IRS UPDATES THE EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM

Date: 9 November 2026

US Corporate Alert

By: Lauren M. Crossett, Elliot W. DiGioia

AT A GLANCE

On 22 October 2026, the Internal Revenue Service issued Revenue Procedure 2026-34, updating the Employee Plans Compliance Resolution System (EPCRS). Sponsors analyzing or processing retirement plan corrections should confirm that any corrective actions align with the updated correction procedures. The long-awaited EPCRS update incorporates retirement plan correction principles and guidance previously established by SECURE 2.0 Act of 2022 and is effective immediately. It supersedes Revenue Procedure 2021-30, IRS Notices 2023-43 and 2024-77, as well as section II.I of Notice 2024-2.

KEY EPCRS UPDATES

Expanded Self-Correction

EPCRS incorporates the SECURE 2.0 Act's self-correction of “eligible inadvertent failures.” Self-correction continues to require the plan sponsor to maintain established compliance practices and procedures reasonably designed to promote overall compliance with the Internal Revenue Code of 1986, as amended (Code) and to timely complete the correction. In response to comments, the Internal Revenue Service (IRS) has clarified that a correction is deemed timely if completed by the later of (a) the last day of the third plan year following the plan year of the failure or (b) 18 months after the failure is identified. For employer eligibility failures eligible for self-correction, reasonable-period treatment applies if contributions stop as soon as practicable after identification of the failure, but no later than six months after identification. A plan sponsor relying on self-correction must be able to substantiate the correction if the plan is later subject to examination, and EPCRS details the types of documentation that plan sponsors should retain for this purpose.

Retroactive Amendments That Are “Less Favorable” to Employees

While EPCRS's expanded self-correction component permits sponsors to adopt certain plan amendments retroactively to conform the terms of the plan to the plan's administration, self-correction is not available if the amendment results in a plan provision that is less favorable to the participant than the original plan terms. EPCRS now clarifies that in limited circumstances, the IRS may approve a less favorable amendment under the voluntary correction program (VCP) or the Audit Closing Agreement Program (Audit CAP). Under VCP or Audit CAP, the plan sponsor has the burden of proving to the IRS that its administration of the plan was consistent with employees' expectations, and its adoption would satisfy certain other requirements.

©2005-2026 K&L Gates LLP. All Rights Reserved.

Automatic Enrollment Safe Harbors Are Now Permanent

EPCRS incorporates SECURE 2.0 Act's safe harbor relief for certain automatic enrollment and escalation errors, including the expansion of such relief to terminated employees.

Overpayment Recovery Is More Flexible, but Not Unlimited

EPCRS incorporates SECURE 2.0 Act's relief for inadvertent benefit payments. EPCRS generally does not require the plan sponsor to make a plan contribution solely because an eligible inadvertent benefit overpayment occurred or require the sponsor to seek repayment from the participant, with some important exceptions. Plan sponsors that wish to pursue recovery of an overpayment from a participant must separately consider limitations on the ability to recovery under Section 206(h) of ERISA.

REQUEST FOR COMMENTS ON THE USE OF THE DOL VFCP ONLINE CALCULATOR

Earnings Calculations

EPCRS includes safe harbors for calculating earnings, generally using actual earnings at an account, fund, or plan level. If calculating actual earnings is not feasible, alternative methods may be used, including the Department of Labor's (DOL) Voluntary Fiduciary Correction Program (VFCP) Online Calculator. Revenue Procedure 2026-34 requests comments on a proposal jointly developed by the IRS and DOL that explores expanding the use of the VFCP Online Calculator. Generally, the proposal would (i) require use of the VFCP Online Calculator interest rate that is currently applicable when lost earnings equal or exceed US$100,000 and (ii) impose an earnings floor based on such higher VFCP Online Calculator interest rate if use of actual earnings would produce a lower earnings result. Although the IRS recognizes the VFCP Online Calculator's convenience, it cautions that it would “be inappropriate” to allow plan sponsors to choose to use the VFCP Online Calculator when actual earnings exceed the VFCP Online Calculator's interest rate or, conversely, to choose to use actual earnings instead of the VFCP Online Calculator when actual earnings are low or negative. Written comments on this proposal are due on or before 20 January 2027.

The firm's Benefits and ESOP team is available to assist plan sponsors navigate the updated EPCRS correction procedures and otherwise assist with matters relating to retirement plan administration and compliance.

KEY CONTACTS



LAUREN M. CROSSETT
PARTNER

PITTSBURGH
+1.412.355.6213
LAUREN.CROSSETT@KLGATES.COM



ELLIOT W. DIGIOIA
ASSOCIATE

PITTSBURGH
+1.412.355.6287
ELLIOT.DIGIOIA@KLGATES.COM

©2005-2026 K&L Gates LLP. All Rights Reserved.

This publication/newsletter is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer. Any views expressed herein are those of the author(s) and not necessarily those of the law firm's clients.

©2005-2026 K&L Gates LLP. All Rights Reserved.