



**CYPEN & CYPEN**  
**NEWSLETTER**  
**for**  
**DECEMBER 15, 2016**

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Never Forget September 11, 2001

and

Always Remember May 2, 2011

**1. POLICE OFFICER'S APPLICATION FOR SERVICE-CONNECTED DISABILITY UNTIMELY:** Moseley challenged a final order of the Board of Trustees of the 1984 Supplemental Police Officers' Retirement System of the City of St. Petersburg, which denied his application for service-connected disability retirement

benefits as untimely, making him ineligible to apply for benefits under Code. Moseley contended the Board's finding of untimeliness failed to observe the essential requirements of law, and deprived him of his procedural due process in that language of the Code was ambiguous, and should have been interpreted in his favor. The 6<sup>th</sup> Circuit denied the petition for writ of certiorari. Moseley was a City of St. Petersburg police officer from 1992 through 2011. He voluntarily resigned on December 6, 2011, and his resignation became effective December 20, 2011. Three months after his resignation, he initiated the process to apply for service-connected disability retirement benefits. That application was filed on October 9, 2012. The Code requires officers to submit a written application while he is a "member in service." The board found that since Moseley was no longer in service after he resigned, his application was untimely. However, the board conducted a full evidentiary hearing at which Moseley argued that the plan's "member in service" language was ambiguous, and that his cognitive impairment excused his untimely filing. Chapter 185, Florida Statutes, provides for a uniform retirement system for police officers, and establishes minimum retirement benefits and standards for municipal pension plans. Section 185.18, Florida Statutes, sets forth mandatory minimum eligibility requirements for disability benefits. Specifically, "no police officer shall be permitted to retire until examined by a duly qualified physician selected by the board, and is found to be disabled." The City incorporated these minimum requirements in the Code: upon the written application of a member in service, any member who has been totally and permanently incapacitated for duty

may be retired by the board on a service-connected disability retirement income after certification by a board-appointed or designated physician. The Code clearly contemplates that only a police officer whom the City currently employs and pays may submit a written application for disability benefits. Nonetheless, despite the Courts sympathy for Moseley and respect for his years of police service, the appellate court agreed that under the terms of the Code an officer must submit his application for service-connected disability retirement benefits during his service as an employee paid by the City. *Moseley v. Board of Trustees of the Supplemental Police Officers' Retirement System of the City of St. Petersburg*, FLWSUPP 2401MOSE (Fla. 6<sup>th</sup> Cir. June 5, 2016).

**2. AMENDMENT TO DEFERRED RETIREMENT OPTION PLAN IMPOSING A DEADLINE ON ENTRY FOR OFFICERS ALREADY ELIGIBLE FOR DROP, WAS PERMISSIBLE AND NOT UNLAWFUL IMPAIRMENT OF RIGHT TO CONTRACT OR UNLAWFUL TAKING OF PRIVATE PROPERTY WITHOUT COMPENSATION:** Four City of Hollywood police officers sued the City of Hollywood. By virtue of their age, each officer became eligible to enter the Deferred Retirement Option Plan, a feature of the City's retirement system, but they wished to defer their entry in order to increase their monthly retirement payment. Before they were ready to enter the DROP, the City passed an ordinance that imposed a deadline on entry into this aspect of the City's retirement program. The officers sought declaration that the ordinance constituted an unconstitutional impairment of their right to

contract and an unlawful taking of private property without compensation. After a bench trial, the trial court ruled in favor of the officers. On appeal, the Fourth District Court of Appeal determined that the change to the retirement plan was a prospective one, and reversed the judgment and remanded for further proceedings. The City's retirement plan for its police officers included the option of DROP, which allowed eligible officers to commence their monthly retirement payments and have them placed into an interest-bearing account while the officers continued to work and receive wages. Under the City's retirement scheme, an officer became eligible to enter DROP either by reaching the age of fifty or completing twenty-two years of creditable service. However, upon applying for entry into DROP, an officer was required to retire within the lesser of eight years or when the officer had accrued a total of thirty years of employment with the City. Before the enactment of the ordinance at issue, all officers who became eligible to enter DROP were not required to do so immediately upon qualifying -- and could defer their entry. In an attempt to resolve its "financial problems," the City adopted an ordinance that froze the accrual of benefits under the retirement system that had been in place, but provided an exception for officers who were eligible to retire with normal retirement benefits on September 30, 2011:

For any member who is eligible to retire with normal retirement benefits on September 30, 2011, the benefit structure in effect on September 30, 2011 shall remain in effect beyond September 30,

2011 and shall not be frozen, except that any such member who does not enter the DROP on or before September 30, 2011 shall not be eligible to enter the DROP after September 30, 2011. . . .

