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Employee Benefits &
Executive
Compensation

Professionals

DAVID W. ECKHARDT
MILWAUKEE:
414.978.5414
DAVID.ECKHARDT@
HUSCHBLACKWELL.COM

CRAIG A. KOVARIK
KANSAS CITY:
816.983.8249
CRAIG.KOVARIK@
HUSCHBLACKWELL.COM

New Simplified DOL Rules for Self-Correcting Delinquent Contributions

Key points

The U.S. Department of Labor (DOL) released new rules for the Voluntary Fiduciary Compliance Program (VFCP) on January 14, 2025, permitting plan sponsors to self-correct late deposits of participant contributions (and loan repayments) without filing a formal application.

To be eligible for self-correction, the lost earnings must be less than \$1,000, and the delinquent contributions must be remitted within 180 days of the applicable pay date.

The new rules extend excise tax relief to self-corrections of participant contributions and loan repayments.

The changes are effective on March 17, 2025 and aim to streamline the correction process for plan sponsors.

Introduction

On January 14, 2025, the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) announced significant updates to the VFCP. These changes, effective March 17, 2025, introduce a self-correction feature for retirement plan sponsors, allowing them to address common operational failures without the need for a formal application.

Self-correction option

The new VFCP rules permit plan sponsors to self-correct late deposits of participant contributions and loan repayments. This self-correction is

available regardless of the number of plan participants or the amount of plan assets, provided the plan and sponsor are not under investigation by the DOL. To qualify, the lost earnings associated with the delinquent contributions must be less than \$1,000, and the corrections must be made within 180 days of the withholding or receipt. There is no limit on how often a plan sponsor can use the self-correction option.

Online submission and documentation

Plan sponsors must prepare and electronically file a self-correction notice with EBSA. This notice must include the plan name, the plan sponsor's employer identification number, the principal amount, the amount of lost earnings, and the number of participants affected. Although a formal VFCP application is not required, plan sponsors must retain all supporting documentation in their files. This includes a "Record Retention Checklist" and a penalty of perjury statement attesting to the facts of the self-correction.

Excise tax relief

The DOL has amended Prohibited Transaction Exemption 2002-51 to extend excise tax relief to self-corrections of participant contributions and loan repayments. This amendment allows plan sponsors to benefit from excise tax relief without a formal VFCP application, provided they receive an acknowledgment email from the DOL following the submission of a self-correction notice.

Expanded self-correction for loan failures

The new rules also extend self-correction under the VFCP to certain loan failures eligible for correction under the IRS's EPCRS. This includes failures involving loan amounts, duration, level amortization, or defaults due to a failure to withhold loan repayments from wages. Notably, plan sponsors can correct these failures even if under investigation, as long as the failure is eligible for self-correction under EPCRS.

Conclusion

The DOL's revisions to the VFCP represent a significant shift towards facilitating voluntary compliance by plan sponsors. By introducing a self-correction feature and extending excise tax relief, the DOL aims to streamline the correction process and encourage more plan sponsors to address operational failures proactively. These changes align with the recent expansion of the EPCRS under the SECURE 2.0 Act and reflect a broader trend towards simplifying remedial programs for retirement plans.

Contact us

For further information or assistance with the new VFCP rules, please contact our Employee Benefits and Executive Compensation Practice Group.