



CYPEN & CYPEN

NEWSLETTER

for

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

1. NEVADA AND IDAHO ARE THE NATION'S FASTEST-GROWING STATES:

The U.S. population grew by 0.6 percent and Nevada and Idaho were the nation's fastest-growing states between July 1, 2017, and July 1, 2018. Both states' populations increased by about 2.1 percent in the last year alone. Following Nevada and Idaho for the largest percentage increases in population were Utah (1.9 percent), Arizona (1.7 percent), and Florida and Washington (1.5 percent each). Washington, D.C., reached a population of 702,455 in July 2018, surpassing 700,000 for the first time since 1975, according to the U.S. Census Bureau's national and state population estimates released today. The

change is due primarily to an influx of people from other parts of the country that began early in the decade. While the increase has begun to slow, the District of Columbia still grew by almost 1 percent last year. Population declines were also common, with losses occurring in nine states and Puerto Rico. The nine states that lost population last year were New York (down 48,510), Illinois (45,116), West Virginia (11,216), Louisiana (10,840), Hawaii (3,712), Mississippi (3,133), Alaska (2,348), Connecticut (1,215) and Wyoming (1,197). “Many states have seen fewer births and more deaths in recent years,” said Sandra Johnson, a demographer/statistician in the Population Division of the Census Bureau. “If those states are not gaining from either domestic or international migration they will experience either low population growth or outright decline.” Nationally, natural increase (the excess of births over deaths) was 1.04 million last year, reflecting 3,855,500 births and 2,814,013 deaths. With fewer births in recent years and the number of deaths increasing, natural increase has declined steadily over the past decade. In 2008, natural increase was nearly 1.8 million (based on National Center for Health Statistics data). Also released today were national- and state-level estimates of the components of population change, which include tables on births, deaths and migration. Census.gov, CB18-193, December 19, 2018.

2. FDIC ISSUES FINAL RULE ON RECIPROCAL DEPOSITS, AND SEEKS COMMENTS ON BROKERED DEPOSITS AND INTEREST RATE RESTRICTIONS:

The Federal Deposit Insurance Corporation (FDIC) took two actions related to brokered deposits. The FDIC adopted a final rule related to the treatment of reciprocal deposits, and it also issued an advance notice of proposed rulemaking (ANPR) related to brokered deposits and the interest rate restrictions. The final rule implements Section 202 of the Economic Growth, Regulatory Relief, and Consumer Protection Act to exempt certain reciprocal deposits from being considered as brokered deposits for certain insured institutions. The final rule also makes conforming amendments to the FDIC's regulations governing deposit insurance assessments. Under the reciprocal deposit exception addressed in the final rule, well-capitalized and well-rated institutions are not required to treat reciprocal deposits as brokered deposits up to the lesser of 20 percent of their total liabilities or \$5 billion. Institutions that are not both well capitalized and well rated may also exclude reciprocal deposits from their brokered deposits under certain circumstances. The final rule will take effect 30 days after publication in the *Federal Register*. The FDIC,

through the ANPR, is also seeking comments on all aspects of the brokered deposit and interest rate regulations. The ANPR is part of the FDIC's effort to comprehensively review its regulations and policies. Since the requirements for brokered deposits were put in place, the financial services industry has seen significant changes in technology, business models, and products. In addition, changes to the economic environment have raised a number of issues relating to the interest rate restrictions. The FDIC will carefully consider comments received in response to this ANPR in determining what actions may be warranted. Comments on the ANPR will be accepted for 90 days from the date of publication in the *Federal Register*. [PR-98-2018](#), Federal Deposit Insurance Corporation, December 19, 2018.

