



CYPEN & CYPEN NEWSLETTER for October 17, 2019

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

1. FDIC ANNOUNCES NEW PAID PARENTAL LEAVE BENEFIT FOR EMPLOYEES:

The Federal Deposit Insurance Corporation (FDIC) announced a new paid parental leave program for its employees, providing six workweeks of paid leave per year for the birth, adoption, or foster placement of a new child. The program will be available to mothers and fathers equally, and to both parents if both are FDIC employees. "We are proud to provide this important benefit to our employees to ease some of the burden and worry that new parents face. We recognize that many of our employees spend much of their time on the road and away from their family, and it is important that they feel supported," said FDIC Chairman Jelena McWilliams. The FDIC's new paid parental leave program includes the following highlights:

- Employees will be provided up to six workweeks of paid leave per year for the purpose of caring for or bonding with a new child.
- All employees become eligible for the benefit immediately upon beginning work at the FDIC.
- Employees must take the leave within one year from the birth, adoption, or foster placement of a child.
- The leave can be taken all at once or intermittently, and is separate from any benefit that may be available to an employee pursuant to the Family and Medical Leave Act.

"The paid parental leave will allow the FDIC to be more competitive with the private sector in attracting the next generation of top talent," added Chairman McWilliams. The new program is being established in conjunction with the FDIC compensation agreement with the National Treasury Employees Union (NTEU), and will become effective in January 2020, following formal ratification of that agreement. Congress created the Federal Deposit Insurance Corporation in 1933 to restore public confidence in the nation's banking system. The FDIC insures deposits at the nation's banks and savings associations, 5,303 as of June 30, 2019. It promotes the safety and soundness of these institutions by identifying, monitoring and addressing risks to which they are exposed. The FDIC receives no federal tax dollars--insured financial institutions fund its operations. PR-89-2019, The Federal Deposit Insurance Corporation (FDIC), October 9, 2019.

2. IRS RELEASES DRAFT 2019 FORMS 1065, 1120-S AND SCHEDULES K-1:

The IRS issued a draft of the tax year 2019 [Form 1065, U.S. Return of Partnership Income](#) (PDF), and its [Schedule K-1, Partner's Share of Income, Deductions, Credits, etc](#) (PDF). The changes to the form and schedule aim to improve the quality of the information reported by partnerships both to the IRS and the partners of such entities. For example, among the changes is the addition of a checkbox that allows a taxpayer to indicate if certain grouping or aggregation elections have been made. The changes also reflect updates consistent with changes resulting from the Tax Cuts and Jobs Act. The additional information requested in the draft Form 1065 and Schedule K-1 is intended to aid the IRS in assessing compliance risk and identifying potential noncompliance while ensuring that compliant taxpayers are less likely to be examined. The IRS believes these changes to Form 1065 and Schedule K-1 will improve tax administration in the partnership arena, an area of critical importance to the IRS. In addition, certain similar changes can be found in the draft of the tax year [2019 Form 1120-S, U.S. Income Tax Return for an S Corporation](#) (PDF), and its [Schedule K-1, Shareholder's Share of Income, Deductions, Credits, etc.,](#) (PDF) which were also released today. Over the past decade and a half, tax

filings by partnerships have seen an increase. For calendar year 2004, about 2.5 million partnerships filed Form 1065; by calendar year 2017, that number had risen to more than 4 million, an increase of 59 percent. The rise in filings by partnerships was considerably greater than the rise in filing by C-corporations and S-corporations, combined, which rose about 14 percent over the same timeframe. This increase in filings reinforces the IRS's need to improve the data available for its compliance selection processes. The draft 2019 Form 1065 and Schedule K-1, as well as the draft Form 1120-S and its Schedule K-1, are near-final forms. The drafts are intended to give tax practitioners a preview of the changes and software providers the information they need to update systems before the final version of the updated forms and schedules are released in December. Issue Number: IR-2019-160, IRS Newswire, September 30, 2019.

