



CYPEN & CYPEN
NEWSLETTER
for
April 26, 2018

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Stephen H. Cypen, Esq., Founding Editor
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Never Forget September 11, 2001
and
Always Remember May 2, 2011

**1. REQUEST FOR COMMENTS ON SCOPE OF DETERMINATION LETTER PROGRAM
FOR INDIVIDUALLY DESIGNED PLANS DURING CALENDAR YEAR 2019:**

This notice requests comments on the potential expansion of the scope of the determination letter program for individually designed plans during the 2019 calendar year, beyond provision of determination letters for initial qualification and qualification upon plan termination. In reviewing comments submitted in response to this notice, the

Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) will consider the factors regarding the scope of the determination letter program set forth in section 4.03(3) of Revenue Procedure 2016–37, 2016–29 I.R.B. 136. The Treasury Department and the IRS will issue guidance if they identify any additional types of plans for which plan sponsors may request determination letters during the 2019 calendar year. Revenue Procedure 2016–37 sets forth procedures for issuing determination letters and describes an extension of the remedial amendment period for individually designed plans. Effective January 1, 2017, the sponsor of an individually designed plan may submit a determination letter application only for initial plan qualification, for qualification upon plan termination, and in certain other limited circumstances identified in subsequent published guidance. Section 4.03(3) of Rev. Proc. 2016–37 provides that the Treasury Department and the IRS will consider each year whether to accept determination letter applications for individually designed plans in specified circumstances other than for initial qualification and qualification upon plan termination. Comments are requested on specific types of plans for which the Treasury Department and the IRS should consider accepting determination letter applications during calendar year 2019 in circumstances other than for initial qualification and qualification upon plan termination. As provided in section 4.03(3) of Rev. Proc. 2016–37, circumstances for consideration include, for example, significant law changes, new approaches to plan design, and the inability of certain types of plans to convert to pre-approved plan documents. Comments that suggest expanding the scope of the program for a particular type of plan should not merely state the type of plan, but should also specify the issues applicable to that type of plan that would justify review of that particular plan type under the determination letter program. Such issues may include specific plan features and special plan designs applicable to that type of plan, or unresolved questions of qualification in form with respect to that type of plan. Comments may be submitted in writing on or before June 4, 2018. Comments should be mailed to Internal Revenue Service, CC:PA:LPD:PR (Notice 2018–24), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, D.C. 20044, or sent electronically to notice.comments@irsounsel.treas.gov. Please include “Notice 2018–24” in the subject line of any electronic communications. Alternatively, comments may be hand delivered Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. to CC:PA:LPD:PR (Notice 2018–24), Courier’s Desk, Internal Revenue Service, 1111 Constitution Ave., NW,

Washington, D.C. 20224. All comments will be available for public inspection and copying. The principal author of this notice is Angelique Carrington of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this notice, contact Ms. Carrington at (202) 317-4148 (not a toll-free number). **Notice 2018–24 (Internal Revenue Bulletin: 2018-17)**

2. 2018 CORPORATE PENSION FUNDING STUDY:

The 2018 edition of the Milliman Corporate Pension Funding Study (PFS) is the 18th annual analysis of the financial disclosures of the 100 largest corporate defined benefit (DB) pension plan sponsors. These 100 companies are ranked highest to lowest by the value of their pension assets reported to the public, to shareholders and to the U.S. federal agencies that have an interest in such disclosures. During 2017 the private single employer defined benefit plans of the Milliman 100 companies made significant funding improvements. The Milliman 100 funded ratio settled at 86.0%, an improvement from the year end 2016 funded ratio of 81.1%. The funding deficit dropped by a noteworthy \$72 billion, ending the year at \$252 billion.

3. WHEN A CITY GOES BROKE; PENSIONS, RETIREES AND MUNICIPAL BANKRUPTCIES:

In recent years, a significant number of cities, towns and other municipalities in the United States have found themselves increasingly unable to pay their debts, according to Kevin M. Lewis, Legislative Attorney. In order to offer municipalities relief from many types of debts they cannot repay, Chapter 9 of the Bankruptcy Code authorizes certain municipalities to file for bankruptcy. However, filing for bankruptcy may adversely affect the municipality's creditors, especially beneficiaries of underfunded municipal retirement plans (who, along with bondholders, often hold "the lion's share" of a municipality's financial obligations). Because a number of municipalities face a "dramatic and growing shortfall in public pension funds," many "firefighters, teachers, police officers, and other public employees" who purportedly have "a right to pension benefits at retirement" face a significant risk that their pensions will ultimately not be fully repaid. The fact that public pensions, unlike their private counterparts, are neither subject to the "vesting and funding rules imposed by" the Employee Retirement Income Security Act of 1974 nor "protected by the federal pension guarantee program operated by the Pension Benefit Guaranty

