

SEP Plan Pitfalls

Employee Plans

Phone Forum

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SEP Fix-It Guide Introduction

SEP Plan Fix-It Guide

-----Trends-----	-----Tips-----			
Potential Mistake	How to Find the Mistake	How to Fix the Mistake		How to Avoid the Mistake
		Corrective Action	Correction Program(s) Available	
1) Has your SEP been amended for current law? (More)	Determine if your Form 5305-SEP is the current revision (December 2004). (More)	EPCRS Adopt revised Form 5305-SEP. (More)	VCP Audit CAP (More)	Maintain regular contact with the company that sold you the plan. (More)
2) Are all eligible employees participating in the SEP? (More)	Review the section of your plan document concerning eligibility and participation. Check when employees are entering the plan. (More)	EPCRS Apply reasonable correction method that would place affected employees in the position they would have been in if there were no operational plan mistakes. (More)	SCP* VCP Audit CAP (More)	You should review the participation status of all employees at least once a year. (More)

SEP Plan Overview

- What is a SEP?
- How is a SEP set up?
- Which employees may participate?
- What are the contribution requirements?
- What are the basic distribution rules?
- What are the filing requirements?

EPCRS Overview

- Components of EPCRS
 - Self-Correction Program (SCP)
 - No IRS contact or fee
 - Voluntary Correction Program (VCP)
 - IRS approval of correction, \$250 fee
 - Audit Closing Agreement Program (Audit CAP)
 - Sanction based on percentage of taxes due if plan were disqualified.

Issue #1 – Plan Amendment

- Trends
 - **Potential Mistake** 1) Has your SEP been amended for current law?
- Tips
 - **How to Find the Mistake** - Determine if your Form 5305-SEP is the current revision (December 2004)
 - **How to Fix the Mistake**
 - **Corrective Action** – EPCRS, Adopt revised Form 5305-SEP
 - **Correction Program(s) Available** - VCP, Audit CAP
 - **How to Avoid the Mistake** - Maintain regular contact with the company that sold you the plan

Issue #2 – Eligible Employees Participating

- Trends
 - **Potential Mistake 2)** Are all eligible employees participating in the SEP?
- Tips
 - **How to Find the Mistake** -Review the section of your plan document concerning eligibility and participation. Check when employees are entering the plan.
 - **How to Fix the Mistake**
 - **Corrective Action** –EPCRS,Apply reasonable correction method that would place affected employees in the position they would have been in if there were no operational plan mistakes.
 - **Correction Program(s) Available** -SCP*, VCP, Audit CAP
 - **How to Avoid the Mistake** -You should review the participation status of all employees at least once a year.

Issue #3 – Only Business

- Trends
 - **Potential Mistake** 3) Is the business that the SEP covers the only business that you own?
- Tips
 - **How to Find the Mistake** -You should identify any companies that you own or with which you have a financial relationship.
 - **How to Fix the Mistake**
 - **Corrective Action** – EPCRS, Corrective contribution
 - **Correction Program(s) Available** -SCP*, VCP, Audit CAP
 - **How to Avoid the Mistake** -Determine if you own any other businesses.

Issue #4 – Compensation

- Trends
 - **Potential Mistake** 4) Are you determining each eligible employee's compensation using the definition in your SEP document?
- Tips
 - **How to Find the Mistake-** To determine if you are using the proper compensation for allocations, you'll need to review the plan document.
 - **How to Fix the Mistake**
 - **Corrective Action** – EPCRS, Correction is based upon the terms of the plan and other applicable information at the time of the mistake
 - **Correction Program(s) Available** -SCP*,VCP,Audit CAP
 - **How to Avoid the Mistake** -.When calculating allocations, it is important for you to carefully review the plan terms to ensure that the correct amount of compensation is being considered

Issue #5 – Contribution Limits

- Trends
 - **Potential Mistake** 5) Are SEP contributions to each employee's IRA limited as required by the Internal Revenue Code (Code)?
- Tips
 - **How to Find the Mistake-** Calculate 25% of each employee's compensation and compare the total contribution made for the employee to the lesser of that amount or the dollar limitation for that year (\$49,000 in 2009).
 - **How to Fix the Mistake**
 - **Corrective Action** –EPCRS, Correction for a failure to limit contributions allocated to employees is to either distribute or retain the excess amount.
 - **Correction Program(s) Available** -SCP*,VCP,Audit CAP
 - **How to Avoid the Mistake** -. After the initial calculation of allocations based on the terms of the plan, you should check to make sure none of the proposed allocations would violate the Code.