3. TAXPAYER BILL OF RIGHTS OUTLINES PROTECTIONS FOR ALL TAXPAYERS:

All taxpayers have rights when they interact with the IRS. These ten rights are the [Taxpayer Bill of Rights](#), and they cover a wide range of topics and issues that directly affect taxpayers. These rights explain what taxpayers can expect in the event they need to work with the IRS on a personal tax matter. This includes when a taxpayer is:

- Filing a return
- Paying taxes
- Responding to a letter
- Going through an audit
- Appealing an IRS decision

The IRS issued a series of tax tips, each exploring one of the 10 rights in depth. Here are the 10 rights outlined in the Taxpayer Bill of Rights with links to the tax tips in this series:

- [The Right to Be Informed](#)
- [The Right to Quality Service](#)
- [The Right to Pay No More than the Correct Amount of Tax](#)
- [The Right to Challenge the IRS's Position and Be Heard](#)
- [The Right to Appeal an IRS Decision in an Independent Forum](#)
- [The Right to Finality](#)
- [The Right to Privacy](#)
- [The Right to Confidentiality](#)
- [The Right to Retain Representation](#)
- [The Right to a Fair and Just Tax System](#)

More Information:

- [Publication 1, You Rights as a Taxpayer](#)
- [Taxpayer Advocate Service](#)

Issue Number: Tax Tip 2019-135, IRS Tax Tips, September 30, 2019.

4. YOUR ERISA WATCH – SIXTH CIRCUIT AFFIRMS DENIAL OF ATTORNEYS’ FEES TO SUCCESSFUL ERISA PLAINTIFF IN QDRO DISPUTE:

This week’s notable decision, [Simonoff v. Saghafi, et al.](#), No. 19-3001, __F.App’x__, 2019 WL 4691468 (6th Cir. Sept. 26, 2019), is one where your sympathies may align with the end result, but one which seemingly makes a case that it is difficult to get attorneys’ fees if you’re a successful party in an ERISA action. As the panel noted in its opening line, “[a]ll family disputes are sad.” The underlying dispute involved a QDRO enforcement action between a husband and his wife’s guardian following 55 years of marriage. In short, Defendant Dr. Saghafi, alleged that his estranged daughter took advantage of his wife’s (her mother’s) dementia by isolating her from the family and hiring a divorce attorney who convinced the family court to issue two QDROs requiring Dr. Saghafi to sign off on the division of certain retirement funds. He refused. So, Plaintiff, the guardian of the wife’s estate, brought suit to enforce the QDROs. Dr. Saghafi responded by bringing several counterclaims, including a civil RICO claim. The district court enforced the QDROs and dismissed the counterclaims, not on their merits, but because of the *Rooker-Feldman* doctrine which prohibits federal appellate review of state judgments. Plaintiff sought attorneys’ fees under ERISA against Dr. Saghafi and his lawyer. The district court denied fees on the basis that Dr. Saghafi did not litigate in bad faith and that his positions were not objectively unreasonable. The Sixth Circuit, in an unpublished opinion, found that the district court did not abuse its discretion and affirmed the decision. The five factors the district court considered included: (1) the opposing party’s culpability or bad faith; (2) the party’s ability to satisfy an award; (3) the general deterrent value of an award; (4) whether the party seeking fees was pursuing a “common benefit” for a plan’s beneficiaries or aiming to “resolve significant legal questions”; and (5) the merits of the parties’ positions. Only the first and fifth factors were in dispute on appeal. On the first factor, the Court appears to conflate culpability and bad faith. The court explained that “[b]ad faith is often in the eye of the beholder.” It was not unreasonable for the district court to see that Defendant was an elderly man who believed, sincerely, “that his daughter and her lawyers had teamed up to loot him by taking ruthless advantage of an old woman’s dementia and duping the Ohio courts.” And, the district court is in a much better position to make these calls than an appellate court having only a cold record. On the fifth factor, the Court did not find Dr. Saghafi’s legal positions to be frivolous. He believed that the divorce proceedings were a fraud on the court. His contention that the QDROs were void was a