Corporation” could, according to some commentators, further exacerbate that risk. Moreover, because courts presiding over municipal bankruptcy cases have generally been “amenable to modifying pension debt in bankruptcy,” retirees’ pension benefits may potentially be significantly curtailed when a municipality declares bankruptcy. Although many Chapter 9 debtors have ultimately opted not to cut pensions “for political or practical reasons,” courts and commentators generally accept that, under certain circumstances, municipalities “have the legal ability to shed pension debt” in bankruptcy if they so choose. Under current bankruptcy law, Chapter 9 debtors have significant freedom to modify their outstanding pension obligations through the bankruptcy process. There are proposals to alter the legal principles governing the adjustment of municipal pensions in bankruptcy.

Background on Municipal Bankruptcy Chapter 9 of the Bankruptcy Code authorizes municipalities to file for bankruptcy if they satisfy certain eligibility requirements. A Chapter 9 case is designed to culminate in “a plan for the adjustment of the debtor’s debts” that alters the financial relationships between the municipality and its creditors. Chapter 9 thereby affords a subset of municipal debtors relief from many types of burdensome debts so that they may continue to provide certain services that have been viewed as “essential” to their residents, like police protection, fire protection and garbage removal. Filing for bankruptcy under Chapter 9 confers many benefits upon a municipal debtor. Most relevantly, Section 365 of the Bankruptcy Code generally gives a Chapter 9 debtor the power to reject an “executory contract”—that is, a contract that the parties have yet fully to perform—subject to the bankruptcy court’s approval. Rejecting a contract under Section 365 effectively constitutes “a court authorized breach” of the agreement that generally “free[s] [the debtor] from future performance under the rejected contract.” “The claims arising from this breach” are then generally “subject to compromise in bankruptcy” pursuant to a Chapter 9 plan that modifies the debtor’s obligation to pay those claims. This authority to reject executory contracts “is a particularly powerful tool” because it allows the debtor to effectively “disavow” certain contracts “that it no longer wishes to maintain.” One such contract could be a municipality’s commitments to provide pension benefits to its employees.

Pensions in Municipal Bankruptcy As noted above, “many municipal debtors” face “overwhelming and seemingly unassailable pension obligations.” However, several bankruptcy courts presiding over high-profile municipal bankruptcies (such as the Chapter 9 cases filed by the City of Detroit and the City of Stockton) have agreed that a municipality’s pension obligations “may be adjusted as part of a chapter 9 plan” by using

Section 365's rejection power described above. As a result, filing for bankruptcy under Chapter 9 thereby "provide[s] a means of reducing the unfunded liability portion of a municipality's pension obligation or otherwise compromising a municipality's pension debt." That is not to say that "public pensions can be rejected or unilaterally modified willy-nilly," however. Some bankruptcy courts, most notably the court presiding over the City of Stockton's Chapter 9 case, have stated that a court must "balance the interests of the affected parties—debtors, creditors and employees"—to determine whether a debtor may permissibly "us[e] chapter 9 to force changes in municipal pension plans." Specifically, the bankruptcy court "must consider the consequences of the alternatives" to adjusting the municipality's pension obligations "on the debtor, on the value of creditors' claims and any ensuing hardship and the impact on employees. The court also must consider the degree of hardship faced by each party and must consider any qualitative differences between the types of hardship each may face." Moreover, even when a bankruptcy court might otherwise be inclined to permit a municipality to adjust its pension obligations, "political or practical" concerns may nonetheless deter municipalities from using Chapter 9 to adjust their pension obligations. "For example, it may be politically unpopular to treat debts owed to public workers in the same manner as sophisticated commercial lenders, or it may be difficult to continue the essential work of the city if employees feel that their employer's promises cannot be trusted." The fact remains, however, that municipalities potentially "have the legal ability to shed pension debt." Possible Considerations for Congress Given that multiple bankruptcy courts have concluded that the Bankruptcy Code gives Chapter 9 debtors significant (albeit not unlimited) power to modify their pension obligations, commentators have debated whether current bankruptcy law correctly balances the competing interests of debtors, retirees, and other creditors. Some have argued that municipalities presently enjoy too much freedom "to set aside collective bargaining agreements and retiree protections" to the detriment of workers "who have devoted their lives to public service." Others, by contrast, have cautioned that affording pensioners favorable treatment in municipal bankruptcy cases could make lenders—who often "battle [with] retirees over the municipality's scarce resources" in Chapter 9 cases—"more wary about loaning money to struggling cities," which could, in turn, "increase borrowing costs for cities already in debt." Responding to this debate, some Members of the 115th Congress have introduced bills that would change how pensions are treated in municipal bankruptcy cases. For instance, the Protecting Employees and Retirees in Municipal

