NH HICKS

Legal and Pension Consultants

QUALIFIED PLANS IN TODAY'S ENVIRONMENT

Defined Benefit Plans

2020

NH HICKS

Legal and Pension Consultants
www.nhhicks.com

Who we are:

NH HICKS is a multi-generational company with one goal: To provide the best service, value and price in the retirement plan industry.

Each client is assigned an administrator and a consultant. Our administrators have over 250 years of combined experience. This provides administrative support by which we can ensure that all plan administration is performed in a timely manner, with a high degree of expertise. Our consultants assure a presence for one-on-one meetings to design and explain a plan that best fits a company's business and its retirement goals.

What we do:

NH HICKS specializes in quality pension plan administration with local service at a reasonable cost. We are a fee only third party pension administration and consulting firm that does not handle any investments or insurance. We offer flexibility through individually designed retirement plans and self-directed retirement accounts. Self-directed gives clients freedom to choose their own investments.

We currently administer over 1000 qualified retirement plans primarily throughout California, Oregon, Washington, Colorado, Utah and Idaho. Our goal is to provide excellent service to all clients by working closely with their tax and financial advisors.

Given the continuous stream of regulations, our firm and legal department are unsurpassed in experience and constantly updating and adapting to today's regulatory environment. Our annual plan review keeps our clients up-to-date with the best possible plan options along with keeping your plan in compliance with the latest IRS and DOL regulations.

www.nhhicks.com:

Our website is being updated daily with the newest regulations, common trends and articles from leaders in the financial industry. We have adapted to new technology, gone paperless, expanded our website and brought value through actively participating in numerous social media forums. You will also be able to find our complete staff biographies, email addresses, fees, forms, FAQs and other vital information.

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PLAN DESIGN HIGHLIGHTS
FOR
DEFINED BENEFIT PLANS

- Eligibility – 30% class exclusion
- Include Spouse
- Defined Benefit 40-60-5 Rule
- General Assumptions
- Defined Benefit Contributions
- One Person DB Plan
- Add Uni(k)
- Combination Plans
- Plan Comparisons
- Amendments Prior to Benefit Accruals
- Cash Balance Plans
- PBGC
- Changes Due to COVID-19
- New Plan Set Up Deadlines

GENERAL OVERVIEW
DEFINED BENEFIT PENSION PLAN

What is a Defined Benefit Pension Plan (DB)?
A Defined Benefit Pension Plan (DB) is a qualified retirement plan where contributions to the plan are based on a participant's age and compensation. While eligibility and distribution options are the same as other qualified plans, an actuary calculates how much a company must contribute to meet the 'benefit defined' in the plan document.

How does a Defined Benefit Pension Plan work?
A DB plan provides a specific benefit at a participant's retirement age. The plan's actuary determines the value of that benefit in the form of a single sum. The DB plan must accumulate the funds to provide that benefit by the time the participant reaches retirement age. The plan accumulates funds through contributions and earnings. An older participant has less time until retirement and therefore less time for the plan to accumulate the funds required to provide his/her retirement benefit. Accordingly, the contribution on behalf of the older participant must be relatively high compared to those required for a younger participant.

Here is a simple example:

Participant	Age	Compensation	Annual Contribution	Benefit at Retirement
Owner	55	$285,000	$247,421	$2,020,545
Employee	21	$24,000	$3,171	$304,181

How can the IRS allow such disparity between the owners and employees contributions?

It only appears there is disparity between the benefits being provided to the two individuals in the example above. The plan is providing the same benefit to both participants. The plan is providing a similar retirement annuity as a percentage of income to both participants. The perceived disparity exists because the owner's compensation is much larger than the employee's compensation and the owner is older than the employee.

This fact pattern is not unusual among small employers. Accordingly, the DB plan can be an extremely powerful tool enabling the small business owner large contributions, while minimizing employee cost.

