Retiree Medical Benefits – Yesterday, Today & Tomorrow

In our last informal survey on the status of retiree medical benefits among Ayco corporate partners conducted two years ago, we speculated as to whether retiree medical benefits faced a future similar to defined benefit pension plans. According to a study from the Kaiser Family Foundation, only 24% of U.S. employers with 200 or more employees currently offer retiree medical coverage – and many do not offer it to new hires. It is clear that employer-sponsored retiree medical coverage continues to erode. Depending in part on the future of the Health Care Marketplace, and the costs of care, we might expect further changes over the next few years. Employers providing retiree medical coverage may have to reassess their strategy, both for eligible pre-65 retirees and post-65 (Medicare-eligible) retirees.

Almost all companies offering retiree medical coverage recognizes that it is a valued benefit, at least to older employees. The same may not be true of Gen-X, Gen-Y, and even some Millennials who have many other priorities. The Health Care Marketplace, including both public and private Exchanges, created an alternative solution for employers to consider. A recent Willis Towers Watson survey on Emerging Trends in Health Care reported that more than half (56%) of U.S. employers expect the public exchanges to be a viable alternative to group plans for pre-65 retirees.

But maintaining the status quo may not always be a viable option for companies. Part of the reason for this, obviously, is to control costs and avoid any possible 40% Cadillac excise tax payable by an employer (although now delayed until 2020 and very possibly will be axed altogether). Companies also are looking over their shoulder at what their peers and competitors may be doing. We have recently seen a number of companies announce changes to their retiree medical coverage and we thought this would be an appropriate time to review the current state of this benefit among Ayco corporate partners.

Who Offers Retiree Medical Coverage

Retiree medical coverage has not disappeared in corporate America. Yet we are continuing to see employers make changes in their retiree health care programs. We recently reviewed data on retiree medical coverage for retirees available at 325 companies where Ayco provides financial counseling or financial education services. We compared current information to what we had compiled 12 years ago.

It should be noted that companies tracked in this informal comparative analysis are not identical. It is intended to reflect the aggregate changes in retiree medical coverage provided to eligible retirees over the past decade plus.
**Health Care Costs In Retirement**

One of the most difficult challenges facing employees who are nearing retirement is estimating whether they have saved enough to pay their family’s medical expenses in retirement. According to a survey of non-retired adults by Aviva USA in conjunction with the Mayo Clinic, nine out of ten individuals underestimate retirement health care costs. A recent survey by LIMRA Secure Retirement Institute reported that over 40% of retirees found their health care costs in retirement were higher than they planned or thought.

According to the “2017 Retirement Health Care Costs Data Report” issued by HealthView Services (using data derived from 70 million individual cases), the average 65-year-old couple retiring this year can expect health care costs during retirement of approximately $322,000 in today’s dollars. This amount is projected to increase to $410,000 for a couple retiring in ten years at age 65. It should be noted that these estimates do not include the costs of dental, vision, and hearing expenses, co-pays or other out-of-pocket expenses. Such expenses could add another $200,000 to the estimates. In addition, these estimates do not include expenses not covered by Medicare or nursing home expenses. Their study also projects that retiree health care expenses will increase at an average annual rate of 5.47% for the foreseeable future – nearly triple the current inflation rate and double the annual Social Security cost-of-living (COLA) adjustments.

HealthView Services also issued a report on the unique challenges that women face when planning for retirement. Women, on average, can expect to pay more for health care in retirement than men, primarily because of greater longevity. This difference is estimated at around 17.7% when both are age 65, healthy and single, based on women living two years longer than men, on average.

According to the Urban Institute, individuals should be prepared to spend approximately 30% of their monthly retirement income on health care expenses in retirement. Most are ill-prepared for this expense. A generation or two ago, most retirees from large U.S. companies could count on a promise of lifetime medical benefits with most of the cost of coverage borne by the employer. Current retirees are now simply looking for access to coverage and, perhaps, a subsidy to help pay some of the cost.

**Impact of the Health Care Marketplace**

While the Health Care Marketplace-federal/state Exchanges have not had a significant impact on corporate-sponsored health care coverage for active employees at medium and large companies, it is having an impact on retiree coverage. Unlike active workers, retirees, as well as most others who are COBRA-eligible, can elect Marketplace coverage and also may qualify for premium tax credits, depending on their family income.