Bankruptcies Act of 2017 (H.R. 139) aims to “strengthen[] protection for employees and retirees under chapter 9 municipality cases” by (among other things) (1) making it harder for debtors to modify pensions and other retiree benefits over the objection of retirees and employees; and (2) imposing stricter eligibility requirements upon would-be Chapter 9 debtors, thereby narrowing the universe of municipalities that are eligible to modify their pension obligations through the bankruptcy process. As of the date of this publication, the bill is pending before the House Judiciary Committee’s Subcommittee on Regulatory Reform, Commercial & Antitrust Law.

4. CALPERS MAY JOIN UNION FOES OF 401(K) OPTION:

A bill by state Sen. Steven Glazer, D-Orinda, giving new state workers the option new University of California workers received two years ago, a 401(k)-style plan rather than a pension, is opposed by unions and soon may be opposed by CalPERS. More than a third of eligible new UC employees have chosen a 401(k)-style plan. Instead of a guaranteed lifetime monthly pension check, the 401(k) plan that replaced pensions in most of the private sector uses individual tax-deferred investments to build a retirement fund. A 401(k) plan avoids pension debt, now a rising cost for many governments. Employers only make a “defined contribution” to the retirement fund of an active employee. As critics point out, the risk of investment loss is shifted from the employer to the employee. But as the UC example seems to show many employees, apparently not planning a full government career, prefer a portable investment plan they can control and take with them to a new job. “This pension reform idea would be good for employees and provide a more stable fiscal foundation for the state.” “This new retirement plan would be especially attractive to millennials who do not intend to work for the state their entire lives.” Orinda and two other cities in Glazer’s district, Lafayette and Danville, are among the few California cities that give employees 401(k)-style retirement plans, not pensions. The cities get police and fire services from the Contra Costa County Sheriff and fire districts. “Most employees do not spend their entire career in state employment. Younger employees who work as long as 15 years for the state would likely be better off with their own retirement plan.” Pension systems usually have a “break-even point,” the years of service needed before employee contributions begin to earn pension benefits that exceed the value of the same amount of money invested in an idealized 401(k) plan. [Two studies](#) found different “break-even points” for CalSTRS, which has a back-loaded formula that increases pension amounts as

teachers near retirement age. For teachers starting at age 25, an Urban Institute study said it was 24 years, a UC Berkeley study 20 years. More than a dozen unions have filed letters of opposition with the Senate Public Employment and Retirement Committee. Many of the union opposition letters mention the shift of investment risk to employees, potential problems created by a five-year vesting period and a 401(k) employer contribution limited to the pension normal cost, and questions about investment fees and management. One of the letters mentions a common worry among public pension supporters. Some reformers want to shift government employees to 401(k) plans, following the trend among private-sector businesses that eliminates pension debt. A California Faculty Association letter said the bill “would promote 401(k)-style retirement plans over more state-run pension plans” and would set a “dangerous precedent” by allowing state employees to opt out of CalPERS. “This legislation raises very strong concerns as it would weaken CalPERS by allowing individuals to opt-out and take state contributions out of the system,” said the faculty association letter. When the CalPERS board was told that the staff was analyzing the Glazer bill, board member Theresa Taylor said: “It is my understanding that as we pull employees out into another fund essentially what you are doing is weakening the pension fund.” Taylor said she assumed that after the analysis CalPERS would be opposed to the Glazer bill. Mary Ann Ashley, CalPERS legislative affairs chief, briefly nodded her head in agreement. “OK, that’s what I thought,” said Taylor. Gov. Brown ran into a similar labor-CalPERS roadblock on a major cost-saver in his 12-point pension reform, a federal-style “hybrid” plan that combines a much smaller pension with a 401(k)-style plan. “As a matter of fact when I read the PERS analysis they say if you close the system of defined benefit (pensions) and don’t let any more people in, then the system would become shaky,” Brown told a legislative hearing in 2011. “Well, that tells you you’ve got a Ponzi scheme,” the governor said. “Because if you have to keep bringing in new members then the current system itself is not in a sustainable position,” he said. “So I don’t accept that, and we don’t need to close it off, anyway. But we do have to make sure that this system is sustainable over the long term.” In a Ponzi investment fraud, made famous by convicted Wall Street swindler Bernie Madoff, money used to pay investors returns on their accounts comes not from earnings but from new investors. Passage of the rest of Brown’s pension reform led to the UC 401(k) option. The governor wanted a cap on UC pensions similar to the one his pension reform imposed on state and local government hired after Jan. 1, 2013, under his Public Employees Pension Reform Act. UC officials

