New VCP Compliance Fees Will Increase the Cost of Correcting Some of the Most Common Plan Errors

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Last month, the Internal Revenue Service (IRS) published Revenue Procedure 2018-4, which modified the user fee schedule for submissions under the IRS's Voluntary Correction Program (VCP).

Under the new fee schedule, all VCP compliance fees are now based on the total net plan assets reported on a plan's annual Form 5500-series return. This means that for VCP submissions filed on or after January 2, 2018, compliance fees will be:

- $1,500 for plans with assets of $500,000 or less;
- $3,000 for plans with assets of over $500,000 to $10,000,000; and
- $3,500 for plans with assets of over $10,000,000.

Prior to January 2, 2018, compliance fees were generally based on the total number of plan participants reported on a plan's Form 5500, and ranged from $500 (for plans with 20 or fewer participants) to as much as $15,000 (for plans with 10,000 or more participants). In addition, special reduced compliance fees applied to VCPs involving some of the most common plan failures (*e.g.* certain plan loan and required minimum distribution failures). However, under the new fee schedule, most reduced fees have been eliminated. Only the reduced user fee for group submissions and the special fee waiver for terminating orphan plans remains unchanged.

Ultimately, for many large plan sponsors, the new asset-based fee schedule could significantly reduce the VCP compliance fee for correcting certain plan errors. However, for small plans covering fewer than 100 participants, the cost of correcting plan errors will increase to at least $1,500 (and perhaps even more, depending on the total net assets held by the plan). In addition, for all plan sponsors, the cost of correcting many of the most common plan errors will actually increase significantly.

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