The availability of health coverage through federal and state Exchanges has led companies which traditionally offered retiree medical coverage to consider eliminating it either for new retirees only, Medicare eligible retirees, or all retirees. One possible benefit is to remove older employees from the pool of covered individuals. In fact, we have seen several corporate clients take this step already—and a few examples will be illustrated below. While employers with more than 50 employees face a potential federal tax penalty (the “play or pay” penalty) if they do not provide affordable health care coverage to most active employees, employers are not subject to a penalty for allowing early retirees (or those eligible for COBRA) to obtain coverage through an Exchange. It can be a win-win situation as pre-65 retirees may qualify for a tax credit if family income is below 400% of the federal poverty level— in 2018, $48,240 if single or $98,400 for a family of four. It should be noted that once retirees become eligible for Medicare, they can no longer purchase coverage through an Exchange.

**The Private Exchange Solution**

A slightly different coverage solution than simply referring retirees to their state exchange is to offer eligible retirees coverage options through a private health insurance exchange. This can be viewed as an outsourcing alternative to provide resources for retirees to select appropriate coverage. We now count thirty-five of our survey group that are utilizing a private exchange. The most common private exchanges include Aon’s Retiree Health Exchange, Mercer’s Marketplace, and Willis Towers Watson’s OneExchange.

**A Defined Contribution Alternative – and Other Approaches**

Funding for post-retirement medical benefits is not mandatory, unlike funding of qualified pension plans. Just as a large number of companies have moved toward a defined contribution solution for their retirement plans, many companies have now adopted a similar approach for retiree medical. Defined contribution programs provide retirees
with an account from which the retiree can pay medical expenses, including premiums, deductibles, and co-pays decided by the individual. Hence, the term “consumer-directed” account.

This approach started over 20 years ago with retiree medical savings accounts funded primarily by the employer – sometimes within a company’s 401(k) plan – and intended to help set aside funds each year to help pay an employee’s anticipated expenses in retirement. A number still exist today but most were replaced nearly fifteen years ago by two different defined contribution funding vehicles – health reimbursement arrangements (HRAs) and health savings accounts (HSAs). Over 90% of Ayco corporate partners offer one or both of these options to active employees.

HSAs are funded primarily by individuals covered by a high deductible health plan (HDHP). A HRA is a notional account funded exclusively by employers, but with a rollover feature of unused amounts. While an employer generally cannot have a stand-alone HRA without also offering medical plan coverage to active employees (it would violate the PPACA ban on annual dollar limits), separate stand-alone HRAs for retiree coverage are allowable.

We have seen a few Ayco corporate partners adopt or expand defined contribution funding approaches for pre-age 65 retirees. Because retiree-only health plans are exempt from most PPACA rules, employers that want to continue retiree medical may explore this as a viable alternative. For example, retiree-only plans can have lifetime dollar limits – which plans for active employees cannot have. A federal court ruled that a retiree-only HRA set up by UPS did not violate PPACA rules by having a $500,000 lifetime limit on retiree benefits. However, because the company’s SPD was not written in a manner to be understood by the average plan participant and did not “reasonably apprise” the average retiree participant of this limitation, a federal appeals court recently sent the lawsuit filed several years ago back to a lower court to determine appropriate remedies (King vs. BCBS of IL).

Some companies that freeze or discontinue their retiree medical benefits will grandfather coverage for long-term employees. One company set up a retiree medical account (RMA) with notational credits for employees hired prior to 2013. The discretionary credits initially were $1,050 for each year of service plus a 3% annual interest credit. The RMA can be used to offset premiums for pre- or post-65 coverage under the retiree medical plan. Importantly, a right to this account does not become “vested” and will be forfeited if an employee leaves prior to becoming retirement eligible.

Another company has maintained its retiree medical plan, but to be eligible for coverage, a retiree must be pension-eligible on their last day paid and elect to commence pension benefits immediately.

According to an interesting analysis by the Employee Benefit Research Institute (EBRI), wealth, not health, drives employees to select a consumer-directed plan and fund a HSA. Account balances are higher for those with higher incomes – but not necessarily for those who engage in healthier behaviors. Middle-income employees also have begun to recognize the advantages of consumer-directed plans (and perhaps, as a result of employer incentives, to select a HDHP). However, even with these defined contribution funding mechanisms, most individuals are unlikely to accumulate enough to pay more than a portion of total retiree medical expenses. Of those eligible to contribute to a HSA, less than 75% do contribute. Four-fifths of those who contribute to a HSA also then take a distribution for a health care claim that year and less than 10% consistently contribute more than they project they would spend on current year medical expenses.