said pensions aid in recruiting top talent, particularly when competing with private universities that offer higher salaries but a 401(k) plan. A UC task force proposed that a 401(k) plan supplement capped pensions and also be offered to new hires as a pension alternative. Weakening the UC pension plan by diverting new members apparently was not an issue. A number of unions agreed to the 401(k) option, including 11,000 clerical workers represented by the Teamsters. On leaving state government, employees can get a refund of their CalPERS contributions with interest or leave their money with CalPERS and collect a pension when they retire. Glazer's bill is more generous, giving a departing 401(k) member their contribution plus the matching employer contribution, with investment gains. The employee contribution is the same as the pension contribution for those under PEPRA. The employer contribution is the same as would have been contributed for the pension "normal cost" if the employee did not have a 401(k). The "normal cost" presumably covers the cost of a pension earned during a year. For "miscellaneous" state workers, the current average PEPRA employee rate is 6.9 percent of pay and the employer normal cost contribution is 7.5 percent. Private-sector employer 401(k) contributions have been averaging [about 4.5 percent](#). The "unfunded liability" payment, often higher than the normal cost, is only paid by the employer. It covers debt from previous years, mostly due to below-target investment earnings or a change in actuarial assumptions such as lowering the earnings forecast. State workers have had retirement plan choices in the past. A cost-cutting measure in 2004 to help pay off a never-issued pension bond proposed by former Gov. Arnold Schwarzenegger put the first two years of employee contributions into a 401(k)-style plan. When the Alternate Retirement Program ended last Oct. 31, only 915 of the 57,405 participants had chosen to put the contributions into a Savings Plus Program 401(k), a supplemental program for state workers, said Amy Morgan, a CalPERS spokeswoman. Most employees chose to put their contributions into their CalPERS pensions. But 40 percent (22,934) made no choice and their contributions defaulted into a Savings Plus 401(k) or 401(a). They have the option of purchasing two years of service credit for their pensions. In 1984 legislation by former Assemblyman Dave Elder, D-Long Beach, gave most state workers the option of switching to a lower-paying pension that did not require an employee contribution, then 5 percent of pay. "CalPERS found that 47 percent of new workers from 1984 to 1988 chose the lower pension tier, which did not require any payroll deductions from employees," a Little Hoover [Commission report](#) said in 2011. The optional lower pension formula "1.25 at 65" (1.25 percent of final

pay for each year served at age 65), down from the previous “2 at 60,” was given to all new hires during a state budget crunch in 1991. A massive CalPERS-sponsored pension increase during a high-tech stock market boom, SB 400 in 1999, gave most state workers a “2 at 55” pension. Now the PEPRAs pension for new non-safety state employees is “2 at 62.”