Flexibility
DB plans are much more flexible than the typical business owner might think. With a valid business reason, these Plans can be terminated in as few as three years after inception (assuming a minimal contribution of $5,000 per year). Proper plan design and effective funding strategies can provide owners with the flexibility they need to annually contribute their desired amount. If the investments under perform, contributions should increase and likewise contributions will decrease if funds exceed plan expectations. Furthermore, if an owner's contribution objectives change considerably, the plan can be amended to provide the needed additional flexibility.

Defined Benefit/Defined Contribution Combo Plan

A Defined Benefit/Defined Contribution Combination Plan (DB/DC) offers owners a two-plan approach to saving for retirement. Since the Pension Protection Act, many plans now allow owners an additional DC contribution and individual 401(k) salary deferrals of $19,500 ($26,000 if age 50).

A general example of a DB/DC Combo Plan is outlined below followed by an explanation of each combination types:

Participant	Age	Compensation	Defined Benefit Contribution	DB Carve Out Contribution
Owner	57	$100,000	$272,825	$278,233
Spouse	57	30,000	86,373	87,494
Employee 1	30	50,000	34,266	6,075
Employee 2	25	50,000	23,952	6,075

1. **Turbo-charge any Defined Benefit Plan (maximizes benefits for all participants)**
   In addition to the DB plan contribution, owners may contribute up to 6% into a DC plan. Individuals may also contribute an additional $19,500 pre-tax into a separate 401(k) Profit Sharing Plan ($26,000 if age 50). This will work well for an employer without employees; otherwise the plan must satisfy the 401(k) ADP test (a safe harbor may be used).
2. **Floor Offset (good for PBGC covered plans)**
   The Floor Offset establishes a DB Plan for owners and a DC Plan for employees. The benefits provided under the DB Plan are reduced by the value of the participant's account in the DC Plan. The DC Plan participants receive an estimated 5 – 10% of pay contribution.
3. **Super Combo (good for non-PBGC covered plans)**
   This design establishes both plans, and all participants receive benefits in both plans. In the DC Plan, 6% of total compensation is allocated using tiers; where the employees receive an estimated 7.5% and owners receive the remainder. In the DB Plan, owners receive the maximum benefit and the employees receive the smallest benefit permitted.
4. **Carve-Out (good for several owners with only 3 or fewer employees)**
   This design establishes a DB Plan for owners and a DC Plan for employees. It is a great way to maximize contributions for owners while controlling the employee cost. There are requirements which must be considered including at least 2 participants in the DB Plan, 40% of the participants are in the DB Plan, and there are no common participants between the DB and DC company contributions (except 401(k)).
5. **Cash Balance Plans (good for company with multiple owners)**
   This is a DB Plan that specifies both the contribution to be credited to each participant account (such as a percent of pay or a flat dollar amount) and the investment earnings to be credited on those contributions. Each participant has an account that resembles those in 401(k) plan. The advantage of this DB Plan is you know what is going into the plan for each participant and what will be paid out when they leave. A 401(k) Plan may also be added.

If you have any questions or would like to meet, please call NH HICKS.