On September 30, 2011, the officers met the age requirement to enter DROP, but based on the calculation method for monthly retirement payments, entry on that date would have resulted in a smaller monthly retirement payment than if they had been able to defer entry, as permitted prior to the passage of the ordinance. The officers submitted DROP applications, but provided that their entry into DROP was not effective until dates occurring after September 30, 2011. The City did not recognize their entries into DROP. The issues on appeal were whether the officers had a vested interest in delayed entry into DROP, and, if so, whether the City proved it had a compelling interest in amending the retirement plan. Because the Appellate Court found that the ordinance was a permissible prospective amendment that did not impair vested contract rights, it did not consider the second issue. The case was remanded to the trial court to determine whether, on the terms of the DROP plan, the officers DROP application permits them to enter DROP as of the deadline date, withdraw their DROP application or whether their attempt to enter DROP beyond the deadline date renders their application a nullity. *City of Hollywood, Florida v. Bien*, Case No. 4D-15-2632 (Fla. 4<sup>th</sup> DCA, December 14, 2016).

### **3. WILL FLORIDA EVER STRIKE A DEAL ON WORKERS' COMP?:**

Workers' compensation is broken in Florida according to *Governing*. Putting it back together will be a difficult, time-consuming and potentially fruitless task for legislators next year. In recent months, courts have issued a series of rulings that have served to dismantle the state's workers' compensation law, which had its last major overhaul back in 2003. Most significantly, the Florida Supreme Court found that the law's cap on attorneys' fees is unconstitutional. It also found that the time limit placed on disability payments was too short. As a result, workers' comp insurance premiums are set to spike. Depending on which estimate you trust, employers could be paying anywhere from 25 to 45% more over the next couple of years. Business groups will pressure the legislature to come up with a new plan, but they recognize it is going to be difficult. Workers' comp affects many different players -- employers, insurance companies, health providers and attorneys, not to mention workers themselves. Often there is not agreement even within a given sector about the right approach. Small businesses view workers' comp issues differently than corporations, for instance. "Most groups want to see reform, but there are very different versions of what that would look like," says Tom Feeney, president of Associated Industries of Florida, a business advocacy group. That association alone has split into five different working groups, all seeking consensus on possible legislative proposals. Assuming the internal squabbling works out, Feeney and his allies know that their complaints about excessive or unnecessary legal fees will receive serious pushback from the trial lawyers who take workers' cases to court and can profit from large awards.

“Attorneys’ fees are the driving force of interest to people on both sides -- labor and the employers’ side,” says Alan Kalinoski, who chairs the workers’ compensation section of the Florida Bar Association. Legislators are not going to like the feeling of being cross-buffed by various powerful forces -- labor, business, attorneys, insurance companies and health-care providers. Making matters more difficult is the fact that Florida is a term-limit state. No more than eight legislators are still around who lived through the big debate on the issue 13 years ago. And any agreement that can be reached will have to pass muster with the courts, which have dramatically altered the legal landscape around the issue. The whole business of trying to make sure that workers are adequately compensated and treated for injury while keeping costs under control for employers is inherently difficult. It is not clear how, given the new legal constraints, legislators are going to be able to strike a reasonable bargain. “There are a number of reasons this issue is more complex than what legislators typically deal with,” says Feeney, a former Florida House speaker. “I do not think it is a foregone conclusion that the legislature will act.”

#### **4. 2016 REQUIRED AMENDMENTS LIST FOR QUALIFIED**

**RETIREMENT PLANS:** The Internal Revenue Service has released Notice 2016-80. The notice contains the Required Amendments List for 2016 (2016 RA List). Section 5.05(3) of Rev. Proc. 2016-37, 2016-29 I.R.B. 136, provides that, in the case of an individually designed plan, the remedial amendment period for a disqualifying provision

arising as a result of a change in qualification requirements generally is extended to the end of the second calendar year that begins after the issuance of the Required Amendments List (RA List) in which the change in qualification requirements appears. Pursuant to section 5.05(3) of Rev. Proc. 2016-37, the notice provides that December 31, 2018 is the last day of the remedial amendment period with respect to a disqualifying provision arising as a result of a change in qualification requirements that appears on this 2016 RA List. As a result, under sections 8.01 and 5.05(3) of Rev. Proc. 2016-37, December 31, 2018 is also the plan amendment deadline for a disqualifying provision arising as a result of a change in qualification requirements that appears on the 2016 RA List. However, a later date may apply to a governmental plan (as defined in section 414(d)) pursuant to sections 8.01 and 5.06(3) of Rev. Proc. 2016-37. Section 401(b) of the Internal Revenue Code provides a remedial amendment period during which a plan may be amended retroactively to comply with the qualification requirements under section 401(a). Section 1.401(b)-1 of the Income Tax Regulations describes the disqualifying provisions that may be amended retroactively and the remedial amendment period during which retroactive amendments may be adopted. To continue reading the entire Notice 2016-80 visit: <https://www.irs.gov/pub/irs-drop/n-16-80.pdf>.