Here are other possible funding mechanisms for retiree medical benefits:

**Pension Plan** - A qualified pension plan is permitted to maintain a separate account (called a Section 401(h) account after the Internal Revenue Code (IRC) section that authorizes it) to provide for the payment of medical expenses. Employers with surplus assets held in their defined benefit pension plans can utilize certain amounts of the surplus to fund or pay for retiree medical expenses. But this situation is increasingly rare absent a pension freeze or termination.

In PLR 201511044, the IRS approved the transfer of surplus pension plan assets following a de-risking settlement to pay for medical benefits to retirees. Eligibles included those who elected a lump sum payout, those who elected to have annuity payments continue paid by an insurance company, and those who had their payment obligations transferred to another pension plan. Thus, this concept might be a viable option for companies with an over-funded pension plan able to extend a de-risking offer or for those considering a plan termination.
However, under IRS regulations, payments by qualified retirement plans for the health insurance of employees or former employees will generally be treated as taxable income. For retirees and their beneficiaries, certain conditions must be met for a plan to make such payments.

**VEBA** - A voluntary employee beneficiary association or VEBA is a trust funded by an employer to pay welfare benefits to its members and their dependents. A company is entitled to a tax deduction upon funding the trust and, perhaps more significantly these days, the arrangement shifts most or all of the risk of paying retiree medical from the company to the VEBA. Thus, a VEBA can have favorable tax and accounting consequences to employers committed to providing retiree medical benefits. In PLR 201303008, and more recently in PLR 201742002, the IRS agreed that income from a VEBA or trust used to subsidize the cost of retiree health benefits is tax-free. VEBA’s were established by several U.S. automakers and a number of other companies that had promised retiree benefits pursuant to collective bargaining agreements. Some employers are exploring other ways to use VEBA assets. For example, several large companies use assets held in a VEBA to buy medical stop-loss policies from a captive insurance company to pay medical expenses for their retirees and their dependents.

In PLR 201532037, the IRS approved paying the cost of certain benefits for active employees from a VEBA established primarily to pay for retiree medical benefits.

➤ **Medicare-Eligible Retirees**

At age 65, individuals are eligible for Medicare —whether actively employed or retired. Based on several studies, Medicare is expected to pay less than 60% of a retiree’s health care costs. Retiree medical coverage for those over age 65 typically is integrated with Medicare. In those cases where an active employee is covered under both Medicare and an employer’s plan, the employer’s plan must reimburse expenses before Medicare does. If Medicare pays a claim that should have been paid by an employer’s group health plan, the plan or the employer will be billed the amount improperly paid by Medicare, if and when the government becomes aware of the improper payment.

Because of this integration with Medicare and due to increasing costs, companies may consider eliminating coverage for post-65 retirees (even if they maintain it for early retirees) directing them to Supplemental Medicare coverage. In fact, we are seeing a number of companies announce this change.

One of the fastest growing expenses in all health plans – for active employees and retirees – is the cost of specialty drugs. Employers are attempting to temper this expense by directing employees to specialty pharmacies. Employers that offer prescription drug coverage must notify any Medicare eligible employees by October 15 of each year as to whether the drug benefit is as classified as “creditable coverage.” This means that it is expected to cover, on average, as much as the standard Medicare Part D prescription drug plan.

➤ **Tax Reporting**

While the value of health care coverage provided to both active employees and retirees generally is not income taxable, employers, insurers and health plan sponsors must provide coverage information to employees and retirees and to the IRS. This information will be reported on Forms 1094 and 1095. Penalties for failing to meet these reporting requirements are now $250 per form, subject to a maximum of $3M per year.

If an employer must provide a Form W-2 to a retiree, the value of such coverage is to be shown in box 12 using code DD (for informational purposes only). However, if an employer does not otherwise have to issue a W-2 to the retiree, it does not have to be provided to report this value.

In guidance issued in 2013, the IRS stated that if an employer provides cash to an individual in lieu of health benefits, the cash payment is to be reported as taxable wages even though the value of health benefits would not have been. In a private ruling issued in 2015 (PLR 201528004), the IRS approved an arrangement under which employees hired before a certain date could choose at retirement between the employer’s existing plan with premiums paid on an after-tax basis, or a retiree HRA funded exclusively by mandatory sick leave conversion. The retiree HRA could be used to reimburse health insurance premiums and eligible medical expenses for retirees and eligible dependents, although there was no cash option. The ruling agreed that contributions to the HRA would be income and FICA tax-free. Thus, this could be a retiree benefit alternative.

