TAG Frequently Asked Questions

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TAG Website Demonstration
Frequently Asked Questions
Plan Corrections under EPCRS
Types of Failures under EPCRS

- **Plan Document** - A plan provision (or absence of a provision) that violates the requirements of IRC § 401(a) or § 403(b) at face value. *Includes the failure to adopt required plan amendments and nonamender failures*

- **Operational** - Failure to follow the terms of the plan document

- **Demographic** - Failure to satisfy the requirements of § 401(a)(4), § 410(b), or § 401(a)(26) that is not an Operational or Employer Eligibility failure

- **Employer Eligibility** - Adoption of 401(k) plan by an employer who is not eligible to sponsor such a plan
EPCRS Correction Programs

Self Correction Program (“SCP”)

- Available for Operational Failures only
- Must have established practices and procedures
- Only available to correct significant failures if plan has a determination letter (if individually designed) or an advisory/opinion letter (if pre-approved)
- Insignificant failures may be corrected at any time
- Significant failures must be corrected (or substantially corrected) by the last day of the second plan year following the plan year in which the error occurred
- Whether a failure is “significant” or “insignificant” depends on all relevant facts and circumstances
EPCRS Correction Programs

- **Voluntary Correction Program (“VCP”)**
  - Available for correction of Plan Document, Operational, Demographic and Employer Eligibility failures
  - Must file under VCP to seek IRS approval
  - Filing fees apply
  - Certain failures must be made under VCP
    - Loan failures that violate the requirements of § 72(p)
    - Correction of late RMDs, if requesting a waiver of excise taxes
    - Operational failures being corrected by a retroactive amendment (except for limited situations)
    - Significant Operational failures made outside the correction period
Effect of Examination

- VCP is not available if the plan or Plan Sponsor is under examination.
- SCP is available while the plan or Plan Sponsor is under examination:
  - For insignificant failures that can otherwise be corrected under SCP.
  - For significant failures if the corrections have been completed (or substantially completed) before the examination.
Audit CAP

- Available when a plan or Plan Sponsor is under examination
- May be used to correct failures not previously corrected under SCP or VCP
- IRS may allow the Plan Sponsor to make corrections for insignificant failures under SCP
- IRS will impose sanctions
- Much more costly than SCP or VCP
- Encourages employers to discover and correct failures quickly
EPCRS Basic Principles

- The correction should place the plan and participants in the same position they would have been had the error not occurred.
- In general, corrections must be made for all plan years.
- The correction should be reasonable and appropriate.
- Related earnings should be considered through the date of the correction.
- Correction methods provided under EPCRS are deemed reasonable.
- The correction should generally keep assets in the plan.
- The correction method should be consistently applied.
- Reasonable estimates may be used in certain situations.
- There are exceptions for certain (limited) situations:
  - Delivery of small benefits - $75
  - Recovery of small overpayments - $100
  - Small excess amounts - $100
Common Operational Failures

- Plan Eligibility
- Plan Contributions
- Plan Compensation
- Plan Distributions & Loans
Plan Eligibility
Plan Eligibility I – Fact Pattern

- One ineligible employee (never has worked 1,000 hours) was allowed to start deferring in a 401(k) beginning in December 2016
- The employee (NHCE) has continued to be allowed to defer since that time
- We are suggesting a retroactive amendment to the VS prototype document to correct the operational error under SCP

“Can the employee be named in the amendment so as to not affect other employees for eligibility purposes?”
Yes, the plan can be amended with respect to only the employee who was allowed to participate early, i.e. by name. Rev. Proc. 2016-51 provides that:

"The amendment may change the eligibility or entry date provisions with respect to only those ineligible employees that were wrongly included, and only to those ineligible employees, provided (i) the amendment satisfies §401(a) at the time it is adopted, (ii) the amendment would have satisfied §401(a) had the amendment been adopted at the earlier time when it is effective, and (iii) the employees affected by the amendment are predominantly nonhighly compensated employees."
Plan Eligibility II – Fact Pattern

- An employee from an excluded class was allowed to participate in the plan for all purposes (401(k), match and profit share)

- This error occurred over 4 years

- Plan sponsor wants to amend the plan retroactively to correct this mistake

“What is the correction under EPCRS? The plan sponsor would like to amend the plan retroactively.”
Plan Eligibility II – The Answer