## **5. STATE AND LOCAL GOVERNMENTS' FISCAL OUTLOOK 2016**

**UPDATE:** United States Government Accountability Office has issued new data regarding “*State And Local Governments' Fiscal Outlook*”

*2016 Update.*” The state and local government sector continues to face fiscal challenges which contribute to the nation’s overall fiscal challenges. GAO’s simulations suggest that the sector could continue to face a gap between revenue and spending during the next 44 years, as reflected by the simulated operating balance measure. The simulation assumes that the tax structure is unchanged in the future and that the provision of real government services per capita remains relatively constant. GAO’s simulations also suggest that while the gap narrows and ultimately closes near the end of the model’s simulation period, state and local governments would need to make policy changes to avoid fiscal imbalances before then. In the long term, The model suggests that total tax revenues as a percentage of gross domestic product will gradually increase during the simulation period, driven largely by increases in personal income tax revenues. This gradual increase follows a decline between 2007 and 2009 in both personal and sales tax revenues as a percent of GDP, and declines between 2009 and 2015 in property tax revenues as a percent of GDP. Meanwhile, another driver of the sector’s operating balance in the long term is the rising health-related costs of state and local expenditures on Medicaid, and the costs of health care compensation for state and local government employees and retirees. Since most state and local governments are required to balance their operating budgets, the fiscal conditions indicated by our simulations continue to suggest that the sector would need to make policy changes to avoid fiscal imbalances in the future. That is, absent any intervention or policy changes, state and local governments are facing, and will

continue to face, a gap between receipts and expenditures in the coming years. Despite state and local pension asset balances increasing in recent years, GAO's simulations suggest that state and local governments may still need to take steps to manage their pension obligations in the future. Real pension asset values increased around 15 percent between 2012 and 2015, from approximately \$2.56 trillion in 2012 to \$2.93 trillion in 2015. Real pension assets for 2015 now exceed the 2007 historical high of \$2.85 trillion. However, we have reported in past work that while most state and local government pension plans have assets sufficient to cover benefit payments to retirees for a decade or more, plans have experienced a growing gap between assets and liabilities over the longer term. GAO's simulations suggest that state and local governments will need to increase their pension contributions, absent any changes to benefits or employee contributions in the future. Alternatively, state and local governments may need to take steps to manage their pension obligations by reducing benefits or increasing employees' contributions. GAO-17-213SP (December 2016).

**6. 2017 STANDARD MILEAGE RATES FOR BUSINESS, MEDICAL AND MOVING ANNOUNCED:** The Internal Revenue Service has issued the 2017 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes. Beginning on January 1, 2017, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

- 53.5 cents per mile for business miles driven, down from 54 cents for 2016
- 17 cents per mile driven for medical or moving purposes, down from 19 cents for 2016
- 14 cents per mile driven in service of charitable organizations

The business mileage rate decreased half a cent per mile and the medical and moving expense rates each dropped 2 cents per mile from 2016. The charitable rate is set by statute and remains unchanged. The standard mileage rate for business is based on an annual study of the fixed and variable costs of operating an automobile. The rate for medical and moving purposes is based on the variable costs. Taxpayers always have the option of calculating the actual costs of using their vehicle rather than using the standard mileage rates. A taxpayer may not use the business standard mileage rate for a vehicle after using any depreciation method under the Modified Accelerated Cost Recovery System or after claiming a Section 179 deduction for that vehicle. In addition, the business standard mileage rate cannot be used for more than four vehicles used simultaneously. These and other requirements are described in Rev. Proc. 2010-51. Notice 2016-79, is on IRS.gov, contains the standard mileage rates, the amount a taxpayer must use in calculating reductions to basis for depreciation taken under the business standard mileage rate, and the maximum standard automobile cost that a taxpayer may use in computing the allowance under a fixed and variable rate plan. IR-2016-169 (December 13, 2016).