5. UNITED KINGDOM’S FTSE 100 DB PLAN DEFICITS FALL 32% IN 2017:

The aggregate deficit of the FTSE 100 defined benefit pension plans fell 32% to £46 billion (\$64.6 billion) for the year ended June 2017, thanks to favorable market conditions and large sponsor contributions, according to JLT Employee Benefits. JLT said that the FTSE 100 pension portfolios fared better within a rising market, particularly those that continue to run very large mismatched equity positions. It said that because of the bond-like nature of pension liabilities, plans’ allocation to bonds can provide a useful proxy for the level of mismatching currently within portfolios. The average plan asset allocation to bonds rose to 63% from 61% the previous year. “Market conditions have certainly been more helpful to scheme portfolios over the past year, with strong equity market returns providing a much-needed boost to investment performance,” said Charles Cowling, director of JLT Employee Benefits. “Sponsors too, in some cases, have stepped up to the mark and taken the decision to inject cash into their schemes as part of their wider approach to managing balance sheet risks.” According to JLT, although more than half of UK’s FTSE 100 companies continued to pay significant contributions in a move to reduce their deficits, their pension liabilities still rose 21.2% to £710 billion, from £586 billion for the same period the previous year. Total contributions during the period increased 65% to £10.8 billion, from £6.4 billion the previous year; however, this increase was largely due to the activities of a small number of pension sponsors. Cowling said that while it is positive to see a reduction in the total deficit, “it is important to emphasize that this number masks the materially worse funding position likely to be reported by upcoming actuarial valuations.” JLT said that pension sponsors are increasingly withdrawing defined benefit provisions, and closing pensions to future accrual due to a combination of low interest rates, increasing life expectancies and aggressive regulation. It said that only 19 FTSE 100 companies are still providing defined benefits to a significant number of employees. Meanwhile, dividends continue to outpace total deficit contributions as the FTSE 100 companies had an aggregate of £73 billion of dividends relative to a deficit of £43 billion.

As a result, 42 companies could have settled their pension deficits in full, with a payment of up to one year's dividend, according to JLT. "The tension inherent between fund scheme deficits, delivering shareholder value and holistic covenant strength has been brought into sharp focus over recent months by the high-profile collapse of Carillion and BHS," said JLT. "The high ratio of total dividends paid versus the total disclosed scheme deficit ... highlights the missed opportunity for sponsors to substantially pay down their deficit and contribute towards further de-risking measures." The distribution of liabilities across index constituents remains uneven, as the consultancy group cited 17 large, legacy businesses having reported pension liabilities of more than £10 billion, while nine companies—typically more recent additions to the index—have no liabilities. "Progress has not been universal across FTSE 100 pension schemes and remains the story of the few rather than the many," said Cowling. "Too many are burying their heads in the sand and continuing to prioritize the short-term needs of shareholders over their long-term obligations to scheme members." The author is Michael Katz.

6. IMPACT OF PLAN SIZE ON WORKERS' RETIREMENT INCOME ADEQUACY:

Fee lawsuits and Department of Labor fee disclosure requirements have made defined contribution (DC) plan sponsors laser focused on plan fees. One apparent result has been that such fees have declined overall: according to analysis by BrightScope and the Investment Company Institute (ICI), between 2009 and 2015, total plan costs across all 401(k) plans declined by 14 basis points. This has translated into potentially improved retirement prospects for workers. According to the EBRI Retirement Security Projection Model (RSPM), workers ages 35-39 who enjoy 14 basis points fewer plan expenses can expect close to a 4 percent bump in net retirement savings surplus (NRSS) when they retire. While a 4 percent increase in retirement income adequacy is good, participants can experience significantly greater increases by simply benefiting from the economies of scale of large versus small plans. According to the Brightscope/ICI report, fees of small plans (those with \$1 million to \$10 million in assets) are 1.17 percent. This compares to fees of midsized plans (\$100 million to \$250 million in assets) of 0.52 percent and fees of mega plans (more than \$1 billion in assets) of 0.30 percent. These differences in fees translate into substantial variations in projected savings at retirement. According to RSPM, if the youngest cohort (ages 35-39) of participants in small plans enjoyed the economies of scale of midsized plans, they could expect an increase in NRSS of 19.6 percent—merely

due to lower fees. If such participants enjoyed the economies of scale of mega plans, they could expect an increase in NRSS of 26.8 percent due to lower fees. Costs associated with small plans are a driving force in coverage as well: According to the Bureau of Labor Statistics Compensation Survey, while 83 percent of those working for private sector employers with 500 employees or more have access to a defined contribution plan, only 60 percent of those working for private sector employers with 50-99 employees have such access. Statistics like these have prompted bipartisan support of initiatives intended to increase availability of open Multiple Employer Plans (MEPs). The thinking goes that open MEPs allow small employers to band together and gain economies of scale to overcome inefficiencies currently preventing them from making cost-effective DC plans available to workers. In 2016, the Commission on Retirement Security and Personal Savings of the Bipartisan Policy Center (BPC) advocated the creation of a new type of open MEP that would be covered by ERISA for businesses with fewer than 500 employees. More recently, a provision in the Retirement Enhancement and Savings Act of 2018 (RESA) seeks to facilitate the availability of open MEPs by modifying regulatory provisions such as the “one bad apple” rule that might otherwise hinder open MEP availability. Critics of open MEPs point to the daunting challenges associated with supporting large numbers of low balance accounts and other administrative considerations, which suggest that economies of scale will be very difficult to achieve. They further point to the potential for abuses if implementation and oversight aren’t well thought out. However, EBRI’s projection analysis shows that there are potentially gains to be made if open MEPs can achieve even some of the economies of scale of larger plans for small businesses.