- A retroactive amendment is permissible, *provided the employee is not highly compensated*
- Correction should be made under VCP
- Retroactive amendments can only be made under SCP for limited situations, and this isn’t one of them

“The Operational Failure of including an otherwise eligible employee in the plan who either (i) has not completed the plan's minimum age or service requirements, or (ii) has completed the plan's minimum age or service requirements but became a participant in the plan on a date earlier than the applicable plan entry date, may be corrected by using the plan amendment correction method set forth in this paragraph.”
Plan Eligibility III – Fact Pattern

- The owner’s wife was allowed to defer into the plan before meeting eligibility requirements.
- Plan requires a year of service and age 21 with dual entry dates.
- Plan provides for safe harbor matching contributions.
- Normally, if this was an NHCE, I would do an “11(g)” amendment and bring the NHCE in early but I know that this is not the best course of action for an HCE.
“Can I do an “11(g)” amendment to bring in the wife prior to meeting the eligibility requirements, or should we just refund her deferrals and bring her in once she is eligible?”
No. An “11(g)” corrective amendment is only available to correct a coverage or nondiscrimination testing failure (within the required time frame).

Treas. Reg. §1.401(a)(4)-11(g)(2) provides “For purposes of satisfying the minimum coverage requirements of section 410(b), the nondiscriminatory amount requirement of §1.401(a)(4)-1(b)(2), or the nondiscriminatory plan amendment requirement of §1.401(a)(4)-1(b)(4), a corrective amendment may...”

When employees are allowed to enter the plan early, the correction methods provided under EPCRS apply.
Plan Eligibility III – The Answer

- The general correction method, i.e. amending the plan retroactively, would not be available in this situation since the owner’s wife is an HCE.

- The general corrective principles of Rev. Proc. 2016-51 require that the plan and participant be placed in the same position they would have been had the error not occurred.
  - The ineligible deferrals should be distributed to the owner’s wife, adjusted for earnings (not eligible for rollover).
  - The related safe harbor matching contributions should be removed from her account, along with related earnings, and placed in an "unallocated account" to be used to reduce employer contributions for the current or future year.
Plan Eligibility III – The Answer

From the IRS Phone Forum September 7, 2012 - PREMATURE INCLUSION OF EMPLOYEES

Failure: Employer allows employees who have not satisfied the conditions for becoming participants in the plan to make elective deferrals and/or receive matching contributions.

Correction: If the prematurely included employees are primarily NHCEs then, depending on the facts in a particular VCP submission, the employer may be able to retroactively amend the plan to allow such employees to become participants retroactive to when they began making elective deferrals. Such amendment must be evaluated for discriminatory impact under Code Sec. 401(a)(4) and cutback potential under Code Sec. 411(d)(6).

Alternately, the Plan Sponsor may distribute the amount of improper elective deferrals to the employees, providing written notification to the employees indicating that the distribution they received is taxable, not subject to favorable tax treatment, and cannot be rolled over to an IRA or other qualified retirement plan. The employees must forfeit any matching contribution. If the amount in the employees’ 401(k) account is less than the amount contributed for the year of the failure, the employer will need to make a corrective contribution.
Plan Eligibility IV – Fact Pattern

- 401(k) Plan with age 21 and a year of service requirement with dual entry dates
- Plan sponsor let an employee participate before they were eligible
- Employee became eligible January 1, 2018 but made deferrals in 2017

“The employer wants to correct the failure by refunding the elective deferrals (and related earnings) to the participant. Should this be reported on a 2018 Form 1099-R?”
Plan Eligibility IV – The Answer

- In a 2013 IRS Phone Forum, the IRS suggested that making a correction in this manner might require the participant to file an amended individual tax return (implying the amount would be taxable for the prior year).

- It is unclear how this informal IRS guidance could be applied. It seems the only option would be to report it as taxable in the year of the distribution.

- Since the distribution is being made in 2018, it should be reported on a 2018 Form 1099-R (regardless of the fact that it relates to deferrals made in 2017).