reasonable defense to the ERISA action. Even though the Ohio courts already rejected his challenge to the validity of the divorce proceedings, the Court noted that res judicata can always be waived or forfeited. "By itself, a prior adjudication is not enough to make a legal theory frivolous." The court also found that it was debatable whether his counterclaims breached the *Rooker-Feldman* doctrine. Ultimately, it was enough for the Court that Dr. Saghafi's defense theory was not "the legal equivalent of outer space." While the outcome of this case may seem fair depending on how you view Dr. Saghafi's motivations and actions, a successful party in an ERISA action, particularly an ERISA plaintiff, should not have to show that a defendant's legal theories are frivolous or out of this world to get an award of fees. The rest of this past week's cases are not out of this world, at least not for ERISAland. Enjoy! Michelle Roberts, Kantor & Kantor, September 29, 2019.

5. CLIMATE CHANGE COULD INTERFERE WITH RETIREMENT READINESS:

Events like wildfires and hurricanes can mean health-related or relocation costs for retirees. A new global survey about retirees' well-being paints a bleak picture for Americans hoping for an old age free of financial stress. A separate report on the impact of global warming makes it even worse. The 2019 Global Retirement Index released Thursday by Natixis Investment Managers cites a trifecta of risks for retirees, policymakers and long-term global sustainability: low interest rates, longer lifespans and the high costs of climate change. The constant struggle to get by on a fixed income is likely pushing down the U.S. score in one of four broad categories the index measures: material well-being. The U.S. scored 58% overall, down from last year's 61%, and dropped two spots in the overall country ranking, to No. 18. The nation's low rank for income equality (37th worst of 44 countries) is partially to blame. With income streams low, retirees may move into riskier assets in a bid to make up for a shortfall in income. "Many retirees may not have the time they need to recoup any losses due to a market downturn," the report by Natixis noted. [Health care is often one of the largest expenses](#) for American retirees. A new study by the Natural Resources Defense Council, an environmental advocacy group, and the University of California, San Francisco calculated that 10 climate-sensitive events in 2012 -- such as [wildfires](#), extreme heat and Hurricane Sandy -- played an outsized role in this dynamic, leading to more than \$10 billion in health-related costs. Severe weather that forces retirees to relocate, even temporarily, can be very disruptive for someone living on a fixed income, said Ed Farrington, executive vice president of retirement strategies at Natixis. The group's report said that "retirees are finding insurance costs escalating as insurers seek to keep pace with climate and weather-related property damage." There are a few glimmers of hope, however. A separate Natixis survey found that 64% of millennials actively seek investments aligned with their values, compared with 43% of baby boomers, and that 59% want to make a positive social or environmental impact when they invest, versus 48% for boomers. Such

numbers may encourage more opportunities to put money in planet-saving investments. "You get the economy you invest in," said Garvin Jabusch, co-founder of Green Alpha Investors. Here are highlights from the Natixis report:

In a time of deep concern about the impact of climate change, the environment score for the U.S. improved -- but the U.S. remains in the bottom 10 countries in the index. Nordic countries lead in retiree well-being, with Iceland at No. 1, Norway at No. 3, Sweden at No. 6 and Denmark at No. 7. "They dominate because of their strong social safety net and a health-care system where people don't have to set aside part of their nest egg to assure access to care," Mr. Farrington said. In Western Europe, Ireland managed a dramatic jump, going from No. 14 two years ago to No. 7 last year and No. 4 in 2019. The move is mostly due to higher per capita health spending, but also reflects improvements in the level of government indebtedness and in bank nonperforming loans. Bloomberg News, September 20, 2019.

