



CYPEN & CYPEN
NEWSLETTER
for
SEPTEMBER 8, 2016

Copyright, 1996-2016, all rights reserved
Stephen H. Cypen, Esq., Editor

Never Forget September 11, 2001
and
Always Remember May 2, 2011

1. UPDATED STATIC MORTALITY TABLES FOR DEFINED BENEFIT PENSION PLANS FOR 2017: Internal Revenue Service has issued Notice N-2016-50, which provides updated static mortality tables to be used for defined benefit pension plans under § 430(h)(3)(A) of the Internal Revenue Code (Code) and § 303(h)(3)(A) of the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, as amended (ERISA). These updated tables, which are

being issued using the methodology in the existing final regulations under § 430(h)(3)(A), apply for purposes of calculating the funding target and other items for valuation dates occurring during calendar year 2017. This notice also includes a modified unisex version of the mortality tables for use in determining minimum present value under § 417(e)(3) of the Code and § 205(g)(3) of ERISA for distributions with annuity starting dates that occur during stability periods beginning in the 2017 calendar year. To read the entire publication visit:

<https://www.irs.gov/pub/irs-drop/n-16-50.pdf>.

2. CAN WE INCREASE RETIREMENT SAVING?: Workers today must save to gain a secure retirement. Failing to save assures a sharp drop in living standards when the paychecks stop, and ample evidence indicates that many Americans are not saving enough. A new brief, published by the Center for Retirement Research at Boston College, *“Can We Increase Retirement Saving,”* reviews studies by the Social Security Administration’s Retirement Research Consortium, and others, that assess government initiatives to increase retirement saving. The first section introduces the government’s traditional incentive -- favorable tax treatment for employer plans and Individual Retirement Accounts. The second section presents evidence on its effect. The third section reviews evidence on the effect of behavioral incentives, such as auto-enrollment, which the government encourages employers to use in their 401(k)s. The fourth section discusses state government initiatives, now under development, to expand access to workplace plans. The final section concludes that

the most promising current initiative to increase retirement saving could be the state government programs to auto-enroll workers not covered by an employer plan into an IRA. Workers must save to achieve a secure retirement. To encourage workers to save, the federal government provides tax incentives that particularly benefit higher-income workers. Although the government foregoes a substantial amount of revenue to provide these incentives, the latest research suggests that increasing the generosity of these incentives would not significantly increase retirement saving. Research has shown that behavioral interventions can significantly increase retirement saving, and the federal government has encouraged their use in employer plans. Employers have used these tools to substantially boost participation in 401(k) plans. But these tools are also often associated with a reduction in employee contributions and employer match rates, which dampens the overall rise in retirement saving. Auto-IRA programs would default a substantial portion of today's uncovered workers into a payroll-deduction plan. If retirement saving is primarily responsive to behavioral incentives, the Auto-IRA could be the initiative that offers the greatest promise for increasing retirement saving. To read this very informative brief please visit http://crr.bc.edu/wp-content/uploads/2016/08/IB_16-15.pdf

3. DEBT OWED TO 401(K) PLAN NOT DISCHARGEABLE IN

BANKRUPTCY: As reported by plansponsor.com, the U.S.

Department of Labor has obtained a consent order and judgment requiring a 401(k) plan fiduciary to continue to restore losses to the

