



CYPEN & CYPEN NEWSLETTER for April 11, 2019

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

1. DONATING TO HELP POLICE OR OTHER FIRST RESPONDERS:

Some good charities do great work to help first responders, our everyday heroes. Unfortunately, a few charities say they'll help law enforcement officers, firefighters or their families, but do very little. They spend the vast majority of donations on fundraising, salaries and other expenses. That's what happened with the Disabled Police and Sheriffs Foundation (DPSF). The Federal Trade Commission (FTC) and the State of Missouri [announced that they stopped this sham charity](#). According to the complaint, DPSF conned people into donating more than \$9.9 million. In telemarketing calls, DPSF fundraisers told people that donations would be used for grants to disabled officers and to the families of officers slain in the line of duty. But almost no one was helped. For example, in 2015, just five disabled officers and three families of fallen officers received

grants. The majority of the money--almost 95%--went to the director of the organization and the fundraisers he hired. It's horrid to think that there are disabled police officers that need help but did not benefit from those donations. And it can be hard on the phone to tell what's real and what's not. But by taking a moment to do a little research, you can avoid donating to a bogus charity like DPSF. If you want to help your local first responders, check directly with your police station or fire department and ask if they know and will benefit from the charity that you're considering. You can also research charities online. Check out [FTC.gov/Charity](https://www.ftc.gov/charity) for some tips. Many telemarketers are relentless and they'll try to pressure you into making a donation over the phone. Don't let them. A legitimate charity will be happy to get your donation anytime. And they might call you, because even if your number is on the [National Do Not Call Registry](https://www.ftc.gov/national-do-not-call-registry), fundraisers calling on behalf of a charitable organization are allowed to call. If you want them to stop calling you, ask them to put you on the charity's do-not-call list. They must honor that request. If you think a telemarketer has violated the rules, tell us at [FTC.gov/Complaint](https://www.ftc.gov/complaint). Rosario Méndez, Attorney, Division of Consumer and Business Education, FTC, Federal Trade Commission, March 28, 2019.

2. ONLINE TOOL LETS TAXPAYERS CHECK THE STATUS OF THEIR REFUND:

Taxpayers filing their tax returns to meet the upcoming tax filing deadline should know that the easiest way to check on their tax refund is to use [Where's My Refund?](https://www.irs.gov/wheresmyrefund). This tool is available on IRS.gov and through the [IRS2Go app](https://www.irs.gov/wheresmyrefund). The fastest way to get that tax refund is to use IRS e-File and direct deposit. Taxpayers can use Where's My Refund? to start checking on the status of their tax return within 24 hours after the IRS receives an e-filed return. For a paper return, it's four weeks after the taxpayer mailed it. The tool has a tracker that displays progress through three phases:

- (1) Return Received
- (2) Refund Approved
- (3) Refund Sent

All a taxpayer needs to use "Where's My Refund?" is their Social Security number, tax filing status and the exact amount of the refund claimed on their tax return. "Where's My Refund?" is updated no more than once every 24 hours, usually overnight, so there's no need to check the status more often. Taxpayers should only call the IRS tax help hotline on the status of their tax refund if:

- It has been 21 days or more since the tax return was e-filed
- It has been six weeks or more since the return was mailed

- When “Where’s My Refund?” tells the taxpayer to contact the IRS

Taxpayers who owe should pay as much as possible to minimize interest and penalty charges. The taxpayers should visit [IRS.gov/payments](https://www.irs.gov/payments) to explore their payment options. Issue Number: Tax Tip 2019-33, IRS Tax Tips, April 1, 2019.

3. TAXPAYERS INTERACTING WITH THE IRS SHOULD KNOW THEIR RIGHTS:

This is the final tip in a two-part summary of the rights granted to all taxpayers.

The [Taxpayer Bill of Rights](#) outlines the rights of taxpayers. The IRS groups these rights into 10 categories. Taxpayers interacting with the IRS should review [Publication 1](#), Your Rights as a Taxpayer, which explores these rights in depth. Here are the final five rights along with more information about each one:

The Right to Finality. Taxpayers have the right to know the maximum amount of time allowed to challenge an IRS position. They also have the right to know the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS concludes an audit.

