Executive Benefits Quarterly

News You Can Use!

Sign up now!

Live Web Seminars on the 2006 Pension Protection Act!

The Webinars will be held at 9:00am PST on October 17th, 19th, and the 25th. 3hr CPE credits may be available (varies per state). Call or email us to find out if your state is on the list!

The seminar will feature the new tax law which impacts retirement plans and tax planning! Due to technical limitations we are only able to offer the webinar to groups of no more then 40.

Interesting Topics include:

- New ideas that you may want to do before the end of the year
- 5 Things that must be done before December 31, 2006
- 6 New planning opportunities that can help your client
- How 401(k), 412(i) and other retirement plans are effected by the new tax law
- Non-qualified plans - new problems and new opportunities
- COLI changes
- Are 412(i) plans going to be around after the new change in the law?
- All this and more in a 3-hour seminar you definitely do not want to miss!

Presented by Attorneys, CPAs and Pension Actuaries:
Nicholas A. Paleveda MBA J.D. LL.M
David M. Camp CPA, MBA
Charles B. Gramp EA, FCCA, MSPA

Cost: $99 per site registration ◆

Using 401(k)/412(i) Combinations

Optimizing Corporate and Individual tax liability through pension plan designs Post Pension Protection Act of 2006

The Pension Protection Act of 2006 has created new opportunities to minimize tax liability for corporations and individuals. Defined Benefit contributions can now be made in addition to Defined Contribution contributions (generally up to 6% of pay) without limiting the tax deduction for the business entity to 25% of payroll.

The 401(k) Defined Contribution levels are easy to calculate.

A one-person plan would have the following salary and contribution levels:

CONSIDERED COMPENSATION	401(K)	TOP-UP	PROFIT-SHARE	412(I)/DEFINED BENEFIT
$220,000	$15,000	$5,000	$13,200	$200,000

Total deduction: $233,200.00 ** Owner must be aged 50 or older.*

The maximum level is $15,000.00 in elective deferrals, $5,000.00 as a top-up, and 6% of pay profit-sharing to a maximum of $13,200.00 **plus** the Defined Benefit contribution. The "top-up" is an extra contribution allowed by the IRS for employees aged 50 or more.

No matter how you play the game in the 401(k) Defined Contribution area, your maximum deduction would be $44,000.00. When you combine the DC plan with a DB plan it would be $33,200.00 **plus** the Defined Benefit contribution.

Employee Contributions. The contributions to employees are based on employee plan eligibility and participation requirements. The contribution can range from 3% safe harbors to 7.5% gateways, or more, to satisfy certain nondiscrimination tests. Our actuarial firm can help you make these determinations. ◆

412(i) V. 409A

412(i) Defined Benefit Plan v. 409A Non-qualified Deferred Compensation Plan

Finding the mix

The business owner must determine the suitability of qualified plans versus non-qualified plans in his specific circumstances. Each type of plan has a place in a compensation package for employees; however, the objectives and consequences are quite different for each. The business owner may determine that a combination of the two provides the best result for his situation and mix of employees.

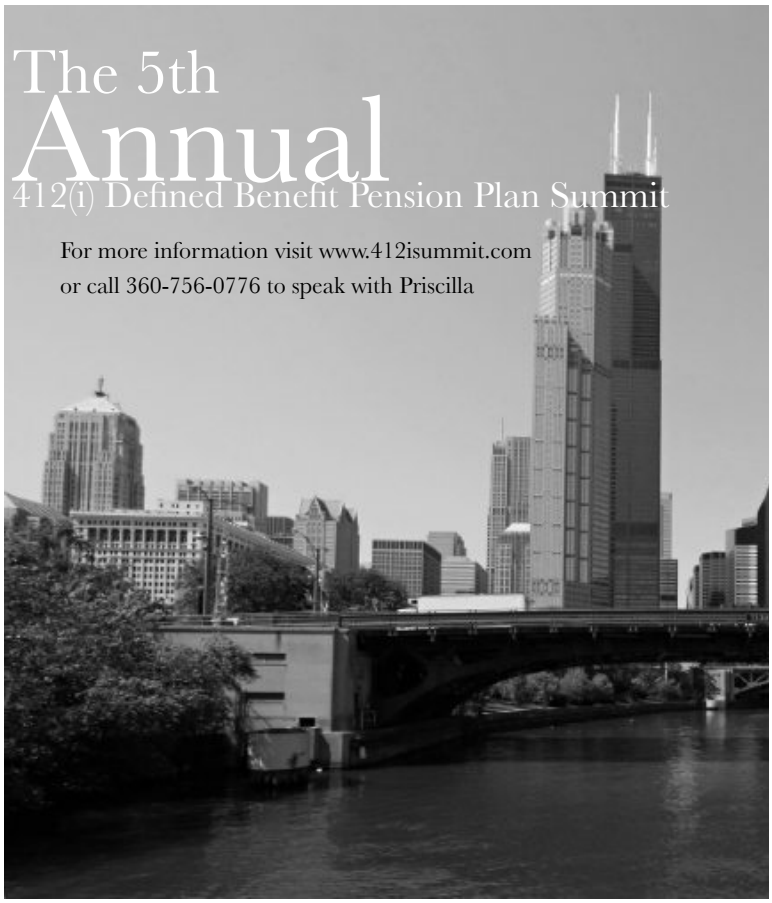
The key areas of focus are tax consequences, funding requirements, and asset protection.

