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Working for America's Retirement

August 23, 2023

Internal Revenue Service
Attn: CC:PA:LPD:PR (Notice 2023-43)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

SUBMITTED VIA REGULATIONS.GOV

RE: Notice 2023-43, Guidance on Section 305 of the SECURE 2.0 Act of 2022 with Respect to Expansion of the Employee Plans Compliance Resolution System ("EPCRS")

The American Retirement Association ("ARA") is writing in response to Internal Revenue Service Notice 2023-43 ("Notice") to provide comments on the expansion EPCRS by section 305 of the SECURE 2.0 Act of 2022[1] ("SECURE 2.0 Act") and other improvements to EPCRS. ARA thanks the Internal Revenue Service ("IRS" or the "Service") for the opportunity to provide input on these matters.

The ARA is the coordinating entity for its five underlying affiliate organizations representing the full spectrum of America's private retirement system, the American Society of Pension Professionals and Actuaries ("ASPPA"), the National Association of Plan Advisors ("NAPA"), the National Tax-Deferred Savings Association ("NTSA"), the American Society of Enrolled Actuaries ("ASEA"), and the Plan Sponsor Council of America ("PSCA"). ARA's members include organizations of all sizes and industries across the nation who sponsor and/or support retirement saving plans and are dedicated to expanding on the success of employer-sponsored plans. In addition, ARA has over 30,000 individual members who provide consulting and administrative services to sponsors of retirement plans. ARA's members are diverse but united in their common dedication to the success of America's private retirement system.

Summary

ARA recommends that the Service revise guidance provided in EPCRS and the Notice to effect each of the following:

- Treat an eligible inadvertent failure as having been "identified" when it is in fact identified by the Service, rather than treating all eligible inadvertent failures as having been identified merely because the plan or plan sponsor comes under examination.
- Expand the eligible inadvertent failures that may be self-corrected to include (a) significant failures in a terminated plan, (b) failures in orphan plans where there is a qualified termination administrator or other responsible fiduciary, and (c) certain demographic failures that are not corrected under Treas. Reg. §1.401(a)(4)-11(g), and clarify when a SEP or SIMPLE IRA must be maintained on model or prototype documents.
- Confirm that the $250 threshold provided in section 6.02(5)(c) of EPCRS for the recovery of small overpayments applies only to overpayments for which the administrator is required to seek recourse (i.e., overpayments resulting from failures related to §415 or §401(a)(17)).
- Confirm that the deadline to correct an elective deferral failure with only a 25% qualified nonelective contribution ("QNEC") remains three years after the plan year in which the failure arose.

[1] Division T of the Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat. 3559 (2022)

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- Provide a safe harbor correction for deferrals that should have been contributed on a Roth basis but were contributed on a pre-tax basis.
- Extend the safe harbor correction methods described in Appendix A .05(8) of EPCRS to corrections related to long-term part-time employee failures at least through December 31, 2025;
- Extend the safe harbor correction methods described in Appendix A .05(9) of EPCRS to (a) deferral failures involving after-tax contributions, (b) partial-year exclusion failures, (c) terminated participants, and (d) participants who did not receive notice within 45 days of correct deferrals commencing.
- Confirm that self-correction may be made in the case of a related employer's failure to adopt a plan sponsored by another controlled group or affiliated service group member.
- Add new earnings adjustment calculation methods to the existing safe harbor methods in EPCRS, Appendix B, Section 3.
- Clarify the missed deferral opportunity for an excluded non-highly compensated employee ("NHCE") in a non-safe harbor plan if no NHCE made a deferral to the plan during the applicable plan year.

Discussion

1. Identification of Eligible Inadvertent Failure

Section 305 of the SECURE 2.0 Act provides that eligible inadvertent failures may be self-corrected as long as actions demonstrating a specific commitment to implement a self-correction with respect the failure are taken before the Service "identifies" the failure. The normal and natural meaning of the word "identify", means to have discovered and determined the identity of[2], and therefore the natural meaning of the statute requires the Service to have discovered and determined the identity of a specific failure before the plan sponsor demonstrated a specific commitment to self-correct. Despite the unambiguous meaning of the word "identified", the Notice provides that an eligible inadvertent failure is treated as having been "identified" by the Service when the plan or plan sponsor comes "under examination."[3] Therefore, under the Notice, once the plan or plan sponsor comes "under examination" an eligible inadvertent failure is eligible for self-correction only if the error is insignificant (unless the plan sponsor had demonstrated a specific commitment to implement a self-correction prior to coming "under examination"). That interpretation is inconsistent with the plain meaning of the statute and therefore should be revised.