3. SOME UNIONS TURNING TO VARIABLE BENEFIT PENSION PLAN MODEL:

As a special committee in Congress continues to grapple with ideas to help struggling multiemployer pension funds and to keep others from the same fate, an increasing number of trustees are forging ahead with shared-risk or variable benefit plan designs that can better match benefits to market returns. "If Congress does something creative with pension reform, that's great, but we weren't going to wait around for it. We wanted to take the initiative just in case something isn't worked out," said Jason Engels, chairman of the \$95 million New Orleans Carpenters Pension Plan, a plan close to 100% funded that added a variable plan design for all benefits that have accrued since May. The basic premise of a variable defined benefit or annuity pension plan is that benefits are adjusted up or down based on investment returns. The assumed rate of return is called the hurdle rate, typically between 4% and 6%, which determines whether benefits for all participants, including retirees, rise or fall on a plan year basis. Like current practice, trustees set benefit accrual rates, including one-time increases, and bargaining parties negotiate contribution rates. However, annual adjustments to the variable benefit reflecting the plan's investment performance are driven by a preset formula. "No one variable plan design works for all plans. The main objectives of a pension board will influence the ultimate design, including balancing contribution risk and benefit risk resulting from investment volatility," said Jeanette Cooper, vice president and consulting actuary with Segal Consulting in Atlanta. She worked with the carpenters' plan, which features a 2.5% of salary accrual rate, a 5% investment return hurdle rate and a maximum 10% adjustment -- up or down -- in any year. The investment return is based on a five-year

average of market returns, and benefits continue to float when participants are in retirement. "We've been thinking about it for several years. It seemed like a good opportunity to go ahead and add the variable annuity design to guard against volatile markets and offer a plan attractive to our members as well as current and future employers," said Mr. Engels. Other pension funds in the five states covered by the Central South Carpenters Regional Council where he is executive secretary-treasurer are also considering it, as plan trustees become more open-minded and plan participants realize the increasing demands on multiemployer defined benefit plans. "Things are changing, and they are going to have to change," he said, noting most plan participants viewed the new design favorably. "Change is hard, of course, but our members understand the importance of maintaining a well-funded plan. "With this plan design, our contractors and members both share, good or bad. I tell them it's better to put a plan in place now that accounts for potential future market downturns than be reactionary 20 or 30 years down the road with unanticipated benefit cuts or contribution increases. We are just putting the proper measure in place to make sure this plan stays well-funded," Mr. Engels said.

Other features

Features of other variable plans in place or on the drawing board depend on recommendations from the actuarial firms and consultants who are spending increasing amounts of time fielding calls of interest, modeling the concept for their multiemployer plan clients, and launching them. Some have floors on how low benefits can dip if markets drop, and some build reserves to offset benefit drops in those cases. One approach is to add variable features to existing plans so that benefits change going forward, while other trustees choose to start a variable plan and manage it along with the existing legacy defined benefit plan. Launching a variable plan alongside a legacy defined benefit plan does not address withdrawal liability in the legacy plan but does diminish the likelihood of withdrawal liability in the new plan. For the carpenters' plan, "using a variable benefit for new accruals reduces the likelihood of having withdrawal liability as more and more of the total benefits become variable," Ms. Cooper of Segal said. Gene Kalwarski, CEO of actuarial consultant Cheiron Inc. in McLean, Va., said variable plan design options "all over the place" are being presented to more plans. "We alone are discussing it with a couple dozen situations. Multiply that by five for the other firms," he said. Some potential adopters came to the idea after considering switching to a defined contribution plan to

calm contributing employers' concerns over mounting contributions or unfunded liabilities, while others even made the switch to defined contribution, before realizing the variable plan option. "The barbells are DB and DC, and people haven't spent enough time in the middle," said Mr. Kalwarski. Trustees for the United Food and Commercial Workers Union Local 663 in Minneapolis started discussing a variable benefit plan in addition to their \$550 million defined benefit plan about five years ago, and began seriously studying it about two years ago, said Robert Kurak, a vice president and consulting actuary with Segal Consulting in Minneapolis. The variable plan will take its first contributions in January and cover 4,000 active participants. "There was a lot of interest on both sides of the table in securing lifetime benefits, where they don't have to worry about benefits becoming underfunded," he said.

More expected to switch

Kelly Coffing, a principal and consulting actuary with [Milliman Inc.](#) in Seattle, expects to see "more and more" variable plans in the multiemployer realm. By January, her firm will have converted 10 multiemployer plans and two corporate plans to its trademarked "sustainable income" variable design. The first plan went live in 2015. It calls for no floor on how low benefits can dip, but it sequesters some investment earnings from high-return years to build up a reserve that can be used to protect future benefits. "I think we are really at an inflection point where variable plans could be the future of DB plans," said David Blitzstein, a former UFCW benefits director and longtime advocate of variable plan design who consulted on the Minneapolis plan. While the concept has been around for a while, two major financial downturns in less than two decades helped actuaries, plan consultants and multiemployer plan trustees rediscover it, he said. "I think people are frustrated with investment risk and they are frustrated with changes in demographics," said Mr. Blitzstein, who is now president of Blitzstein Consulting LLC advising labor unions and multiemployer plans. "I like the potential for what it can do. You can derisk your portfolio and you can keep your promises to participants." Hazel Bradford, *Pensions & Investments*, December 24, 2018.