- Code E should be used to report the distribution and there is no code that could be used to indicate the distribution should be taxable for the prior year.
Plan Eligibility V – Fact Pattern

- Company was an affiliated service group but did not realize it
- As a result, the 3 NHCEs in Co #2 were not given an opportunity to defer - only the HCE owners (the only employees in Co #1) deferred
- There is no match or safe harbor, and there are no other NHCEs

“For the EPCRS correction, how do we determine the percentage the 3 NHCEs would have deferred?”
Plan Eligibility V – The Answer

- Assumption that Co. #2 is covered under the plan (otherwise there would be additional issues to address)
- There is no specific guidance for this set of facts
- The correction method outlined in Rev. Proc. 2016-51 would be for the employer to make a QNEC for the "missed deferral opportunity" (50% of the missed deferral), with the missed deferral being based on the ADP of the applicable group, i.e. NHCEs
- It's not likely that the IRS contemplated the situation where there were no other eligible employees in the applicable group, or that the relevant ADP would be 0%
Plan Eligibility V – The Answer

In addition, the plan would need to address the ADP testing failure and is going to have to either:

- fund a QNEC, or
- issue corrective distributions to the owners so that the ADP test is satisfied (which would also require a QNEC if the corrective distributions are being made after the applicable deadline)

The real question here is whether the QNEC being made for either correction (i.e. the missed deferral opportunity or the failed ADP test) could serve double-duty, and the answer is unclear; however, it appears they could not
Appx. A, Sec. .05(5)(d) of Rev. Proc. 2016-51 provides that "The methods for correcting the failures described in this section .05(2) do not apply until after the correction of other qualification failures. Thus, for example, if, in addition to the failure of excluding an eligible employee, the plan also failed the ADP or ACP test, the correction methods described in section .05(2)(b) through (f) cannot be used until after correction of the ADP or ACP test failures. For purposes of this section .05(2), in order to determine whether the plan passed the ADP or ACP test, the plan may rely on a test performed with respect to those eligible employees who were provided with the opportunity to make elective deferrals or after-tax employee contributions and receive an allocation of employer matching contributions, in accordance with the terms of the plan, and may disregard the employees who were improperly excluded."
Plan Eligibility V – The Answer

- The top-heavy minimum requirements would also need to be taken into consideration.

- In our opinion, the QNEC for the missed deferral opportunity would not count towards satisfying the top-heavy minimum requirements.

- In general, QNECs may be considered in determining whether top heavy minimums have been satisfied, but it is not clear whether they could be used for this purpose when the QNEC is being made as a result of a failure to include an eligible employee in the plan.

- Had the eligible employee been allowed to defer, the employee would have received the top-heavy minimum in addition to the amount deferred.

- If the employer is also making a QNEC to correct the failed ADP test, then presumably those amounts could be considered for this purpose.
Plan Contributions
Plan Contributions I – Fact Pattern

- 401(k) Plan
- Plan Sponsor allowed a participant (NHCE) to make Roth contributions
- Plan does not permit Roth contributions
- This has been going on for over 2 years

“I don't believe a retroactive amendment is allowable. What are their options?”
There is no specific guidance for this particular failure.

In general, it is permissible to retroactively amend a plan under VCP to conform its terms to how the plan was operated (i.e., to add the Roth provision retroactively).

This type of correction could not be made under SCP, though.
Plan Contributions I – The Answer

- Retroactive amendments under SCP are only available for:
  - Section § 401(a)(17) failures (to provide an additional contribution to eligible employees)
  - Certain hardship and plan loan failures (to permit hardship distributions and loans retroactively)
  - Early inclusion of an otherwise eligible employee (to make them eligible retroactively)
  - No other retroactive amendments are permissible under SCP
Plan Contributions II – Fact Pattern

- The participant elected to make Roth contributions
- Plan Sponsor has been deducting the correct percentage as pre-tax deferrals for the last 3 years
- Participant just discovered the error

“What is the correction?”
Plan Contributions II – The Answer

- General correction principles apply
- This is a recordkeeping issue - the amounts withheld on a pre-tax basis, along with related earnings, should be transferred to the participant's Roth account
- The participant's Roth "clock" would need to reflect the date that Roth contributions should have begun
In addition, based on informal guidance on the IRS website, the employer would either need to:

- Amend the participant's prior year W-2s and correct the current year's payroll records to reflect the amounts that should have been withheld as Roth contributions as taxable earnings. In that case, the participant's prior year individual income tax returns would need to be amended; or

- Report as income the contributions transferred from the participant's pre-tax account to his/her Roth account in the participant's compensation for the year of the transfer.
Plan Contributions III – Fact Pattern

- Plan is a safe harbor 401(k) plan
- Safe harbor match is calculated on a payroll period basis per the plan document
- The employer did not fund the safe harbor match by the last day of the following quarter, and in fact, has not funded the 2017 safe harbor match yet

“What is the correction? Does the plan loose the safe harbor benefits?”
Plan Contributions III – The Answer

- Not making the required safe harbor contribution is an operational failure, i.e. failure to follow the terms of the plan.

