



CYPEN & CYPEN
NEWSLETTER
for
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Never Forget September 11, 2001
and
Always Remember May 2, 2011

1. IRS APPROVES FAVORABLE RESOLUTION OF REHIRED

RETIREE ISSUES FOR POLICE AND FIRE PENSION PLANS: Over the past twenty years, many Florida cities permitted police officers and firefighters to retire from their pension plans at normal retirement age, and then immediately rehired these individuals in the same or related capacity, in accordance with a pre-arranged mutual agreement. This practice increased significantly when utilization of police officers as School Resource Officers became widespread. That approach permits the affected officer to receive retirement distributions, as well as his part-time salary as an SRO. Unfortunately, this practice violates the so-called “qualification” requirements of the Internal Revenue Code, potentially subjecting all plan members to severe federal tax consequences.

However, IRS has now issued a ruling that resolves the problem, and avoids the potential negative effect. In order to correct the defect, a city in South Florida proposed retroactive adoption of a plan amendment permitting “in-service” pension distributions after normal retirement age, and IRS accepted the methodology. Resolving this type of qualification defect via a plan amendment is only permitted if the plan sponsor submits the problem to the Internal Revenue Service pursuant to the Voluntary Correction Program. Another possible way of correcting this defect is to cease retirement payments to the affected plan members, and have the pension board recoup the previously made “improper” distributions. The latter solution likely would result in severe hardship on the individuals, and could potentially result in litigation against the plan sponsor, the pension board, or both. The VCP route avoids the possibility of plan disqualification. There is one caveat: the retroactive amendment

may only be available for a limited time with respect to plans utilizing a normal retirement age less than fifty (which is virtually all police and fire plans). Thus, this approach should provide a window of opportunity to resolve the qualification issues associated with this practice. Our thanks go out to attorney Rick Burke, of GrayRobinson, who obtained the ruling, and provided this item.

2. IRS WHISTLEBLOWER PROGRAM: The United States

Accountability Office was asked to review several aspects of the IRS Whistleblower Program. The IRS Whistleblower Office is responsible for processing thousands of tax whistleblower claims annually for two related whistleblower programs: for claims of \$2 million or less, the 7623(a) program, and for claims over \$2 million, the 7623(b) program. The whistleblower claim review process takes several years to complete, and GAO found that the WO is not using available capabilities to track and monitor key dates in its claim management system. Without available information on key dates related to award review and payments, the WO is unable to assess its performance against timeliness targets and risks unnecessarily delaying award payments. Between fiscal year 2011 and June 30, 2015, the WO awarded over \$315 million to whistleblowers -- the bulk of which was for the 7623(b) claims, which were first paid in fiscal year 2011, 4 years after the program started. In a review of the 17 paid 7623(b) award claim files, GAO found that the WO made errors in determining some awards, resulting in over- and underpayments totaling approximately \$100,000. In response to errors, IRS began corrective actions, including ensuring total

collected proceeds are verified before making award payments. However, the WO has not documented this new procedure, putting it at risk of making additional errors in award payments. The WO's communication with stakeholders, including whistleblowers, is limited due to delayed annual reports to Congress, incomplete data and limited program information for whistleblowers. Delays in issuing the annual reports have resulted in last minute revisions that introduced discrepancies and inconsistent reporting periods that preclude year-over-year comparisons. The WO is addressing some data gaps, and has published two fact sheets to provide more information to the whistleblower community; however, the fact sheets do not include information on key aspects of the program, such as time ranges for steps in the review process. Until changes are made to the annual report and fact sheets, the utility of these publications is limited. IRS and the WO take steps to protect whistleblowers and the information they submit, but GAO found gaps in IRS and WO procedures. For example, the WO did not have documented controls in place for sending mail, and at least once sent sensitive mail to an incorrect address that also had a return address indicating the letter was from the WO. This error potentially compromised the identities of whistleblowers. The WO has said it has since changed how return addresses are labeled, but has not documented this policy. Further, tax whistleblowers do not have statutory protections against retaliation from employers. IRS and the whistleblower community support such protections, noting that inadequate protections may discourage whistleblowers from coming forward.

GAO-16-20 (October 2015).

3. TEN FACTS ABOUT SOCIAL SECURITY AND RETIREMENT

SAVING: Social security is not going broke, said the acting commissioner of the Social Security Administration, at a Brookings Retirement Security Project event. In fact, Social Security is the only guaranteed monthly income for a majority of older consumers. Here are 10 facts about Social Security and retirement planning mentioned during the event.