4. PENNSYLVANIA TEACHERS' PENSION FUND IS STILL PAYING THE CHICAGO CONSULTANT INVESTIGATED BY SEC:

The Pennsylvania Public School Employees' Retirement System (PSERS) has scrapped

an initial contract to renew an investment consultant's appointment after reports that the Chicago firm is being investigated by the Securities and Exchange Commission. However, Aon Hewitt -- which got paid about \$700,000 last year to help the retirement system pick from among the hundreds of funds that compete to manage billions in public investments - is still getting paid on a temporary basis. In a closed-door executive session of the retirement system's board, earlier this month, an Aon Hewitt representative apologized and acknowledged that the firm, which signed a preliminary consulting agreement in August, knew about the SEC investigation but failed to inform officials as required, a person present at the meeting said. "Like all registered investment advisers, Aon is subject to regulatory oversight by the SEC, and we're committed to continuing to cooperate with the SEC's inquiry," the company said in an emailed statement Wednesday about the investigation that started in 2017. Aon is one of four similar investment consulting firms that PSERS works with. In all, the system paid out \$3.6 million in 2017 to these consultants to help pick outside fund managers who collected more than \$450 million from PSERS in fees and retained profits. The retirement system that serves nearly 600,000 current and former public school employees has nearly \$57 billion worth of assets under management. It has an unfunded liability -- money needed to pay if all eligible employees choose to retire -- of more than \$44 billion. After scrapping the initial agreement with Aon Hewitt, the retirement system plans to put the consulting contract up for rebid. Aon said it plans to submit a bid once the new request for proposal is out. Although consulting fees are not nearly as high as the profit-sharing and direct fees collected by private-equity, real estate and other "alternative" investment managers, consulting profit margins can be large: Hamilton Lane, a publicly traded Bala Cynwyd-based investment adviser with many institutional clients, has told investors its [fees are as much as double](#) its expenses. The three other consultants PSERS hired last year are specialists for different classes of private investments; Aon is the only firm with similar responsibilities for investments in general. Such firms can function as gatekeepers, whose observations can have the effect of steering big clients toward or away from private money managers based on their analysis of how well they fit their clients' needs. "Aon was selected for contract negotiations through a [request for proposal] at the August board meeting," confirmed PSERS spokeswoman Evelyn Williams. But, she added, "before a contract with Aon was executed, Aon notified PSERS that Aon is subject to an SEC inquiry." She said it was "unclear" whether an earlier disclosure would have affected the

candidate scoring system used to choose between competing applicants. But once they knew the SEC was investigating Aon Hewitt's approach, the retirement system's trustees decided that "it is in the best interests of the commonwealth to cancel all bids and re-issue the RFP in order to protect the integrity of the process," Williams added. The SEC had not told PSERS of its probe. Though PSERS and other investors learned of it earlier, it became public knowledge on Dec. 10, when Pensions & Investments magazine wrote that the agency had escalated a routine review into "an enforcement investigation focused on its marketing materials and the custodial fees charged to several clients," the magazine said, noting that Aon had confirmed the probe. The investigation is "focused on the calculation of a single metric," or measurement claim, that Aon Hewitt has used in its marketing, Aon confirmed, according to Pensions & Investments. The company wouldn't say which metric was under review. The SEC enforces the Investment Advisers Act of 1940, which includes a strict prohibition of "untrue" or "false or misleading" statements, the SEC reminded firms in a September 2017 risk alert, which also pointed to "advisers' use of accolades" praising firms' records, in their promotional materials. Violations have in the past resulted in million-dollar fines. The magazine also reported that county investment funds in California and Virginia have reported Aon Hewitt had told them it was under investigation. The *Inquirer Daily News*, December 27, 2018.

