Kilpatrick

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IRS Modifies EPCRS by Allowing Employers to Self-Correct Additional Plan Failures

On April 19, 2019, the IRS issued Revenue Procedure 2019-19 (Rev. Proc. 2019-19), which modifies the Employee Plans Compliance Resolution System (EPCRS) by expanding the use of the Self-Correction Program (SCP) to include documentary errors and certain plan loan failures. The guidance also provides an additional method of correcting operational failures by plan amendment under SCP.

Background

EPCRS was established to allow employers sponsoring qualified retirement plans to correct errors that could adversely impact the tax-favorable status of such plans. EPCRS consists of three correction programs:

- **Self-Correction Program (SCP)**: Allows plan sponsors to correct certain failures without IRS intervention.
- **Voluntary Correction Program (VCP)**: Allows plan sponsors to correct plan failures by submitting the correction to the IRS for approval and paying a fee.
- **Audit Closing Agreement Program (Audit CAP)**: Allows plan sponsors to correct qualification failures identified during an IRS examination and paying a sanction.

Rev. Proc. 2019-19 Changes to EPCRS

Rev. Proc. 2019-19 provides additional circumstances in which corrections under SCP may apply, including:

- **Certain plan document failures**. This involves a plan provision (or the absence of a plan provision) that violates the requirements for a qualified plan, as well as the failure to timely adopt good-faith, interim or discretionary amendments.
- **Certain plan loan failures**. This entails defaulted loans, the failure to obtain spousal consent for a plan loan, and allowing plan loans that exceed the number of loans permissible under the plan.

In addition, certain operational failures may be corrected by plan amendment under SCP if such plan amendment would result in an increase of a benefit, right or feature that is available to all employees.

The expansion of the ability to use SCP to correct certain additional plan failures should facilitate compliance, while reducing the costs and burdens associated with plan compliance.