Tax Deductions

First, a qualified plan gives the business owner an immediate tax deduction at the corporate or business level. The contributions are not included in the taxable income of the employee, but are allowed to grow tax-deferred inside the qualified plan.

Second, a non-qualified plan does not give the business an immediate tax deduction; however, the proceeds are not included in the income of the employee. The contributions grow in many cases tax deferred depending on the investment.

Continued...



Join Us

Chicago IL, Aug 1st-3rd

412(i) Defined Benefit Pension plans have come under fire from the IRS. Traditional Defined Benefit Pension Plans have funding issues recently addressed by Congress in the Pension Protection Act. Join Tax attorneys, CPAs and actuaries from across the U.S. in a three day seminar that will highlight the important issues concerning these plans.

Highlights Include

- Recent Developments in Defined Benefit Plans and 412(i)
- 401(k) and 412(i) plan combinations
- 412(i) v. Non-qualified Plans
- 412(i) v. Cash Balance Plans
- 412(i) v. Traditional Defined Benefit Plans
- Illegal 412(i) plans
- The Pension Protection Act and Small Business Retirement Planning

Funding

Contributions to a profit sharing plan are limited to $44,000 per year per employee, which is the maximum amount the business may deduct. Contributions to a defined benefit plan are generally much larger; and in the case of a fully insured plan, a 412(i) plan, the contribution and resulting tax deduction may go as high as $300,000 per year for the highly compensated, older employee. However, the larger tax deduction for the highly compensated employee may require a contribution for the lower paid, younger employees. The appropriate plan design is of crucial importance to maximize the contributions and deductions for the benefit of the employees the business owner wants to reward.

A non-qualified plan may be funded with employer or employee contributions or a combination of both. There is no limit on the amount the business may contribute; however, the tax deduction is deferred until the business actually pays the benefit at a future time. The employer may choose the employees included in the plan without restriction.

Creditor Claims

Qualified plans are not subject to the claims of creditors of the company or the plan participants.

Non-qualified plans are subject to the claims of creditors of the company, and in some cases the creditors of employees. ◆

How to use a 412(i) Defined Benefit Plan to Buy a Small Business

There is little written on acquisition 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:

1. The owner plans to sell 100% of his interest in a corporation to his key employees for $1,000,000.00. The business owner sells the assets and pays $350,000.00 in corporate taxes (assuming a 35% rate.) The business owner has $650,000.00 in the corporation. Next, the business owner distributes the assets as a dividend at 15% and pays $97,500.00 in taxes. The business owner nets $552,500.00.

Qualified plan and selling the assets:

2. The business owner installs a 412(i) defined benefit plan that contributes $150,000 per year for 5 years to the owner. The contributions are all tax deductible to the corporation, and not included in the income of the employee (owner). The cash contributions to the 412(i) defined benefit plan deplete the cash position of the company by $750,000.00 Recognizing this cash depletion, the business owner sells the remaining assets of the company for $250,000.00. Once again, corporate taxes are paid of $87,500.00 netting $162,000.00, from the sale to the corporation. A dividend tax of $24,375.00 on the distribution of the cash to the owner nets $137,625.00, in addition to the $750,000 in the plan.

Comparing the result:

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 $137,625.00 in cash and $750,000.00 in his retirement account for a total of $887,625.00. Note: the qualified plan was not sold with the other assets of the corporation. ◆

The Pension Channel

The Pension Channel has timely information on Pension and Profit sharing plans by way of Podcast. For more information and to sign up visit: www.PensionChannel.com

Comments

Comments about the newsletter or articles for the Winter Edition contact: nick@ebdgonline.com

412(i) v The Standard and Poor's 500

A 412(i) plan can be invested in guaranteed annuities that return 3% or the crediting rate of the insurance company, whichever is greater. In some cases, the crediting rate is greater than 3%. How did the 3% rate stack up against the S&P 500 for the last six years?

This model compares the performance of a 412(i) guaranteed plan with the performance of the S&P 500 over the last 6 years.

Executive Benefits Design Group

Value of $100,000 Invested Annually in S&P 500 VS 412(i) Guaranteed Annuity

	S&P 500			412(i) Guaranteed Annuity		
	Contrib'n:	Income	EOY Bal	Contrib'n:	Interest	EOY Bal
January to Dec 2000	100,000	(10,139)	89,861	100,000	3,000	103,000
January to Dec 2001	100,000	(24,763)	165,098	100,000	6,090	209,090
January to Dec 2002	100,000	(61,943)	203,155	100,000	9,273	318,363
January to Dec 2003	100,000	79,974	383,129	100,000	12,551	430,914
January to Dec 2004	100,000	43,450	526,579	100,000	15,927	546,841
January to Dec 2005	100,000	18,804	645,382	100,000	19,405	666,246
Total For Funding Period	600,000	45,382	645,382	600,000	66,246	666,246

Assumptions:
1) Funds invested at beginning of year.
2) Dividends on both S&P 500 ad Annuity ignored.
3) Guaranteed minimum 3% rate used for 412(i) Guaranteed Annuity.
4) Transaction costs and management fees ignored for S&P 500
5) Both calculations are on a Pre-tax basis