5. CHICAGO'S POLICE FUND MAKES PENSION INTERCEPT CLAIM:

The Chicago police pension fund has joined the city firefighters' fund in seeking to divert state grants to make up for pension payment shortfalls. The tax levy and collection issue is playing out in the courts. The city argues it doesn't owe the funds because tax collections fell short. Chicago joined the short list of municipalities facing the diversion of state-related funds to make up for contribution shortfalls in September, when the Firemen's Annuity and Benefit Fund of Chicago firefighters fund filed a claim with Illinois Comptroller Susana Mendoza's office. The comptroller began withholding state grants and after a 60-day protest period ended, the comptroller's office concluded the fund appeared to have a valid claim of \$1.78 million and \$1.56 million for contributions in 2016 and 2017 and the cash was released to the fund, according to comptroller spokesman Abdon Pallasch. The Policemen's Annuity and Benefit Fund of Chicago followed late last year, seeking the diversion of funds to cover what it argues is a \$3.64 million 2017 shortfall and \$3.6 million for 2016. "Offsets began in December totaling" \$3.2 million so far, Pallasch

said. "They have 60 business days from the day we began withholding grant funds to challenge that action with our office." The public safety funds' claims came after the city adopted substantial funding boosts that include significant tax increases to fund them. The police claim filed with the comptroller notes that it has asked the city to make up the shortfall in the set contribution amount set in statute but that the city believes the difference is "reflective of a loss in collections between the city's tax levies and the actual collections from those levies, and that it is the fund who must absorb said loss in collections." "The city continues to maintain and defend its position that it made all statutorily required contributions," city Law Department spokesman Bill McCaffrey. "If the city prevails in court, it will seek to recoup the state grants diverted to the fund."

INTERCEPT

The city's contributions to its public safety funds are based on its own set of pension statutes under state legislation that established a set amount that ramps up between 2016 and 2020 to an actuarially required contribution level in 2021. Previously the contributions were based on a multiplier of employee contributions, a formula that fell far short of an ARC, leading to swelling unfunded liabilities. Public safety funds and the Illinois Municipal Retirement Fund, which covers suburban and downstate general employees, fall under a separate set of rules that already requires actuarially based contributions. The comptroller began enforcing an intercept mechanism of "state funds" such as sales taxes to cover a shortfall in actuarially based payments for the pension systems outside Chicago early last year. Chicago's pension legislation allows only for the diversion of "state grants." Funds from Harvey, North Chicago, and Chicago have triggered intercepts for their public safety funds and a handful of others for IMRF shortages, Pallasch said. Some researchers and municipal participants feared a flood of requests would follow possibly straining local government budgets as hundreds of public safety funds have reported payment shortfalls. The intercept also has sparked worries that bondholders' legal claims will fall behind pensioners as distressed governments try to preserve funding for critical services.

LAWSUITS

The city's police and fire pension overhaul legislation also allows the funds to go to court to "bring a mandamus action in the Circuit Court of Cook County to compel the city to make the required payment, irrespective of other remedies that may be available to the

fund,” the state law says. Last fall, the firefighters fund filed a lawsuit against the city in the Cook County Circuit Court asking the court to declare that the city must make the full payment amount set in statute. A brief status hearing was held last week. Judge Sophia Hall is presiding over the case. The lawsuit argues that “the plain language” of the city’s pension legislation requires the city “to contribute to the fund an amount equal to \$199 million in fiscal year 2016 and an amount equal to \$208 million in fiscal year 2017” with the shortfall reflected in the claims filed with the comptroller. The city has since filed a counterclaim and is seeking to recoup the grants withheld for the firefighters and it is asking the court to find that it has met its obligation that requires it to only levy the amount needed to raise an amount equal to the set contribution, not to actually pay that amount. “Historically, the city has never added a loss in collection factor to its property tax levy for the fund, and any loss in collection has at all times been absorbed by the fund. There has been no practice of having the city make up for the loss in collection through a supplemental payment to the fund,” the city argues. The city further contends there was no “intent on the part of the General Assembly to change the settled practice by which the loss in collection is absorbed by the fund and offset by the additional collections that are routinely received after the close of each year.” City officials had hoped the police fund would hold off on filing its claim with the comptroller until the firefighters’ lawsuit was resolved, providing legal direction on the tax collection dispute. The court’s decision stands to impact future city contribution levels going forward, although it’s unclear what impact it could have on other municipalities, especially those like Harvey where actual property tax collections are weak. “Should the recapture provisions of the pension code be invoked as a result of the city’s failure to contribute all or a portion of its required contribution, a reduction in state grant money may have a significant adverse impact on the city’s finances,” Chicago wrote in its 2018 annual financial analysis. The city’s net pension liability stands at \$28 billion with the system collectively funded at a 26.5% ratio. The legislative overhaul pushed through by the city is designed to put the funds on a path to a 90% goal by 2055 for public safety and 2058 for muni and laborers. The spike in contributions at the end of the ramps for all four funds -- 2021 for public safety and 2023 for municipal and laborers -- will result in a \$1 billion increase by 2023 in the roughly \$1 billion now paid toward pensions. How to cover the ARC costs when they hit is the subject of heated debate and a driving factor behind the city’s exploration of a \$10 billion pension bond issue. Mayor Rahm Emanuel is not seeking a third term in the February election.

