



CYPEN & CYPEN

NEWSLETTER

for

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

1. RANSOMWARE ATTACKS; PREVENTION AND

PREPAREDNESS: Beyond the absurd number of attacks in 2016 and 2017 is the amount of money organizations and individuals have paid with the hope of decrypting and retrieving their data, reports <http://www.jacksonlewis.com>. Estimates are close to one billion

dollars in ransom payments in 2016. Although it is tempting simply to pay the ransom, obtain the decryption keys and move on, there are serious risks to this approach. And there is no guarantee that, upon receipt of the ransom payment, the hacker will provide all the applicable decryption keys allowing your organization to regain full access to its data. The rapid growth in ransomware attacks and their potential damage on organizations is frightening. Organizations may not be able to prevent all attacks, but there are steps they could take to minimize the chance and impact of a successful attack, and to be prepared to respond:

- **Build the right team**
- **Secure the systems**
- **Make your employees aware of the risks and steps they must take in case of an attack**
- **Maintain backups**
- **Develop and practice an “Incident Response Plan”**

After an Attack:

- **Secure your systems**
- **Consult legal counsel and other key vendors**
- **Investigate the incident**
- **Provide notifications, if needed**
- **Lessons learned**

2. WHAT IS UP IN WASHINGTON A KEY TOPIC AT PSCA

CONFERENCE: Attendees at the Plan Sponsor Council of America's annual conference learned what is happening and what might happen to the retirement industry in Congress, in regulatory agencies and in court — as well as what they can do without waiting for new legislation or regulation, according to *Pension and Investments* (www.pionline.com). At the top of the list was the prospect of a broad tax proposal offered by President Donald Trump and the anticipated response by Congress to craft a detailed version of tax reform which, PSCA officials hope, will retain tax benefits that encourage retirement savings. A tax proposal from Mr. Trump appears to retain deductions for retirement savings, home ownership and charitable donations, while eliminating other deductions. PSCA is a founding member of the Save Our Savings Coalition, created to explain to legislators how tax benefits promote retirement savings. Having several voices is more effective in efforts to protect retirement plans during debates about taxation and regulation. Everybody is optimistic but cautious about protecting the retirement industry's tax benefits.

3. UNDERSTANDING SOCIAL SECURITY: Over 65 million people in 2015 received some form of Social Security benefits. Approximately 61% of aged beneficiaries received at least half of their income from Social Security in 2014, reports <http://www.lexology.com>:

- *Social Security Eligibility* - When you work and pay Social

Security taxes, you earn credits that enable you to qualify for Social Security benefits. You can earn up to 4 credits per year, depending on the amount of income that you have. Most people must accumulate up to 40 credits (10 years of work) to be eligible for Social Security retirement benefits, but need fewer credits to be eligible for disability benefits or for their family members to be eligible for survivor's benefits.

- *Your Retirement Benefits* - Your Social Security retirement benefit is based on your average earnings over your working career. Your age at the time you start receiving Social Security retirement benefits also affects your benefit amount. If you were born between 1943 and 1954, your full retirement age is 66. Full retirement age increases in two-month increments for each year thereafter, until it reaches age 67 for anyone born in 1960 or later. But you do not have to wait until full retirement age to begin receiving benefits. No matter what your full retirement age, you can begin receiving early retirement benefits at age 62. Doing so is sometimes advantageous: Although you will receive a reduced benefit if you retire early, you will receive benefits for a longer period than someone who retires at full retirement age. You can also choose to delay receiving retirement benefits past full retirement age. If you delay retirement, the Social Security benefit that you eventually receive will be as much as 6% to 8% higher. That is because you will receive a delayed retirement credit for each month that you delay receiving retirement benefits, up to age 70. The

amount of this credit varies, depending on your year of birth.