**7. SOCIAL SECURITY IS MORE LIKE ICING, NOT CAKE:** On Aug. 14, 1935, when the U.S. was in the midst of the Great Depression, Congress instituted the Social Security system. In the general description of the Social Security Act (HR 7260), it states that Social Security is to “ ... provide for the general welfare by establishing a system of federal old-age benefits and by enabling the several states to make more adequate provision for aged persons ... ” Social Security was never about providing the primary source of retirement income. It is not the cake itself but was designed to be the icing on the cake according to onwallstreet.com. Clients can begin taking Social Security benefits as early as 62, but those benefits are reduced from the full retirement age of 66. Although monthly benefits would be 32% greater at 66 and 76% higher at 70, 62 is the most popular age when clients begin taking benefits. Sadly, more than 40% of Americans claim Social Security early primarily because they need the money. And 44% of those surveyed said that Social Security will be their biggest source of income during their retirement years. Those who do not want clients to have to rely on Social Security for support during retirement -- in other words, they want them to have some cake under the icing -- here are some useful hints:

- Anticipate that Social Security benefits may be cut back, and expect the retirement age to be raised again.
- Follow a simple rule: “God helps those who help themselves.” We are not socialist nation, so do not pretend that we are.
- Fund 401(k) or 403(b) plans to the maximum allowed, and take

full advantage of a company match if applicable.

- Invest for the long term.
- Save, save and save some more. Start saving for retirement as soon as possible. Retirement comes about much sooner than expected, and compounding savings does wonders.
- Those who are healthy should put off taking Social Security as long as possible. The longer the wait to draw on Social Security, the higher the monthly benefit.

Does this sound like tough medicine? For some clients, it is. But better to plan for reduced benefits and retire in dignity and comfort than fool oneself and expect a benevolent government to increase benefits. Social Security is the icing on the cake. Other retirement savings plans are the cake supporting the icing.

## **8. HOW FIRE DEPARTMENTS COULD LOOK LIKE THE**

**COMMUNITIES THEY SERVE:** In October, President Obama signed an executive order establishing an initiative to promote diversity in the federal workforce, focusing particularly on the national-security agencies that lag well behind other agencies in their employment of minorities. Obama said he hoped that the initiative would trickle down to state and local law-enforcement agencies, accelerating their efforts to become more inclusive of the communities they protect according to governing.com. But there is another group within the public-safety ranks that has long been plagued with low minority representation: the fire service. Blacks make up 7.2% of the fire service's 295,600

uniformed members, while 9.4% are Hispanic and women account for only 3.8%, according to statistics compiled by the National Fire Protection Association between 2008 and 2012. Earlier this year, a Chicago labor organization representing African-American firefighters and paramedics called on the Justice Department to investigate the hiring and disciplinary practices of the city's fire department, which has been sued numerous times and ordered by judges to be more racially inclusive. Chicago is far from alone. Fire departments across the country have struggled with the recruitment and hiring of minorities for decades. When the New York City fire department offered a firefighter entrance exam in 1988, for example, of the 15,000 people who took the exam 1,600 were African-Americans, just 10.6% of the applicant pool. Of the 5,000 with the top scores that made them eligible to continue in the process, only 112, or 2.2%, were African-Americans. Over the next few years, the city hired 2,256 firefighters from that list. Only 29 were black -- 1.3% of those hired. And in 2013, a two-person Baltimore fire department division that had been developed two years earlier to increase recruitment among minority residents of the city and combat racial tensions within the department's ranks was eliminated in a round of budget cutbacks. It is no secret that fire departments in many cities do not much resemble the communities they serve. In areas that have a high concentration of poverty, many fire departments are comprised primarily of members who live outside of the jurisdictions they serve and do not have a vested interest in the municipalities where they work. And as the number of fires has declined over recent decades, so has many

fire departments' community involvement. In most large cities, many residents now have interactions with members of the fire service only when they dial 911, typically for a medical emergency. What can be done to turn this situation around? For fire departments that want to diversify their ranks, one critical component of the solution is a new emphasis on community engagement aimed at creating a pipeline of future applicants. Initiatives like adopt-a-school and fire cadet programs, for example, offer youths and young adults opportunities to interact with fire personnel in non-emergency environments and learn about the jobs of firefighters and emergency medical staff. Another aspect of this kind of engagement is to take a page from rural areas and small towns, where the firehouse often serves as a centerpiece of the community. That was the approach a year ago in Baltimore, where the fire department set out to shift the paradigm on how it recruits members from the community and minority groups. Deploying a diverse group of department personnel, the department made itself visible in all of the city's communities, hosting open houses and inviting residents in to speak with members of the fire service. Residents were able to view live demonstrations of emergency-response procedures. A local radio station promoted the recruitment initiative and publicized the sites where people could go to apply. The department placed computers in fire stations to make it easier for residents without access to technology to fill out online applications. Fire personnel handed out recruitment literature at community meetings and conducted presentations at college career days and career-development centers. Those efforts paid off big-time.

Applications from city residents increased by 142%, from 1,000 in 2009 to 2,425 in 2015, and applications from minorities increased 207%, from 1,230 to 3,781. Too often when fire-department administrators are asked about the disparity in applicant turnout, you hear the same shopworn reply: We try to recruit members of local minority groups but they aren't interested in the fire service. Baltimore's proactive efforts have dispelled that myth. Not only is Baltimore's approach one that would work for other cities, but it underlines a fundamental truth about diversity in the public workforce: It's about developing a consciously inclusive environment that recognizes the value of having representation of people from all walks of life.

