NH HICKS

Legal and Pension Consultants

QUALIFIED PLANS IN TODAY'S ENVIRONMENT

Defined Contribution Plans

2021

NH HICKS

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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 retirement plans for our clients primarily throughout California and the western United States. 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.

Contact us at:

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PLAN DESIGN HIGHLIGHTS
FOR
DEFINED CONTRIBUTION PLANS

- Eligibility – 30% class exclusion
- Include Spouse
- New comparability plans – older owners
- 401(k) testing – safe harbors
- Uni(k) vs. SEP
- Defined Benefit 40-60-5 Rule
- Roth 401(k)
- Fee Disclosure and Offsets
- New Plan Set Up Deadlines
- Tax Credit for New Plans
- DC Restatements
- MEPs/PEPs
- CalSavers

OUTLINE
401(k) PROFIT SHARING PLAN
(For plan years beginning in 2021)

401(k) / Roth
100% up to $19,500
(age 50 - $6,500 catch-up)

MATCH
Limit combined with
Profit Sharing

PROFIT SHARING
0-25%
eligible compensation

ALLOCATION
Proportional
SS Integration
New Comparability

ADP TEST
Usually NHC avg. + 2% = HC max avg.

<u>NHC %</u>
5
10
0
<u>5</u>
5% avg. + 2% = 7% max HC avg.

<u>Prior yr. method on first plan yr.</u>
3% assump. + 2% = 5%

TRUST

- Deposits not taxed to employee
- Tax deferred growth
- Protected from creditors

ELIGIBILITY
Age 21
1 yr.
1,000 hrs. yr.
Union emp.
30% NHC job class

VESTING
Effec. DOH or plan start
401(k) – 100%
PS / Match - usually:
0 – 20 – 40 – 60 – 80 - 100%

TOP-HEAVY TEST
Keys own 60% of trust
May require 3% PS contrib.

INDIVIDUAL LIMIT
100% up to $58,000
($64,500 if age 50)

SAFE HARBOR
Auto. pass ADP and top-heavy test
100% vested / includes term. emp. / exist 90 days
1) 3% PS contrib.
2) Match roughly $1 for $1 up to 4% pay (6% max)
3) Auto Enroll with 3½% match (vesting)

COMPENSATION LIMIT
$290,000

TABLE OF VARIOUS LIMITS AND THRESHOLDS

	2021	2020
COMPENSATION LIMIT - *plan year beginning*	290,000	285,000
DC ANNUAL ADDITION LIMIT - *plan year ending*	58,000	57,000
401(k) DEFERRAL LIMIT - *calendar not plan year*	19,500	19,500
CATCH-UP DEFERRAL LIMIT - *calendar not plan year*	6,500	6,500
DB ANNUAL BENEFIT LIMIT	230,000	230,000
HIGHLY COMPENSATED EMPLOYEE *Employee is considered highly compensated if owner in current or prior plan year. Compensation definition only required to be met in prior plan year.*		
1) Over 5% owner		
2) Any employee (may limit to top 20%)	130,000	130,000
3) Spouse or linear relation		
KEY EMPLOYEE *Employee is considered key if meets definition in current plan year.*		
1) Over 5% owner		
2) Over 1% owner	150,000	150,000
3) Officer (count at least 1)	185,000	185,000
4) Spouse or linear relation		
TAXABLE WAGE BASE	142,800	137,700

RETIREMENT PLAN COMPARISONS
(For plan years beginning in 2021)

Assumptions		Profit Sharing Plans			
Employee Age	Salary	25% Salary Proportional	Age Weighted	New Comparability	401(k)
* 55	$50,000	$12,500	$31,098	$28,750	$26,000
50	50,000	12,500	20,681	6,000	26,000
* 45	50,000	12,500	13,754	28,750	19,500
40	50,000	12,500	9,147	6,000	19,500
35	50,000	12,500	6,083	6,000	19,500
30	50,000	12,500	4,046	6,000	19,500
25	50,000	12,500	2,691	6,000	19,500
	$350,000	$87,500	$87,500	$87,500	

* Assumes employees age 55 and 45 are owners.

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

GENERAL OVERVIEW
401(k) PROFIT SHARING PLAN
(For plan years beginning in 2021)

A profit sharing 401(k) plan allows contributions through three different methods: employer profit sharing, matching and employee 401(k) salary deferrals.

Profit Sharing
Contrary to what the name may imply contributions to a profit sharing plan are not based on the profitability of the company. Contributions can be allocated based on the amount of each participant's compensation, job class, and/or age. The employer may vary the contributions year to year, ranging from 0 to 25% of eligible compensation, considering no more than $290,000 (2021 index) individually as compensation. The deadline for company contributions is the company's year-end tax return deadline including extensions.

For eligibility, the employer may be more lenient, but not stricter than excluding any employee: under age 21, less than 1 year of service (may be 2 years if 100% vested), under 1,000 hours per year and union employees. There may also be a class exclusion of 30% of the eligible non-highly compensated employees. Generally, the only class excluded is employees not employed on the last day of the plan year. Once an employee meets the eligibility requirements, they will typically enter the plan the first day of the plan year or seventh month (January 1 or July 1).

