

BenefitsBCLP

ALERT: NEW IRS RETIREMENT PLAN COMPLIANCE PROGRAM

Jun 24, 2022

Dear Plan Sponsor - Have you received a letter from the IRS with respect to your retirement plan? If so (or if not, but you want to be prepared in the event you do receive “the letter”), read on.

Starting this month, the IRS commenced a new retirement plan compliance program which starts with a letter from the IRS. The letter gives you 90 days to perform both a document and an operational compliance review. If you fail to respond to the letter within 90 days, the IRS will contact you to schedule an exam.

Assuming you choose to conduct the appropriate review and you discover errors, the errors may, if eligible, be corrected using the correction principles in EPCRS (the Employee Plans Compliance Resolution System). If the errors are not eligible for such correction, you may request a closing agreement and pay a sanction determined pursuant to the fee structure set forth in the VCP (“Voluntary Correction Program”) – a bit of a gift since normally fees would be assessed under the more costly, less predictable Audit CAP program fee structure.

If the IRS agrees with the proposed resolution of errors, it will issue a closing letter to that effect. If the IRS does not agree, it may conduct a full scope audit examination.

As this is a pilot program, we have yet to see whether it becomes a standard tool for enforcing plan compliance. Nonetheless, it should serve as an incentive to conduct your own compliance review before you receive “the letter”. Self-audits are important tools for identifying and correcting otherwise messy and costly compliance problems – and for responding to “the letter” should one come your way.

You can find the Pilot Program at: https://www.esisappracticecenter.com/wp-content/uploads/sites/25/2022/06/Employee-Plans-News_-_Internal-Revenue-Service-June-3-2022.pdf

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