



What's inside ▼

"Now the frost is in the air; blue the haze
at early dawn – there is color everywhere"
'Author Unknown'

- *Brief Report Back on the 5th Annual 412(i) Summit*
- *PPA 2006 Update – 3 hrs CPE Credit*
- *Are you ready for The Boomer Retirement Boom?*
- *Order your copy of Nick's book "412(i) Defined Benefit Pension Plans"*
- *How to use 412(i) Defined Benefit Plans for a Small Business Buy-Out*
- *Terminating a 412(i) Plan*

Money Issues: When a man retires his wife gets twice the husband but half the income



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The 5th Annual 412(i) Defined Benefit Pension Plan Summit took place in Chicago at the Embassy Suites Airport Hotel.

Speakers and guests from throughout the U.S. attended to listen to updates on 412(i) and Defined benefit plans by **Ilene Ferenczy J.D.** an attorney from Atlanta. **Professor Kathryn Kennedy** from the John Marshall School of Law along with **Gary Mitchell** from the Internal Revenue Service gave an update on the EPCRS program. The John Marshall School of Law is the only law school in the U.S. that awards advanced degrees in the area of Employee Benefits.

On Thursday **Steve Parrish** from Principal Financial Group in Des Moines Iowa spoke about the use of non-qualified and qualified plans. **Steve Toth** from National Pension Associates in Orlando reviewed traditional vs. 412(i) plans and **George Brandt** from OneAmerica in Indianapolis discussed the use of Life Insurance in qualified plans.

The sessions ended with **Professor John Mc Fadden** from The American College reviewing defined benefit plans and **Charles Gramp** Chief Actuary of ARIS discussing Defined Benefit or defined contribution plans.

The 6th Annual 412(e) (3) Defined Benefit Pension Plan Summit is scheduled for the 1st week in August in the Seattle/Bellingham Area. The temperature is usually around 72 degrees during the summer months in Bellingham. If you have topics you wish to have covered or speakers you would recommend please e-mail nick@ebdgonline.com.

Our program will be mailed out in January of 2008!



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Boomer Retirement Boom OR Making Your Golden Years a Golden Opportunity: *ARE YOU READY?*

It has been said that millions of Baby Boomers will retire within the next ten years.

However, their money will need to keep working for them longer than ever before. This means the demands for our services are poised to boom.

We at Executive Benefits Design Group specialize in retirement planning for those starting late. We are ready to help you and your clients make the most of this golden opportunity.

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When it's time to make the move make it Powerful!

Investments aren't like hotdogs. You really should know what's inside them!

By the same token, if you knew your portfolio was stuffed with surprises, you'd lose your appetite for investing!

That's where **we** come in!

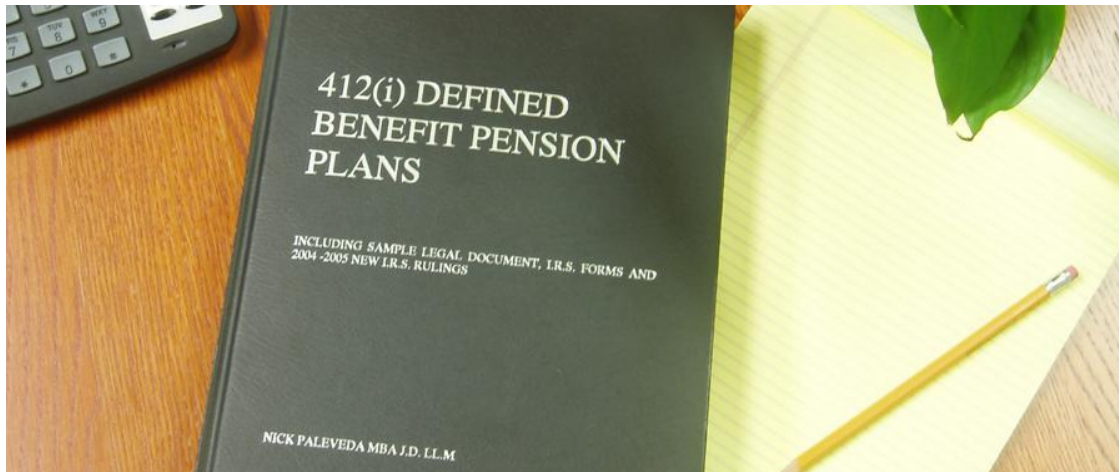
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"Intoxication" – Euphoria at getting a refund from the IRS, which lasts until you realize it was your money to start with!