DEFINED BENEFIT CONTRIBUTIONS

Effective for Plan Years Ending in 2020
With NRA 62 and 5 Years of Participation

Ages/Comp	30,000	50,000	70,000	90,000	110,000	130,000	150,000	170,000	190,000
32	49,836	72,892	83,827	83,827	83,827	83,827	83,827	83,827	83,827
34	54,266	80,413	92,476	92,476	92,476	92,476	92,476	92,476	92,476
36	59,090	88,727	102,038	102,038	102,038	102,038	102,038	102,038	102,038
38	64,343	97,919	112,608	112,608	112,608	112,608	112,608	112,608	112,608
40	70,062	108,084	124,296	124,296	124,296	124,296	124,296	124,296	124,296
42	76,711	119,328	137,229	137,229	137,229	137,229	137,229	137,229	137,229
44	84,384	131,789	151,556	151,556	151,556	151,556	151,556	151,556	151,556
46	92,615	145,597	167,435	167,435	167,435	167,435	167,435	167,435	167,435
48	101,442	160,906	185,042	185,042	185,042	185,042	185,042	185,042	185,042
50	110,909	177,885	204,568	204,568	204,568	204,568	204,568	204,568	204,568
52	121,059	196,720	226,228	226,228	226,228	226,228	226,228	226,228	226,228
54	131,943	217,668	250,318	250,318	250,318	250,318	250,318	250,318	250,318
56	144,557	240,931	277,070	277,070	277,070	277,070	277,070	277,070	277,070
58	148,892	248,153	285,377	285,377	285,377	285,377	285,377	285,377	285,377
60	142,353	237,254	272,843	272,843	272,843	272,843	272,843	272,843	272,843
62	135,611	226,020	300,893	300,893	300,893	300,893	300,893	300,893	300,893
64	128,570	214,285	299,997	331,843	331,843	331,843	331,843	331,843	331,843
66	121,120	201,868	282,613	363,361	365,689	365,689	365,689	365,689	365,689
68	113,372	188,955	264,534	340,117	402,916	402,916	402,916	402,916	402,916
70	105,429	175,715	246,001	316,285	386,572	444,058	444,058	444,058	444,058

For Owner-Only Plans increase the amount shown by 1.25 due to the granting of past service.

Comp is W-2 wages, or self-employment income less self-employment tax deduction and pension deduction for the self-employed and his/her share of any employee cost.

The individual is assumed to have been in business for at least three years.

Contribution amounts may be less when using a DB/DC Combination design.

Owner Only – Defined Benefit Plans

Owner only Defined Benefit Plans (DB) are a great way to for sole practitioners and other owner only businesses to create big contributions, tax deductions and savings for retirement. While a traditional 401(k) or SEP is limited to $57,000 ($63,500 if age 50+) annually, contributions in a DB plan can go as high $300,000 per year.

Why Choose an Owner Only Defined Benefit Plan?

- **Easy to Setup and Operate.** These plans are easy to setup and operate. Our trained consultants and administrators can help you every step of the way.

- **Tax Savings.** Get immediate tax savings. Contributions are tax deductible and grow tax-deferred.

- **Larger Contributions.** For example:

  - 40 year old making $90,000 can make a $125,000 contribution.
  - 50 year old making $90,000 can make a $205,000 contribution.
  - 60 year old making $90,000 can make a $275,000 contribution.

  If you need an estimate, view our Defined Benefit Contribution. We will prepare a proposal reflecting maximum contributions available at no cost.

- **Access to Your Money.** You can borrow from your account balance, and the loan is tax free, as long as it is paid back in a timely manner.

- **Self-Directed Investments.** You and your financial consultant choose the investments that are right for you within the law. Beware of self-dealing rules. Avoid prohibited transactions and issues of UBTI.

- **IRS Approved Documents.** We use prototype plan documents that have been pre-approved by IRS.

- **Inexpensive.** Less actuarial reporting allows us to keep fees lower than DB plans with employees.

- **Add to an Existing Plan.** A Defined Benefit Plan may be added to an existing 401(k) or Defined Contribution Plan to increase annual deductions.

- **Technical and Legal Answers.** We are here to help and answer questions regarding all aspects of the operation of your plan.

How Much Does It Cost?

	DB Only	DB & 401(k)
• Installation/Documents: (Takeover - no charge)	$1,300	$1,700
• Annual Administration:	$1,600	$2,000

PLAN TYPE COMPARISONS

(For plan years beginning in 2020)