6. JACKSONVILLE CITY COUNCIL COMMITTEE SUPPORTS TAKING ON JEA PENSION DEBT:

The Jacksonville City Council's Finance Committee agreed that if JEA is sold, City Hall will take sole responsibility for several hundred million dollars of pension debt that currently falls on the shoulders of JEA. Jacksonville's woefully underfunded pension plans have been a huge burden on city finances, resulting in voter approval in 2016 of a future half-cent sales tax to ease that chokehold. The Finance Committee voted 6-1 to recommend approval next Tuesday by the full council on an enhanced package of pension benefits for JEA employees if a deal actually happens for the city-owned utility. To cover the cost of those extra benefits, JEA would pay \$132 million of the sales proceeds to fully cover the expected cost of making good on those benefits. "We do know that employees are worried about their future, and this legislation would go a long way toward alleviating those concerns," JEA board Vice Chairman Fred Newbill told the council committee. The legislation also gives entities preparing bids for JEA assurance that if they acquire the utility, they would have no financial responsibility for pension benefits earned by JEA employees and retirees. However, the legislation does not say how the city would pay for JEA's existing share of the unfunded liability in the General Employees Pension Plan. JEA's portion of the unfunded liability is \$338 million, adjusting for the beneficial impact of a half-cent sales tax slated to kick in around 2030 for pension debt paydown. Brian Hughes, chief of staff for Mayor Lenny Curry, told the Finance Committee that if there is a deal for JEA, Curry would push for using roughly \$1 billion of the sales proceeds to pay off the existing debt for the Better Jacksonville Plan, which voters approved with a half-cent sales tax in 2000. By zeroing out Better Jacksonville Plan debt a decade faster than expected, that would end the plan's half-cent sales tax and replace it with the different

half-cent sales tax approved in 2016 to pump money into the city's pension plans and eventually fund them fully. Hughes said the Curry administration is "100 percent confident" the half-cent sales tax will cover JEA's unfunded pension liability. He said Curry "has explicitly stated and will continue to explicitly state" that he would require using \$1 billion to pay off the the Better Jacksonville Plan debt if there is a deal for JEA. City Council Auditor Kyle Billy warned that if the city takes over JEA's pension liabilities, the city will face greater financial exposure to swings in the economy. Jacksonville learned that the hard way after the Great Recession in 2008 dealt huge financial losses to investments in the city's pension plans, forcing huge increases in taxpayer payments to support the funds. "The pension plan will be paying benefits for many decades into the future," the auditor's office said in written comments on the legislation. "Even if the pension is fully funded at a point in time, a downturn in the stock market can reduce that funding status and increase the city's required contribution." Billy said the General Employee Pension Plan assumes that the plan's investments will generate annual 7 percent returns. He said a decade ago, the city assumed 8.4 percent returns, but as actual investment performance declined, the city dialed down its assumptions to be more conservative. He said if that downward trend continues, it will require even larger sums from taxpayers to make up for the difference. For instance, he said if the financial forecast assumed 6 percent annual investment returns, then JEA would have to pay \$256 million rather than \$132 million to cover the enhanced pension benefits sought by JEA for its employees. "So it is a big deal," Billy said. Billy recommended that since the city would have the sole responsibility for paying pension benefits earned by JEA workers, there should be a provision in the pension legislation (2019-566) or a future piece of legislation that a portion of the sales proceeds would fully fund the pension obligations earned by JEA workers. Finance Committee members said that's a decision for another day. "I don't want to hamstring us by starting to earmark money that doesn't exist right now and we don't know what that's going to look like," City Council member LeAnna Cumber said. She said the issue before City Council members is how to provide some enhanced retirement security to JEA employees if there is a deal. "This is our time to say this is important to us," she said. The Finance Committee's favorable vote sends the legislation to City Council for a vote next week. But later Tuesday, several members of the council Rules Committee said they will ask the full council to refer the bill to the Rules Committee for it to review and make a recommendation on the legislation. City Council member Matt Carlucci said the legislation is so important that it needs vetting by more than just the Finance Committee. "I don't want to hold it up just to hold it up," Carlucci said. "I want to hold it up to catch up." "I can't shake a feeling that we're being rushed," council member Brenda Priestly Jackson said. JEA Chief Operating Officer Melissa Dykes told Rules Committee members that approving the pension legislation would help give some much security to employees about their futures. "We did not impose that fear," Carlucci responded. He said JEA did not bring