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The 412(i) Defined Benefit Pension Plan Book

By Nicholas Paleveda, MBA, J.D., LL.M

The new 412(i) Book will provide quick reliable guidance on:

412(i) Defined Benefit Pension Plans

Comparison with 401(k), SEP's SIMPLE's and DB Plans.

Sample Legal Document

Sample Plan Summary Plan Description

Revenue Rulings on 412(i)

Private Letter Rulings on 412(i)

2004 Rulings on "Abusive Plans"

2005 Rulings on "Abusive Plans"

404(a) 7 Issues

Are you a Fiduciary or "inadvertent" Fiduciary?

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Our Tax Code is so long it makes War & Peace seem breezy – S. LaTourette



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How To Use 412(i) Defined Benefit Plans for a Small Business Buy-Out

There is little written on acquisitions of a small business using a qualified plan. Most acquisitions take place by offering cash or stock to the small business owner in exchange for the stock or assets of the company. The acquiring organization usually wants to purchase the assets of the company to allow for depreciation of those assets for tax purposes. The seller may have negative tax results by the corporation paying taxes at the corporate level and once again pay taxes at the individual level through dividends. How can we use a qualified plan to improve the results?

Selling the Assets		Qualified Plan and Selling the Assets	
Corporation sells 100% of the assets to his key employees.		The corporation establishes a 412(i) defined benefit plan that contributes \$150,000 per year for 5 years to the owner, for a total of \$750,000 in the plan.	
Business Sale	\$1,000,000.00	Business Sale	\$250,000.00
Corporate Tax (Assume 35%)	\$350,000.00	Corporate Tax (Assume 35%)	\$87,500.00
Cash for Owner's Dividend	\$650,000.00	Cash for Owner's Dividend	\$162,500.00
Dividend Tax of 15%	\$97,500.00	Dividend Tax of 15%	\$24,375.00
Owner's Net Cash	\$552,500.00	Owner's Net Cash	\$138,125.00
		Owner's Plan Assets	\$ 750,000.00
		Owner's Total Assets	\$ 888,125.00

Comparing the Results

The business owner could receive \$552,500.00 upon the sale of assets to the company without first establishing a qualified retirement plan. After funding a qualified retirement plan, the business owner netted \$138,125.00 in cash and \$750,000.00 in his retirement account for a total of \$888,125.00. Note: the qualified plan was not sold with the other assets of the corporation.



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Terminating a 412(i) Plan

There are many benefits to implementing a qualified retirement plan under ERISA. A 412(i) plan must meet certain requirements to qualify for the favorable tax treatment. One major requirement is that of permanence: qualified plans must be established as long-term commitments by plan sponsors. Generally, this means that plans terminated after three or less years of contributions will be subject to negative scrutiny by the IRS. These plans must operate with the best interests of the participants as a primary consideration. Plan sponsors are fiduciaries under ERISA, and have an obligation to act responsibly with respect to the long-term interests of all participants. For this reason, plan sponsors should actively seek and implement alternatives to premature termination. Premature termination may be very costly. The following are some important considerations.

Option 1. Amending the Plan

In many cases, the plan sponsor wishes to terminate the plan because the contributions are too high and cannot be sustained. If the contributions are too high, the plan sponsor should consider “amending the plan” as opposed to terminating the plan.

Option 2. Conversion to Traditional Defined Benefit Plan

In some cases, the plan sponsor may wish to increase the investment options available to the plan. In this case, the plan may be converted to a traditional defined benefit plan that would allow greater flexibility in the investments albeit lower contributions for the participants.

Option 3. Monthly Lifetime Income Benefit

The 412(i) Defined Benefit Plan is designed to provide monthly income for life for the participant. The participant can also elect to have monthly income for the participant and the participant spouse. The participant can also elect to have monthly income for participant and spouse and/or a named beneficiary for a period certain of 10 or 20 years. These calculations need to be done by the Third Party Administrator.

Option 4. Lump Sum Distribution

The 412(i) Defined Benefit Plan can add a feature for a “Lump-Sum” distribution as the date of retirement approaches. This would allow the cash in the plan to be rolled over into an IRA which could be managed within the IRA account. Taxable distributions would be delayed until after age 70 ½. Then, only the required minimum distribution as defined in the IRS Regulations, or about 4% of the value of the account, must be distributed.

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