- 60 million people received Social Security benefits in September 2015.
- 1/3 of U.S. households spend all of their available resources in every pay period.
- For the average worker, Social Security replaces only about 40% of pre-retirement earnings.
- 45 million people are already 65 or older, and 10,000 people are turning 65 each day.
- The average American now spends about 20 years in retirement (in 1950, the average was about 4 years).
- 4 in 10 Americans aged 51-59 are reaching retirement with limited or no savings, and are projected to face a saving shortfall.
- 2/3 of the 40 million Americans 65 and older who receive Social Security benefits depend on those benefits for ½ or more of their retirement income.
- It is about 70% or more of income for those 80 or older.

- Only 60% of people who retire claim to have done any retirement planning at all.
- Delaying claiming Social Security “buys” people 6-8% more real benefits per year once they do take it.

4. THE REAL STORY IN RETIREMENT SPENDING AVERAGES: The first two years of retirement bring a modest drop in spending for the majority of Americans, according to new research from the Employee Benefit Research Institute. Still, nearly half of retired households wind up spending modestly more than they did just before retirement. The amount declines over time, and by the sixth year of retirement, just a third spend more than they did pre-retirement. Households that spent more in the first two years of retirement were not exclusively high-income households, rather, they were distributed across all income levels. The research again highlights the highly personal nature of retirement income distribution, which many industry practitioners describe vastly as more challenging from a planning perspective than accumulation.

5. N.J. POLICE CANNOT STOP PEOPLE FROM URINATING ON DEPARTMENT'S ENTRANCE: Borough police have arrested another man for allegedly urinating on their department building. According to nj.com and leoaffaris.com, around 3 a.m. one night an officer noticed a man on surveillance video standing in the main entrance breezeway of the building, with his pants down. When the officer confronted him, he saw the male urinating on the front of the building. The suspect was arrested and charged with lewdness and disorderly conduct. When police

announced the arrest, they wrote: the peeing perpetrator was sent to the jail, where he could properly urinate in the toilet in his cell. Another man was accused of urinating on the front of the Berlin police station. That guy was a passenger in a car during a DUI stop, where the driver was arrested for driving while intoxicated. I guess we will have to wait to see how this all shakes out.

6. THE COACHING PLAYBOOK: Cornerstone has released *The Coaching Playbook*, a summary on how to maximize employee performance in the public sector. For your organization to fulfill your mission, you need your employees to be peak performers. But how can you ensure that all -- from seasoned veterans to new hires -- reach their full potential? By offering coaching. Coaching's long-term benefits to an organization's success have long been proven. Over 70% of coaching recipients saw an increase in work performance, relationships, and communication skills, and 80% reported having more self-confidence. It is no wonder that over 51% of companies in the corporate sphere now consider coaching crucial to their strategy, and that 86% felt they recouped their investment. For public sector organizations, it is perhaps even more critical. Public sector budgets continue to shrink, while turnover increases. Top talent is frequently poached by the private sector, corporations that can afford to offer larger salaries and more expansive training opportunities. Coaching can be a crucial component in retaining, engaging, and improving great, and not-so-great, talent. In a survey of city, county, state, and federal agency employees, 87% of supervisors and 89% of employees coached were satisfied or very

satisfied after coaching. Even more importantly, supervisors saw tangible results in employees, including increased engagement and self-confidence, improved leadership skills, increased quality of work, and improved political acumen. Read more about the world of coaching, how it can help public sector employees realize their potential and the positive impact it can have on fulfilling your mission, at:

https://afd34ee8b0806295b5a7-9fbee7de8d51db511b5de86d75069107.ssl.cf1.rackcdn.com/Coaching_Campaign_Whitepaper_FINAL.pdf.