the City Council into the decision-making process when the JEA board voted in July to explore privatization. At that meeting, JEA was ready to lay off 574 employees if the board didn't decide to seek offers for the utility. Carlucci said in asking for more time, council members want to make sure the legislation is good for employees and for Jacksonville residents. He said the bill should have "baked into it" a commitment for how the city would handle JEA's pension obligations. Council member Michael Boylan said he's concerned the council is headed to a repeat of its vote to withdraw legislation for the School Board's proposed half-cent sales tax referendum. Boylan said that was a "take it or leave it" proposition, and the council likewise has not been involved in JEA's decisions regarding a potential sale. Council member Randy DeFoor, who was the lone opposing vote on the pension bill in the Finance Committee, said JEA "never came to us to begin with." Valerie Gutierrez, business manager for IBEW Local 2358, said she understands concerns by council members about feeling rushed. She said she hopes there isn't a deal for JEA, but for employees, approval of the pension legislation would help "in a very tough job." "To have that sense of security is a must," she said. David Bauerlein, The Florida *Times Union*, September 17, 2019.

7. TOP 10 LOW-STRESS JOBS THAT PAY WELL:

Here is a list of the top 10 low stress jobs with the most recent information from the [Bureau of Labor Statistics](#).

I. Actuary

Do you love math and statistics and want to work a relatively low-stress, 9-to-5 job? You might be happy as an [Actuary](#). Your responsibilities involve looking at numbers, finding correlations, drawing conclusions, and presenting your findings. Actuaries often work for insurance companies, analyzing risk and helping their employers minimize costs. They also work for a variety of investment firms, including banks and financial advisors. The profession is expected to grow 22% by 2026, much faster than average.

- [Median Pay](#): \$102,800
- [Typical Education](#): Bachelor's Degree

II. Audiologist

If you want to help people, and you don't mind investing in several years of postsecondary education, [audiologist](#) might be the perfect job for you. Audiologists diagnose hearing loss and other inner ear problems. It's a good-paying job, earning a median salary of over \$60,000 per year. And this job is projected to grow 21% by 2026, according to the [Bureau of Labor Statistics](#), due in part to a significant increase in both the aging population as well as military veterans seeking treatment for hearing loss.

- [Median Pay](#): \$75,900
- [Typical Education](#): Doctoral or Professional Degree

III. Computer and Information Systems Manager

Sometimes called IT Manager, this occupation frequently offers six-figure salaries to the more experienced managers. People in this job are responsible for planning and coordinating computer systems for companies. As a disclaimer, 2 out of 5 [IT managers](#) reported working more than 40 hours a week in 2014, according to information from the Bureau of Labor Statistics. However, this profession is still considered by most to be far less stressful than the average career. The demand for IT Managers is expected to grow 12% by 2026.

- [Median Pay](#): \$142,500
- [Typical Education](#): Bachelor's Degree

IV. Dietician or Nutritionist

[Dietitians](#) and Nutritionists are experts that operate in all settings, from hospitals to clinics to government offices and more. Their role is to help people achieve a healthy lifestyle through diet, whether it's to lose or gain weight or to manage a disease like diabetes. Nutrition is gaining in popularity as a result of findings by holistic, naturopathic medicine. Individuals and organizations alike are seeing the benefit in hiring experts to help them improve overall health through diet rather than by medication with side effects. This occupation is expected to grow 15% by 2026.