Yvette Shields, Fidelity, January 23, 2019.

6. IRS FREE FILE OPENS TODAY IN ADVANCE OF TAX SEASON:

An improved version of IRS Free File begins its 17th filing season today as a dozen private-sector partners offer their brand-name products to help eligible taxpayers navigate the new tax reform law and electronically prepare their tax returns. The free online software program, accessible only through IRS.gov, is available for taxpayers to use in advance of the start of the filing season on Jan. 28. A number of changes were made to Free File this year, strengthening the program to make it even more taxpayer friendly. More than 53 million taxpayers have used Free File since the program's inception. The public-private partnership between the Internal Revenue Service and the Free File Alliance provides free, brand-name tax software and free electronic filing to taxpayers who earned \$66,000 or less last year. Some providers offer both free federal and free state tax preparation. Active duty military personnel with incomes of \$66,000 or less may use any Free File software product offering a military option without regard to other criteria. "Free File is an important tool that allows taxpayers free access to electronic filing of their tax returns," said IRS Commissioner Chuck Rettig. "The program has been a great partnership with the private sector, and we've taken steps to improve Free File this year. With these changes to the Free File program as well as the new tax law, this is a great year for people to consider using this option for preparing their taxes." Starting today, taxpayers can go to www.irs.gov/freefile to find the Free File software product that matches their situation. Each partner sets its own eligibility standards, generally based on age, income or state residency. Taxpayers can do their taxes online from IRS.gov or they can use the IRS2Go mobile app to access Free File and do their taxes on their mobile phones, tablets or any app-enabled device. For taxpayers who earned more than \$66,000, there is Free File Fillable Forms, the electronic version of IRS paper forms which will be available when the IRS begins the filing season on Jan. 28.

Who can use Free File

Any individual or family whose adjusted gross income for 2018 was \$66,000 or less can find at least one Free File software product they can use. Often, taxpayers are eligible for multiple products. The income limitation means that 100 million taxpayers – 70 percent – are eligible to use Free File. Workers, families with children, first-time filers and seniors

who meet the income criteria are all eligible for Free File. The software supports all the new tax law changes as well as long-time benefits such as the Earned Income Tax Credit. While most products have a set of eligibility requirements, 10 Free File partners have a special offer for active duty military personnel by making their sole eligibility criteria an income of \$66,000 or less. IRS Free File is all that's needed for residents of Alaska, Florida, Nevada, South Dakota, Texas, Washington and Wyoming where there is no state income tax. Some Free File partners offer free federal and free state return preparation. And some states have their own Free File program.

How to use Free File

Taxpayers can only access Free File from IRS.gov. To get started, simply go to [IRS.gov/freefile](https://www.irs.gov/freefile). Use the "Help Me" tool to enter a bit of information such as age, income, and state residency. The tool will match the taxpayer with the software products. Generally, taxpayers will have several options from which to choose. Taxpayers also can review all the offers made by each of the 12 partners if they do not want to use the tool. Once taxpayers make their selection, they will be directed away from IRS.gov to the provider's website to prepare their return. Also, taxpayers can use the [IRS2Go app](#) to access Free File. Simply download the IRS2Go app onto any app-enabled device. From their phones or tablets, taxpayers can access the "Help Me" tool and go to the provider's website to do their taxes. Free File will be available to taxpayers from Jan. 11 through the mid-October deadline for extension filers. Taxpayers, regardless of income, also can use Free File to file an extension from the April 15 deadline.