## **9. POLICE BOARD TO ACCUSED FORMER COPS: NO MORE**

**MONEY:** Former police officers Doug and Sherry Williams have pending criminal trials on charges of stealing thousands in cash from their own police union in 2014. After their arrests, the couple still are receiving almost \$12,000 a month in cash in pension benefits. Now, the city's pension board is trying to suspend those payments even though the couple have not been convicted. "We want to stop the bleeding; they have already received more than they have contributed," said Sgt. Scott Myers, board chairman of the Coral Springs Police Officers' Pension Plan. Some of the pension money is taxpayer money paid by employer contributions, some is employee contributions, some comes from insurance premiums, and the remainder is earnings on the investments. Doug Williams has been

receiving his police pension since October 2009 -- he has received \$703,819 which includes deferred benefit payments, but contributed just \$80,302, according to pension board records. Doug Williams is one of three officers accused of stealing money from their own police union and was recently charged with multiple charges of grand theft and an organized scheme to defraud. Sherry Williams has been receiving her pension since October 2014, after her arrest and subsequent retirement. Pension board records show she has received \$363,205 but contributed \$97,901. State law already allows government pension boards to stop benefits if a former employee is convicted of certain crimes such as embezzlement of public funds or bribery. But Coral Springs said they wanted to go further and take away benefits now. "The pension board recommended we suspend payments so that we will not have to try to recover as much money pending the outcome of that trial," Myers said. "If they are found not guilty they get everything back plus interest." The board decided to stop the couple's benefits in February and notified the Williams' in March. The couple still are receiving their pension -- \$5,942.27 for Doug Williams and \$6,008.69 for Sherry Williams -- while the couple appeal the decision to halt it. The board decided this past week that an administrative law judge will make the final decision, although a hearing date has not been scheduled.

## **10. FIVE BIG SOCIAL SECURITY ISSUES TO THINK ABOUT IN**

**2017:** Big changes in Social Security next year could cost clients some of their benefits according to onwallstreet.com. The cost of

living adjustments may be lower next year than expected, withholding amounts will likely be higher as Medicare rates rise and higher earners are expected to pay more for their benefits. Below is the skinny on five Social Security issues to discuss with clients.

- **COLA adjustments may be lower than expected.** Beware of Social Security benefit calculators or software that proposes a 3% annual. With a 0.3% increase for 2017 and two previous years with no COLA increases, a 3% estimate seems unrealistic for future planning purposes.
- **High earners will pay more.** The Social Security Administration sets a payroll tax earnings cap each year that dictates what earned income is subject to the 12.4% tax that funds Social Security. Next year, however, this payroll tax cap is increasing to \$127,200 from \$118,500. If clients are employed by someone else and make up to \$127,200, this will cost them an extra \$539 per year. And if they are self-employed, it will cost them an extra \$1,079 per year because they are responsible for both the employer and employee's portion of the payroll tax.
- **The limit will rise for clients who reach their full retirement age.** If a client reaches the full retirement age next year, their Social Security earnings test limit is significantly increased from the \$16,920 limit. They can earn up to \$44,880 in the months before they reach their full retirement age without their benefits being subject to any withholding, based on the earnings test.
- **The full retirement age will increase for those born in 1955.**

For anyone born between 1943 and 1954, their full retirement age is 66. However, next year, those born in 1955 will begin to turn 62 and will become qualified for Social Security retirement benefits for the first time. For those born in 1955, their full retirement age will be 66 and 2 months, and this figure will increase for each birth year after 1955.

- **Withholding amounts for early filers will increase.** Clients who are younger than the full retirement age and claim Social Security while still working must be careful to avoid the Social Security earnings test. Basically, if any client falls into this group, for every \$2 that they earn over \$16,920 next year, \$1 in Social Security benefits will be withheld. This money is not permanently lost, but is credited to the client's account at the full retirement age.

Of course, advisers must watch for the five things outlined above, but they should also keep in mind that unless clients file, they will not receive benefits. It is important to note that Social Security will not proactively notify anyone they are eligible for benefits. So, it is important you and your client study the rules to make sure that they know what they are entitled to and when.

