



## The 412(e)(3) Defined Benefit Pension Plan

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# The 412(e)(3) Plan: Retirement Planning Advantages for the Well-Established Business Owner

**A 55-year-old orthopedist with a flourishing practice wants to retire in ten years. He loves his work, but also looks forward to retiring at 65 so that he can write a book about his specialty, volunteer two days a week in a community health center, and pursue his hobby—medical photography.**

**Unfortunately, this sole practitioner has had to defer retirement planning for a number of reasons. In addition to all the expenses involved in building his practice, he had to pay off a substantial medical school loan; get mortgages for his home and office; put three kids through college; pay for his daughter's wedding; and take care of major bills for his mother's long-term care before she died. In other words, life intervened.**

## Is There Still Time to Save for the Retirement You Want?

If you're a well-established business owner in a similar situation, you may be wondering if it's still possible to save enough for your retirement years. Specifically, is there a way to set aside sufficient funds to support the type of lifestyle you want to have when you retire? Of course this will require knowing how much money you'll need for the long term—for the essentials of day-to-day living as well as the "extras," including personal hobbies and interests.

## Popular Retirement Plans May Fall Short

Although defined contribution plans, such as 401(k) plans, are popular, contributions to these plans are limited, so they may not provide sufficient retirement income for you and your employees—especially since your retirement may span 20 or 30 years, or even longer. In addition, the value of assets in certain retirement plans—such as 401(k) plans—can be highly volatile.

Since account balances under these types of popular retirement plans can be directly affected by stock market fluctuations, they may not be able to provide you with sufficient retirement benefits.

## The 412(e)(3) Defined Benefit Pension Plan: Accumulating Significant Retirement Assets

With a tax-qualified 412(e)(3) fully-insured<sup>1</sup> defined benefit pension plan, you can accumulate significant retirement assets for yourself and your employees—without having to depend on stock market cycles.<sup>2</sup> Furthermore, since a high income-tax liability can accompany a highly profitable business, it's good to know that a 412(e)(3) plan can help your business maximize its tax-deductible retirement plan contributions. Equally important, you'll have the security of knowing that the death benefit under the plan will help protect your family if you die before retirement.

<sup>1</sup> "Fully insured" means the plan is funded with insurance and annuity products backed by the claims-paying ability of the issuing insurer.

<sup>2</sup> The 412(e)(3) defined benefit pension plan is a tax-qualified retirement plan that must comply with the Employee Retirement Income Security Act of 1974, as amended (ERISA), the Internal Revenue Code of 1986, as amended, and other applicable law. For this reason, consult an attorney expert in these matters before establishing a 412(e)(3) plan.

## What Is the 412(e)(3) Plan?

The 412(e)(3) plan is a tax-qualified, defined benefit pension plan for business owners and their employees that must be funded with a combination of life insurance and annuities, or annuities alone.<sup>3</sup> The guarantees of the 412(e)(3) plan are derived from the life insurance and/or annuity contracts that fund it and are dependent on the claims-paying ability of the issuing life insurer. Therefore, it's essential to choose a reputable life insurance company with superior financial strength.

## Can the 412(e)(3) Plan Work for You?

Generally, if you're in your peak earning years, the 412(e)(3) defined benefit pension plan may be desirable, particularly if you:

- Are 45 years of age or older
- Own a small company or professional practice with five or fewer employees that's highly profitable, and have a steady revenue stream and cash flow, since level annual or more frequent contributions to the 412(e)(3) plan are required
- Have a substantial tax liability and want a potentially significant income tax deduction each year



## Maximum Retirement Savings and Maximum Tax Deductions

The 412(e)(3) defined benefit pension plan has a number of advantages:

- Contributions are generally 100% tax-deductible for your business.
  - There are potentially greater deductible contributions than those that can be made under traditional defined benefit plans.
  - Plan benefits are guaranteed by the claims-paying ability of the issuing insurer, as long as the premiums are paid on time—and they are free of market risk.
- 412(e)(3) plans are exempt from the minimum funding requirements usually applicable to traditional defined benefit plans, which can make the administration of a 412(e)(3) plan simpler than that of a traditional defined benefit plan.

<sup>3</sup> In addition to other tax-qualified rules, the Internal Revenue Code imposes limits on the amount of life insurance that can be purchased in a qualified retirement plan. As a result, a 412(e)(3) plan cannot be funded solely by life insurance. Also, loans are not permitted under a 412(e)(3) plan, and any forfeitures under the plan and dividends paid by the insurer will be used solely to reduce future premiums. (Dividends are not guaranteed, nor are current dividends an estimate of future performance. Although dividends cannot be guaranteed, New York Life has paid annual dividends for more than 150 successive years.)

## A Strategy That Makes Sense for Small Business Owners

If you were too busy growing your business and/or handling life's responsibilities to start saving for retirement earlier in your career, the 412(e)(3) plan can offer you a "second chance." It can give you a way to fund a sizable, guaranteed<sup>4</sup> retirement benefit for you and your employees.

## New York Life: The Insurer of Choice

As stated above, it's essential to choose a reputable life insurance company with superior financial strength. Since 1845, New York Life Insurance Company has served the financial needs of seven generations. New York Life and its wholly owned subsidiary, New York Life

Insurance and Annuity Corporation,<sup>5</sup> have earned ratings for financial strength over the years that are among the highest assigned by each of the four major independent rating agencies.

Our reputation for integrity, our commitment to help provide peace of mind, and our financial stability have been of paramount importance to us for generations. That's how you know New York Life and NYLIAC will stand behind their products, today and tomorrow.

There *is* time to fund a substantial retirement benefit that can give you the freedom to enjoy your retirement years. To find out how the 412(e)(3) defined benefit pension plan can help make that possible, talk to your insurance professional. Find out why we're *The Company You Keep*.<sup>®</sup>

## Financial Strength Ratings

New York Life has earned the highest possible ratings for financial strength from all four of the insurance industry's rating agencies.

|                                            |                                                    |                                             |                                                                |
|--------------------------------------------|----------------------------------------------------|---------------------------------------------|----------------------------------------------------------------|
| <b>A++</b><br>Superior<br><b>A.M. Best</b> | <b>AAA</b><br>Exceptionally Strong<br><b>Fitch</b> | <b>Aaa</b><br>Exceptional<br><b>Moody's</b> | <b>AAA</b><br>Extremely Strong<br><b>Standard &amp; Poor's</b> |
|--------------------------------------------|----------------------------------------------------|---------------------------------------------|----------------------------------------------------------------|

Source: Third-Party Rating Reports (as of 8/16/07).

<sup>4</sup> The plan is funded with insurance and annuity products backed by the claims-paying ability of the issuing insurer.

<sup>5</sup> The annuities used to fund the plan are issued by New York Life Insurance and Annuity Corporation (NYLIAC).



### New York Life Insurance Company

New York Life Insurance and Annuity Corporation (A Delaware Corporation)

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