plan he agreed to in a previous court order. According to the DOL, William Bowman and Associates Inc., a land improvement company based in West Berlin, New Jersey, sponsored the William Bowman Associates Inc. profit sharing 401(k) plan for its employees. William P. Bowman was the president and sole shareholder of the company and the sole trustee of the plan with authority over investment decisions for the plan. The company filed for bankruptcy in 2007 and ceased operations in 2009. An investigation conducted by the DOL's Employee Benefits Security Administration found several violations of the Employee Retirement Income Security Act by Bowman, who used his position to make a series of unsecured loans totaling \$188,325.06 to related parties. These loans were never repaid, resulting in losses to the plan and its participants. On April 23, 2013, based on an earlier complaint involving the plan and filed by the Secretary of Labor, Bowman entered into a consent judgment resolving the earlier complaint and was ordered by the court to restore \$188,325.06 to the plan through a series of 126 monthly installment payments. Subsequently, Bowman filed for bankruptcy. Restorative payments totaling \$49,500 have been made to the plan. There is a remaining debt of \$138,825.06 Bowman owes to the plan. A new court order says Bowman admits that, because his debt obligation to the plan arose from a defalcation he committed while he was acting in a fiduciary capacity, the debt is non-dischargeable under the Bankruptcy Code. The Secretary of Labor entered into a new consent judgment with William Bowman, which resolves all of the allegations in the complaint that was previously filed. Bowman agreed to make

restitution to the plan as previously stipulated in the first Consent Judgment.

4. NINE MILESTONES IN THE RISE AND FALL OF AMERICAN

PENSIONS: For more than 130 years, the first Monday in September has been a national holiday celebrating the social and economic achievements of American workers. According to the U.S. Department of Labor, the first Labor Day holiday was observed September 5, 1882, in New York City following a proposal by the Central Labor Union. The Central Labor Union encouraged the expansion of Labor Day observances in states outside New York City by promoting a "workingmen's holiday" in early September, according to the Labor Department. By 1885, Labor Day was celebrated in many industrial centers. Several states, including New York and Colorado, passed state laws formalizing the observance of Labor Day, and in 1894, Congress made it an official national holiday according to lifehealthpro.com. Here are the milestones:

- In 1875, the American Express Co. established the first private pension plan in the United States. Prior to the 1870s, private-sector plans did not exist, primarily because most companies were small family-run enterprises.
- The Civil Service Retirement System was enacted in 1920 during Woodrow Wilson's presidency.
- President Roosevelt signs the Social Security Act into law on

August 14, 1935.

- The Investment Advisors Act of 1940 required delegation of investment responsibilities only to an adviser registered under the act or to a bank or an insurance company. Women entered the U.S. labor force in large numbers during World War II to support the war effort and fill jobs left vacant by deployed men.
- General Motors established a pension plan for its employees and wanted to self-fund its pension plan so it could invest in stocks. State law prohibited insurance companies from investing pension assets in stocks. The 1950s saw a bull market caused by the release of pent-up demand, because of wartime restrictions and the need to rebuild Europe and Japan.
- The Employee Retirement Income Security Act of 1974 was enacted. The act was designed to secure the benefits of participants in private pension plans through participation, vesting, funding, reporting and disclosure rules.
- The Tax Reform Act of 1986 established faster minimum vesting schedules, changed rules for the integration of private pension plans with Social Security, and mandated broader and more comparable minimum coverage of rank- and file-employees. It also restricted 401(k) salary reduction contributions, tightened nondiscrimination rules, and required inclusion of all after-tax contributions to defined contribution plans as annual additions.

- About 39.5 million private-sector workers (43% of all private sector workers) were covered by a pension plan, signaling the beginning of a downward trend in pension plan participation. In 1983 there were 175,143 plans, but by 2008 there were only 46,926 plans.
- The Pension Protection Act of 2006 further fueled the trend away from defined benefits toward defined-contribution plans. The act increased defined benefit plan disclosure and reporting rules and imposed stricter funding rules, made increases in defined contributions limits in the 2001 tax cuts permanent and facilitated the use of default participation rules.