➤ **Recent Litigation**

Employers are not required to provide retiree medical benefits. While ERISA has vesting rules for qualified pension benefits, there is no automatic vesting or legal entitlement to lifetime medical benefits. There continues to be litigation over a retiree’s right to receive free lifetime health coverage. Most of these lawsuits involve unionized
employees with collective bargaining agreements. A majority of decisions favor the employer, but only if the company unambiguously reserved the right to modify or eliminate coverage.

This was confirmed in a decision by the U.S. Supreme Court (SCUS) in 2015. In the case of M&G Polymers USA vs. Tackett, the company sought to require retirees to contribute to the cost of their health insurance provided pursuant to a collective bargaining agreement. A group of retirees sued, claiming the company had promised them free medical for their lifetime. A federal appeals court held that promised retiree medical benefits were presumed to vest when any union employee retired, based on 30-year old SCUS case known as the Yard-Man doctrine. That doctrine has now been completely overturned. A unanimous Supreme Court concluded that there is no basis under ordinary contract law to presume that retiree medical benefits vest automatically at retirement absent a clear statement to the effect in an agreement, which cannot be modified.

This decision hasn’t led to an end of litigation. A lawsuit filed originally in 2004 (CNH Industrial vs. Reese) has been resuscitated and a decision in which a federal appeals court found in favor of lifetime retiree benefits currently is being reviewed by the SCUS. Lawsuits concerning the elimination of retiree medical benefits for some or all retirees have been filed and are pending against CONSOL Energy and General Electric Co. At the same time, several courts have ruled in favor of employers, including BorgWarner, Johnson Controls, Moen Inc. and Weyerhaeuser Co. regarding changes to retiree medical benefits.

A promise of lifetime retiree medical coverage may also be provided in individual employment agreements. A lawsuit was recently filed in a federal court in NY by the former CEO and 23 other retired executives of EmblemHealth who claimed they were promised lifetime health coverage for themselves and their dependents under executive employment and separation agreements. The company replaced its retiree medical coverage with coverage purchased through a private exchange. The former executives claim that this constituted a breach of contract and ERISA violation (Abernethy vs. EmblemHealth Inc.).

**Conclusion**

We expect that most employers still offering retiree medical coverage will re-evaluate their programs within the next few years. Like defined benefit pension plans, retiree medical is an employee benefit that often is under-

**Lawsuit between Employers over Violation of Non-Compete Agreement**

Non-compete agreements or non-compete clauses in employment agreements have become fairly common throughout Corporate America. Such restrictions are subject to state law and a provision that is enforceable in one state may be unenforceable in another. A few states, including California, prohibit non-compete arrangements, with a few exceptions. Illinois now prohibits such agreements with “low-wage” employees.

Non-compete arrangements are intended to prevent executives or even any employee from leaving a job and going to work for a competitor within a stipulated timeframe. There also can be instances in which one employer can sue another for what is called “tortious interference” for hiring an individual in violation of a non-compete agreement. And yet, such litigation may not always be successful. Here is a recent example.

Acclaim Systems Inc. and Infosys Ltd. are both providers of IT services. In 2013, Acclaim was working with Time Warner Cable (TWC) on developing a client relationship platform. However, TWC also reached out to Infosys asking whether it could provide the same consulting services at a lower cost. When they did so, TWC transferred the IT project from Acclaim to Infosys. TWC asked Infosys to consider retaining for the project one Acclaim employee and three subcontractors who had been working on the project. When all four were brought in for interviews and asked whether they had non-compete agreements in place, each stated they did not. Based on this response, Infosys hired all four. TWC then cancelled its contract with Acclaim and transferred the project to Infosys. In fact, all four individuals had agreed to non-competes.
The terms of the non-compete agreements prohibited each of the individuals from working for any other company involved in this specific cable project. In addition to bringing a state court lawsuit against the individuals, Acclaim sued Infosys for tortious interference with contractual relations in federal court in Pennsylvania (Acclaim Systems vs. Infosys, Ltd.).