The Right to Privacy. Taxpayers have the right to expect that any IRS inquiry, examination or enforcement action will comply with the law and be no more intrusive than necessary. During these proceedings, the IRS will respect all due process rights, including search and seizure protections. When applicable, the IRS will provide a collection due process hearing.

The Right to Confidentiality. Taxpayers have the right to expect that their tax information will remain confidential. The IRS will not disclose information unless authorized by the taxpayers or by law. Taxpayers should expect the IRS to take appropriate action against IRS employees, return preparers and others who wrongfully disclose return information.

The Right to Retain Representation. Taxpayers have the right to retain an authorized representative of their choice for representation during dealings with the IRS. When a taxpayer cannot afford representation, they may seek assistance from a [Low Income Taxpayer Clinic](#).

The Right to a Fair and Just Tax System. Taxpayers have the right to expect fairness from the tax system. The IRS must consider all facts and circumstances that might affect any liabilities, the ability to pay or the ability to provide information timely. Taxpayers have the right to receive assistance from the [Taxpayer Advocate Service](#). TAS can help taxpayers who are experiencing financial difficulty. They can also help when the IRS has

not resolved tax issues properly and timely through normal channels. The IRS will include Publication 1 when sending a notice on a range of issues, such as an audit or collection matter. Publication 1 is available in [English](#) and [Spanish](#). All IRS facilities will publicly display the rights for taxpayers.

More Information:

- [What the Taxpayer Bill of Rights Means for You](#)
- [IR-2014-72](#), IRS Adopts "Taxpayer Bill of Rights;" 10 Provisions to be Highlighted on IRS.gov, in Publication 1
- [IR-2014-80](#), IRS "Taxpayer Bill of Rights" Now Available in 6 Languages; 10 Key Rights Outlined in Updated Publication 1

Issue Number: Tax Tip 2019-32, IRS Tax Tips, March 28, 2019.

4. PROPOSED HIGHER COMPENSATION THRESHOLDS FOR OVERTIME EXEMPTION WOULD INDIRECTLY AFFECT RETIREMENT PLANS:

The DOL has proposed regulations that would substantially increase the salary thresholds used to determine whether executive, administrative, and professional employees must be paid overtime. The Fair Labor Standards Act (FLSA) generally exempts from overtime any employees who (1) are paid a predetermined and fixed salary (the "salary basis test"), (2) primarily perform executive, administrative, or professional duties (the "standard duties test"), and (3) are paid at least a minimum weekly salary (the "salary level test"). The current minimum salary level for this exemption is \$455 per week (\$23,660 per year). The overtime exemption also applies to individuals who fail to meet the standard duties test, but who primarily perform office or non-manual work that customarily and regularly includes at least one of the exempt duties or responsibilities of an exempt executive, administrative, or professional employee (the "minimal HCE duties test"), and whose total annual compensation exceeds a minimum annual amount (the "HCE salary threshold"). The current HCE salary threshold is \$100,000 per year. Both current salary amounts were set in 2004. They were increased in 2016, but a court declared that amendment to the regulation invalid, and an appeal of that decision was suspended by the Fifth Circuit pending the issuance of new regulations. The proposed regulations would increase the minimum weekly salary under the salary level test to \$679 per week (\$35,308 per year) and increase the HCE salary threshold to \$147,414 per year. (Different weekly minimums would apply in some U.S. territories and in the motion picture industry.) For purposes of the salary level test (but not the HCE salary threshold), up to 10% of the minimum weekly salary could be satisfied by annual or more frequent nondiscretionary bonuses, incentives, and commissions. A special rule would allow a catch-up payment if the total salary plus