Employer contributions may come under a vesting schedule. Vesting is the employees' right to the employers' contribution. The most common schedule is 20% per year up to six years and goes 0-20-40-60-80-100%. Vesting may start at date of hire or for new plans, everyone may start at 0% vesting. The forfeitures under vesting may be reallocated to the remaining employees as a percent of compensation or used to reduce employer contributions.

401(k) / ADP Test
Employees may contribute 100% of compensation up to $19,500 (2021 index). All employee contributions will be 100% vested. There are no Federal or State income taxes on 401(k) contributions. The Actual Deferral Percentage (ADP) test must be passed where the average of the non-highly compensated employees is calculated, and the highly compensated employees may contribute a slightly higher average. Either the current or prior years' non-highly compensated average should be elected at plan set up. In 2021, highly compensated is defined as: over 5% owner, compensation over $130,000 in 2020 (may limit to top 20%), or a spouse or linear relation.

Individuals age 50 or older may contribute an additional catch-up contribution of $6,500 in 2021. This will not be subject to any tests (ADP) or limits.

Employers may amend their plan to allow for Roth 401(k) contributions. These contributions are after-tax and therefore not taxed at retirement. Employees are not limited by the IRA compensation limits. Roth and regular 401(k) contributions are combined for testing and limited to $19,500 ($26,000 if age 50). Separate accounting is required for the Roth 401(k).

Employers may require an Automatic Enrollment provision with a 30 day employee notice. This usually deducts about 3-10% of compensation unless employees opt out within 90 days after the first salary deferral.

Match
The employer may offer a match, to increase participation, which can come under a vesting schedule. For example, 25¢ on the $1 up to 4% of pay. The match may be discretionary, if the employer allows the employees to change their 401(k) election if the match is changed.

Top-Heavy Test
If your plan is top-heavy (the total of the accounts of all key employees exceeds 60% of the total of the accounts of all employees) you are required to make a minimum contribution to non-key employees equal to the lesser of 3% of compensation or the highest contribution percentage rate for a key employee. You may also contribute the same percent for the key employees. This contribution will come under the vesting schedule. If the plan is top-heavy a contribution can be avoided if none of the key employees use the 401(k) in that year.

For 2021, key employee is defined as: over 5% owner, a >1% owner with compensation at or above $150,000, an officer with compensation at or above $185,000, or a spouse or linear relation.

Safe Harbor Options
An employer may choose to make a 100% vested contribution (except autoenroll) to the employees to pass the ADP and top-heavy tests. This must include eligible employees who terminate before the end of the year. New plans must be in place for at least 90 days. These options are:

1) 3% contribution to all eligible non-highly compensated employees (may also include highly compensated). 3% may do “double duty” counting as a basis for new comparability plans based on job class. Final notice due 30 days prior to plan year-end.
2) Match non-highly compensated employees $1 for $1 up to 3%, plus 50¢ on the $1.00 from 3% to 5% (may increase match to $1 for $1 up to 6% of pay and include highly compensated). Final notice due 30 days prior to plan year beginning.
3) Automatic Enrollment provision at 6% of compensation over 4 years and a $1 for $1 match up to 3 ½% with vesting after 2 years. Final notice due 30 days prior to plan year beginning.

Limits
No more than $290,000 (2021 index) may be considered as a basis of compensation. The most an individual may receive from the three sources (profit sharing, match and 401(k)) is 100% of compensation up to $58,000 ($64,500 if age 50).

The plan is still a profit sharing plan that has matching and 401(k) provisions within. Therefore, the employer match and profit sharing (401(k) excluded) plan contributions are limited to 25% of eligible compensation. Since this is an average of all employer contributions (401(k) excluded) some individuals may receive 100% while the total employer contribution is still under the 25% limit.

Investments
The plans are self-trusteed so the employer can choose any legal non-foreign investment. Typically, the employer will control the profit sharing contribution as it comes under the vesting schedule, and therefore may not yet be owned by the employee.

The employees usually control their own 401(k) contribution. Each employee can have their own segregated account where they can obtain their balance at any time as well as trade the account within a menu of funds. Employees should be given the choice of at least four investments, ranging from conservative to aggressive.

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

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.

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.

- <u>Safe Harbor Match</u>: 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.

- <u>3% Non-Elective Safe Harbor</u>: 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.

- <u>4% Non-Elective Safe Harbor</u>: 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.

Profit Sharing or Defined Benefit 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.

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.

The SECURE Act

As part of a larger government spending package, which was signed into law on December 20, 2019, Congress included provisions from the Setting Every Community Up for Retirement Enhancement (SECURE) Act. The act reflects policy changes to defined contribution plans, defined benefit pension plans, individual retirement accounts (IRAs), and 529 college savings accounts. Most provisions in the law go into effect on January 1, 2020.

Here is a summary of some key provisions of the SECURE Act:

Required minimum distributions (RMDs) now begin at age 72
Americans are working longer and will no longer be required to withdraw assets from retirement plans and IRAs at age 70½. RMDs now begin at age 72 for individuals who turn 70½ in the calendar year 2020 and later.