7. SOCIAL SECURITY DISABILITY INSURANCE; GOVERNMENT ACCOUNTABILITY OFFICE HAS RELEASED A REPORT ON INFORMATION ON POTENTIAL IMPLICATIONS OF EXPANDING PRIVATE DISABILITY INSURANCE:

GAO's analysis found that coverage and key features of Social Security Disability Insurance (SSDI) and long-term employer-sponsored private disability insurance (PDI) differ in a number of ways. Key differences include the number of workers covered; characteristics of covered workers; and eligibility, benefits and return to work assistance. For example:

- According to GAO's analysis of Bureau of Labor Statistics and Social Security Administration (SSA) data, SSDI covers an estimated 96 percent of workers, while

33 percent of workers have PDI coverage through their employers. Also, PDI coverage is more prevalent among workers with higher wages (e.g., management positions) and in certain business sectors (e.g., finance).

- GAO's review of SSDI and PDI policies found that some PDI policies may pay benefits for medical conditions that SSDI would not. However, these PDI policies may time limit payments for mental health and musculoskeletal disorders, while SSDI does not. In addition, while both SSDI and PDI policies include features designed to help beneficiaries return to work, PDI policies may provide such supports more quickly than SSDI.

GAO's review of the literature identified three distinct proposals for expanding PDI that the proposals' authors believe would address SSDI's fiscal challenges. Specifically, all three proposals suggest that cost savings for the Disability Insurance Trust Fund could be expected by expanding PDI. According to the proposals, this would happen because expanding PDI would provide workers earlier access to cash and employment supports, which would reduce the number of SSDI claims or the length of time SSDI benefits are paid to claimants. However, GAO's review of the three proposals noted that none of them provide enough information to assess how SSDI enrollment and costs might be affected with an expansion of PDI. Therefore, it is unclear whether cost savings to the Disability Insurance Trust Fund would actually be realized. For example, the proposals do not provide information on the type and timing of return-to-work services that would be provided under expanded PDI, nor do they take into account the differences in the populations served by SSDI and PDI policies. Moreover, stakeholders that GAO interviewed about these proposals raised a number of issues about other implications of PDI expansion that the proposals do not explicitly or fully address. For example:

- Insurers told GAO that it was unclear how expanding PDI would affect PDI premiums and the impact this would have on enrollment.
- Employers told GAO they were concerned about potential additional requirements or administrative burdens that would be placed on them if PDI were expanded.
- Employee and disability advocacy groups told GAO they were concerned about whether PDI expansion would provide standard services or employee protections

currently available under SSDI, especially with respect to PDI expansion proposals that would replace SSDI for 2 years.

SSDI, which is administered by SSA, provides financial and other assistance to qualifying individuals who are unable to work due to their disabilities. SSDI is primarily funded by employee and employer payroll taxes that are placed in the Disability Insurance Trust Fund, which is currently projected not to be able to pay full benefits starting in 2028. While there are a number of ways to address the fiscal condition of the Disability Insurance Trust Fund, some researchers have proposed expanding employer-provided PDI. GAO was asked to review whether expanding PDI could result in potential savings to the Disability Insurance Trust Fund. This report examines (1) what is known about how coverage and key features of SSDI and PDI compare, and (2) the potential implications of three distinct proposals to expand employer-sponsored PDI on the Disability Insurance Trust Fund and various stakeholders. GAO analyzed data on SSDI and PDI coverage from SSA and BLS for 2016 and 2017; reviewed relevant federal laws, regulations, and guidance; reviewed three PDI policies that three large insurers we selected described as typical for their companies; reviewed three distinct proposals to expand PDI identified through a literature review; and interviewed SSA and Department of Labor officials, authors, researchers, and representatives of insurance, employer, employee, and disability groups for a range of perspectives. GAO-18-248 (April 10, 2018)