5. PENTAGON MAKES PUSH TO EDUCATE TROOPS ON NEW

RETIREMENT PLAN: The U.S. Defense Department is in the midst of a push to educate troops about the military's new blended retirement system. The Pentagon is making a "full-court press" to bring officers, enlisted personnel and their families up to speed on the new benefit, slated to take effect January 1, 2018. The department's June rollout of the so-called blended retirement system ([see C & C Newsletter for June 9, 2015, Item 5](#)), or BRS, course on the website Joint Knowledge Online and other informational materials on the website Military OneSource marked the "first step in making sure that we reduce the speculation and the rumors, but get the facts out there so that as a force we can move forward into this new era of, I say, self-investment," Boswell told reporters at the time. The retirement overhaul, approved in the 2016 National Defense Authorization Act,

essentially means troops will be offered a slightly smaller defined benefit equal to about 40% of pay, rather than 50, after 20 years of service, but also a 401(k)-like defined contribution Thrift Savings Plan with matching contributions up to 5% after just two years of service. Service members who retire after two decades would receive both benefits -- the annuity (calculated by multiplying 2% by the number of years' service by the monthly average of the three highest years of basic pay) and the TSP. Meanwhile, the vast majority of troops -- more than eight-in-10 -- who leave the service before the 20-year mark but after two years would receive the fully vested value of the TSP, marking an opportunity to leave with some financial resources that they can move into another retirement plan in another company. The new plan also features a mid-career bonus in the form of continuation pay around the 12-year mark to entice troops to stay in the service. The BRS course for military and civilian leaders is the first in a series of what will be four instructional lessons designed to educate various parts of the military population about different facets of the new plan -- which officials repeatedly emphasized does not affect currently serving troops or retirees. In September, the department plans to offer a "train the trainer" course for financial managers and retirement services officers "who will assist commanders in their training mission." In January, the department wants to launch an "opt-in" course for service members who will have fewer than 12 years of service by Dec. 31, 2017, and thus the option to switch from the old retirement plan to the new system. Officials could not say how many troops fall into this category, but said the

choice to change retirement plans would be completely voluntary and theirs to make alone. "None of our currently serving members are going to be automatically switched into the new system," said Andrew Corso, assistant director of the office of military compensation in the office of the assistant secretary of defense for manpower and reserve affairs. "Everyone who is currently serving...will be grandfathered and they will, in many cases, have an option. But nobody is going to be automatically switched." At the heart of this "opt-in" course will be a calculator to provide comparisons between the two retirement options to help troops make an informed decision, officials said. "The situation for each person is entirely different," Corso said. In 2018, entrants into the military will take a "new accession" course about the new retirement plan during initial entry training and commissioning education opportunities.

6. 2014 INDIVIDUAL INCOME TAX RETURNS COMPLETE

REPORT (PUBLICATION 1304) NOW AVAILABLE: The Internal Revenue Service announced the availability of Statistics of Income—2014 Individual Income Tax Returns Complete Report ([Publication 1304](#)). U.S. taxpayers filed 148.6 million individual income tax returns for tax year 2014, up 0.9% from 2013. The adjusted gross income less deficit reported on these returns rose \$677 billion, which is a 7.4% increase from the prior year. The report is based on a sample drawn from the 148.6 million individual income tax returns filed for tax year 2014 and provides estimates on sources of income, adjusted gross income, exemptions, deductions, taxable income, income tax,

modified income tax, tax credits, self-employment tax and tax payments. Classifications include tax status, size of adjusted gross income, marital status, age, and type of tax computation. A brief text reviews the requirements for filing tax returns, explains the changes in tax law, provides a summary of the data, and describes the sample used to produce the report. IR-2016-118 (August 31, 2016).

7. IRS URGES TAXPAYERS TO CHECK THEIR WITHHOLDING; NEW FACTORS INCREASE IMPORTANCE OF MID-YEAR CHECK

UP: The Internal Revenue Service encouraged taxpayers to consider a mid-year tax withholding checkup following several new factors that could affect their refunds in 2017. Taking a closer look at the taxes being withheld can help ensure the right amount is withheld, either for tax refund purposes or to avoid an unexpected tax bill next year. The withholding review takes on even more importance this year given a new tax law change that requires the IRS to hold refunds a few weeks for some early filers in 2017 claiming the Earned Income Tax Credit and the Additional Child Tax Credit. In addition, the IRS and state tax administrators continue to strengthen identity theft and refund fraud protections, which means some tax returns could again face additional review time next year to protect against fraud. "With these changes, it makes good sense on many different levels to check on your withholding and plan ahead for next tax season," said IRS Commissioner John Koskinen. "It is a personal choice if you want to have extra money withheld to get a bigger tax refund, but you have options available if you prefer to have a smaller refund next year and

