the affected participant(s). The earnings adjustment will be based on the actual rates of return of the participant’s SIMPLE IRA from the date(s) that the excess deferrals were made through the date of correction.

Affected participants were (or will be) informed that the distribution of an excess amount is not eligible for favorable tax treatment accorded to distributions from a SIMPLE IRA and, specifically, is not eligible for tax-free rollover.

The total corrective distribution (before adjusting for earnings) for each affected plan year is

Year	Corrective Distribution	Number of Participants Affected

Plan name

EIN	Plan number

☐ Distribution of excess employer contributions

The plan sponsor has effected (or will effect) the return of excess employer contributions, adjusted for earnings through the date of correction, to the plan sponsor. The earnings adjustment will be based on the actual rates of return on the affected participants' SIMPLE IRAs from the date(s) that the excess employer contributions were made through the date of correction. The amount returned to the plan sponsor is not includible in the gross income of the affected participant(s). The plan sponsor is not entitled to a deduction for the excess employer contributions. The amount returned is reported on Form 1099-R as a distribution issued to the affected participant(s), indicating the taxable amount as zero.

The return of the excess employer contributions (before adjusting for earnings) for each affected plan year is

Year	Return of Excess Employer Contributions	Number of Participants Affected

The earnings adjustment will be based on the actual rates of return of the SIMPLE IRA from the date(s) that the excess employer contributions were made through the date of correction.

☐ Excess amounts of $100 or less

For one or more participants, the total excess amount (employer contributions and/or elective deferrals before adjusting for earnings) is $100 or less. The excess amount will not be distributed.

Former employees affected by the excess amounts failure *(check one)*

☐ There are no former employees affected by the failure.

☐ Affected former employees (or if deceased, their estate or known beneficiary) will be contacted. To the extent that an affected former employee or beneficiary cannot be located following a mailing to the last known address, the plan sponsor will take the actions specified below to locate that employee or beneficiary.

☐ **E. Written Arrangement Not Timely Updated for Tax Law Changes**

The SIMPLE plan was not timely updated for tax law changes associated with the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) as required by Revenue Procedure 2002-10.

Description of Proposed Method of Correction: The plan sponsor has adopted a new version of the SIMPLE plan that includes the EGTRRA tax law changes retroactive to 2002. A copy of the signed and dated plan is enclosed with this VCP submission.

Plan name

EIN	Plan number

Section II - Change in Administrative Procedures

Include an explanation of how and why the failures arose and a description of the measures that have been or will be implemented to ensure that the same failures will not recur.

Section III - Request for Excise Tax Relief *(check if applicable)*

☐ Excise tax pursuant to IRC Section 4972. The plan sponsor requests that the IRS not pursue the excise tax under IRC Section 4972. (This applies to situations where corrective contributions made in accordance with this submission would be nondeductible contributions for the year of correction and subject to the excise tax under IRC Section 4972. Enclose a written explanation in support of your request for relief from this excise tax.)

Section IV - Enclosures

In addition to the applicable items listed on the Procedural Requirements Checklist for Form 8950, the plan sponsor encloses with this submission:

- A copy of the applicable plan document in effect at the time of the failure(s). (This could be an IRS form document, such as a 5305-SIMPLE or 5304-SIMPLE, or a prototype document developed by a financial institution. If a prototype plan document is used, please send a copy of the most recent opinion letter issued with respect to such plan document.)
- A written explanation of how and why the failure(s) described in this submission occurred, including a description of the administrative procedures applicable to the failure(s) in effect at the time the failure(s) occurred.
- If the plan was not timely updated for EGTRRA, include a copy of the updated document that was adopted by the plan sponsor.
- For failures that involve corrective contributions or corrective distributions, a description of assumptions and supporting calculations used to determine the amount needed for correction:

  1) For failures to make required employer contributions and for failures to provide eligible employees with the opportunity to make elective deferrals:

     a) Computations in support of the corrective contribution amounts attributable to each participant. In the case of a failure to provide eligible employees with the opportunity to make elective deferrals, please include computations showing how the average deferral percentage, missed deferral and corrective contribution amount were determined.

     b) Calculations showing how the earnings adjustment and the ultimate corrective contribution on behalf of affected employees will be determined. (Please use estimates, including an estimated correction date, if corrective contributions have not been made yet.)

  2) For failures involving the contribution of excess amounts:

     a) Computations in support of the excess contribution amounts attributable to each participant.

     b) Calculations showing how the earnings adjustment and the ultimate corrective distribution amounts are determined. (Please use estimates, including an estimated correction date, if corrective distributions have not been made yet.)

- Explanations in support of requests for excise tax relief.
- Any other information that would be useful for the purpose of understanding the proposals made under the submission.