

IRS Announces New Pilot Program to Allow Plan Sponsors to Fix Retirement Plan Errors Before Audit

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On June 3, 2022, the IRS announced the launch of a new pilot program designed to streamline the retirement plan audit process and encourage employers to self-correct compliance issues with their plans. Beginning immediately, the IRS will send advance written notice to plan sponsors whose retirement plans have been selected for audit. The plan sponsor will have 90 days to perform an internal audit, and identify any mistakes in plan administration or documentation. The sponsor may then be able to use IRS' existing self-correction programs under its Employee Plans Compliance Resolution System (EPCRS), which can be accessed [here](#) and [here](#), to correct any problems it identifies with the plan's documents or operations. Until now, once a plan sponsor had been notified that a plan was to be audited, many of the tools of EPCRS were no longer available.

This pilot program gives employers 90 days to identify and correct any plan compliance issues, *before* the IRS conducts the audit:

- Plan sponsors that do not reply to the IRS within the 90 day period will be contacted by the IRS for the scheduled audit.
- Plan sponsors that do reply with the results of their internal audit and proposed self corrections will have their submission reviewed by the IRS. If the service accepts the review and any resulting corrections made by the plan sponsor, it will issue a closing letter and will close the case without further audit. In the alternative, the service may continue with a limited scope or full audit of the retirement plan.

Should a plan sponsor identify compliance issues during its retirement plan self-audit, but determine that the self-correction process under EPCRS is not available to fix the issue, the plan sponsor may ask the IRS to permit a correction under its audit closing agreement program (CAP), with the penalty calculated using the fee schedule under the voluntary correction program (VCP), which are lower than what the CAP fees would be without this pilot program.

As the IRS continues to wrestle with budgetary and personnel pressures, this pilot program allows it to continue and perhaps expand its retirement plan audit program by encouraging plan sponsors to make sure their plans remain in compliance. This "self-help" approach began with the introduction of the EPCRS program, which permits plan sponsors to self-correct compliance issues, often without any IRS involvement. If an IRS submission is required, the fee for such submission and correction is designed to be less than the penalty assessed if the IRS discovered the error on audit.

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This new pilot program provides additional incentives to perform internal retirement plan compliance audits to make sure plans are operating as required, and to potentially lessen the financial penalties when mistakes are found and self-corrected.

If you receive a 90-day letter from the IRS regarding an upcoming examination of your retirement plan, act quickly to respond within the stated time. If you have questions, please reach out to a Brooks Pierce Labor & Employment attorney.

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