Deloitte.

Understanding EPCRS and the Changes made by SECURE 2.0

Presented to the Society of Louisiana Certified Public Accountants

Sep 17, 2026

1

Overview

1. General Overview of Plan Qualification
2. General Overview of EPCRS
3. General Correction Principles of EPCRS
4. Changes to EPCRS Made by SECURE 2.0
5. Using EPCRS in light of the Changes to SECURE 2.0

2

General Overview of Plan Qualification

3

General Overview of Qualified Plans
Benefits of tax-qualification for retirement plans

There are numerous advantages from a qualified retirement plan –
- **Employees accrue benefits that are not currently taxable at the time they accrue**
  - Benefits are taxable when they are distributed at a later date
    - Exception: Roth deferrals are taxable when contributed
  - If the Plan is qualified at the time of distribution, the distribution can be rolled into another tax-favored retirement plan (including an IRA)
- **Employers make contributions to a separate trust to fund benefits**
  - The trust holding retirement plan contributions is exempt from the claims of employer and employee creditors
  - The trust has its own tax exemption, meaning that the trust pays no tax on investment earnings generated by plan assets.
  - Fiduciary protections under Title I of ERISA apply
- **Employers enjoy certain tax benefits**
  - Employers obtain a current income tax deduction for contributions made to the trust to fund benefits
  - Most types of employer contributions are exempt from employment taxes (i.e., FICA and FUTA)
    - Important Exception: employee elective deferrals remain subject to FICA taxation

4

General Overview of Qualified Plans
Maintaining a Plan's Qualified Status Involves Many **Ongoing Processes**

Document Compliance	Operational Compliance	Coverage and Nondiscrimination
Plan documents must be updated for changes to the qualification requirements under the Code. If an optional plan design feature is added, the document must be updated timely to reflect the change.	Plans must be operated in accordance with the qualification requirements. Plans must also be operated according to their written terms.	Plans must cover a broad cross section of the employer's workforce. Plans must provide participants with benefits that do not favor highly paid employees

Most Qualified Plans are also subject to the Employee Retirement Income Security Act of 1974 ("ERISA"). ERISA imposes additional requirements around reporting and disclosure and requires plan fiduciaries to act solely in the interest of participants and beneficiaries

5

AI Generated Draft

General Overview of Plan Qualification
If a Plan loses qualified status, the consequences can be dramatic and severe.

Participant Impact	Trust Impact	Employer Impact	Broad Implications
• Contributions to participant accounts may be taxed, if the contributions are vested • In some cases, the entire participant account may be taxed • Participants lose tax deferral and favorable rollover status	• Plan trust loses tax-exempt status • Plan trust is taxed on annual income	• The deduction for some previous contributions may be retroactively disallowed • Disqualification will be captured in plan reporting • Contributions may be subject to employment tax liabilities, and penalties for failure to pay	• Impact upon ability of participants to roll benefits into other plans • Plan disqualification may trigger audits, penalties, and participant lawsuits • Permanent status loss erodes trust in benefit programs

6

General Overview of EPCRS

7

Overview of EPCRS

- Employee Plans Compliance Resolution System (EPCRS) provides a mechanism for sponsors of tax-favored retirement plans that have qualification failures to fix the failures and to keep the plan qualified
- The plan sponsor will correct the failure, using either a standard IRS-approved correction method, or a correction method based on certain broad EPCRS principles
- If the failure resulted in incorrect benefits to participants the plan sponsor can use EPCRS to restore the benefit and do so in a way that avoids plan disqualification
  - Illustration: In year #1, Plan A failed to provide an adequate match to plan participants consistent with the plan's terms. Plan sponsor discovers the failure in year #3, and provides the missing match (along with the match that would be required for year #3)
- EPCRS is generally available for "qualification failures" – a failure that would give the IRS the right to disqualify the plan, if the failure were discovered upon audit, but EPCRS can also be used to address income or excise tax issues that are related to the qualification failure
- EPCRS can be used by qualified, 403(b) arrangements, eligible governmental 457(b) plans, SEPs and SIMPLE IRAs/401(k) plans