- [Median Pay](#): \$60,300
- [Typical Education](#): Bachelor's Degree

V. Hair Stylist

After acquiring a certification and license in your state, you don't need a formal degree to [become a hair stylist](#). However, you do need natural talent -- as well as a knack for getting along with people and being able to understand what they're hoping to achieve with their look. Hair Stylists don't earn as much as other jobs on this list, but they do frequently have a great deal of flexibility, as nearly half work for themselves. Many stylists work from home, make their own schedule at one of the many shared stylist facilities in town, or even travel to service their clients. They're also in an occupation projected to grow 13% by 2026.

- [Median Pay](#): \$24,800

- [Typical Education](#): Postsecondary Certificate

VI. Mathematician

The demand for [mathematicians](#) is high — the Bureau of Labor Statistics projects that this occupation will grow 33% by 2026, thanks to the need for businesses to analyze high volumes of data. Mathematicians may also work for the federal government or the private sector. On the surface, this job may seem the same as actuary. But while many actuaries are mathematicians, mathematicians are not always actuaries. Considered a highly-specialized profession, nearly any high-level organization wishing to achieve precision in their services and projections has at least one mathematician on their payroll. Even professional sports organizations (such as the NFL) rely heavily on mathematicians to help their recruiters pick the best athletes and players improve their performance.

- [Median Pay](#): \$88,100
- [Typical Education](#): Master's Degree

VII. Medical Laboratory Technician

Lab Technicians collect and analyze samples for hospitals, doctor's offices, and diagnostic labs. The Bureau of Labor Statistics predicts that this occupation will grow 13% by 2026. As a lab tech, you would not work directly with patients. Physicians rely on you to help them verify whether or not a disease exists and what treatment alternatives make the most sense for the patient.

- [Median Pay](#): \$52,300
- [Typical Education](#): Associate Degree

VIII. Medical Records Technician

In contrast to some of the jobs on this list, Medical Records Technician is a lower-paying job, but it's also one you can do with little education. Most hospitals or doctor's offices require only a non-degree certificate from their Medical Records Technicians, and some may require an associate degree. This job is also expected to grow by 13% by 2026. Much of the work entails transcription and organization. Like the lab tech, you would work behind the scenes making sure that a patient's medical history is clear for doctors.

- [Median Pay](#): \$40,300
- [Typical Education](#): Postsecondary Certificate

IX. Speech Language Pathologist

Speech Language Pathologists (or Speech Therapists) diagnose and treat all manner of

speech and swallowing disorders. This occupation is expected to grow by 18% by 2026. Speech Therapists typically need a master's degree and licensure in their states in order to practice. As a speech therapist, you would be expected to work with children and adults. You might be helping a patient overcome a speech impediment, use proper terminology to better express thoughts and feelings, or even help someone speak that doesn't speak at all.

- [Median Pay](#): \$77,500
- [Typical Education](#): Master's Degree

X. Technical Writer

If you love [writing](#) and have the ability to understand complex ideas and explain them to the average reader, you might enjoy this career, which is expected to grow 11% by 2026. Technical writers frequently write for websites, or they may produce content for instruction manuals, proofread others' writings, and more. Often, the best writers are known for their ability to write clearly and concisely. The average reader typically can understand more with less.

- [Median Pay](#): \$71,800
- [Typical Education](#): Bachelor's Degree

Alison Doyle, The Balance Careers, May 23, 2019.

8. DID YOU KNOW WILL ROGERS SAID THIS?:

The worst thing that happens to you may be the best thing for you if you don't let it get the best of you.

9. INSPIRATIONAL QUOTES:

What appears to be the end of the road may simply be a bend in the road. - Robert H. Schuller

10. TODAY IN HISTORY:

On this day in 1907, Guglielmo Marconi's company begins the first commercial transatlantic wireless service between Glace Bay, Nova Scotia, Canada and Clifden, Ireland.

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

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