

Voluntary Classification Settlement Program (VCSP)

IRS Publication

The VCSP is a voluntary program that provides an opportunity for taxpayers to reclassify their workers as employees for employment tax purposes for future tax periods with partial relief from federal employment taxes. To participate in this voluntary program, the taxpayer must meet certain eligibility requirements and apply to participate in the VCSP by filing Form 8952, Application for Voluntary Classification Settlement Program, and enter into a closing agreement with the IRS.

The VCSP allows eligible taxpayers to obtain relief similar to that currently available through the [Classification Settlement Program](#) for taxpayers under examination.

The VCSP, originally released in Announcement 2011-64, has been modified in Announcement 2012-45 to:

- Permit a taxpayer under IRS audit, other than an employment tax audit, to be eligible to participate in the VCSP
- Clarify the current eligibility requirement that a taxpayer who is a member of an affiliated group within the meaning of section 1504(a) is not eligible to participate in the VCSP if any member of the affiliated group is under employment tax audit
- Clarify that a taxpayer is not eligible to participate if the taxpayer is contesting in court the classification of the class or classes of workers from a previous audit by the IRS or Department of Labor; and
- Eliminate the requirement that a taxpayer agree to extend the period of limitations on assessment of employment taxes as part of the VCSP closing agreement with the IRS.

[Announcement 2012-45 \(2012-51 I.R.B. 724\)](#) provides notice and information about the revised program.

Eligibility

The VCSP is available for taxpayers who want to voluntarily change the prospective classification of their workers. The program applies to taxpayers who are currently treating their workers (or a class or group of workers) as independent contractors or other nonemployees and want to prospectively treat the workers as employees.

A taxpayer must have consistently treated the workers to be reclassified as independent contractors or other nonemployees, including having filed all required Forms 1099 for the workers to be reclassified under the VCSP for the previous three years to participate.

Additionally, the taxpayer cannot currently be under employment tax audit by the IRS and the taxpayer cannot be currently under audit concerning the classification of the workers by the Department of Labor or by a state government agency.

If the IRS or the Department of Labor has previously audited a taxpayer concerning the classification of the workers, the taxpayer will be eligible only if the taxpayer has complied with the results of that audit and is not currently contesting the classification in court.

Exempt organizations and government entities may participate in VCSP if they meet all of the eligibility requirements.

VCSP Agreements

A taxpayer participating in the VCSP will agree to prospectively treat the class or classes of workers as employees for future tax periods. In exchange, the taxpayer will:

- Pay 10 percent of the employment tax liability that would have been due on compensation paid to the workers for the most recent tax year, determined under the reduced rates of section 3509(a) of the Internal Revenue Code. See [VCSP FAQ 15](#), for information on how payment under the VCSP is calculated. Also see [Instructions to Form 8952](#);
- Not be liable for any interest and penalties on the amount; and
- Not be subject to an employment tax audit with respect to the worker classification of the workers being reclassified under the VCSP for prior years.

<http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Voluntary-Classification-Settlement-Program>

Applying for VCSP

To participate in the VCSP, a taxpayer must apply using [Form 8952, Application for Voluntary Classification Settlement Program](#). The application should be filed at least 60 days prior to the date the taxpayer wants to begin treating its workers as employees. The IRS will make every effort to process Form 8952 with sufficient time to allow for the voluntary reclassification on the requested date.

Along with the application, the taxpayer may provide the name of a contact or an authorized representative with a valid Power of Attorney (Form 2848). However, the taxpayer, and not the taxpayer's representative, is required to sign Form 8952. The IRS will contact the taxpayer or authorized representative to complete the process after reviewing the application and verifying the taxpayer's eligibility.

Eligible taxpayers accepted into the VCSP will enter into a closing agreement with the IRS to finalize the terms of the VCSP, and will simultaneously make full and complete payment of any amount due under the closing agreement.