bonus, incentives, and commissions did not equal 52 times the weekly minimum by the last pay period of the calendar year (or another 52-week period designated in advance by the employer). The proposed regulations would have no effect on overtime protections for employees in certain occupations (e.g., police officers, firefighters, nurses, and laborers) and would make no changes to the job duties tests. They also would not change the alternative compensation minimums for academic administrative employees and computer employees. The regulations could become effective as early as January 1, 2020. Once finalized, the thresholds would not be subject to regular cost-of-living adjustments, but the DOL has committed to periodic review and updating of the amounts through the rulemaking process. EBIA Comment: The proposed regulations do not include any provisions directly regulating retirement plans, but they will -- if adopted -- have indirect effects. The DOL has estimated that the increased dollar amounts would cause approximately 1.3 million employees to become eligible for overtime. In many cases, such eligibility would result in higher wages, which would translate into increased retirement plan contributions under plans that calculate plan contributions using a definition of compensation that includes overtime pay. The proposal might also create additional nonexempt highly compensated employees, because the FLSA's HCE salary threshold would be higher than the highly compensated employee dollar threshold under Code § 414(q) (\$125,000 for 2019). (This consequence of higher compensation is not unique to retirement plans; it could affect other plans subject to nondiscrimination testing that limit benefits for higher-paid employees.) For plans that exclude overtime pay when calculating contributions, nondiscrimination testing results could change, e.g., if the number of employees with overtime pay increases and that disproportionately lowers the average deferral or contribution percentages of non-highly compensated employees for testing purposes. Consequently, employers whose plans might be affected by the regulations may wish to project their impact in advance, so any increased costs and adverse effects on testing can be estimated, and preparations can be made to address them. For more information, see EBIA's [401\(k\) Plans](#) manual at Sections V ("Core Concepts: Definitions and Uses of Compensation"), XVIII.K ("Identifying Highly Compensated Employees (HCEs)"), and XX ("Nondiscrimination: Code § 401(a)(4) and Top-Heavy Rules"). Contributing Editors: EBIA Staff, Thomson Reuters, March 28, 2019.

5. OFFICE DEPOT COMPUTER SCAMS GAVE FAKE RESULTS:

Most of us manage basic [computer safety](#) on our own. We keep security software and firewalls up to date, and ignore pesky pop-up ads about computer health. Many of us would gladly take advantage of a free computer tune-up from a big-name retailer. We wouldn't suspect the tune-up might be a tech support scam. But according to a recent FTC complaint, that's exactly what happened at Office Depot and OfficeMax stores. Many customers who took their computers in for a free "PC Health Check" at Office Depot or

OfficeMax stores between 2009 and November 2016 were told their computers had malware symptoms or infections -- but that wasn't true. The FTC says Office Depot and OfficeMax ran PC Health Check, a diagnostic scan program created and licensed by Support.com, that tricked those consumers into thinking their computers had symptoms of malware or actual "infections," even though the scan hadn't found any such issues. Many consumers who got false scan results bought computer diagnostic and repair services from Office Depot and OfficeMax that cost up to \$300. Support.com completed the services and got a cut of each purchase. Office Depot, Inc. and Support.com, Inc. have both agreed to proposed settlements with the FTC to resolve the FTC's allegations. [This press release](#) has details about the terms of the proposed settlements. The companies will be prohibited from making various deceptive claims and will also turn over a total of \$35 million to the FTC, which the FTC expects to use for refunds. If the FTC can give refunds, we will publish another blog with details. The FTC has information to help you manage [security online](#). Read about ways to keep your computer [security up to date](#). Learn how to avoid, discover, and get rid of [malware](#) that may download viruses onto your computer or cause it to crash. If you find malware was installed on your computer, you can report it to the FTC at www.ftc.gov/complaint. Bridget Small, Consumer Education Specialist, Federal Trade Commission, March 27, 2019.