8

Overview of EPCRS

EPCRS provides three distinct paths for plan sponsors to correct plan qualification failures

Self-Correction Program

(SCP) Correct eligible failures without contacting the IRS or paying a user fee. Sponsors should maintain established compliance practices and document the correction

Voluntary Correction Program

(VCP) Before an IRS audit, submit the failure and proposed correction, pay the user fee, and obtain an IRS compliance statement

Correction on Audit

(Audit CAP) During an IRS examination, correct the failure and enter a closing agreement that generally includes a negotiated sanction

The appropriate path depends on the failure, timing, and audit status.

9

General Correction Principles of EPCRS

10

Correction Principles under EPCRS

Rev. Proc. 2021-30 Section 6 emphasizes complete **and** timely error correction methods and documentation.

Full Correction

Errors must be fully corrected, restoring all affected participants and beneficiaries to the same position as if the failure had not occurred whenever possible. Correction must be reasonable and appropriate—over- or under-correction is generally not permitted

Reasonableness

Correction must not place unreasonable burdens, costs, or windfalls on any party. The chosen method must directly address the failure and its impact, and alternatives may only be used if justified and properly documented.

Adherence to Terms of the Plan

Plan terms and rights must be enforced or restored through corrective actions, documented for IRS and participant transparency. Sponsors must take additional steps for recurring or similar failures, reducing the chance of repeat noncompliance

Equal Treatment

All affected participants and beneficiaries must be treated consistently and equitably in the correction process, including retroactive adjustments when needed. Prompt detection and timely correction are essential to compliance sustainability.

Keep Assets in the Plan

Correction methods should generally keep plan assets in the plan, rather than returning assets to the employer

11

General Correction Principles under EPCRS

EPCRS recognizes a number of exceptions to the general requirement of full correction

Reasonable Estimates

If exact records cannot be obtained to calculate the correct amounts owed to a participant after reasonable efforts, a reasonable estimate may be used to calculate the correction.

De Minimis Amounts

Corrected benefits must be provided to all affected participants (current and former) and beneficiaries. However, if the amount owed to a former participant is $75 or less, the plan sponsor may not have to provide that benefit

De Minimis Overpayments

Plan sponsors that choose to attempt to recover overpayments may ignore (i.e., not attempt to recover) overpayments that are $250 or less.

Note: SECURE 2.0 section 301 and Notice 2024-77 (both discussed in detail later) provide additional options to not recover overpayments

12

General Correction Principles under EPCRS

Other Correction Methods and Principles under EPCRS

- EPCRS provides guidance on acceptable methods of correction for certain commonly-occurring failures
- Correction Guidance can be found in:
  - Rev. Proc. 2021-30, section 6
  - Rev. Proc. 2021-30, Appendix A
  - Rev Proc. 2021-30, Appendix B
- Published correction guidance does not cover all types of failures
  - Use general correction principles to determine an appropriate correction for these types of failures
  - It is also permissible to use non-standard correction methods even for failures for which there is published correction guidance (VCP would usually be recommended here).
- Retroactive amendments to adjust plan terms to conform to plan operations can be a permissible method of correction
- Corrective amounts should be adjusted for earnings
  - Guidance on earnings calculation methods can be found in Rev. Proc 2021-30, Appendix B
  - Corrections should be adjusted for positive earnings. Corrections can be adjusted for losses, but are not required to be adjusted for losses.

13

Changes to EPCRS made by SECURE 2.0

14

AI Generated Draft

- **SECURE Act 2.0 made several Changes to EPCRS.**
  - Expansion of self-correction
  - Liberalized rules on recovering overpayments
  - Mandated IRS to develop an EPCRS program for IRAs

15

SECURE 2.0 Changes to EPCRS – expanded self-correction

Section 305 of SECURE Act 2.0 requires expansion of self-correction. Notice 2023-43 answered certain operational questions that required answers before the IRS formally updates Rev. Proc. 2021-30.

