



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

MAR 06 2018

Brian H. Graff, Esq., APM
Executive Director/CEO
American Retirement Association
4245 North Fairfax Drive, Suite 750
Arlington, VA 22203

Dear Mr. Graff:


Thank you for your letter dated January 31, 2018, relating to the changes in the user fee structure for Employee Plans (EP) Voluntary Compliance Program (VCP) applications addressed to Acting Commissioner David J. Kautter, who has asked this office to respond. We appreciate your feedback and concern that the change in the user fee structure may result in unfair treatment to the small business community. We will certainly consider your comments and recommendations regarding the impact of the new user fees on small businesses. Below is some general information on how user fees are calculated for VCP cases within EP.

We review EP user fees biennially in conjunction with the Internal Revenue Service (IRS) Chief Financial Officer. As you may know, Internal Revenue Code (IRC) § 7528 provides that the IRS shall establish a program requiring the payment of user fees for requests for various letters, including VCP applications. In pertinent part, IRC § 7528(b)(1) provides the fees charged under the program shall vary according to the categories (or subcategories) established by the IRS, after considering the average time (and difficulty of) complying with the requests in each category (and subcategory). IRC § 7528(b)(2) allows for exemptions and reduced fees the IRS deems appropriate.

Based on our most recent analysis, we decided to increase the VCP user fees for small plans to more accurately reflect the average time spent on these cases and to reduce the fees for larger plans to reflect the average time it takes to do these cases.

I hope this information is helpful. If you need further assistance, please call me at (202) 317-8706 or Lou Leslie at (202) 317-8619.

Sincerely yours,


Cathy L. Jones
Acting Director, Employee Plans