- The safe harbor match would need to be calculated for each payroll since the plan provides for safe harbor matching contributions to be made on a payroll period basis.

- The operational failure is corrected by making the missed safe harbor match contribution, plus related earnings (based on when the contributions should have been made).
Plan Contributions III – The Answer

- The IRS has not directly addressed whether a safe harbor plan would remain a safe harbor plan if the safe harbor contribution is not made timely.

- There is more than one opinion on this issue.

- Our view is that the plan would continue as a safe harbor plan because the safe harbor contribution is a required contribution under the terms of the plan.
Plan Compensation
Plan Compensation I – Fact Pattern

- 401(k) plan with safe harbor match
- Plan provides for match on a payroll period basis
- Company missed deducting 401(k) from bonus payrolls

“What is the required correction for this error? Can they have it deducted now?”
The general correction method would be for the employer to make a QNEC for the "missed deferral opportunity" (50% of the missed deferral), along with any related matching contributions based on the full missed deferral, both adjusted for earnings.

Missed deferral should be based on the deferral election of each employee and their compensation, i.e. the amount that should have been withheld from each employee's bonus check.
Plan Compensation I – The Answer

- Alternatively, there are two additional safe harbor correction methods for missed deferrals that may be used depending on whether the period involved was:
  - 3 months or less (which doesn't require a QNEC for the missed deferrals), or
  - more than 3 months but less than the SCP correction period for significant failures (which requires a 25% QNEC for the missed deferrals)

- To use either method, certain conditions must be satisfied
Plan Compensation I – The Answer

- Employer still must make a corrective contribution for the related matching contribution on the full missed deferral
- Corrections must be made within a specific time frame
- Notice must be provided to participants within **45 days of the date “correct” deferrals began**

**Caution:** *It may not be viable to use either of the additional “safe harbor” methods in this situation due to the notice requirement - “correct” deferrals would generally resume with the next regular payroll*
Plan Compensation II – Fact Pattern

- We have a client who amended their plan to exclude bonuses from compensation effective 1/1/2014
- They never actually "implemented" the amendment
- We will be filing under VCP to make the correction

“In preparing the VCP application, do we need to draft a retroactive amendment that indicates that the amendment that was done is being retracted?”
Plan Compensation II – The Answer

- The correction would be to adopt an amendment retroactively effective as of 1/1/2014 to include bonus compensation in the plan's definition of compensation, not to "retract" the original amendment.

- Under Rev. Proc 2016-51, a plan may be amended retroactively under VCP to conform the terms of the plan document to the plan's operations.

- The IRS has provided guidance on their website which outlines supplemental documentation needed with this type of corrective amendment.
From the IRS website: IRS Plan Compensation Errors - How to Correct When Your Plan Definition of Compensation is Different From Plan Operations

How to correct

Submit a VCP application to the IRS under the Employee Plans Compliance Resolution Program (EPCRS) to:

- Request the IRS approve a retroactive amendment to the plan document to reflect the plan’s operation. VCP considers this failure an operational failure, not a drafting or a typographical error. To correct the plan’s terms, propose a retroactive amendment to the definition of compensation that reflects the plan’s operation.

- Explain the expectations of affected plan participants. For example, did participants think or expect that their bonuses would be included for salary deferrals or matching contributions?
Plan Compensation II – The Answer

From the IRS website (cont.)

How to demonstrate participant expectations

The plan sponsor may submit the following types of documents:

1. Current and previous plan documents that reflect the definition of compensation
2. Summary Plan Description (SPD) usually is the same as the plan document
3. Deferral election forms
4. Data sheets or summary of benefits that were distributed to the participants
5. New hire benefit documents used in new employee orientations that might show examples of how benefits are calculated
6. Notices or emails distributed to participants showing how benefits are calculated
7. Minutes from board meeting that may specify how benefits are calculated.
Plan Compensation II – The Answer

From the IRS website (cont.)

Each VCP application is evaluated on the specific facts and circumstances submitted.