New agreement offers new consumer protections

The IRS and the Free File Alliance, the consortium of the 12 partners, reached a new agreement recently to extend the Free File program through Oct. 31, 2021. This new memorandum of understanding also included several new consumer protections. These include:

- **Removing the "value-add" button from Free File partner landing pages.** Free File members will remove any button or link on their Free File landing pages that would take taxpayers to non-Free File programs. The change is designed to improve the transparency of the program, and to make the navigation easier for taxpayers to use Free File.

- **Taxpayers can return to the IRS Free File page if they don't qualify for an offer.** To use Free File, taxpayers must use IRS.gov to connect to a company offering Free File. If the taxpayer doesn't qualify for a free filing option on a particular member site, the new agreement requires these companies to offer taxpayers the option to easily return to IRS.gov to see if they qualify for another Free File offer.
- **Returning taxpayers' first option must be Free File.** If a taxpayer returns to a Free File member's website the following year after using the free program, the first option after logging into their account will be the Free File option -- before receiving any other offers from the company.
- **Follow-up emails to taxpayers who used Free File the previous year will welcome them back to the Free File service.** This change will strengthen rules for members sending follow up emails to prior year customers, reminding them of the availability of Free File. To help increase program participation, Free File members will email prior year participants welcoming them back to the Free File program. The email cannot contain information about any non-Free File service or product or any other marketing or soliciting, except for free or paid state tax preparation offers.
- **Emphasis on the in-place review process.** Both the IRS and a third party already review each Free File option before filing season to ensure the program standards are being followed by Free File members. The new agreement now reinforces this longstanding requirement, which has always also included an unannounced review during filing season.

IRS Newswire, Issue Number: IR-2019-02, January 11, 2019.

7. TWO OF A KIND? NOT ALL 457(B) PLANS ARE THE SAME:

You may already know there are significant differences between a 457(b) plan sponsored by a governmental entity and a 457(b) plan sponsored by a tax-exempt organization. But do you know what they are? It can be confusing for plan sponsors because the plans are so similar and articles on the subject of 457(b) plans do not always point out the distinctions.

How All 457(b) Plans Are Alike

A 457(b) plan is a deferred compensation plan that permits certain employers or employees to contribute money for retirement on a tax-deferred basis. Internal Revenue Code (Code) Section 402(g) provides the contribution limit (402(g) Limit) which for 2019 is \$19,000. Earnings on these contributions are also tax-deferred. A 457(b) plan is not subject to coverage or nondiscrimination testing. If you are familiar with 401(k) plans, you'll recognize many of the other common requirements or provisions described below that apply to both tax-exempt and governmental 457(b) plans.

- Documentation: the plan must be in writing.
- Catch-up contributions: a participant may be permitted to elect to increase salary reductions for the final three years before reaching normal retirement age up to the *lesser of*
 1. two times the applicable dollar limit (\$38,000 for 2019), or
 2. the applicable dollar limit plus the sum of unused deferrals in prior years provided the prior deferrals were less than the applicable deferral limits (not counting any age 50 catch-up contributions (permitted only in governmental plans)).
- Deferral election timing: the election to make contributions through salary reduction must be made before the first day of the month in which the compensation is paid or available.
- 402(g) Limit: employer and employee contributions in the aggregate are measured against the 402(g) Limit.
- Hardship distributions: these are permitted if the distribution is required as the result of an unforeseeable emergency beyond the participant's or beneficiary's control, all other sources of financing have been exhausted and the amount distributed is necessary to satisfy the need (and the tax liability arising from the distribution).
- Required minimum distributions: Code Section 401(a)(9) rules apply.
- Distributable events: these include attainment of age 70½, severance from employment, hardships, plan termination, qualified domestic relations orders, and small account distributions (with a minor difference).

