



# The EJReynolds 401(k) Fix-it Guide

## Ensuring your plan not only runs smoothly but remains in compliance

The day-to-day operation of your retirement plan is a big responsibility. Errors may occur, and when they do, they must be recognized and corrected as quickly as possible. Having an independent consultant in place to look out for your participants and ensure that the plan remains in compliance with all applicable laws and statutory deadlines is imperative.

The right TPA should have **Expert Knowledge, Dedicated Service, Great Solutions** and lead to growth for you and your participants.

### From The IRS 401(k) Plan Fix-It Guide:

Potential Mistake	How to Find the Mistake	How to Fix the Mistake Corrective Action	Correction Program	How to Avoid the Mistake
1 Has your plan document been updated within the past few years to reflect recent law changes?	Review annual cumulative list published close to the year-end to see if plan made all required law changes (e.g., Notice 2007-94).	EPCRS Adopt amendments for missed law changes. Appendix D, Part II	VCP Audit CAP	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.
2 Are the plan's operations based on the terms of the plan document? Failure to follow plan terms is a very common mistake.	Independent review of plan and its operation.	EPCRS Apply reasonable correction method that would place affected participants in the position they would have been in if there were no operational plan defects.	SCP VCP Audit CAP	Plan Sponsors need to develop communication mechanism to make all relevant parties aware of changes on a timely and accurate basis (best practices). Due diligence on at least an annual basis to ensure plan terms are being followed.
3 Is the plan's definition of compensation for all deferrals and allocations used correctly?	Review the plan document.	EPCRS Corrective contribution or distribution.	SCP VCP Audit CAP	Perform annual reviews of compensation definitions and ensure that person in charge of determining compensation is properly trained to understand the plan document.
4 Were employer matching contributions made to all appropriate employees under the terms of the plan?	Review the plan document to determine the correct matching contribution formula and compare to what is used in operation.	EPCRS Correction should be based upon the terms of the plan and other applicable information at the time of the mistake	SCP VCP Audit CAP	Contact plan administrators to ensure that they have adequate and sufficient employment and payroll records to make calculations.
5 Has the plan satisfied the 401(k) and 401(m) nondiscrimination tests? (ADP and ACP)	Independent review to determine if highly compensated and non-highly compensated employees are properly classified.	EPCRS Correction method for ADP/ACP test failures: Make qualified non-elective contributions (QNECs) on behalf of the non-highly compensated employees. Appendix B (section 2.01) One-to-one correction method.	SCP VCP Audit CAP	Consider a safe harbor plan. Communicate with plan administrator to ensure proper employee classification. Ensure both you and the plan administrator are familiar with the terms of the plan.

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6	Were all eligible employees identified and given the opportunity to make an elective deferral election (exclusion of eligible employees)?	Review plan document sections on eligibility and participation. Check with plan administrators to find out when employees are entering the plan.	EPCRS 6.02(7), Appendix A (section .05), Appendix B (section 2.02). Employer must make a qualified nonelective contribution (QNEC) to the plan on behalf of the employee that compensates for the missed deferral opportunity.	VCP Audit CAP	Plan Sponsors need to monitor census information and apply participant requirements.
7	Are elective Deferrals limited to the amounts under IRC Section 402(g) for the calendar year and have excess deferrals been distributed?	Inspect deferral amounts for plan participants to ensure that limits have not been exceeded.	EPCRS Appendix A (section .04) Distribute excess deferrals.	SCP VCP Audit CAP	Employers should work with plan administrators to ensure that the administrators have sufficient payroll information to verify that the deferral limitations of section 402(g) were satisfied.
8	Have you timely deposited employee elective deferrals?	Determine the earliest date deferrals may be segregated from general assets; compare that date with the actual deposit dates and any plan document requirements.	Usually DOL through VFPC for prohibited transaction. May also be EPCRS. For both VFPC and EPCRS: Deposit into the Plan's trust all elective deferrals withheld and applicable earnings resulting from the late deposit of amounts to the trust.	SCP VCP Audit CAP	Close coordination with payroll provider to determine the earliest date the deferrals deposits can reasonably be segregated from general assets and then set up procedures to ensure deposits are made by that date.
9	Do participant loans conform to the requirements of the plan document and IRC Section 72(p)?	Review the plan document and all outstanding loans to ensure they comply with the terms of the plan and are being timely repaid.	EPCRS 6.07, Appendix F (Schedule 5). Some failures may be corrected by corrective repayment and/or modification of loan terms.	VCP Audit CAP	Review and follow the plan provisions relating to making loans, including the amount of the loan, and repayment terms. Make sure plan has procedures in place to prevent loans that are prohibited transactions.
10	Were hardship distributions made properly?	Review all in-service distributions and determine that hardship requirements of the plan were met.	EPCRS Appendix B, (Sec. 2.07). Amend plan retroactively to allow for hardship distributions. If impermissible hardship distribution, have participant return hardship distribution amount plus earnings.	SCP VCP Audit CAP	Employers should be familiar with the hardship provisions included in their plan document and implement procedures to ensure that the provisions are followed in operation. Employers need to ensure that the plan administrators and payroll offices share information regarding the hardship distributions that are made from the plan.
11	If the plan was top-heavy, were the required minimum contributions made to the plan?	Review the rules and definitions for top-heavy found in your plan document. Make a determination whether your plan document is top-heavy or not for each plan year.	EPCRS Appendix A (section .02) Properly contribute and allocate the required top-heavy minimum, adjusted for earnings, to the affected non- key employees.	SCP VCP Audit CAP	A top-heavy test should be performed each year.
12	Have you filed a Form 5500 series return and have you distributed a Summary Annual Report (SAR) to all plan participants this year?	Find your signed copy of the return and determine if it was filed timely.	File all delinquent returns.	Form 5500 filers, see DFVC→DOL website. Form 5500-EZ filers must file and ask for abatement of penalties.	Understand your filing requirement and know who filed and when. Don't assume someone is taking care of it for you.



WHERE IS YOUR COMFORT PLACE?  
EJR CAN HELP YOU GET THERE.

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