As a result of Section 305 and Notice 2023-43, plan sponsors know the following:

Wider Correction

Plan sponsors can now self-correct a broader scope of inadvertent failures if they act promptly, the error is not egregious, and no misuse of assets or abuse is involved. Significant operational problems may be corrected without IRS filings

Limits Remain

Egregious failures, abusive transactions, certain demographic or 415 failures, significant failures in terminated plans, and failures of initial adoption are not eligible for self-correction, and still require VCP or Audit CAP pathways

Retroactive Impact

Expanded self-correction is allowed for eligible failure, even if the failure predates SECURE 2.0 and even if the failure was discovered before SECURE 2.0 (provided that all other requirements of self-correction are satisfied)

Effective date

Expanded SCP rules apply now, and can be used prior to the formal update of Rev. Proc. 2021-30

16

SECURE 2.0 Changes to EPCRS – expanded self-correction

Issues remaining uncertain after Notice 2023-43

- Section 305 of SECURE 2.0 permits the self-correction of any "Eligible Inadvertent Failure" at any time except to the extent that the IRS identifies the failure before the plan sponsor demonstrates any specific commitment to correct the failure
  - Notice 2023-43, Q&A 4 indicates that the IRS will treat a failure as identified the moment that the IRS informs the plan sponsor that the plan is under examination.
    - There is an exception to this if the plan sponsor has demonstrated a specific commitment to self-correction of a failure, which the IRS will judge on a facts and circumstances basis
- Section 305 of SECURE 2.0 also denies self-correction if the correction is not completed within a reasonable time after the failure is discovered
  - Notice 2023-43, Q&A 7 indicates that a failure is deemed to be corrected within a reasonable time if the failure is self-corrected within 18 months after the plan sponsor discovers the failure.

17

SECURE 2.0 Changes to EPCRS -- Overpayments

Section 301 of SECURE Act 2.0 liberalizes rules regarding recovery of inadvertent benefit overpayments. Notice 2024-77 provided interim before the IRS formally updates Rev. Proc. 2021-30.

Section 301 and Notice 2024-77 enable flexible, participant-centered relief options, balancing plan security and participant protection

Overpayment Relief

Notice 2024-77 clarifies that plan sponsors are not always required to recoup overpayments from participants to maintain qualified status. Distinctions are made between required recovery and permissible waivers of repayments in specific cases.

Repayment Procedures

When recoupment occurs, sponsors may use payment agreements or partial recoveries. All actions must be clearly documented and communicated to participants, with consideration for financial hardship and tax compliance burdens.

Tax & Distributions

Overpayments not recovered may still be rolled over under qualifying conditions, preserving tax advantages for participants. Required notices and IRS tax reporting guidance must be followed during the correction process.

Fiduciary Guidance

Sponsors must thoroughly document all attempts to recover overpayments or their decision to forgo collection. Consistency and fairness to all participants are vital to maintain plan integrity and avoid fiduciary breaches.

18

SECURE 2.0 Changes to EPCRS – Overpayments

Issues remaining uncertain after Notice 2023-43

- Section 301 of SECURE 2.0 a plan sponsor to not attempt a recovery of overpayments, but also permits a plan sponsor to ask for a repayment of an overpayment, subject to certain limitations
- Section 301 of SECURE 2.0 provides that an overpayment that the plan sponsor does not request repayment of remains eligible for rollover
  - Notice 2024-77, Q&A 4 discusses rollovers related to overpayments:
    - If the plan sponsor does not request repayment, the overpayment remains eligible for rollover. The retirement plan may retain the overpayment.
    - However, if the plan sponsor does request repayment, the overpayment is no longer eligible for rollover. The recipient's IRA can return the overpayment directly to the plan. The return will be treated as a rollover into the plan.

