

Internal Revenue Service Plan Correction Programs

For a variety of reasons, plan sponsors may not always administer their plans in accordance with the plan terms or the specific legal requirements that apply to tax-qualified plans. Although these errors are usually inadvertent, this nevertheless results in a potential plan qualification failure. Fortunately, the sponsor may avoid plan qualification under the Internal Revenue Service's (IRS) guidance for correcting plan failures, referred to as the Employee Plans Compliance Resolution System (EPCRS). Our relevant experience includes assisting plan sponsors with:

- Conducting comprehensive document or operational compliance reviews or reviewing the result of reviews conducted by other firms.
- "Self-correcting" qualification failures to meet IRS guidance, for example, errors involving the administration of plan loans, the implementation of 401(k) or 403(b) elections, or compliance with various Internal Revenue Code limitations.
- Filing applications to correct qualification failures under the IRS' voluntary compliance program (VCP under EPCRS) whereby a qualification failure is corrected under the auspices of the IRS, including failures that the plan sponsor wishes to correct by means of a retroactive plan amendment to make the plan terms conform to its administration.
- Filing VCP applications on an "anonymous" basis where the sponsor wishes to obtain the IRS' preliminary response to a proposed correction before committing to correct the failure.
- Filing group VCP applications to correct a qualification failure that has affected the plans of hundreds or thousands of clients for pre-approved plans and third-party administrators.
- Utilizing the IRS' "streamlined" correction procedure whereby plan sponsors can obtain a favorable IRS response in 2 - 4 weeks, for example, where a plan sponsor did not timely adopted a required amendment.