7. OCCASIONAL INDULGENCES (AND STUDENT LOAN DEBT)

KEEPING YOUNG PEOPLE FROM SAVING MORE: A Schwab survey finds that Millennials, more than any other group, may not be saving enough for retirement, because they are unwilling to sacrifice things that add to their current quality of life -- and because many are also burdened by student loan debt. The nationwide survey of 1,000 401(k) plan participants, identifies key differences in both attitudes and behaviors of Millennials (those under age 35), Generation Xers (those between 35 and 49 years old) and Baby Boomers (those between 50 and 70 years old) when it comes to saving for retirement. The survey found that Millennials face several obstacles to meeting their retirement savings goals, which disproportionately affect this group more than any other. Moreover, although this younger generation believes they would benefit from help, they are using professional investment advice far less than their older counterparts. Gen Xers, while more established in their careers but not yet approaching retirement, have their own set of unique

conditions affecting their ability to save. Like Millennials, Gen Xers' greatest obstacle to saving more for retirement is an unwillingness to sacrifice their current quality of life (34%). A close second, though, is wanting to save for their children's education (32%). Nearest to retirement, Baby Boomers, are not as adequately prepared as they should be. They also tend to be more concerned with the health aspects of retirement than financial pressures. In particular: only 63% believe they are saving enough to retire when they want to. Similarly, only 65% think they will be retired comfortably in 15 years, while another 22% say they will be retired, but not comfortably.

8. MATHEMATICAL ILLITERACY CAN AFFECT RETIREMENT

PLANNING: Aaron Friedman writes that while those in the financial services industry support and encourage programs for more financial literacy, there is more to it. Before widespread financial literacy can be asserted, we need to ensure that we first have widespread mathematical literacy -- or numeracy. Illiteracy is a source of embarrassment for people; innumeracy is often a source of pride, as you hear people brag that they do not get along with math or cannot balance their checkbook. Innumeracy does not carry the same stigma as illiteracy. But it should. It is dangerous because innumeracy causes failure to understand risks, an acceptance of pseudoscience and misinformed government policies. We can see these things becoming more and more pervasive in our society, as political debates boil down to beliefs versus facts, and politicians spout expressions like "millionaires and billionaires" as though there is any similarity between the two. [Boy, is this piece timely.] From a

retirement standpoint, periodic surveys show a significant number of people who believe the lottery is in their best strategy for accumulating a significant nest egg. [Can't be.] A study done for the Consumer Federation of America, showed 21% of the population thought playing the lottery was their most practical strategy for accumulating several hundred thousand dollars. A similar 1999 survey showed that 40% of Americans with incomes between \$25,000 and \$35,000 thought the lottery would give them their retirement nest egg. This situation is not just simple financial illiteracy but too often a basic lack of understanding of the odds published by the lottery. For example, the odds of winning the Powerball are one in 292,000,000. While everyone understands that number is big, people do not understand that if you bought a ticket for every drawing, twice a week for an average adult lifetime of 60 years, you would have about a 50:50 chance of winning the Powerball over the course of 32,000 lifetimes. Put another way, playing for about 2.6 million years would give you a about a 50:50 shot of winning. That time is awfully long considering humanity is only about 200,000 years old. The lottery, therefore, cannot be a retirement plan, despite the belief by too large a percentage of the population that it can be. So, how do you maximize the probability of saving for a secure retirement from a retirement plan design perspective? According to a recent research from Employee Benefit Research Institute, a retirement plan with automatic enrollment and an auto-escalation feature results in a 94% probability of attaining at least 60% of income replacement in retirement for those in the lowest income quartile, and an 88% probability of the same income replacement for those in the top income quartile. The probability

assumes total retirement income will also be complemented by income coming from Social Security, individual needs to be eligible to participate in the retirement plan for at least 30 years. Still, not bad odds. Ten-four.

9. SO YOU THINK YOU KNOW EVERYTHING: A dime has 118 ridges around the edge.

10. TODAY IN HISTORY: In 1954, Linus Pauling wins Nobel Prize in Chemistry.

11. KEEP THOSE CARDS AND LETTERS COMING: Several readers regularly supply us with suggestions or tips for newsletter items. Please feel free to send us or point us to matters you think would be of interest to our readers. Subject to editorial discretion, we may print them. Rest assured that we will not publish any names as referring sources.

12. PLEASE SHARE OUR NEWSLETTER: Our newsletter readership is not limited to the number of people who choose to enter a free subscription. Many pension board administrators provide hard copies in their meeting agenda. Other administrators forward the newsletter electronically to trustees. In any event, please tell those you feel may be interested that they can subscribe to their own free copy of the newsletter at <http://www.cypen.com/subscribe.htm>.

13. REMEMBER, YOU CAN NEVER OUTLIVE YOUR DEFINED RETIREMENT BENEFIT.

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