Under current guidance, a plan or plan sponsor is "under examination" once they have received written or verbal notification of (a) a Form 5500 or other Employee Plans examination; (b) a Form 990 or other Exempt Organizations examination; or (c) certain investigations by the Criminal Investigation Division of the Service, or referral for such exam. Thus, when combined with Q&A 4 of the Notice, the mere existence of an examination or future examination works to prohibit self-correction of an eligible inadvertent failure prior to when the Service discovers and establishes the identity of a specific failure. Defining "identified" to mean something other than its ordinary and plain meaning, and equating "identified" with the term "under examination," unduly restricts the availability of self-correction for eligible inadvertent failures by prematurely precluding self-correction and is inconsistent with the statute and the legislative intent.

Accordingly, rather than treating all eligible inadvertent failures as having been identified merely because the plan or plan sponsor comes under examination, ***ARA recommends*** that an eligible inadvertent failure be treated as having been "identified" for purposes of section 305 of the SECURE 2.0 Act and EPCRS as of the

[2] See definition of "identify" in the Merriam-Webster dictionary (https://www.merriam-webster.com/dictionary/identify).
[3] As defined in section 5.08 of Rev. Proc. 2021-30.

date the Service actually discovers and establishes the identity of a specific failure with respect to a plan or, at the very earliest, when the Service is in receipt of facts sufficient for the Service to establish the identity of a specific failure.

2. Self-Correction of Certain Failures

Q&A-2 of the Notice specifies certain eligible inadvertent failures that may not be self-corrected before Rev. Proc. 2021-30 is updated. ***ARA recommends*** that the Service ultimately permit self-correction for the following eligible inadvertent failures.

i. Significant Failures in Terminated Plans

Subparagraph (3) under Q&A-2 of the Notice permits the self-correction of eligible inadvertent failures in a terminated plan that are insignificant failures – but not significant failures. ***ARA recommends*** the Service permit corrections of significant errors in terminated plans.

The distinction between significant and insignificant errors (as currently defined in EPCRS) would prohibit a terminated plan from correcting a number of eligible inadvertent failures, including plan documentation failures (which are always significant under 4.01(b) of EPCRS) and failures that could be corrected by retroactive amendment conforming the terms of the plan to operation.

ARA does not see a policy reason why self-correction for a terminated plan should be based on significance. A plan sponsor who is willing to correct issues discovered after the plan has terminated and all assets have been distributed should not be penalized. Permitting plan sponsors to correct significant failures only under VCP may delay distributions, increase administrative complexity and cost, and negatively affect plan participants. Because all insignificant failures, including those that require contributions to the plan, are permitted after termination of the plan, we don't see any rationale to restrict the correction of significant failures. Therefore, ***ARA recommends*** that self-correction of all eligible inadvertent failures in terminated plans – including both insignificant and significant failures – be permitted. If, however, the Service will not permit all significant errors to be corrected, then ARA recommends that the Service permit a terminated plan to self-correct any significant eligible inadvertent failure that does not require corrective contributions to the plan (including plan documentation failures and failures that are corrected by retroactive amendment conforming the terms of the plan to operation) and/or permit the correction of significant errors that are corrected within 3 years after plan termination.

If the types of eligible inadvertent failures that may be self-corrected will continue to vary based on whether a plan is terminated, then the meaning of "terminated" should be confirmed when EPCRS is updated. Specifically, ***ARA recommends*** that the Service clarify that a plan is treated as a "terminated plan" as of the later of (i) the date of final distribution of plan assets or (ii) the date of a favorable determination letter issued in connection with the plan's termination. We believe this position is consistent with IRS's longstanding position evidenced in Rev. Rul. 89-87 that a plan is not terminated unless assets are distributed, as well as the Instructions for Form 5500. An additional extension in the event a favorable determination letter is requested is also warranted because the determination letter process may reveal failures, particularly plan documentation failures, which a sponsor should be permitted to self-correct.

ii. Failures in Orphan Plans With a Qualified Termination Administrator or Other Responsible Fiduciary