Other SEP Products



Publication 4333

SEP CHECKLIST	
<p>This Checklist is not a complete description of all plan requirements, and should not be used as a substitute for a complete plan review.</p> <p>For Business Owner's Use (DO NOT SEND THIS WORKSHEET TO THE IRS)</p> <p>Every year it is important that you review the requirements for operating your Simplified Employee Pension (SEP). This Checklist is a "quick check" to help you keep your plan in compliance with many of the important tax rules. Underlined text below will link you to Internet information.</p>	
<p>1. Are all <u>eligible employees</u> participating in the SEP? Yes <input type="checkbox"/> No <input type="checkbox"/> <small>Any employee who is at least 21 years of age, was employed by you for 3 of the immediately preceding 5 years, and received compensation from you of at least \$450 during the year (subject to <u>cost-of-living adjustments</u> after 2004) is eligible to participate in a SEP.</small></p>	<p>6. Are SEP contributions to each employee's IRA <u>limited</u> as required by law? Yes <input type="checkbox"/> No <input type="checkbox"/> <small>Contributions to a SEP-IRA are limited to the lesser of 25% of the employee's compensation for the year or \$40,000 for 2003 (\$41,000 for 2004), and subject to <u>cost-of-living adjustments</u> for later years.</small></p>
<p>2. Is the business that the SEP covers the <u>only business</u> that you and/or your family members own? Yes <input type="checkbox"/> No <input type="checkbox"/> <small>Employees of other businesses you and/or your family members own may have to be treated as employees when determining who is an eligible employee under this SEP.</small></p>	<p>7. Are employer contributions immediately <u>100% vested</u>? Yes <input type="checkbox"/> No <input type="checkbox"/> <small>Employer contributions cannot be conditioned on anything. Once made, the employee owns all contributions.</small></p>
<p>3. Have you given all of your eligible employees <u>information about the SEP</u>? Yes <input type="checkbox"/> No <input type="checkbox"/> <small>You must give your employees certain information about the SEP, including a copy of the SEP document, Form 5305-SEP, or your SEP document if you use the model form.</small></p>	<p>8. Have you made required <u>top-heavy minimum contributions</u> to the SEP? Yes <input type="checkbox"/> No <input type="checkbox"/> <small>If a SEP is top-heavy or deemed top-heavy, contributions must be made for the non-key employees equal to the lesser of 3% of compensation or a percentage equal to the highest contribution rate of any key employee.</small></p>
<p>4. Are you determining each eligible employee's <u>compensation</u> using an appropriate definition in accordance with your SEP document? Yes <input type="checkbox"/> No <input type="checkbox"/> <small>Compensation used to determine contributions is limited to \$200,000 for 2003, \$205,000 for 2004, and is subject to <u>cost-of-living adjustments</u> in later years.</small></p>	<p>9. Have you <u>deposited employer contributions</u> timely? Yes <input type="checkbox"/> No <input type="checkbox"/> <small>Employers have until the due date, including extensions, of their tax return to deposit employer contributions in order to obtain a deduction.</small></p>
<p>5. Are contributions made only to a <u>traditional IRA</u>? Yes <input type="checkbox"/> No <input type="checkbox"/> <small>All SEP contributions must go to traditional IRAs set up for the eligible employees.</small></p>	<p>10. If the model Form 5305-SEP was used to set up the plan, is this SEP your business's <u>only employee retirement plan</u>? Yes <input type="checkbox"/> No <input type="checkbox"/> <small>A sponsor of a SEP established using model Form 5305-SEP cannot sponsor another retirement plan, such as a 401(k) plan.</small></p>
<p>If you answered "No" to any of the above questions, you may have a mistake in the operation of your SEP. Many mistakes can be corrected easily, without penalty and without notifying the IRS.</p> <p>• contact your benefits professional • visit the IRS at www.irs.gov/sep • call the IRS at (877) 829-5500</p> <p><small>IRS DEPARTMENT OF THE TREASURY PUBLICATION 4333 (9-2003) SEP RETIREMENT PLANS FOR SMALL BUSINESSES www.irs.gov</small></p>	

Publication 4285

Fix-It Guides

401(k)

SARSEP

SEP

SIMPLE

-----Trends-----	-----Tips-----			
Potential Mistake	How to Find the Mistake	How to Fix the Mistake		How to Avoid the Mistake
		Corrective Action	Correction Program(s) Available	
1) Has your plan document been updated within the past few years to reflect recent law changes? (More)	Review annual cumulative list published close to year-end to see if plan made all required law changes (e.g., Notice 2007-94). (More)	EPCRS Adopt amendments for missed law changes. Appendix D, Part II (More)	VCP Audit CAP (More)	Plan sponsors need to resort to a calendar (tickler) of when amendments must be completed. Review your plan document annually. Maintain regular contact with the company that sold you the plan. (More)

Correcting Plan Errors Web Page

Retirement Plan Assistance

- www.irs.gov/ep
 - Includes pages dedicated to Fix-It Guides and Correcting Plan Errors
- (877) 829-5500
 - Customer Account Services
- RetirementPlanQuestions@irs.gov
- Newsletters

Questions