6. WORKERS WANT CONGRESS TO MOVE ON RETIREMENT LEGISLATION – PRUDENTIAL SURVEY:

More than three-quarters (77%) of American workers think Congress should do more to expand access to retirement plans, according to a survey released Tuesday by [Prudential Financial](#). The [American Workers Survey](#), conducted in February on behalf of Prudential by Morning Consult, also found that 68% of respondents were concerned that they won't have enough saved to retire comfortably, while 82% of working parents were concerned about their children's financial security as they grow up. "The challenge of saving for retirement, and the concern and stress that it imposes on workers, is a recurring theme in our surveys on barriers to workers' financial security," says Ann Kappler, deputy general counsel and head of external affairs for Prudential, in a statement. "This survey in particular highlights the increasing urgency for Congress to address retirement security." At small businesses (those with fewer than 100 employees), 39% of workers said their employer provides the benefits they need to feel financially secure, compared to 63% of workers at large businesses (companies with more than 1,000 employees). The Retirement Enhancement and Savings Act, the most widely discussed retirement bill in recent years, was reintroduced in the House in February after it fell short of simultaneously passing both chambers of Congress last session. It has garnered broad, bipartisan support and would make it easier for smaller employers to join open multiple employer plans, ease non-discrimination rules for frozen defined benefit plans and add a

safe harbor for selecting lifetime income providers in defined contribution plans, among other provisions. In the survey, 68% of respondents said believe policymakers should support retirement solutions that convert savings into a stream of lifetime income payments. Brian Croce, *Pensions & Investments*, March 26, 2019.

7. NEARLY ONE THIRD OF U.S. EMPLOYEES HAVE DIPPED INTO THEIR RETIREMENT ACCOUNTS:

Here's a statistic that wouldn't surprise many of your colleagues: 49% of U.S. workers are living paycheck to paycheck, according to [this year's MetLife](#) survey on trends in employee benefits. Given that pressure, another finding from the survey is perhaps less surprising: Nearly one third of respondents (30%) who contribute to a defined contribution benefit plan said they've dipped into their retirement savings, a move that financial advisors usually discourage because of the [penalties of early withdrawals](#), or the [loss of potential growth](#) (from compounding interest) that's inevitable with a loan. Besides, most people are already [woefully underprepared](#) for retirement already. The MetLife study, which includes data from 2,600 people working full-time in the U.S., age 21 and older, and was conducted by [Engine Insights](#), found this raiding of retirement accounts was pretty evenly distributed across generations. It revealed that 28% of boomers (aged 53 and above), who are closest to actually retiring, had already tapped their accounts, most commonly to pay down general debt or to buy or fix up a home. So did 22% of Gen Y workers (ages 23-36), aka millennials, who cited unexpected expenses and debt, including medical bills and student loans, as the causes. Incorporating responses from Gen Z (ages 21 and 22) for the first time, this year's survey found that more than one quarter (26%) of this group, too, have borrowed or withdrawn money from their retirement savings. Their reasons? Also medical debt, student loan debt, general debt, and, for 20% of Gen Zs, to purchase a car. The worst offenders, however, were the Gen Xers (aged 37-52), the [most beleaguered and least engaged](#) of generations, according to the study. Among the "sandwich generation," so named because they're often caring for children and aging parents, a third had already turned to their retirement accounts for some cash, largely to pay for unplanned expenses and outstanding bills (though student loan obligations were only cited by 8% of this demographic.) To be sure, MetLife, which provides insurance and employee benefit packages, has every incentive to promote better "financial wellness" at work, and to cite statistics, as it does in this report, that one in three employees are distracted by financial woes, or that 52% of employees say they expect to postpone retirement due to their financial situation. (That's up 15% since MetLife conducted the same study in 2015.) However, its findings about who is dipping into retirement savings reflect trends found in [other studies](#). In fact, young workers may be pulling cash from their retirement savings [at even higher rates](#). The research also reveals that today's workers expect companies to help them crawl out of their financial mess--not

just by paying them decently, but by providing the tools to figure out what they're doing with student loans, house payments, and day-to-day budgeting. Again, while the message dovetails nicely with MetLife's products, it also speaks to a larger paradigm shift: the creation of companies, largely in wealthy countries, that [operate almost like nanny states](#), caring for an employees by providing not only healthcare and insurance, but also tacos, massages, and nap pods. "Everyone is talking about stress, and so much of that stress is, 'I don't have money,'" Todd Katz, MetLife executive vice president and head of group benefits in the U.S., said at a media event in New York last week. "What's different now is employees are saying, 'Employer, I want you to help me.'" Lila MacLellan, Quartz at Work, March 26, 2019.