One of the requirements to prove this claim is having a specific intent to harm a contractual relationship. This requires that the party have knowledge of the contractual relationship and the non-compete provision. The parties agree that there was no direct record evidence that Infosys knew that any of the individuals it hired away from Acclaim had non-compete clauses. While they did ask each individual whether they were subject to a non-compete, each stated that they were not. Acclaim argued that Infosys asked the wrong questions about the non-competes and that since they were standard in the IT consulting industry, Infosys should have presumed that they were subject to them. The federal court rejected these claims. Even though the individuals may have lied, Infosys did attempt to determine if they were subject to the restrictive covenants. There was no evidence that Infosys intended to harm or violate the non-compete. This case illustrates that companies should review their onboarding process to help minimize the chances of litigation on this topic.

401(k) After-Tax Contributions May Be Worth a 2nd Look

Does your company’s 401(k) plan allow for employee after-tax contributions? Since the IRS clarified in 2014 guidance that a 401(k) participant can direct how before-tax and after-tax dollars are distributed from a plan (making the after-tax more easily accessible), we have seen a renewed interest in after-tax contributions. A plan participant can convert after-tax dollars to a Roth account within a plan that allows Roth in-plan conversions or make a rollover of after-tax amounts to a Roth IRA. Either option can provide more tax-effective retirement savings. Is your 401(k) plan in line with these retirement savings opportunities?

First, a few of the basics. If an employee contributes on an after-tax basis to their 401(k), there is no tax break as dollars go in, and any earnings are taxed when distributed. With a Roth account, still no tax break on the way in, but there is the potential for tax-free distribution of earnings as long as the distribution is “qualified” – generally made after contributions to the account for at least five years and the participant is at least 59½.

If your plan allows for Roth contributions, such deferrals can be made only up to the prevailing elective deferral limit ($18,500 in 2018, plus $6,000 of catch-up contributions if at least age 50). What if someone wanted to save more? Since pre-tax and Roth contributions are aggregated for purposes of the tax law limit, to the extent a participant contributes to a Roth account, the ability to contribute before-tax dollars to the plan is reduced (and vice versa).

One traditional, but sometimes not so obvious, solution is to allow for employee after-tax contributions in addition to pre-tax/Roth contributions. Just over 40% of Ayco corporate partners currently allow for employee after-tax contributions within their 401(k) plan. Other plan features that could lead to enhanced retirement accumulations include: 1) providing a Roth in-plan conversion feature and/or 2) the allowance of in-service withdrawals from the after-tax account which could be used to accomplish a Roth IRA conversion outside the plan.

There can be pros and cons to each of these options, but having at least one can provide a more effective savings tool for many. The $415 limits in 2018 will allow up to $55,000 (plus $6,000 for those at least age 50) to be contributed into a 401(k) for the year, taking into account all employee and employer contributions. In order to illustrate the additional savings opportunity of having an after-tax contribution option, here is an example of an employee earning an annual salary of $140,000:

<table>
<thead>
<tr>
<th>Defined Contribution Plan 2018 Contribution Limit</th>
<th>$55,000</th>
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<tbody>
<tr>
<td>Less:</td>
<td></td>
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<tr>
<td>Maximum before-tax/Roth employee contribution</td>
<td>($18,500)</td>
</tr>
<tr>
<td>Assume 6% company matching contribution</td>
<td>(8,400)</td>
</tr>
<tr>
<td>Assumed 2% company fixed contribution</td>
<td>(2,800)</td>
</tr>
<tr>
<td>Additional after-tax contribution with Roth conversion potential</td>
<td>$25,300</td>
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One major consideration and potential roadblock to having after-tax contributions within a 401(k) plan are the non-discrimination rules. There is separate and distinct discrimination testing required annually for a plan that allows employee after-tax contributions. A “safe-harbor” plan need not be concerned, but any plan that does not meet the safe-harbor tests would need to review this topic.
Here are some FAQs tied to this beneficial enhanced savings/planning opportunity:

- **How often could an in-plan conversion or in-service after-tax withdrawal occur?** Some plans limit the number of Roth in-plan conversions. The more often these transactions are allowed, the quicker the potential for tax-free savings.

- **What is the order in which accounts can be converted or withdrawn?** Plan administrative rules come into play here. For example, any pre-1987 after-tax contributions may be accounted for separately by the plan and distributed with no associated earnings (i.e., a tax-free conversion).

- **Is the plan’s after-tax account established as a separate “contract” in the plan?** It’s beneficial for these purposes if it is. If that is the case, any distribution of the account (aside from the possible pre-1987 exception noted above) comes out with after-tax contributions and a pro-rata allocation of the earnings from only the after-tax account.