8. IRS DIRECT DEPOSIT LEADS TO FASTER REFUNDS:

With the tax deadline just passed, the Internal Revenue Service reminds taxpayers that making an electronic direct deposit of their refund into a bank or other account is the fastest way to get their money. A taxpayer can deposit their refund into one, two or even three accounts to help with retirement or savings. Eight out of 10 taxpayers get their refunds by using direct deposit. It is simple, safe and secure. The IRS uses the same electronic transfer system to deposit tax refunds that is used by other federal agencies to deposit nearly 98 percent of all Social Security and Veterans Affairs benefits into millions of accounts. Direct deposit also avoids the possibility that a refund check could be lost or stolen or returned to the IRS as undeliverable. Direct deposit is easy to use. A taxpayer simply selects it as the refund method when using tax software or working with a tax preparer, and then types in their account and routing number. It is important to double check entries to avoid errors. Direct deposit also saves taxpayer money. It costs more

than \$1 for every paper refund check issued, but only a dime for each direct deposit made. By using direct deposit, taxpayers can split their refund into up to three financial accounts, including a bank or Individual Retirement Account. Part of the refund can even be used to [purchase up to \\$5,000 in U.S. Series I Savings Bonds](#). Taxpayers can split their refund by using tax software or by using [IRS Form 8888](#), Allocation of Refund (including Savings Bond Purchases), if they file a paper return. If taxpayers want the IRS to deposit their refund into just one account, they simply use the direct deposit line on their tax form. Some people use split refunds as a convenient option for managing their money, sending some of their refund to an account for immediate use and some for future savings. The IRS reminds taxpayers they should only deposit refunds directly into accounts that are in their name, their spouse's name or both if it is a joint account. No more than three electronic tax refunds can be deposited into a single financial account or prepaid debit card. Taxpayers who exceed the limit will receive an IRS notice and a paper refund will be issued for the refunds exceeding that limit. The IRS also encourages taxpayers to file electronically. While persons can choose direct deposit whether they file their taxes on paper or electronically, taxpayers who e-file will typically see their refund in less than 21 days. Taxpayers can track their refund using "Where's My Refund?" on IRS.gov or by downloading the IRS2Go Mobile App. "Where's My Refund?" is updated once daily, usually overnight, so there is no reason to check more than once per day or call the IRS to get information about a refund. Taxpayers can check "Where's My Refund?" within 24 hours after the IRS has received their e-filed return or four weeks after receipt of a mailed paper return. "Where's My Refund?" has a tracker that displays progress through three stages: (1) Return Received, (2) Refund Approved and (3) Refund Sent. Whether through IRS Free File or commercially available software, electronic filing vastly reduces tax return errors, as the tax software does the calculations, flags common errors and prompts taxpayers for missing information. IR-2018-90, April 10, 2018

9. COMMON ERRORS TO AVOID WHEN FILING A TAX RETURN:

To ensure they meet their tax obligations, taxpayers should file accurate tax returns. If a taxpayer makes an error on his tax return, it will likely take longer to process and could delay a refund. Taxpayers can avoid many common errors by filing electronically, the most accurate way to file a tax return. All taxpayers can use IRS Free File.

Here are common errors to avoid when preparing a tax return:

- **Missing or inaccurate Social Security Numbers.** Be sure to enter each SSN on a tax return exactly as printed on the Social Security card.
- **Misspelled names.** Spell all names listed on a tax return exactly as listed on the taxpayers' Social Security cards.
- **Filing status.** Some taxpayers claim the wrong filing status, such as Head of Household instead of Single. The Interactive Tax Assistant on IRS.gov can help taxpayers choose the correct status. E-file software also helps prevent mistakes.
- **Math mistakes.** Math errors are common, ranging from simple addition and subtraction to more complex items. Figuring the taxable portion of a pension, IRA distribution or Social Security benefits is more difficult and results in more errors. Taxpayers should always double check their math. Better yet, tax preparation software does it automatically.
- **Figuring credits or deductions.** Taxpayers can make mistakes figuring their Earned Income Tax Credit, Child and Dependent Care Credit, the standard deduction and other items. Follow the instructions carefully. For example, a taxpayer who is 65 or older, or blind, should claim the correct, higher standard deduction, if not itemizing. The IRS Interactive Tax Assistant can help determine if a taxpayer is eligible for tax credits or deductions.
- **Incorrect bank account numbers.** Taxpayers who are due a refund should choose direct deposit for ease and convenience, but the IRS cautions taxpayers to use the right routing and account numbers on the tax return.
- **Unsigned forms.** An unsigned tax return is not valid. Both spouses must sign a joint return. Taxpayers can avoid this error by filing their return electronically and digitally signing it before sending it to the IRS. Taxpayers who are using a tax software product for the first time will need their adjusted gross income from their 2016 tax return to file electronically. Taxpayers who are using the same tax software they used last year usually will not need to enter prior-year information to electronically sign their 2017 tax return.
- **Filing with an expired ITIN.** The IRS will process and treat as timely a return filed with an expired Individual Tax Identification Number, but will not allow any exemptions or credits. Taxpayers will receive a notice explaining that an ITIN must be current before the IRS will pay a refund. Once the taxpayer renews the ITIN, the IRS will process exemptions and credits and pay an allowed refund. ITIN