Assumptions			Plan Types				
Participants	Age	Compensation	25% SEP	3% Match SIMPLE	401(k) PS	DB	DB Combo
Owner	57	$100,000	$25,000	$3,000 + 16,500	$37,500 + 26,000	$256,634	$260,277 + 26,000
Spouse	57	30,000	7,500	900 + 16,500	10,500 + 26,000	80,514	81,823 + 26,000
Employee 1	30	50,000	12,500	1,500 *(0 – 13,500)*	2,500 *(0 - 19,500)*	27,566	5,550 *(0 - 19,500)*
Employee 2	25	50,000	12,500	1,500 *(0 - 13,500)*	2,500 *(0 - 19,500)*	18,913	5,000 *(0 - 19,500)*
Contribution To Owners			$32,500	$36,900	$100,000	$337,114	$394,100
Contribution To Employees			$25,000	$3,000	$5,000	$46,479	$11,100
Owners %			57%	92%	95%	88%	97%

The figures illustrated are dependent on many factors. Please consult with qualified advisors to determine applicable limits.

Cash Balance Plan

A cash balance retirement plan is a defined benefit plan that gives the appearance of operating more like a 401(k) plan than a traditional defined benefit plan.

How a Cash Balance Plan Works

Like a 401(k) plan, each participant has an account and his or her benefit is based on the value of the account. However, unlike a 401(k) plan, a cash balance plan account is only hypothetical. It exists only on paper and is for recordkeeping purposes only. No assets are segregated in the account and the participant does not direct the investment of the account.

The plan's formula provides a contribution amount that will be credited to the participant account. There are a variety of ways the amount can be calculated, but the most common are a fixed dollar amount (such as, $10,000 a year) or a percentage of compensation (such as, 5% of compensation). Usually, the amount is credited to the account annually at the end of the plan year.

The account is then credited annually with "interest" based on a rate specified in the plan document. The rate can be a fixed rate of interest or tied to a market index. The interest credit is guaranteed and is independent on the plan's investment performance. Currently this rate is 5%.

The accounts are maintained by the plan's actuary, who generates annual participant statements. The benefit payable to a participant is expressed as a lump-sum amount – a cash balance in an account. That's different from a traditional defined benefit plan, which expresses its benefit as an annuity payable in the future for the participant's lifetime.

Actual Deductible Contributions

The actual contribution to the cash balance retirement plan determined by the plan's actuary. Typically, the contribution isn't the same as when calculated using the plan's formula. If the actual investment return is particularly poor over a period of time, the actual contribution may need to be higher.

The Advantages of Cash Balance Plans

- If the participant terminates employment, he or she will be entitled to a single sum payment. That participant could then roll that benefit to an IRA or another qualified plan. By having a known dollar amount at termination or retirement, participants are able to better plan for their retirement.
- The company is only required to earn the established interest rate. Any amounts earned over this rate will reduce future contributions.
- Paired with 401(k) plan is an effective means to control employee costs, while maximizing benefits for the owners.

What must a client be ready for if they adopt a cash balance plan?

- Contributions are required each year.
- Once the contribution has been earned for the year it must be funded, even if the participant has terminated service.
- Accounts must be fully vested after three (3) years of service. There is no graded vesting schedule.
- Currently, plans may be established on a volume submitter basis, which will help reduce start up costs.

Cash Balance plans can enhance the effectiveness of an employer's retirement program, but they must be designed thoughtfully and carefully administered. NH Hicks can provide these services.

Pension Benefit Guaranty Corporation (PBGC)

Overview

ERISA established the Pension Benefit Guaranty Corporation (PBGC) as a federal corporation.

The PBGC receives no funds from general tax revenues. Operations are financed largely by insurance premiums paid by companies that sponsor pension plans and by PBGC's investment returns.

PBGC has three principal missions:

1. To encourage the continuation and maintenance of voluntary private pension plans for the benefit of their participants.
2. To provide for the timely and uninterrupted payment of pension benefits to participants and beneficiaries under covered plans when bankruptcy occurs.
3. To maintain premiums at the lowest level consistent with fulfilling its obligations.

The program insures only private-sector defined benefit plans; it does not insure church or public-sector pension plans, nor does it insure defined contribution plans (such as 401(k) plans).

The PBGC covers both single-employer and multiemployer pension plans.