Subparagraph (2) under Q&A-2 of the Notice prohibits self-correction of eligible inadvertent failures in an orphan plan (as defined in section 5.03(1) of Rev. Proc. 2021-30). While ARA appreciates the policy concerns regarding self-correction of orphan plans, **ARA recommends** that "Eligible Parties" as defined in

section 5.03(2) of Rev. Proc. 2021-30 be permitted to implement self-correction of eligible inadvertent failures on the same basis as other plans. An "Eligible Party," as defined in section 5.03(2) of Rev. Proc. 2021-30, is responsible for terminating the orphan plan and distributing the orphan plan's assets. Generally, these are qualified termination administrators (QTAs) and bankruptcy trustees. The process to effect the termination of an orphan plan is often arduous and expensive, and delaying the termination of the plan due to the need to file a Voluntary Correction Program application will only increase overall expenses and negatively impact participant account balances. Permitting self-correction would avoid additional expenses due to the delay in termination and permit for rapid resolution and termination of the orphan plan. Limiting the self-correction to instances where there is a QTA or other responsible fiduciary (such as a bankruptcy trustee) should provide reasonable assurance that self-correction principles are followed. Therefore, ***ARA recommends*** that self-correction of orphan plan failures be permitted where the Eligible Party is a QTA or other responsible fiduciary.

iii. Certain Demographic Failures

Subparagraph (5) of Q&A-2 of the Notice restricts the demographic failures that can be self-corrected to only those failures that are corrected using the method set forth in Treasury Regulation § 1.401(a)(4)-11(g), and provides as an example that a demographic failure under section 401(a)(4) of the Code may *not* be corrected by using a special testing provision set forth in Treasury Regulation § 1.401(a)(4)-8 (i.e., cross-testing) or Treasury Regulation §1.401(a)(4)-9 (i.e., DB/DC plans or restructuring), or by providing benefits primarily to short-service or low-paid employees.

This provision prevents plans that have been designed to be cross-tested from utilizing their regular method of testing when self-correcting even the slightest error. This unnecessarily disadvantages these plans. Cross-tested plans are increasingly common, particularly in small businesses. These small businesses should not be discouraged from self-correcting errors or be disadvantaged by requiring VCP fees merely because they use a particular plan design. Therefore, **ARA recommends** that the Service permit sponsors to use a special testing provision set forth in Treasury Regulation § 1.401(a)(4)-8 (i.e., cross-testing) or Treasury Regulation §1.401(a)(4)-9 (i.e., DB/DC plans or restructuring).

In addition, the restriction on correction method potentially eliminates the ability to self-correct ADP and ACP testing failures. While the definition of demographic failures under Rev. Proc. 2021-30 does not reference ADP or ACP testing, it does indicate that §401(a)(4) failures are demographic failures. Under Treas. Reg. § 1.401(k)-1(b)(1) and Treas. Reg. § 1.401(m)-1(a)(1), the ADP or ACP test, respectively (or, alternatively, one of the available safe harbors), is the exclusive means of showing the plan's §401(k) or §401(m) arrangement satisfies §401(a)(4) of the Code. Thus, an ADP and ACP failure is a 401(a)(4) failure. These failures are not corrected using an 11(g) amendment and therefore the current language of Q&A-2 may operate to prohibit self-correction. ARA believes that correction of these routine errors should be eligible for self-correction. Thus, ***ARA recommends*** that the Service clarify and confirm that demographic failures that would not otherwise be corrected via Treasury Regulation § 1.401(a)(4)-11(g) (e.g., ADP and ACP test failures) may be self-corrected.

iv. Certain Failures in SEP and SIMPLE IRA Plans

Subparagraphs (7) and (8) of Q&A-2 of the Notice provide that eligible inadvertent failures occurring in a SEP or a SIMPLE IRA plan may be self-corrected only if the plan document is a valid Model Form adopted by the employer in accordance with the applicable form instructions, or a prototype document that has a current favorable opinion letter and has been amended in accordance with the procedures under Rev. Proc. 2002-10. The Notice is ambiguous as to whether this plan document requirement applies at the time the eligible inadvertent failure occurred or at the time the self-correction is effected. ***ARA recommends*** that the

Service clarify that the SEP or SIMPLE IRA plan document must consist of a Model Form or prototype document at the time the self-correction is effected.