more take-home money now." So far in 2016, the IRS has issued more than 102 million tax refunds out of 140 million total individual returns processed, with the average refund well over \$2,700. Historically, the refund figure has increased over time in size. By adjusting the Form W-4, Employee's Withholding Allowance Certificate, taxpayers can ensure that the right amount is taken out of their pay throughout the year so that they do not pay too much tax and have to wait until they file their tax return to get any refund. Employers use the form to figure the amount of federal income tax to be withheld from pay. When considering refund issues, the IRS wants taxpayers to be aware several factors could affect the timing of their tax refunds next year. A major change will affect some early tax filers claiming two key credits who will not see their refunds until after February 15. Beginning in 2017, a new law requires the IRS to hold refunds on tax returns claiming the Earned Income Tax Credit or the Additional Child Tax Credit until mid-February. Under the change required by Congress in the Protecting Americans from Tax Hikes (PATH) Act, the IRS must hold the entire refund -- even the portion not associated with the EITC and ACTC -- until at least February 15. This change helps ensure that taxpayers get the refund they are owed by giving the agency more time to help detect and prevent fraud. As in past years, the IRS will begin accepting and processing tax returns once the filing season begins. All taxpayers should file as usual, and tax return preparers should also submit returns as they normally do. Even though the IRS cannot issue refunds for some early filers until at least February 15, the IRS reminds taxpayers that most refunds will

still be issued within the normal time frame: 21 days or less, after being accepted for processing by the IRS. "This is an important change to be aware of for some taxpayers used to getting an early refund," Koskinen said. "We will be focusing on awareness of this change throughout the fall, but it is important for taxpayers who might be affected by this to be aware of the change for their planning purposes. Although we still expect to issue most refunds within 21 days, we do not want people caught by surprise if they get their refund a few weeks later than previous years." As the IRS steps up its efforts to combat identity theft and tax refund fraud through its many processing filters, legitimate refund returns sometimes get delayed. While the IRS is working diligently to stop fraudulent refunds from being issued, it is also focused on releasing legitimate refunds as quickly as possible. The IRS, state tax agencies and the private sector tax industry continue to work together to fight fraud through their unprecedented Security Summit partnership. Additional safeguards will be set in place for the upcoming 2017 filing season. "These increased security screenings are invisible to most taxpayers," Koskinen said. "But we want people to be aware we are taking additional steps to protect taxpayers from identity theft, and that sometimes means the real taxpayers face a slight delay in their refunds. As we continue improving our processes and working with the states and the tax industry, we will stop more fraud while also fine-tuning our tools to reduce the number of innocent taxpayers who might see a refund delay. "The agency encourages taxpayers to check their tax withholding now. Whether they prefer more earned

money during the year or a large refund, checking withholding can ensure people do not receive an unexpected tax bill next year. Making these checks in the late summer or early fall can give taxpayers enough time to adjust their withholdings before the tax year ends in December. There are also some important reminders for taxpayers who receive advance payments of the Premium Tax Credit under the Affordable Care Act. People who have advance payments of the premium tax credit made to their insurance company on their behalf should report life changes to their Marketplace. Changes in circumstances that should be reported include moving to a new address and changes to income or family size. Reporting these changes will help individuals avoid large differences between the advance credit payments and the amount of the premium tax credit allowed on their tax return, which may affect their refund or balance due. The IRS encourages people in the shared economy who also have a job with an employer to take a close look at their withholding, which can help avoid unexpected tax issues with their income from such things as driving a car or renting a home. In many cases, a new Form W-4, Employee's Withholding Allowance Certificate, is all that is needed to make an adjustment. Taxpayers submit it to their employer, and the employer uses the form to figure the amount of federal income tax to be withheld from pay. The IRS offers several online resources to help taxpayers bring taxes paid closer to what is owed. They are available anytime on IRS.gov. They include:

- [IRS Withholding Calculator](#) – Online tool helps determine the

correct amount of tax to withhold.