Plans Covered by the PBGC

The general rule is that all defined benefit plans are covered by the PBGC unless, the defined benefit plan qualifies for a statutory PBGC coverage exemption. These statutory exemptions are covered in ERISA Section 4021(b).

The more common of the exemptions are as follows:

- Plans covering only owners,
- Professional employer plans covering fewer than twenty-six employees,
- Governmental plans including plans maintained by the US federal government, by a state, by a county or by a city,
- Non-electing church plans,
- Indian tribal government plans,
- Plans established and maintained outside of the United States for the purpose of covering non-resident aliens,
- Excess benefit plans and top hat plans.

Professional Service Employer Defined

ERISA §4021(c)(2) defines a professional service employer as a business owned by one or more professionals and whose primary business purpose is to provide professional services. ERISA § 4021(c)(2)(B) provides a non-exclusive list of professionals:

Physicians	Dentists	Chiropractors
Osteopaths	Optometrists	Other licensed practitioners of the healing arts
Attorneys at Law	Public Accountants	Public Engineers
Architects	Draftsmen	Actuaries
Psychologists	Performing Artists	Social or Physical Scientists

Since the list defined in ERISA is not exhaustive, the PBGC will, on occasion, issue guidance about which additional professionals may or may not be considered professional for purposes of satisfying the professional service exemption.

Key Defined Benefit Takeaways from the CARES Act

The coronavirus (COVID-19) emergency has placed the United States in a challenging and unique position that many of us have never experienced before. Many employers are facing closures of offices and businesses resulting in layoffs or furloughs, or work from home situations. In response, the Coronavirus Aid, Relief and Economic Security Act (CARES Act) was signed into law on March 27, 2020.

Below is a description of the key CARES Act provisions as they pertain to defined benefit (DB) plans:

Coronavirus-Related Loan Relief
Two types of loan relief were also provided:

1. Plans may allow eligible participants, as defined above, to take loans up to the lesser of $100,000 or 100% of the participant's vested account balance for the specified period.
2. Upon the request of an eligible participant, plan sponsors must suspend loan repayments due on outstanding loans that are in good order for a period of up to 12 months. This relief expires on December 31, 2020. The suspension period is to be added to the original loan term when repayments, including accrued interest, resume, regardless of the length of the loan's original term.

The calculation method of the maximum loan available remains the same including the offset of prior loans within the last year.

Coronavirus-related distributions are available to "eligible" participants who:

- Are diagnosed with a coronavirus (COVID-19 or SARS-CoV-2) illness.
- Have a spouse or dependent diagnosed with a coronavirus illness.
- Experience "adverse financial consequences" as a result of a quarantine, furlough, lay-off, reduction in work hours, business closure, the lack of childcare, or other factors determined by the IRS due to the coronavirus emergency.

A plan administrator may rely on a participant's certification of the above.

Waiver of 2020 Required Minimum Distributions (RMDs)
There is no waiver for required minimum distributions from defined benefit plans.

Delay in 2020 Funding Obligations
All single-employer funding obligations due during 2020 are not required to be made until January 1, 2021, with interest for payments made after September 15, 2020. The minimum funding requirement must be made by this deadline, or a 10% excise tax is due, and the funding deficiency is then added to the following year's funding requirement plus interest.

Timing of Plan Amendments
Plan sponsors have been provided additional time to amend their plans for this relief. Plan sponsors have until the last day of the plan year beginning in 2022 to amend their plans, i.e., December 31, 2022 for a calendar year plan.

Freeze Defined Benefit Plan due to COVID-19
Freezing a DB plan is one way to minimize funding requirements during times of economic turmoil. Plans can be frozen by amendment before the accrual period, typically when a participant works 1000 hours during the plan year. Freezing the plan before the accrual date stops participants from getting additional benefits until the plan is unfrozen and reduces the contribution. However, depending on the plan's funding status, a contribution may still be required. Here are some topics to consider in deciding whether to freeze the plan:

- <u>Market Correction</u> – If market corrects itself, freezing may not be helpful.
- <u>Government Relief</u> – More legislation could provide funding relief.
- <u>Freezing Affects Future Contributions</u> – Freezing a new DB plan can reduce the maximum funding for two plan years following the unfreeze.