3. Additional Updates Arising from SECURE 2.0

i. Clarify $250 Overpayment Threshold

Section 301 of the SECURE 2.0 Act added a new §414(aa) to the Code regarding benefit overpayments. This new section specifically provides that a plan will not fail to be qualified (under §§401(a) or 403 of the Code) merely because a plan fails to recoup "any inadvertent overpayment" made by the plan, and that if recoupment is not sought, the inadvertent overpayment will be treated as eligible for rollover if it would have been eligible for rollover had it not been an overpayment. **ARA recommends** the Service update Section 6.02(5)(c) of Rev. Proc. 2021-30 to provide that the $250 threshold is only applicable for overpayments that are not inadvertent overpayments under §414(aa) of the Code.

ii. Clarify 25% QNEC Correction Deadline

Appendix A, section .05(9) of Rev. Proc. 2021-30 provides that elective deferral failures that extend beyond three months, but not beyond the SCP correction period for significant failures may be corrected using a QNEC equal to 25% of the missed deferral opportunity (versus the 50% generally required in Rev. Proc. 2021-30). However, Q&A-3 of the Notice provides that when correcting an eligible inadvertent failure that is significant, the requirements of section 9.02 of Rev. Proc. 2021-30 do not apply. This raises a question whether the correction period for significant failures is still applicable when determining eligibility for the safe harbor correction method described in Appendix A, section .05(9).

ARA recommends that the Service clarify that the safe harbor correction method in Appendix A, section .05(9) of Rev. Proc. 2021-30 is available with respect to elective deferral failures that extend beyond three months, but not beyond the end of the third plan year following the plan year in which the failure began. We believe this retention of the 3-year rule is reasonable and appropriate and provides plan sponsors and administrators with appropriate incentives to actively find errors

iii. Provide Safe Harbor Correction for Deferrals that Should Have Been Roth

Section 603 of the SECURE 2.0 Act requires that any catch-up contributions for certain participants be made on a Roth basis. This new qualification requirement is likely to result in new (or significantly increased) incidences of contributions being made to the Plan on a pre-tax basis and later determining that those contributions should have been made on a Roth basis. For instance, if someone elects to contribute $30,000 in January 2024 and that amount is made on a pre-tax basis but the employer later determines the employee had over $145,000 in FICA wages in 2023, the portion of the $30,000 that is over the 2024 402(g) limit should have been made on a Roth basis. Currently there is no direct guidance on how such an error would be viewed, but one reasonable interpretation under existing guidance is that there are two errors: (1) excess deferrals equal to the amount over the 402(g) limit and (2) a missed Roth deferral opportunity equal to the portion of the $30,000 that is over the 402(g) limit. If corrected under that view, the participant would be refunded the dollars in excess of the 402(g) limit and the employer would make a QNEC on account of the missed deferral opportunity. Errors of this type might not be determined until after the end of the plan year for a variety of reasons. In this case, the employee would arguably be receiving a windfall, which is not warranted because this is significantly different that situations where deferrals simply are not withheld.

ARA recommends the Service include a safe harbor correction for failures involving the incorrect tax treatment of deferral contributions. ***ARA further recommends*** that (to the extent incorrect tax treatment cannot be remedied under other generally applicable guidance the Service publishes) plans should be permitted to correct the error by notifying the employee of the tax-treatment error and permitting the employee to choose either to recharacterize the excess deferral as Roth (and receive a Form 1099 reflecting taxation of the amount recharacterized) or receive a refund of the contributions.

iv. Extend safe harbor correction methods described in Appendix A .05(8) to LTPTE Failures

Both the SECURE 1.0 and SECURE 2.0 Acts included expansion of coverage requirements for long-term part-time employees. These new requirements take effect as soon as January 1, 2024. These are significant changes to plan administration, compliance with which is complicated by the short duration between the passage of SECURE 2.0, the release of necessary guidance, and the initial effective date of the provision. To assist plan sponsors who are undertaking good faith efforts to comply with these new rules, ***ARA recommends*** the special safe harbor correction method for failures related to automatic contribution features described in Appendix A.05(8) of Rev. Proc. 2021-30 (generally permitting correction with no QNEC for the missed elective deferrals if certain requirements are met) be temporarily expanded to apply to failures related to long-term part-time employees (including for plans that do not have automatic contribution arrangements), at least for the period beginning January 1, 2024 and ending December 31, 2025.