## **11. WHO HAS DEFINED CONTRIBUTION RETIREMENT PLANS AND WHAT DO THEY COST?:**

The United States Department of Labor Bureau of Labor Statistics, says that in 1988, when defined contribution retirement plans were a fairly new concept in the workplace, BLS Commissioner, Janet L. Norwood wrote, "It is unclear

whether the more rapid growth in defined contribution plans compared to defined benefit plans is a movement towards variable rather than fixed payments. But some plan sponsors have adopted defined contribution plans as a way of gaining more control, or at least predictability, over costs.” Norwood further explained that the payments employers make to defined contribution plans often are tied to profitability and give employers flexibility to adapt to changing economic conditions. In today’s economy, defined contribution retirement plans are the most prevalent type of employer-sponsored retirement benefit plans in private industry in the United States. In 2016, 44% of private industry workers participated in these plans. This Beyond the Numbers article takes a look at five types of employer-sponsored defined contribution retirement plans in private industry. The article shows the overall employee participation rates, employee participation rates by type of plan, and overall employer costs and worker participation costs for all types of plans. All defined contribution plans described in this article have some form of employer cost. Plans are categorized by type on the basis of Internal Revenue Code requirements and variations in contribution methods. The data are from the BLS National Compensation Survey and are presented by selected worker and establishment characteristics and geographic areas.

- *Savings and thrift is the most prevalent type of plan. A savings and thrift plan requires an employee to contribute a predetermined amount of earnings into an individual account, all*

or part of which may be matched by the employer. Usually the employer matches a portion of the employee's contribution up to a specified percent of the employee's earnings. Both the employee and employer contributions can be either a flat amount or a percentage of the employee's pay, although the latter is more prevalent. NCS data show that in 2015, 62% of savings and thrift plan participants were in plans in which the employer matched up to a specified percentage of employee earnings. Of those plans, one-half matched up to 6% of employee contributions (or earnings) and the remaining half matched lower contribution ceilings, typically 3% or 4% of earnings. Employees participating in savings and thrift plans often have two options for making contributions: they can make traditional 401(k) pre-tax contributions or Roth 401(k) post-tax contributions, or both, up to Internal Revenue Code annual limits. Traditional 401(k) pre-tax contributions, as well as any investment growth, are not subject to Federal or most State income taxes until funds are withdrawn at retirement. Roth 401(k) post-tax contributions are a feature that allows employees to make part or all of their retirement plan contributions on a post-tax basis. Upon distribution any portion of the balance that is based on pretax contributions plus earnings is taxed as regular income; and any post-tax contributions and their earnings are not subject to income tax. NCS data show that in 2015, 100% of savings and thrift plans had provisions that permitted employees to make pre-tax

- contributions, and 50% of plans permitted post-tax contributions
- *Deferred profit-sharing plans* usually do not require an employee to contribute in order to participate. In these plans, employers usually contribute fixed or discretionary amounts to employee accounts, based on the amount of company profits. The contributions may be spread equally among all employees in the company or may be based on an employee's salary. In 2015, 19% of all private industry workers participating in defined contribution plans participated in deferred profit-sharing plans; also of note, in establishments with 1 to 99 workers, 21% of workers participated in deferred profit-sharing plans. In establishments with 100 or more workers, 17% of workers participated in deferred profit-sharing plans.
  - *A money purchase pension plan* provides fixed employer contributions, typically calculated as a percentage of employee earnings. The contributions are allocated to individual employee accounts each year. Some plans may allow employee contributions, but employees are not required to make contributions in order to participate.
  - *An employee stock ownership plan (ESOP)* is a type of plan under which the employer pays a designated amount into a fund that is typically invested in company-related stock. Upon retirement, the funds in the plan are distributed to employees according to a formula.
  - *A savings incentive match plan (SIMPLE)* is a plan designed to help small businesses set up individual accounts for their

employees. The businesses usually have 100 or fewer employees and do not have any other qualified retirement plan. SIMPLE plans can be either part of a 401(k) plan or established as individual retirement accounts (IRAs).

Along with overall employee participation rates, and participation rates by type of plan, this article examines the overall employer costs and worker participation costs for all types of defined contribution retirement plans. Employer costs for defined contribution plans are presented here in two ways:

- Costs per hour worked. This amount is averaged out among all private industry employees in the economy, even those who are not participating in a plan.
- Worker participation costs per hour. This amount represents the actual employer costs per hour worked only for those employees who are participating in defined contribution plans.