- **How are the plan’s investments selected for each account?** Can each account (e.g., participant’s before-tax, after-tax and Roth contributions, and company contributions) be invested differently? It can be helpful if that is the case. It gives a participant the option to mitigate the tax consequences of converting from traditional after-tax to Roth by investing recently contributed after-tax dollars in more stable investments.

The IRS clarification of the rules associated with 401(k) distributions of after-tax account balances has provided for an opportunity to expand the retirement savings ability of many 401(k) plan participants. There also are somewhat similar opportunities within IRAs, including the so-called “backdoor Roth” option. Given the greater responsibility that has gradually been placed on employees for their own retirement readiness, this could be a boon to assist with their efforts.

Below are a few final distinctions to consider when thinking about having an in-plan Roth conversion versus allowing after-tax contributions to be withdrawn and transferred to an IRA for a Roth IRA conversion:

### In-Plan Conversion vs. Converting Outside the Plan

<table>
<thead>
<tr>
<th>In-Plan</th>
<th>Outside the Plan</th>
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<tbody>
<tr>
<td>✓ Earnings will be immediately taxed in all cases (they cannot be separated from contributions upon conversion)</td>
<td>✓ Could divide a plan distribution so any earnings are transferred tax-free to a traditional IRA and after-tax contributions are placed tax-free into a Roth IRA</td>
</tr>
<tr>
<td>✓ Administrative ease – all done in one account</td>
<td>✓ Extra steps - may need to open new IRA account(s) in order to perform the transfers</td>
</tr>
<tr>
<td>✓ Converted dollars may be subject to restrictive plan distribution rules</td>
<td>✓ Provides flexibility to access converted dollars immediately</td>
</tr>
</tbody>
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### Is Executive Compensation On or Off the Chopping Block?

The Tax Cuts and Jobs Act (H.R.1) released by the House Ways & Means Committee on November 2 made significant changes in several major components of executive compensation. If enacted, these would result in the following potential changes:

- Elimination of nonqualified deferred compensation as we know it today since all such amounts would be subject to taxation when there no longer is a substantial risk of forfeiture (i.e., at vesting).

- Effective elimination of nonqualified stock options and SARs, inasmuch as each would be taxable at vesting.

- Significant changes in corporate deduction for performance-based compensation under IRC §162(m).

- All deferred compensation for services performed prior to 2018 (including excess 401(k) plans, SERPs, directors’ deferral plans) would be required to be paid before 2026, or the year vested, if later.

Just after these proposals were released, we saw several companies extend deferral windows or comment on possible changes in 2017 deferred compensation. The House Committee Chairman then opted to make a number of changes in these proposals, including eliminating altogether the effective evisceration of all nonqualified deferred compensation. However, the Senate’s version of the bill released last week reinstated these executive compensation provisions. Both the House and Senate bills are subject to possible further changes followed by a reconciliation process for differences between the bills.
While these proposals would help offset loss of revenue associated with other parts of the GOP tax proposal, due to the short time frame for Congressional action, it remains to be seen whether we will see enactment this year. (It now appears that the Senate will drop this proposal from their version of tax reform. So, IRC §409A may survive after all. But, more to come on this).

**Did You Know...?**

- It’s almost Thanksgiving – hope you enjoy one of the best meals of the year. However, approximately 20 million women and 10 million men in the U.S. will have an eating disorder at some point in their lives, according to the National Eating Disorder Association.
- The IRS has indicated that will not accept or process 2017 tax returns (Form 1040) if the taxpayer does not report whether or not he/she has minimum essential health coverage for themselves and any dependents.
- Here are some of the more important dates in U.S. tax history:
  - 1862 – First U.S. income tax of 3% on income above $800 to pay for Civil War; lapses in 1872.
  - 1894 – 2% income tax adopted, but ruled unconstitutional by Supreme Court in 1895.
  - 1913 – 16th amendment to constitution ratified authorizing a federal income tax; highest tax rate on wages of 7%.
  - 1943 – Tax withholding on wages authorized.
  - 1954 – Major overhaul of federal tax system; highest tax rate on wages of 91%.
  - 1976 – Tax brackets reduced from 5 to 2; highest tax rate on wages of 50% dropping to 28% in 1988.
  - 2012 – Top tax rate increases from 35% to 39.6%.

**About This Newsletter**

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