4. Other Updates and Improvements to ECPRS

i. Extend safe harbor correction methods described in Appendix A .05(9)

As discussed in our October 14, 2021 letter[4], the safe harbor correction methods described in Appendix A .05(9) of Rev. Proc. 2021-30 appropriately encourage plan sponsors to closely monitor plan operations to detect and correct any errors quickly. ***ARA requests*** this provision be expanded to include the following situations in order to provide the same correction incentives.

1) After-tax contributions

As described in our November 9, 2020[5] letter, ***ARA recommends*** that the Service modify the safe harbor correction methods described in Appendix A, Section .05(9)(a) and (b) of Rev. Proc. 2021-30 to include failures relating to after-tax employee contributions. The rationale for allowing a reduced or no QNEC when correcting elective deferral failures applies equally to correcting after-tax contribution failures.

2) Partial-year exclusion failures

Appendix B, Section 2.02(1)(a) states that the Appendix A, Section .05 correction is available when an employee is improperly excluded from electing and making contributions or receiving matching contributions for a portion of a plan year. Appendix B, however, then continues by only referencing the correction methods in Appendix A, Section .05(2)-(5), which include the 50% and 40% QNEC corrections, but not the remaining paragraph of Appendix A Section .05, including Section .05(9). ***ARA recommends*** the Service clarify that all of the corrections permitted in Appendix A, Section .05 apply to failures that occur for only a portion of a year.

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[4] https://araadvocacy.org/wp-content/uploads/2021/10/21.10.14-ARA-Comment-Letter-to-IRS-Rev-Proc-2021-30-EPCRS-Improvements.pdf

[5] https://araadvocacy.org/wp-content/uploads/2020/11/20.11.09-ARA-Comment-Letter-to-IRS-Employee-plan-compliance-resolution-system.pdf

3) Elective deferral failures for terminated participants

Section 350 of the SECURE 2.0 Act provides a safe harbor for the correction of elective deferral failures that occur under an automatic enrollment or automatic escalation feature, which is essentially a codification of the safe harbor correction in Appendix A, Section .05(8), except that SECURE 2.0 specifies that the correction may occur before or after the participant has terminated employment (and that may occur after the failure is identified by the Service).

By contrast, the reduced QNEC corrections provided for in Appendix A, Section .05(9)(a) and (b) do not apply to terminated participants. ARA believes plan sponsors should be similarly incentivized to correct failures relating to terminated employees as quickly as current employees and conforming these corrections will ease administration, incentivize rapid corrections for terminated participants (who are more likely to become missing when corrections are delayed), and promote consistent corrections among similarly situated participants. Therefore ***ARA recommends*** that the reduced QNEC corrections in Appendix A, Section .05(9) be expanded to include terminated participants. Additional details on our recommendations for this expansion are included in our November 9, 2020 letter.[6]

4) Extension of timeline for required notice

Under the safe harbor correction methods described in Appendix A, Section .05(9)(a) and (b), a notice must be sent to participants within 45 days of when the correct deferrals begin. This provides a disincentive for plan sponsors to correct a deferral error as soon as the error is discovered. A sponsor who corrects such an error immediately and then seeks advice regarding corrections for the period during which correct deferrals were not made often finds itself beyond the 45-day required notice period. Thus, the plan sponsor's prompt action in correcting ongoing deferrals results in that sponsor paying a higher QNEC than the sponsor who discovers the same error and does not correct ongoing deferrals until seeking counsel.

ARA recommends extending the notice timeline to ensure that plan sponsors who correct deferral errors timely are not penalized for their promptness. Specifically ARA recommends that the deadline for providing the notice be within 45 days after the last day that correct deferrals could have begun under Appendix A, Section .05(9)(a) and (b). Alternatively, the 45-day deadline should be extended to the earlier of (a) 180 days after correct deferrals begin or (b) 45 days after the last day that correct deferrals could have begun under the applicable safe harbor correction method.

ii. Failure of related participating employer to adopt the plan

A frequent failure that our members see is participation by employees of a company related to a plan sponsor (i.e., a member of a controlled group or an affiliated service group) but the failure of the related business to sign a participating employer agreement. This failure commonly occurs when a business reorganizes its structure, transfers employees among related companies, or acquires another entity. In this instance, the related entity's employees are permitted to participate in the plan despite the fact the entity is not a participating employer under the terms of the plan. A similar type of failure may occur in a multiple employer plan where a participating employer (who may not be related to the plan sponsor) does not execute (or cannot locate an executed copy of) the participating employer agreement.