8. OLDER WORKERS: OTHER COUNTRIES' EXPERIENCES WITH PHASED RETIREMENT:

In response to an aging workforce, countries around the world have developed policies to encourage older workers to work longer to improve the financial sustainability of national pension systems and address shortages of skilled workers. Phased retirement is one option that can be used to encourage older workers to stay in the workforce. GAO was asked to look at phased retirement programs in the United States and other countries. In June 2017, GAO issued a report (GAO-17-536) that looked at phased retirement in the United States, where formal phased retirement programs are as yet uncommon. This report looks at phased retirement in other countries. Specifically, GAO examined (1) the extent to which phased retirement exists in other countries with aging populations, (2) the key aspects of phased retirement programs in selected countries, and (3) the experiences of other countries in providing phased retirement and how their experiences can inform policies in the United States. GAO analyzed relevant data, reviewed academic research, and conducted interviews to identify countries with phased retirement, and selected four countries with national policies permitting phased retirement programs with broad coverage for case studies. GAO also conducted interviews with government officials, unions, employer associations, and other experts. GAO's review of studies and interviews with employment and retirement experts identified 17 countries with aging populations and national pension systems similar to the Social Security program in the United States. These countries also have arrangements that allow workers to reduce their working hours as they transition into retirement, referred to as "phased retirement." Phased retirement arrangements encourage older workers who might otherwise retire immediately to continue working, which could help alleviate pressures on national pension systems as well as address labor shortages of skilled workers. The 17 countries had established phased retirement programs in different ways: at the national level via broad policy that sets a framework for employers; at the industry or sector level; or by single employers, often through the collective bargaining process. GAO's four case study countries--

Canada, Germany, Sweden, and the United Kingdom (UK)--were described as employing various strategies at the national level to encourage phased retirement, and specific programs differed with respect to design specifics and sources of supplemental income for participants. Canada and the U.K. were described as having national policies that make it easier for workers to reduce their hours and receive a portion of their pension benefits from employer-sponsored pension plans while continuing to accrue pension benefits in the same plan. Experts described two national programs available to employers and workers in Germany, with one program using tax preferences. Experts also said Sweden implemented a policy in 2010 that allows partial retirement and access to partial pension benefits to encourage workers to stay in the labor force longer. Even with unique considerations in the United States, other countries' experiences with phased retirement could inform U.S. efforts. Some employer specific conditions, such as employers offering employee-directed retirement plans and not being covered by collective bargaining are more common in the United States, but the case study countries included examples of designs for phased retirement programs in such settings. Certain programs allow access to employer-sponsored or national pension benefits while working part-time. For example, experts said the U.K. allows workers to draw a portion of their account based pension tax-free, and one U.K. employer GAO spoke to also allows concurrent contributions to those plans. In addition, experts said that certain program design elements help determine the success of some programs. Such elements could inform the United States experience. For instance, U.S. employers told us that while offering phased retirement to specific groups of workers may be challenging because of employment discrimination laws, a union representative in Germany noted that they reached an agreement where employers may set restrictions or caps on participation, such as 3 percent of the workforce, to manage the number of workers in the program. Employers in the U.S. could explore whether using a similar approach, taking into consideration any legal concerns or other practical challenges, could help them to control the number of workers participating in phased retirement programs. Highlights of [GAO-19-16](#), a report to the Special Committee on Aging, U.S. Senate, United States Government Accountability Office, GAO, February 2019.

DID YOU KNOW BENJAMIN FRANKLIN SAID THIS?:

Without continual growth and progress, such words as improvement, achievement, and success have no meaning.

PONDERISMS:

Why do people say "heads up" when you should duck?

INSPIRATIONAL QUOTES:

Start by doing what's necessary; then do what's possible; and suddenly you are doing the impossible. - Francis of Assisi

TODAY IN HISTORY:

On this day in 1968, US President Lyndon B. Johnson signs 1968 Civil Rights Act.

REMEMBER, YOU CAN NEVER OUTLIVE YOUR DEFINED RETIREMENT BENEFIT.

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