- [IRS Publication 505](#) – Tax Withholding and Estimated Tax.
- [Tax Withholding](#) – Complete information on withholding, estimated taxes, FAQs, more.

Self-employed taxpayers, including those involved in the sharing economy, can use the Form 1040-ES worksheet to correctly figure their estimated tax payments. If they also work for an employer, they can often forgo making these quarterly payments by instead having more tax taken out of their pay. IR-2016-117 (August 31, 2016).

8. NORTH MIAMI MAN CONVICTED OF CASHING \$11 MILLION IN TAX-REFUND CHECKS FOR DEAD PEOPLE: As reported in the *Miami Herald*, a North Miami business cashed more than 2,000 tax refund checks issued in the names of people who were dead or disabled. The Internal Revenue says the refunds added up to more than \$11 million. Now, Junior Jean Baptiste faces up to 20 years in prison at his sentencing in October after being convicted by a Miami federal jury of money laundering, theft of government funds, stealing identities and possessing false driver's licenses. His crime, though commonplace in Miami during the past decade, stands out for the sheer volume of stolen identities and fraudulent checks. Baptiste, 36, who operated a check-cashing store called Surveillance Masters, regularly took a fee of half the value of the checks. They ranged from \$1,000 to \$9,000 each. Trial evidence showed that Baptiste used the ill-gotten check-cashing fees to buy a cargo ship, multiple vehicles

and the rights to an album of a hip-hop artist. He also made false identification documents for his files as part of the scheme, which lasted from 2009 to 2011, according to prosecutors. Trial evidence showed that Baptiste possessed more than 900 false driver's licenses, work permits and green cards. IRS criminal investigators made the case against Baptiste, who was convicted for offenses typical of the early wave of ID theft and tax-refund fraud. In recent years, however, hundreds of offenders have been using stolen IDs to file fabricated tax returns electronically. The IRS then issues their refunds downloaded onto prepaid debit cards. While the IRS has stepped up efforts to slow down the flow of fraudulent refunds, Miami remains the nation's capital of such crimes.

9. FPPTA TRUSTEES SCHOOL: The Florida Public Pension

Trustees Association's Trustee School will take place on September 25 through September 28, 2016 at the Hyatt Regency Coconut Point in Bonita Springs, Florida. A link on FPPTA's web site, will take you to the Hyatt Regency Coconut Point website to make your room reservations. You may access information and updates about the Conference at FPPTA's website. All police officer, firefighter and general employee plan participants, board of trustee members, plan sponsors and anyone interested in the administration and operation of the Chapters 112, 175 and 185 pension plans should take advantage of this unique, insightful and informative program.

10. 46TH ANNUAL POLICE OFFICERS' AND FIREFIGHTERS'

PENSION TRUSTEES' SCHOOL: The 46th Annual Police Officers' & Firefighters' Pension Trustees' School will take place November 2 through 4, 2016. You may access information and updates about the Conference, including area maps, a copy of the program when completed and links to register at the Radisson Resort, Celebration, (Orlando) Florida Please continue to check the FRS website for updates regarding the program at www.myflorida.com/frs/mpf. All police officer and firefighter plan participants, board of trustee members, plan sponsors and anyone interested in the administration and operation of the Chapters 175 and 185 pension plans should take advantage of this unique, insightful and informative program.

11. SIGNS TO GET YOU THROUGH THE DAY: The second mouse gets the cheese.

12. PARAPROSDOKIAN: If I had a dollar for every girl that found me unattractive, they would eventually find me attractive.

13. TODAY IN HISTORY: In 1930, New York City public schools begin teaching Hebrew.

14. 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.

15. 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>.

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