

## 2018 IRS VCP User Fee Winners and Losers

Simplification of IRS' user fees may be easier to memorize, but will be more costly for many common plan errors submitted under the Voluntary Correction Program.

### Background

IRS imposes user fees for requests for letter rulings, opinion letters, determination letters, advisory letters, and requests for approval of a plan or operational error under the Employee Plans Compliance Resolution System (EPCRS) — including the Voluntary Correction Program (VCP). Each January, it issues revenue procedures with rules for interacting with the agency to obtain these determinations, approvals, and advice. This annual update includes the current user fee schedules.

The 2017 VCP user fees generally varied based the number of lives covered by the plan, as described below. For certain types of errors, IRS allowed for reduced fees or flat penalty amounts.

- The “regular” submission fees under VCP ranged from \$500 for plans with 20 or fewer participants to \$15,000 for plans with over 10,000 participants.
- Smaller fees were imposed for violations of the minimum distribution requirements for plans with no more than 300 affected participants (\$500 if fewer than 150 affected; \$1,500 if 151 to 300).
- Fees for plan loan failures ranged from \$300 for 13 or fewer participants with failures up to \$3,000 if over 150 participants had loan failures.
- As little as \$375 was charged for failure to adopt good faith or interim amendments; \$500 for other nonamender failures if submitted within one year after the end of the remedial amendment period.

### 2018 Simple, but Sometimes Costly Changes

For the 2018 update in [Revenue Procedure 2018-4](#), IRS made significant changes to the fees that will be charged for corrections made with a VCP filing. Unlike prior years, the 2018 VCP fee is



determined by reference to net plan assets, and there are no reduced fees for minimum distribution, participant loan, or plan amendment failures. The updated schedule and [associated IRS website information](#), effective January 2, 2018, looks like this:

- Plan assets of \$0 to \$500,000: VCP fee is \$1,500
- Plan assets over \$500,000 to \$10,000,000: VCP fee is \$3,000
- Plan assets over \$10,000,000: VCP fee is \$3,500

### Some Winners

A large plan covering over 10,000 participants and more than \$10 million of assets would have paid \$15,000 under the 2017 schedule and pays only \$3,500 under the 2018 schedule. Similarly, the \$3,500 maximum will benefit plans that had been subject to the \$5,000 (for 101 to 1,000 participants) or \$10,000 (1,001 to 10,000 participants) categories under the prior general schedule.

### Some Losers

It is easier to find losers than winners:

- Small plans covering fewer than 101 participants paid \$500 or \$750 under the 2017 schedule and will now pay at least \$1,500, or \$3,000 if the plan assets are over \$500,000, under the 2018 schedule.
- Plans with minimum required distribution failures for 300 or fewer participants will pay at least twice as much as last year. Under the old schedule, if no more than 150 participants were affected, the tab was just \$500. It will now be at least \$1,500.
- Plans with over 100 plan loan failures would have paid \$2,000 or \$3,000 under the old schedule. Given that these plans are likely to fall in the over-\$10 million category, they'll now pay \$3,500.
- Bargain user fees of \$375, \$500, or half the old generally applicable fee for nonamender submissions are a thing of the past.

### In Closing

In light of the new 2018 fee schedule, plan administrators will want to ensure zero tolerance for loan, minimum distribution, and plan amendment failures that are now more costly to fix. On the other hand, because large plan sponsors will pay less than before due to other failures such as overpayments of benefits, they may more frequently opt to use VCP filing rather than the self-correction method.

**Authors**

Marjorie Martin, FSPA, EA, MAAA

Julia Zuckerman, JD

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