19

20

SECURE 2.0 Changes to EPCRS -- IRAs

SECURE 2.0 directs a formal IRA correction framework modeled on EPCRS for inadvertent IRA errors

- Envisions streamlined fixes for excess contributions/removals, certain RMD shortfalls, beneficiary/titling mistakes, and custodian reporting/administrative errors
- Coordinates with SECURE 2.0 changes (e.g., reduced excise tax for timely-corrected RMD failures; overpayment relief principles)
- Notice 2023-43 instructed IRA custodians not to correct Eligible Inadvertent Failures under EPCRS prior to formal update; comprehensive consolidated IRA program still pending

20

Using EPCRS in light of SECURE 2.0 changes

21

Using EPCRS in light of SECURE 2.0

- **Though SECURE 2.0 expands the ability to use self-correction, VCP remains an important part of EPCRS**
- **VCP v. SCP**
  - VCP provides specific assurance from the IRS that the plan is qualified and the correction is acceptable
    - SCP does not involve specific IRS assurance as to the method of correction
  - VCP takes more time, due to the need for IRS review
    - SCP can generally be completed more quickly

22

Using EPCRS in Light of SECURE 2.0 Changes

When VCP might be preferable to SCP

- **VCP might be preferable when it is important or would make more sense to use a correction that differs from published correction guidance, or to coordinate the correction of multiple failures, especially when they affect the same participant (example on the next slide illustrates this)**
- **Published guidance on common 401(k) failures:**
  - "Missed Deferral Opportunity" -- Correction method for elective deferral shortfalls (not permitted to participate, or deferral election not applied to correct compensation)
    - Example: Plan includes overtime as compensation, but a deferral election is not applied to overtime payments
    - Missed Deferral Opportunity – an employer contribution (QNEC) equal to 50% of the deferrals that would have been made
  - Disgorgement – Correction method that applies if a participant is allowed to contribute too much of an elective deferral
    - Example: Plan does not include bonuses as compensation, but a deferral election is applied to bonus payments.

23

Using EPCRS in light of SECURE 2.0

When VCP might be preferable to SCP

- **Illustration:**
  - Participant A participates in Company X's 401(k) plan. Participant A's deferral election is 5% over the relevant period. Participant A is still employed.
    - In 2023, Participant A has $12,000 of overtime. The deferral election is not applied to this amount
    - In 2024, Participant A receives a $10,000 bonus. Participant A's deferral election is incorrectly applied to this amount.
- **What does the published correction guidance tell us to do (read literally)?**
  - Make a contribution of $300 to correct the failure to apply the deferral election to the $12,000 of overtime for 2023 (using the missed deferral opportunity correction)
  - Disgorge $500 to correct the incorrect inclusion of bonuses for 2024
- **Where does this leave the affected participant on a "net" basis?**
  - After correcting BOTH failures, Participant A's balance is $200 LESS than it would have been without any correction
- **What might the employer want to do instead?**
  - Do not make the participant worse off in correction. But how?
  - File a VCP application proposing the following corrections:
    - For the 2024 failure, the $500 of "extra" deferrals will be treated as if they were contributed in 2023 (2024 testing will be re-done to reflect this)
    - For the 2023 failure, treat the $500 of the original 2024 deferrals as contributed with respect to the $10,000 of the 2023 overtime. This leave the participant with only $2000 of overtime that was not subjected to a deferral. Apply the "Missed deferral opportunity" correction to this amount. This leads to a $100 employer contribution.

24

References

1. IRS Notice 2023-43: [Link]
2. IRS Notice 2024-77: [Link]
3. Revenue Procedure 2021-30: [Link]
4. Rewards Policy Insider 2023: [Link]
5. IRS Qualified Plan Overview: [Link]

25

Deloitte.

26