Plan sponsors need to demonstrate the expectations of participants when the plan document excluded bonuses, overtime or commissions from compensation but the plan included them in operation, and the plan sponsor now wants to amend the plan document to match plan operations. Participants’ pay statements, plan statements and Form W-2 showing deferrals were being made on bonus, overtime, or commission compensation can be used to substantiate expectations. In these types of submissions, the participants already had their salary deferrals and matching contributions calculated using this additional compensation. If the retroactive amendment is approved, the plan would be amended to include bonuses, overtime or commissions in the definition of compensation.
The opposite type of situation would be a plan document that included bonuses, overtime or commissions in compensation but the plan sponsor excluded those amounts of compensation in operation. In that situation, the plan sponsor would request to correct by retroactively amending the plan to exclude bonuses, overtime or commissions from the plan’s written definition of compensation. The plan sponsor would need to demonstrate that the affected participants had expectations that the plan’s written definition of compensation excluded bonuses, overtime or commissions. If the plan sponsor is able to show this, then the IRS would probably approve a retroactive amendment. If this retroactive amendment is approved, then this definition of compensation would be subject to additional nondiscrimination testing under Internal Revenue Code Section 414(s).

If the plan sponsor can’t prove that the participants had expectations that the plan definition of compensation excluded bonuses, overtime or commissions, it is unlikely that the IRS would approve a retroactive amendment. In this instance, the plan sponsor would need to make corrective contributions to the affected participants, adjusted for lost earnings.
PLAN COMPENSATION II – THE ANSWER

From Rev. Proc. 2016-51

SECTION 4. PROGRAM ELIGIBILITY

.05 Correction by plan amendment.

(1) Availability of correction by plan amendment in VCP and Audit CAP. A Plan Sponsor may use VCP and Audit CAP for a Qualified Plan or 403(b) Plan to correct Plan Document, Demographic, and Operational Failures by a plan amendment, including correcting an Operational Failure by a plan amendment to conform the terms of the plan to the plan's prior operations, provided that the amendment complies with the applicable Code requirements, including, for a Qualified Plan, § 401(a) (including the requirements of § § 401(a)(4), 410(b), and 411(d)(6))...
Plan Compensation III – Fact Pattern

- 401(k) Plan with safe harbor match contribution
- Plan excludes bonuses from the definition of compensation so 414(s) comp testing is run to ensure definition of compensation is not discriminatory
- This year the NHCEs have more than 4% less of their compensation included on average than the HCE group
- I know there is not a definitive number for the disparity between the two groups, but generally no more than 3% is good
“Since this is more than 3%, what steps would need to be taken regarding 2017? Are they subject to ADP or just ACP testing?

Does the Safe Harbor Match need to be re-calculated for 2017 (they fund per pay period) using a different definition of compensation?”
Plan Compensation III – The Answer

- Check the plan document to see if it includes any “fail-safe” language that would address this situation.

- If not, amending (retroactively) the plan's definition of compensation for safe harbor contributions to include bonuses (under section 1.401(a)(4)-11(g)) would be a reasonable correction, in our opinion.

- Doesn’t appear the correction would have to be made under VCP unless more than 9 ½ months following close of the plan year.
Plan Compensation III – The Answer

- Safe harbor match would need to be recalculated based on nondiscriminatory definition of compensation.

- If the plan provides for safe harbor matching contributions on a payroll period basis, then that is how the match would need to be recalculated.

- In that case, it appears an adjustment would need to be made for related earnings since the additional safe harbor match would be funded after the applicable deadline.

- ADP/ACP Testing would not apply (assuming all conditions are satisfied to otherwise be exempt from ACP testing).
Plan Distributions & Loans
Plan Distributions I – Fact Pattern

- 401(k) plan
- Participant took a hardship distribution on January 12, 2018
- The employer did not suspend deferrals
- The employee never stopped deferring and the six-month suspension period is now over

“What is the correction?”
Plan Distributions I – The Answer

- Failure not specifically addressed in EPCRS
- Rev Proc 2016-51 provides a correction method for a contribution which is an “Excess Amount”

- Specifically, Rev Proc 2016-51 provides that a deferral which is an “Excess Amount” is corrected through a distribution
  - An “Excess Amount” is a contribution that exceeds a plan or statutory limit. A failure to suspend deferrals following a hardship distribution does not quite fit the definition, but it is close
Plan Distributions I – The Answer

- One option may be to issue a distribution to the participant for the ineligible deferrals, along with related earnings, and remove any related matching contributions from the participant’s account.

