



Happy Holidays! A Gift from the DOL

'Tis the season for giving – and the Department of Labor (DOL) just gave plan sponsors a gift. The DOL's Employee Benefits Security Administration (EBSA) recently announced its intent to update its Voluntary Fiduciary Correction Program (VFCP) to create a new self-correction process for correcting late remittances of participant deferrals and loan repayments to defined contribution plans.

Currently, participation in the VFCP involves a formal filing with EBSA that requires plan sponsors to provide documentation and sign a penalty of perjury statement. As a result, many plan sponsors do not utilize the program. The new rules are designed to encourage greater participation in the VFCP. Instead of waiting for EBSA to approve a formal VFCP application, the new process would simply require plan sponsors to notify EBSA after the correction has been made.

In order to qualify for self-correction, the lost earnings on the late remittance or delinquent loan payment cannot be more than \$1,000 and must be calculated from the original payroll date. The correction must be made no later than 180 calendar days from the date the employer withheld or received such amounts. The plan sponsor must use the VFCP's Online Calculator to calculate lost earnings. A plan is not eligible for self-correction if it is already "under investigation" by EBSA. Although plan sponsors will not receive any formal approval from EBSA of the correction, EBSA will not impose penalties or take civil enforcement action if the self-correction process is followed.

Public comments must be submitted to EBSA by January 20, 2023, so stay tuned for final rules in the New Year.

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