



## BENEFIT NEWS BRIEFS

### *IRS Changes to EPCRS and e-Services Account Use*

---

The IRS recently updated the Employee Plans Compliance Resolution System (EPCRS) in [Revenue Procedure 2016-51](#). According to the IRS, this Revenue Procedure modifies EPCRS, replaces [Revenue Procedure 2013-12](#), and incorporates changes described in [Revenue Procedure 2015-27](#) and [Revenue Procedure 2015-28](#).

A detailed list of the changes is found in Section 2.04 at pages 8-12 of the Revenue Procedure. The IRS summarized some of the key changes as:

- **Determination letter applications.** In light of the IRS changes to the Determination Letter Program, determination letter applications are no longer permitted when utilizing the correction programs under EPCRS. The requirement for a plan sponsor to submit a determination letter application to the IRS when correcting qualification failures that include a plan amendment no longer applies.
- **Fees.** Fees associated with the Voluntary Correction Program (VCP) are now *user fees* and no longer listed in the EPCRS Revenue Procedure.
  - For VCP submissions submitted during 2016, the IRS directed users to [Rev. Proc. 2016-8](#) and [Rev. Proc. 2013-12](#) to determine the applicable user fee.
  - For VCP submissions submitted after 2016, the EPCRS VCP user fee will be listed in the annual IRS user fee Revenue Procedure.
- **SCP.** The availability of the Self-Correction Program (SCP) for *significant failures* has been modified to provide that a determination letter for qualified individually designed plans need not be current to satisfy the Favorable Letter requirement.

The changes to EPCRS also included changes to the Audit CAP sanction, summed up by the IRS as:

- A revised approach to determining the amount of Audit CAP sanctions.

- Changing the definition of a *reasonable sanction* so that it is no longer a negotiated percentage of the maximum payment amount (MPA). Instead, auditors will review *facts and circumstances* and the MPA amount is simply one factor to consider. In addition, there are revised, additional factors that the IRS considers.
- Sanctions, generally, will not be less than the fees associated with VCP.
- New factors used in determining sanctions for late amender failures will apply.
- For late amender failures discovered by the IRS while reviewing a determination letter application, a new approach to determining the applicable sanction will apply.

This new EPCRS Program is effective January 1, 2017.  
Plan sponsors may not elect to use it before January 1, 2017.

### **IRS Update on Using an e-Services Account**

The IRS also recently released an [important update](#) to individuals having an e-Service account with the IRS. As part of its effort to protect its data from cybercriminals, the IRS has been strengthening the *identity authentication process* for several IRS.gov self-help tools. This identity authentication process is called "Secure Access."

According to the IRS affected parties include anyone who currently has an e-services account, including, among others, individuals who are registered as: Electronic Return Originators, Transmitters, Large Business Taxpayers with e-file mandates, ACA insurance provider fee/Branded prescription drug filers, **ACA Information Return Transmitter/Issuers** and **TIN Matching**.

### **Multiemployer plans may be affected depending on their use of e-Services.**

The change is expected around October 24, 2016. At that time, existing e-Services users will be required to re-register and verify their identities, most through the new Secure Access platform. According to the IRS, when an e-Service user returns to their e-Services account on or after October 24, they will be directed to update their account information through the Secure Access process, which includes identity proofing, financial verification and mobile phone verification. The IRS explained that Secure Access is a *two-factor authentication process* which means all returning users, once they have successfully registered, must provide their credentials (username and password) AND the security code sent to their mobile phone via text.

More information, including helpful Q&As, is available at:  
[https://www.irs.gov/pub/irs-utl/q\\_as\\_related\\_to\\_e-services\\_migration\\_to\\_secure\\_access.pdf](https://www.irs.gov/pub/irs-utl/q_as_related_to_e-services_migration_to_secure_access.pdf).

\* \* \*

**LEGAL DISCLAIMER:** Information contained in this publication is not legal advice, and should not be construed as legal advice. If you need legal advice upon which you can rely, you should seek a legal opinion from your attorney.