- *Disability Benefits* - If you become disabled, you may be eligible for Social Security disability benefits. The Social Security Administration defines disability as a physical or mental condition severe enough to prevent a person from performing substantial work of any kind for at least a year.
- *Impact of Continuing to Work After Receiving Benefits* - If the worker begins receiving benefits before the full retirement age, the worker can earn up to \$16,920/year in 2017 without any reduction in benefits. Earnings above that will reduce the benefits by \$1 for every \$2 earned above that limit. In the year when the full retirement age is reached (but before actually reaching full retirement age), the worker can earn up to \$44,880/year without any reduction in benefits. Earnings above that will reduce the benefits by \$1 for every \$3 earned above that limit. Only earnings before the month the worker reaches full retirement age are counted for this purpose. Starting with the month the worker reaches full retirement age, there is no reduction for earnings.

4. EMPLOYEES STRUGGLING WITH FINANCIAL LITERACY:

Employee Benefit News says that adults still lack personal financial knowledge, a problem that could be addressed by better financial education in schools and by employers wanting to help employees have a more sound financial future. Among younger people, when

financial literacy is higher, they are more likely to be current with credit card payments and loan payments. In the aggregate, overall, the data really highlight the gaps between knowledge that exists and the level that would enable sound financial decision-making in the course of everyday life. The Global Financial Literacy Excellence Center has done extensive research in the area of workplace financial education and just how vital it can be. It is critically important for employers to provide workplace financial education and workplace financial wellness. There is a business case to do this. It is not charity to do good things; it is important because adding financial education contributes to the productivity and well-being of those employees. Employers have made strides in the types of financial education they offer employees, branching out from retirement efforts to helping workers pay off their student loans, manage debt and make other financial decisions that affect their families.

5. STATE COURT MAY NOT ORDER A VETERAN TO INDEMNIFY A DIVORCED SPOUSE FOR LOSS IN THE SPOUSE'S PORTION OF THE VETERAN'S RETIREMENT PAY CAUSED BY THE VETERAN'S WAIVER OF RETIREMENT PAY TO RECEIVE

SERVICE-RELATED DISABILITY BENEFITS: The Uniformed Services Former Spouses' Protection Act authorizes states to treat veterans' disposable retired pay as community property divisible upon divorce, but expressly excludes disposable retired pay amounts deducted from that pay as a result of a waiver required by law in order to receive disability benefits. A divorce decree of Petitioner, John

Howell, and Respondent, Sandra Howell, wherein Sandra was awarded 50% of John's future Air Force retirement pay, which she began to receive when John retired the following year. About 13 years later, the Department of Veterans Affairs found that John was partially disabled due to an earlier service-related injury. To receive disability pay, Federal law required John to give up an equivalent amount of retirement pay. By his election, John waived about \$250 of his retirement pay, which also reduced the value of Sandra's 50% share. Sandra petitioned the Arizona family court to enforce the original divorce decree and restore the value of her share of John's total retirement pay. The court held that the original divorce decree had given Sandra a vested interest in the prewaiver amount of John's retirement pay, and ordered John to ensure that she receive her full 50% without regard for the disability waiver. The Arizona Supreme Court affirmed, holding that federal law did not pre-empt the family court's order. The United States Supreme Court held that a State court may not order a veteran to indemnify a divorced spouse for the loss in the divorced spouse's portion of the veteran's retirement pay caused by the veteran's waiver of retirement pay to receive service-related disability benefits. This Court's decision in an earlier case, held that federal law completely pre-empts the States from treating waived military retirement pay as divisible community property. The Arizona Supreme Court attempted to distinguish the earlier US Supreme Court case by emphasizing the fact that the veteran's waiver in that case took place before the divorce proceeding, while the waiver here took place several years after the divorce. This difference