We will provide further updates as they become available.

New Plan Set Up Deadlines

The **Setting Every Community Up for Retirement Enhancement (SECURE) Act** was passed in December 2019 and made policy changes that will impact the adoption of new defined contribution plans and defined benefit plans. Here are the new plan deadlines for 2020 and beyond.

Defined Benefit or Profit Sharing Plans:
Due date of business tax return plus extensions

An employer can now set up a plan, and make deductible contributions, until the due date of the employer's 2020 tax return plus extensions. It is important to note that this only applies to employer contributions, as it is not possible to make 401(k) deferrals retroactively to the previous year. This extra time provides a great opportunity for companies to achieve some additional tax savings right at the time they realize it the most …. as they are looking at a large tax payment due to the IRS.

Start-Up Safe Harbor Plan: October 1st

This deadline has not changed. If an employer does not currently sponsor a retirement plan and is interested in starting a safe harbor 401(k) plan, the deadline is 90 days before year end. That means October 1, 2020 to install a new safe harbor plan for this year.

Adding Safe Harbor Provisions for 2020: Dates vary

If the client already sponsors a 401(k) plan and is looking to add a safe harbor provision, there are now different deadlines depending on the safe harbor provisions.

- Safe Harbor Match: The deadline to add a safe harbor match remains unchanged at 30 days before the start of the plan year. An employer has until December 1, 2020 to add a safe harbor match for 2021.

- 3% Non-Elective Safe Harbor: A plan sponsor has until 30 days before the end of the plan year to add a 3% non-elective safe harbor provision. That is December 1, 2020 for calendar year plans.

- 4% Non-Elective Safe Harbor: If the plan sponsor misses the 3% safe harbor deadline above, there is a new option available. They can now add a safe harbor non-elective provision up to the last day of the following plan year if the plan sponsor is willing to contribute 4% of pay instead of the 3%. So, they have until December 31, 2021 to add a 4% non-elective safe harbor provision to their plan for 2020.

We think the SECURE Act offers qualified plan opportunities and a little reprieve from the effects of potential procrastination. NH Hicks is always here to help our advisors and clients

NH HICKS

FEES FOR SERVICES

401(k) Profit Sharing Plans:
Installation/Documents (takeover no charge) .... $1250 + $10 per eligible participant
Administration .... $1350 + $30 per eligible participant

Defined Benefit Plans:
Installation/Documents (takeover no charge) .... $1350 + $10 per eligible participant
Administration including actuarial certification .... $2100 + $50 per eligible participant

DB/DC Combination Plans:
Installation/Documents (takeover no charge) .... $2700 + $20 per eligible participant
Administration including actuarial certification .... $3550 + $50 per eligible participant

*Additional Fees will be added for the installation and administration of Cash Balance Plans

Owner Only –401(k):
Installation/Documents (takeover no charge) $550
Administration (assets less than $250,000) $300
Administration (assets $250,000 and more) $550

Owner Only – Defined Benefit Plan:
Installation/Documents (takeover no charge) $1300
Administration including actuarial certification $1600

Owner Only – DB/DC Combination Plans:
Installation/Documents (takeover no charge) $1700
Administration including actuarial certification $2000

Special Transactions:

Defined Contribution Plans
Comparability allocation (multiple runs) $250
Amendments, trust accounting or 5500 audit consulting .... $125 per hour
Distributions or extensions (annual loan $35) .... $ 95
QDRO or RMD $225

Defined Benefit Plans
PBGC Reporting $225
Trust accounting or 5500 audit consulting .... $125 per hour
Distributions or amendments $225
Loans (annual loan $35) or Extensions .... $ 95

Our fees are offset by all third party payments we receive from investment companies.