How Governmental and Tax-Exempt 457(b) Plans Differ

The differences between a tax-exempt 457(b) plan and a governmental 457(b) plan include:

- Eligible employees: governmental plans can include any employee or independent contractor who performs services for the employer while tax-exempt plans can only make select management or highly compensated employees eligible.
- Automatic enrollment: governmental plans may provide for automatic enrollment while tax-exempt plans may not.
- Roth contributions: governmental plans may provide for the designation of Roth contributions for all or a portion of salary reductions while tax-exempt plans may not permit Roth contributions.
- Catch-up contributions: governmental plans may permit age 50 catch-up contributions (\$6,000 in 2019) while tax-exempt plans may not.
- Correction of excess deferrals: governmental plans must distribute any excess contribution (plus income) as soon as practicable after the plan determines that an amount is in excess while tax-exempt plans must distribute the excess by April 15 following the close of the taxable year in which the excess deferral was made.
- Loans: governmental plans may permit loans while tax-exempt plans may not.
- Contributions to a trust: governmental plans are permitted to contribute to a trust while tax-exempt plans are not.
- Rollovers: governmental plans may provide for rollovers to other eligible retirement plans (401(k), 403(b), governmental 457(b), and IRAs) while tax-exempt plans may not.
- Taxation: for governmental plans, taxation is at the time of distribution, while for tax-exempt plans, taxation is at the earlier of when amounts are made available or distributed.
- Statutory period for correction of plan failures: governmental plans have until the first day of the plan year beginning more than 180 days after notice from the Internal Revenue Service regarding failure to meet applicable requirements while such correction period is not available to tax-exempt plans.
- Correction programs: a governmental plan can apply for a closing agreement with a proposal to correct failures that will be evaluated under EPCRS standards while such corrections are generally not available to tax-exempt plans.

Findley, January 15, 2019.

8. SUPREME COURT HANDS RARE WIN FOR WORKERS IN ARBITRATION CASE:

The U.S. Supreme Court sided with a long-haul truck driver who sued his employer for failing to pay him a minimum wage, handing down a decision that could have broad ramifications on the transportation sector and the economy as a whole, reports CNBC. CNBC reporter Tucker Higgins explains:

"In an opinion delivered for a unanimous court, Justice Neil Gorsuch held that courts must decide whether an exception in the Federal Arbitration Act, or FAA, for transportation workers applies before requiring arbitration. And, he wrote, that exception applies not just to traditional employees but also to independent contractors." The U.S. Chamber of Commerce had urged the court to rule in favor of the employer. *General Counsel News*, January 16, 2019.

9. LARGEST PUBLIC SECTOR PENSION OBLIGATIONS LIKELY FOR TEACHERS, SOA MORTALITY STUDY FINDS:

The largest public pension obligations are likely to be for teachers, according to a comprehensive look at mortality tables for public sector pension plans released Tuesday by the Society of Actuaries. It is the first time SOA has looked at public sector mortality separate from the private sector. SOA found the largest pension obligations likely to be for teachers than other job categories, when comparing the same benefit amount. Teachers have the longest age-65 life expectancy, and more deferred-to-62 annuity values, compared to public safety and general employee categories. The SOA tables also suggest a correlation between higher income and lower mortality. Women reaching age 65 had life expectancies of 90.03 for teachers, 88.8 for general employees and 87.68 for public safety personnel. Men reaching age 65 had life expectancies of 87.7 for teachers, 85.49 for general employees, and 85.27 for public safety personnel. Dale Hall, SOA's managing director of research, cautioned plan actuaries and other officials to interpret the mortality tables based on each individual job category. "There is no single mortality table covering aggregate public retirement plan mortality across all professions studied, due to the varying mortality patterns from each job category," he said in a statement. Implementing the new public pension mortality tables will vary by job category and other demographics in each pension plan, and mortality tables are just one of many assumptions used to

calculate pension funding, the SOA said. Further, plan sponsors will have to figure out how to best incorporate mortality improvement into their plan valuations. The [study](#) was based on about 46 million life-years of exposure and 580 thousand deaths from 35 public pension systems representing 78 plans. Contributors were asked to identify plan members as teachers, public safety personnel or general employees. The mortality experience data covers calendar years 2008-2013, and the SOA said the mortality rates should be considered one-year mortality probabilities as of July 1, 2010. Hazel Bradford, *Pensions & Investments*, January 22, 2019.