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## **12. THE HIGH COST OF LIVING LONGER: WOMEN AND**

**RETIREMENT HEALTH CARE:** HealthView Services has issued a new research brief entitled *“The High Cost Of Living Longer: Women and Retirement Health Care.”* As the data indicate, women may face substantial financial challenges in retirement; however, despite the cost projections, most pre-retired women still have time to significantly reduce or eliminate the burden associated with the Women’s

Longevity Gap. Because of wage differentials and lapses in employment (often for child or family care), most women will earn less over their lifetimes than men. This double-edged sword not only impacts salaries, but also reduces PIA -- and ultimately, Social Security benefits (23% less than men, on average). Couple this with longer life expectancies and spousal age differences, and many women could face a four-year window at the end of their lives in which they will be solely responsible for all household expenditures -- including health care. A healthy 55-year-old woman is projected to pay over \$146,000 for health care premiums and out-of-pocket costs in her final four years alone. On a positive note, surveys show that women are increasing participation in retirement planning, but more must be done to confirm that they will be prepared to address future health care costs. Through a deeper understanding of how life expectancy, Social Security, health care, and long-term care costs specifically impact women, advisors can highlight these challenges, engage women in the planning process, and tailor investments to achieve financial security throughout retirement. With an adequate time horizon, and a comprehensive savings strategy, most women can still attain a comfortable level of financial stability throughout retirement. To read the entire brief visit:

[http://www.hvsfinancial.com/wp-content/uploads/2016/12/Women Retirement Health Care.pdf](http://www.hvsfinancial.com/wp-content/uploads/2016/12/Women_Retirement_Health_Care.pdf).

**13. 2017 TAX FILING SEASON BEGINS JAN. 23 FOR NATION'S TAXPAYERS, TAX RETURNS DUE APRIL 18:** The Internal Revenue

Service has announced that the nation's tax season will begin Monday, January 23, 2017 and reminded taxpayers claiming certain tax credits to expect a longer wait for refunds. The IRS will begin accepting electronic tax returns that day, with more than 153 million individual tax returns expected to be filed in 2017. The IRS again expects more than four out of five tax returns will be prepared electronically using tax return preparation software. Many software companies and tax professionals will be accepting tax returns before January 23 and then will submit the returns when IRS systems open. The IRS will begin processing paper tax returns at the same time. There is no advantage to filing tax returns on paper in early January instead of waiting for the IRS to begin accepting e-filed returns. The IRS reminds taxpayers that a new law requires the IRS to hold refunds claiming the Earned Income Tax Credit and the Additional Child Tax Credit until February 15. In addition, the IRS wants taxpayers to be aware it will take several days for these refunds to be released and processed through financial institutions. Factoring in weekends and the President's Day holiday, the IRS cautions that many affected taxpayers may not have actual access to their refunds until the week of February 27. "For this tax season, it is more important than ever for taxpayers to plan ahead," IRS Commissioner John Koskinen said. "People should make sure they have their year-end tax statements in hand, and we encourage people to file as they normally would, including those claiming the credits affected by the refund delay. Even with these significant changes, IRS employees and the entire tax community will be working hard to make this a

smooth filing season for taxpayers.” The IRS also reminds taxpayers that they should keep copies of their prior-year tax returns for at least three years. Taxpayers who are changing tax software products this filing season will need their adjusted gross income from their 2015 tax return in order to file electronically. The Electronic Filing Pin is no longer an option. Taxpayers can visit [IRS.Gov/GetReady](https://www.irs.gov/GetReady) for more tips on preparing to file their 2016 tax return. The filing deadline to submit 2016 tax returns is Tuesday, April 18, 2017, rather than the traditional April 15 date. In 2017, April 15 falls on a Saturday, and this would usually move the filing deadline to the following Monday -- April 17. However, Emancipation Day -- a legal holiday in the District of Columbia -- will be observed on that Monday, which pushes the nation’s filing deadline to Tuesday, April 18, 2017. Under the tax law, legal holidays in the District of Columbia affect the filing deadline across the nation. “The opening of filing season reflects months and months of work by IRS employees,” Koskinen said. “This year, we had a number of important legislative changes to program into our systems, including the EITC refund date, as well as dealing with resource limitations. Our systems require extensive programming and testing beforehand to ensure we’re ready to accept and process more than 150 million returns.” The IRS also has been working with the tax industry and state revenue departments as part of the Security Summit initiative to continue strengthening processing systems to protect taxpayers from identity theft and refund fraud. A number of new provisions are being added in 2017 to expand progress made during the past year. Choosing e-file and direct deposit for refunds

remains the fastest and safest way to file an accurate income tax return and receive a refund. The IRS still anticipates issuing more than nine out of 10 refunds in less than 21 days, but there are some important factors to keep in mind for taxpayers. 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 IRS 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 -- including returns claiming EITC and ACTC. The IRS will begin releasing EITC and ACTC refunds starting February 15. However, the IRS cautions taxpayers that these refunds likely will not arrive in bank accounts or on debit cards until the week of February 27 (assuming there are no processing issues with the tax return and the taxpayer chose direct deposit). This additional period is due to several factors, including banking and financial systems needing time to process deposits. After refunds leave the IRS, it takes additional time for them to be processed and for financial institutions to accept and deposit the refunds to bank accounts and products. The IRS reminds taxpayers many financial institutions do not process payments on weekends or