- The corrective distribution would not be eligible for rollover.

- Also, the IRS has posted (informal) guidance on their website indicating that it may be possible to correct this error by:
  - Suspending deferrals for the next 6 months, or
  - Having the participant return the hardship distribution, adjusted for earnings, to the plan.

Note: The Bipartisan Budget Act of 2018 made changes to the rules applicable to hardship distributions including removal of the 6-month suspension period. These changes will become effective for plan years beginning on or after December 31, 2018.
Plan Distributions II – Fact Pattern

- An employer deposited $600 too much in matching contributions for one participant and $600 too little for another participant.
- They corrected the employee that was short, but the employee that received too much terminated and took a distribution before it could be corrected.

“Are they required to get the money back from the terminated employee? Is it a qualification issue if they don’t?”
Plan Distributions II – The Answer

- This is a qualification issue; the plan sponsor must take corrective actions.
- The plan actually has two failures: an excess allocation and an overpayment.
- The participant was not entitled to the allocation under the terms of the plan; as a result, the correction would be to forfeit the excess allocation along with related earnings.
- Since this amount was distributed to the participant, the plan also has an overpayment, i.e. the participant received more than he or she was entitled to receive under the terms of the plan.
The employer generally should take reasonable steps to have the overpayment, adjusted for related earnings, returned by the participant to the plan.

If the participant refuses, the employer (or another person) must contribute the amount, adjusted for earnings, to the plan.

The participant must also be notified that the amount was not eligible for rollover.
Sec. 6.06(4)(f) of Rev. Proc. 2016-51 permits other reasonable correction methods and provides that:

“Depending on the nature of the Overpayment, an appropriate correction method may include using rules similar to the correction method in section 6.06(4)(a) but having the employer or another person contribute the amount of the Overpayment (with appropriate interest) to the plan instead of seeking recoupment from a plan participant or beneficiary.”

The amount that is restored to the plan would need to either be reallocated (if it would have been reallocated for the year of the failure) or held in an unallocated account to be used to reduce employer contributions.
Plan initially failed 2017 ADP test, requiring $31,000 in refunds.

The refund amounts were distributed within 2 ½ months following the close of the plan year.

Recently, it was determined that the ADP test was done incorrectly.

The correct ADP test results in a much lower refund amount of $12,000.
“Can the refunds above $12,000 now be returned to the plan? If so, are they required to be returned or is it up to individual HCEs to decide whether they wish to return the excess amounts back to the plan?”
The overpaid corrective distributions must be returned to the plan.

The correction is for the overpayments to be returned to the plan by the participants, adjusted at the plan's earnings rate.

Any related matching contributions that were forfeited as a result of the overpaid corrective distribution would also need to be restored to the HCEs’ accounts.

If any HCE does not repay the overpaid corrective distribution, the employer would need to make the plan "whole" and contribute the overpaid amount, adjusted for earnings.

In that case, the payment would be credited to an unallocated account to be used to reduce employer contributions (other than elective deferrals) in the current or succeeding year.
Plan Loans I – Fact Pattern

- 401(k) plan participant (non-owner) defaulted on a residential plan loan because the client failed to withhold loan repayments
- Loan amount was $14,500
- Loan terms - 25 years, 5.75%, weekly repayment of $21.03 were to begin 9/6/2017
- The client would like to correct under VCP to prevent the deemed distribution
“Is there any difference in the correction for a residential loan as compared to a non-residential loan? Can this loan default be corrected under VCP like a non-residential loan can be?”
No; there is no difference

Under Rev. Proc. 2016-51, if the maximum term of the loan under IRC section 72(p)(2)(B) has not expired, loans failures generally can be corrected in conjunction with a VCP filing by:

- Making a single lump-sum payment equal to the missed loan payments, plus accrued interest, or
- Reamortizing the loan (and accrued interest) over the remaining term of the loan, or
- Any combination these two methods

Rev. Proc. 2016-51 requires a “specific request for relief...be made if the applicant either wants relief from reporting a corrected participant loan as a deemed distribution...”
Plan Loans I – The Answer

- No; there is no difference

- Under Rev. Proc. 2016-51, if the maximum term of the loan under IRC section 72(p)(2)(B) has not expired, loans failures generally can be corrected in conjunction with a VCP filing by:
  - Making a single lump-sum payment equal to the missed loan payments, plus accrued interest, or
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Questions?

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