highlights only that John's military pay at the time it came to Sandra was subject to a future contingency, meaning that the value of Sandra's share of military retirement pay was possibly worth less at the time of the divorce. Nothing in this circumstance makes the Arizona courts' reimbursement award to Sandra any less an award of the portion of military pay that John waived in order to obtain disability benefits. That the Arizona courts referred to her interest in the waivable portion as having vested does not help courts. State courts cannot vest that which they lack the authority to give. Neither can the State avoid the earlier case by describing the family court order as an order requiring John to reimburse or to indemnify Sandra, rather than an order dividing property, a semantic difference and nothing more. Regardless of their form, such orders displace the federal rule and stand as an obstacle to the accomplishment and execution of the purposes and objectives of Congress. Family courts remain free to take account of the contingency that some military retirement pay might be waived or take account of reductions in value when calculating or recalculating the need for spousal support. However, the State courts here made clear that the original divorce decree divided the whole of John's military pay, and their decisions rested entirely upon the need to restore Sandra's lost portion. *Howell v. Howell*, Case No. 15-1031(US May 15, 2017).

6. THE IMPORTANCE OF SOCIAL SECURITY BENEFITS TO THE INCOME OF THE AGED POPULATION: The Social Security Administration advises that Social Security benefits are the most

important source of U.S. retirement income. Over time, however, trends in employer-provided pension offerings, societal changes and Social Security program rule changes have altered the distribution of income by source among the aged population. Some researchers have argued that the Current Population Survey (CPS) does not properly measure income from retirement accounts and thus overstates reliance on Social Security income. To address such concerns, the Census Bureau revised income-related questions for the 2015 CPS. This note examines reliance on Social Security benefits among people aged 65 or older as measured by the 2015 CPS and two other major surveys. All three surveys report that roughly half of the aged population live in households that receive at least 50 percent of total family income from Social Security and about one-quarter of the aged live in households that receive at least 90 percent of family income from Social Security. The traditional major sources of retirement income in the United States—often called the three-legged stool or the three pillars—are Social Security benefits, employer-provided pensions (including retirement accounts) and income from assets or savings. Social Security is a social insurance program that provides an inflation-indexed lifetime annuity to aged beneficiaries. In addition to enjoying the protection provided by indexing, a prospective beneficiary who delays claiming Social Security benefits essentially purchases additional longevity insurance—reducing the risk of “running out of savings”—by raising his or her lifetime monthly benefit. Many observers regard Social Security benefits as the base of retirement income, particularly

because benefits are a steady and reliable resource for almost all aged households. Because Social Security benefits represent a substantial portion of the income of Americans aged 65 or older, accurate measurements of that portion are important to researchers and policymakers, SSA estimates that in 2014, about 84 percent of people aged 65 or older received Social Security benefits; and among those in the bottom 40 percent of the income distribution, benefits accounted for an average of around 84 percent of total income (SSA 2016b).

7. NEW OFFICE ADDRESS: Please note that Cypen & Cypen has a new office address: Cypen & Cypen, 975 Arthur Godfrey Road, Suite 500, Miami Beach, Florida 33140. All other contact information remains the same.

8. CRAZY STATE LAWS: *Good Housekeeping* reminds us that there are crazy laws in every state. In the State of Maryland sleeveless shirts are banned in public. In Baltimore this law applies to everyone (even runners!). The only exception are the "vagrants," who are allowed to visit the zoo while wearing sleeveless tops. It is about time, those muscle tees have to go!

9. ZEN PROVEN TEACHINGS TO LIVE BY: Everyone seems normal until you get to know them.

10. PONDERISMS: Whenever I feel blue, I start breathing again.

11. OLD CEMETERIES & EPITAPHS: A truly happy person is one who can enjoy the scenery on a detour and one who can enjoy browsing old cemeteries. For example, on a grave in Nantucket, Massachusetts reads, under the sod and under the trees, lies the body of Jonathan Pease. He is not here, there is only the pod, Pease shelled out and went to God.

12. TODAY IN HISTORY: On this day in [2001](#) 32-year-old Erik Weihenmayer, of Boulder, Colorado, becomes the first blind person to reach the summit of Mount Everest.

13. 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.

14. 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>.

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