10. RETIREMENT CHOICES BY STATE AND LOCAL PUBLIC SECTOR EMPLOYEES: THE ROLE OF ELIGIBILITY AND FINANCIAL INCENTIVES:

I analyze the effects of state public pension parameters on the retirement of public employees. Using a panel data set of public sector workers from 12 waves of the Health and Retirement Study, I model the probability of retirement as a function of pension wealth at early and normal retirement eligibility and Social Security coverage in the public sector job. I find that becoming eligible for early retirement, or receiving an early-out offer, significantly increases the probability of retiring. I do not find any effect of retirement wealth levels; instead the findings are consistent with the literature on default options in defined contribution plans. These findings suggest that state legislative action to affect retirement decisions and reduce future pension costs may be most effective operating through plan eligibility rules and early-out incentives. If you usually get free papers at work/university but do not at home, you can either connect to your work Virtual Private Network or proxy (if any) or elect to have a link to the paper emailed to your work email address below. The email address must be connected to a subscribing college, university, or other subscribing institution. Gmail and other free email addresses will not have access. Leslie E. Papke, Working Paper No. 25436, The National Bureau of Economic Research, Issued in January 2019.

11. IRS: MAKE AN ESTIMATED TAX PAYMENT NOW TO AVOID A TAX TIME SURPRISE:

The Internal Revenue Service advised employees whose 2018 federal income tax withholding unexpectedly falls short of their tax liability for the year, that they can still avoid a tax-time surprise by making a quarterly estimated tax payment directly to the IRS. The

deadline for making a payment for the fourth quarter of 2018 was Tuesday, Jan. 15, 2019. Although the Tax Cuts and Jobs Act (TCJA), the tax reform law enacted last December, lowered tax rates for most people, it also nearly doubled the standard deduction and limited or discontinued many deductions, among other changes. Though most 2018 tax filers are still expected to get refunds, the number who owe tax, and in some cases a penalty, is likely to be larger than in recent years, and many of them are likely to be people who have always gotten refunds. Taxpayers who itemized in the past who now choose to take advantage of the increased standard deduction, as well as two-wage-earner households, employees with nonwage sources of income and those with complex tax situations, are at most risk of having too little tax withheld from their pay. This is especially true if they didn't update their withholding earlier this year. In addition, various financial transactions, especially those occurring late in the year, can often have an unexpected tax impact. Examples include year-end and holiday bonuses, stock dividends, capital gain distributions from mutual funds and stocks, bonds, real estate or other property sold at a profit. For anyone at risk for a tax-time surprise, making an estimated tax payment soon is the fastest and easiest solution. [Form 1040-ES](#), available on IRS.gov, includes a useful worksheet for figuring the right amount to pay. This form also includes a quick rundown of key tax changes and the federal income tax rate schedules for 2018. A companion publication, [Publication 505](#), Tax Withholding and Estimated Tax, has additional details, including worksheets and examples, that can be especially helpful to those who have dividend or capital gain income, owe alternative minimum tax or self-employment tax, or have other special situations. The fastest and easiest way to make an estimated tax payment is to do so electronically using IRS [Direct Pay](#) or the Treasury Department's Electronic Federal Tax Payment System ([EFTPS](#)). For information on other payment options, visit [IRS.gov/payments](#). If paying by check, be sure to make the check payable to the "United States Treasury." Though it's too early to file a 2018 return, it's never too early to get ready for the tax-filing season ahead. Though a good idea any year, starting early is a particularly good idea this year, when most tax filers will face revised tax rates and an altered array of deductions and credits. To help anyone wishing to sketch out their return early, the IRS has already posted the 2018 [Form 1040](#) and its instructions. Many supplemental forms and schedules have also been posted and others are being added every day. Two other useful resources are [Publication 5307](#), Tax Reform: Basics for Individuals and Families, and [Publication 5318](#), Tax Reform What's New for Your

Business. For other tips and resources, check out the [Get Ready](#) page on IRS.gov. Issue Number: IR-2018-255, IRS.gov, December 19, 2018.

12. DID YOU KNOW BENJAMIN FRANKLIN SAID THIS?:

When the well is dry, they know the worth of water.

13. POSERS:

Which letter is silent in the word "Scent," the S or the C?

14. INSPIRATIONAL QUOTES:

It's lack of faith that makes people afraid of meeting challenges, and I believed in myself. - Muhammad Ali

15. TODAY IN HISTORY:

On this day in 1929 St Valentine's Day Massacre in Chicago, 7 gangsters killed, allegedly on Al Capone's orders.

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

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