expiration and renewal information is available on IRS.gov.

IRS Tax Tip 2018-55, April 10, 2018

10. SIGH... CHECK OUT WHAT LAW.COM SAYS ABOUT THE HIGHEST-PAID LAWYER IN AMERICA:

Here's a depressing comparison: Robert Khuzami and Judge Judy. Khuzami in his 35-year legal career has been a leading federal prosecutor, headed the Enforcement Division at the U.S. Securities & Exchange Commission, served as general counsel of the Americas for Deutsche Bank and was a partner at Kirkland & Ellis. When he left the firm earlier this year to return to the Southern District of New York, he revealed that he was paid about \$11 million in 2017 from Kirkland. "Gee," I thought. "That is an awful lot of money." Nope. Not really. You know who makes a lot of money? Almost surely more than any other lawyer in the United States? Or the world, for that matter? That would be Judith Sheindlin, a.k.a. Judge Judy, a one-time family court judge who earns a staggering \$47 million a year for yelling at litigants while presiding over small claims cases on television. So glad we have got our priorities in order, America. The details of her pay were confirmed as part of a lawsuit by Hollywood agency Rebel Entertainment Partners against CBS, which distributes her show. Los Angeles Superior Court judge ruled that Sheindlin's salary is not actually excessive. Right. Obviously. "That Judge Sheindlin is paid more than any other television host does not establish that her salary is unreasonable," wrote Judge Joanne O'Donnell, who makes somewhere in the neighborhood of \$225,000 for presiding over real cases in real court. "Plaintiff has presented no evidence that the salary was negotiated in bad faith or is unreasonable in light of the undisputed 'resounding success' of *Judge Judy* and the fact that without its namesake star, the show could not continue." Rebel sued CBS in 2016 for breach of contract, claiming that the network schemed to shortchange it of its share of the show's profits. Rebel says it is entitled to 5 percent of the net profits from *Judge Judy*, and alleges that CBS intentionally bumped up Sheindlin's salary so the show would run at a deficit, leaving it empty-handed. Rebel also said it deserves a share of a *Judge Judy* spin-off, *Hot Bench*. (Think *Judge Judy* en banc, with a three-judge panel.) CBS convinced O'Donnell to dismiss the claim about Sheindlin's compensation, although the (real) judge kept alive claims related to Rebel's share of *Hot Bench*. Sheindlin is not a party to the suit, but her statement to *The Hollywood Reporter* when the case was first filed is classic *Judge Judy*. "The fact that Richard Lawrence

[President of Rebel] is complaining about my salary is actually hilarious. I met Mr. Lawrence for two hours some 21 years ago. Neither I nor anyone involved in the day-to-day production of my program has heard from him in 20 years. Not a card, not a gift, not a flower not a congratulations. Yet he has somehow received over \$17 million from my program. My rudimentary math translates that into \$8.5 million an hour for Mr. Lawrence. Not a bad payday. Now complaining about not getting enough money; that is real chutzpah!”

11. 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.

12. CLEVER WORDS:

Primate: Removing your spouse from in front of the TV.

13. LEXOPHILES:

A backward poet writes inverse.

14. INSPIRATIONAL QUOTES:

When I let go of what I am, I become what I might be. – Lao Tzu

15. TODAY IN HISTORY:

On this day in 1986, World's worst nuclear disaster: fourth reactor at Chernobyl nuclear power station in USSR explodes, 31 die, radioactive contamination reaches much of Western Europe.

16. THINK YOU KNOW EVERYTHING:

Zero is the only number that cannot be represented by Roman numerals.

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