The Notice prohibits self-correction of a failure to adopt an initial plan, but permits correction by retroactive amendment increasing benefits to conform the terms of the plan to the plan's prior operations. This exclusion arguably does not apply in the case of the failures described above because the "initial plan" has already been adopted by one or more companies, and therefore, the correction is merely an amendment

[6] https://araadvocacy.org/wp-content/uploads/2020/11/20.11.09-ARA-Comment-Letter-to-IRS-Employee-plan-compliance-resolution-system.pdf

that is permitted under Q&A-2 of the Notice (as an amendment conforming the terms of the plan to the plan's prior operations). ARA believes this should be a permissible self-correction in the case of the failure of an employer in the plan sponsor's controlled group or affiliated service group to adopt the plan, but it should not be a permissible self-correction in the case of the failure of an unrelated employer to adopt a multiple employer plan. The nature of multiple employer plans makes a failure to adopt those plans more akin to a failure to initially adopt a new plan. By contrast, the failure to reflect participation of a subsidiary or other related entity is more akin to an operational failure.

ARA recommends the Service clarify that (a) plan sponsors may self-correct an eligible inadvertent failure involving inclusion of a related employer's employees when that related employer did not take the necessary steps to adopt the plan as a participating employer and (b) the failure of a participating employer to adopt a multiple employer plan is treated as the initial adoption of a plan, which is ineligible for self-correction (unless an entity related to such employer was already a participating employer of the plan).

iii. Adding earnings adjustment calculation methods

As described in our April 4, 2018 comment letter[7] and further discussed in our October 14, 2021 letter, the uncertainty regarding how to calculate earnings causes some plan sponsors to use VCP when the error could otherwise be corrected under SCP. The existing earnings calculation methods provided in Appendix B, Section 3 of EPCRS can be impractical in many situations such as where there are a significant number of investment choices (making the determination of the highest rate of return over multiple/variable time periods cumbersome), where the affected participant(s) changed investment options, or where the plan has changed service providers and the previous service provider is unwilling to calculate earnings. Additionally, plan earnings are many times available only for a full statement cycle and take time to produce whereas performance of indexes like the S&P 500 or a single fund that is used as a qualified default investment alternative are readily available for any business day or time period. These more efficient methods would speed corrections and reduce the administrative burdens of correction while protecting participant interests. ***ARA recommends*** that the Service include the following earnings calculations in Appendix B, Section 3, as safe harbor methods of calculating earnings:

- The average earnings rate of funds held in the plan;
- An index rate, such as the S&P 500 or a blended rate of indices weighted based on the plan's allocation to equity and fixed income; and
- The earnings on the plan's qualified default investment alternative (if the plan includes such as alternative).

iv. Clarify missed deferral opportunity when no NHCE deferred

It is unclear what the missed deferral opportunity is in a non-safe harbor plan in which all NHCEs were improperly excluded from participation and there were no matching contributions. ***ARA recommends*** that Appendix A 0.5(2) be expanded to include an example of how a missed deferral percentage should be calculated in this scenario, and specifically recommends that the Service provide that the missed deferral opportunity is the greater of (a) 3% (as prescribed under the Treasury Regulations when using the prior year testing method in the plan's first year[8]) and (b) the rate needed to pass the Actual Deferral Percentage (ADP) test.

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[7] https://www.asppa.org/sites/asppa.org/files/PDFs/4.4.18Final%20SCP%20comments.pdf

[8] See Treasury Regulation Section 1.401(k)-2(c)(2)(i).

ARA believes each of these additions to EPCRS will promote sound tax administration by encouraging voluntary compliance by plan sponsors, incentivize rapid correction of errors, resolve a significant issue relevant to many retirement plan sponsors, and improve economic efficiency by reducing the complexity and burdens on the plan sponsor.

These comments are submitted on behalf of ARA and were prepared by ASPPA's IRS Subcommittee, Claire P. Rowland, Esq., QPA, QKA, Chair. If you have any questions regarding the matters discussed herein, please contact Kelsey N.H. Mayo, Director of Regulatory Policy, at kmayo@usaretirement.org or (704) 342-5307. Thank you for your time and consideration.

Sincerely,

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