holidays, which can affect when refunds reach taxpayers. For EITC and ACTC filers, the three-day holiday weekend involving President's Day may affect their refund timing. Where's My Refund? on IRS.gov and the IRS2Go phone app will be updated with projected deposit dates for early EITC and ACTC refund filers a few days after February 15. Taxpayers will not see a refund date on Where's My Refund? or through their software packages until then. The IRS, tax preparers and tax software will not have additional information on refund dates, so Where's My Refund? remains the best way to check the status of a refund. The IRS reminds taxpayers they have a variety of options to get help filing and preparing their tax return on IRS.gov. Taxpayers can also, if eligible, locate help from a community volunteer. Seventy percent of the nation's taxpayers are eligible for IRS Free File.

Commercial partners of the IRS offer free brand-name software to about 100 million individuals and families with incomes of \$64,000 or less. Online fillable forms provides electronic versions of IRS paper forms to all taxpayers regardless of income that can be prepared and filed by people comfortable with completing their own returns.

Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) offer free tax help to people who qualify. Go to [irs.gov](https://irs.gov) and enter "free tax prep" in the search box to learn more and find a nearby VITA or TCE site, or download the IRS2Go smartphone app to find a free tax prep provider. The IRS also reminds taxpayers that a trusted tax professional can provide helpful information and advice about the ever-changing tax code. Tips for choosing a return preparer and details about national tax professional groups are available on

IRS.gov. Renewal Reminder for Individual Taxpayer Identification Numbers (ITINS) ITINs are used by people who have tax-filing or payment obligations under U.S. law but are not eligible for a Social Security number. Under a recent change in law, any ITIN not used on a tax return at least once in the past three years will expire on Jan. 1, 2017. In addition, any ITIN with middle digits of either 78 or 79 (9NN-78-NNNN or 9NN-79-NNNN) will also expire on that date. This means that anyone with an expiring ITIN and a need to file a tax return in the upcoming filing season should file a renewal application in the next few weeks to avoid lengthy refund and processing delays. Failure to renew early could result in refund delays and denial of some tax benefits until the ITIN is renewed. An ITIN renewal application filed now will be processed before one submitted at the height of tax season from mid-January to February. Currently, a complete and accurate renewal application can be processed in as little as seven weeks. But this timeframe is expected to expand to as much as 11 weeks during tax season, which runs from mid-January through April. Several common errors are currently slowing down or holding up ITIN renewal applications. The mistakes generally center on missing information, and/or insufficient supporting documentation. ITIN renewal applicants should be sure to use the latest version of Form W-7, revised September 2016. The most current version of the form, along with its instructions, are posted on IRS.gov.

**14. FIVE BILLIONAIRE FAMILIES WITH MULTIPLE SINGLE-FAMILY OFFICES:** The [trustedinsight.com](http://trustedinsight.com) says once a family or

individual attains a certain degree of wealth, the benefits of establishing a single-family office, solely dedicated to perpetuating family values and fortune, far exceed that of traditional multi-family wealth managers. This is true of the Silicon Valley elite; Hong Kong's new money and old money; and the world's richest you may never have heard of. Far less common is a wealth so vast that it requires two or more single-family offices to preserve capital across generations and time. Although sounding redundant, there are a few main benefits of this strategy. First is the human element.

Descendants of the wealth creator often have varying financial needs, philosophies and risk tolerances from one another, warranting creation of a unique entity catering to individual needs. Second, is the desire for diversity of strategies and specializations. Families may want to deploy concentrated, contrasting strategies, which might be best executed by a different asset class expert in a separate legal entity. Here are five billionaire families that manage a total of 12 single-family offices with an estimated aggregate of \$192.4 billion in wealth:

- The Walton Family -- Wealth: \$132.6 billion, Primary Source of Wealth: Wal-Mart Stores, Inc.
- The Pritzker Family -- Wealth: \$29 billion, Primary Sources of Wealth: Hyatt Hotel Corp.,
- The Ziff Family -- Wealth: \$14.4 billion, Primary Source of Wealth: Ziff Davis, diversified investments

- The Hunt Family -- Wealth: \$13.7 billion, Primary Source of Wealth: Hunt Oil Company
- The Thiel Family -- Wealth: \$2.7 billion, Primary Sources of Wealth: PayPal, Palantir

**15. FUN WITH WORDS:** When the smog lifts in Los Angeles U.C.L.A.

**16. PARAPROSDOKIAN:** Is it wrong that only one company makes the game Monopoly?

**17. TODAY IN HISTORY:** In 1931, coaxial cable patented.

**18. 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.

**19. 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>.

**20. REMEMBER, YOU CAN NEVER OUTLIVE YOUR DEFINED  
RETIREMENT BENEFIT.**