IRA contributions beyond age 70½
As Americans live longer, an increasing number are continuing to work past their traditional retirement age. Under the SECURE Act, employees can continue to contribute to their traditional IRAs past age 70½ if they are still working. That means the rules for traditional IRAs will align more closely with retirement plans.

Long-term, part-time workers will be able to join the company 401(k) plan
Up until now, if an employee worked less than 1,000 hours per year, the employee was generally ineligible to participate in the company's 401(k) plan. Except in the case of collectively bargained plans, the law now requires employers maintaining a 401(k) plan to offer a plan to any employee who worked more than 1,000 hours in one year, or 500 hours over 3 consecutive years. Employer contributions are not required for these employees even if the plan is top-heavy. Although employers need to start tracking these part-time employees, the earliest entry date of these employees will be January 1, 2024.

Increased tax credit for starting a retirement plan, up to $5,000
The new law provides an increased start-up retirement plan credit for smaller employers of $250 per non-highly compensated employees eligible to participate in a plan at work (minimum credit of $500 and maximum credit of $5,000). This credit would apply to small employers with up to 100 employees over a 3-year period beginning after December 31, 2019 and applies to SEP, SIMPLE, defined contribution plans, and defined benefit plans.

$5,000 withdrawal per parent penalty-free upon the birth/adoption of a child
The new law permits an individual to take a "qualified birth or adoption distribution" of up to $5,000 from an applicable defined contribution plan, such as a 401(k) or an IRA. The 10% early withdrawal penalty will not apply to these withdrawals, and you can repay them as a rollover contribution to an applicable eligible defined contribution plan or IRA.

This is a summary of some of the key provisions that affect retirement plans. If you need more information, please contact us at NH Hicks.

Information Regarding
Cycle 3 Restatement Process
Defined Contribution Plans

Approximately every 6 years, the IRS requires most employer sponsored retirement plans to update their plan document through a process called "restating". For 401(k) and other defined contributions plans, this new restatement is referred to as "Cycle 3". The timeframe for restating the plan documents is set to begin in the fall of 2020 and must be adopted by July 31, 2022.

What is a plan restatement?
A restatement is a complete rewriting of the plan documents. It incorporates changes from any mandatory or voluntary amendments that have been adopted since the last restatement, which was called PPA.

Is the "Cycle 3" plan restatement mandatory or voluntary?
The upcoming plan restatement is mandatory. Plans that do not adopt a restated document by July 31, 2022 will be subject to IRS-imposed penalties, which in some circumstances could include revoking the plan's tax-favored status.

Why do we have to restate our plan document?
Plan documents are draft based on laws and regulations set forth by Congress, the IRS, and the Department of Labor. As those laws and regulations change, documents must be updated to reflect those changes. Since the last restatement, there have been several changes impacting retirement plans including the following:

- Expansion of the definition of "spouse" to include those of the same gender,
- Availability of plan forfeitures to offset certain additional types of company contributions,
- Ability to amend safe harbor 401(k) plans once the year has already started, and
- Creation of in-plan Roth transfers.

How will NH Hicks help with your plan restatement?
The plan document forms the foundation of the plan and its complaint operation. This restatement should be more than simply transcribing the current provisions and adding the newly required language. We think this is a great opportunity to work with our clients to review the actual operation, company objectives, annual test results, etc. to see whether any changes can make the plan operate more efficiently and/or increase the plan's value to the owner and their participants.

What does NH Hicks include with its plan restatements?
The plan document restatement package generally will include the following based on each plan's provisions:

- Adoption agreement reflecting the specific provisions selected for the plan,
- Basic plan document which includes the detailed legal language describing each provision,
- Summary Plan Description booklet for distribution to plan participants,
- Signature pages PDF file that includes all pages requiring signatures, and
- Administrative policies and forms.

Conclusion
We will spend time with you to assure your new restated document reflects current company goals and takes advantage of any new options. As we get closer to the plan document release date, we will follow-up with additional information on the process.

CalSavers Retirement Savings Program

Beginning on July 1, 2019, California private employers with 5 or more employees, who do not already sponsor a retirement plan, may voluntarily enroll in the CalSavers Retirement Savings Program (CalSavers). Employers that do not voluntarily enroll *must* enroll in CalSavers according to the following schedule:

100 or more employees	June 30, 2010
50 to 99 employees	June 30, 2021
5 to 49 employees	June 30, 2022

The key features of the CalSavers program are shown below:

- This is a workplace retirement savings program for employers with at least 5 employees that do not sponsor their own retirement plans ("Eligible Employers"). This may mean a 401(k) plan, a 403(b) plan, a SEP or SIMPLE plan, or a multiple employer (union) plan.
- CalSavers applies to private for-profit and non-profit employers, but not to federal or state governmental entities.
- CalSavers requires employees at least age 18 and receiving a Form W-2 from an eligible employer, to be automatically enrolled in the CalSavers program after a 30 day period, during which they may either opt out, or customize their contribution level and investment choices.
- The default is an employee contribution of 5% of their wages subject to income tax withholding, automatically increasing each year by 1% to a maximum contribution level of 8%. Employer contributions currently are prohibited.
- Eligible Employers who enroll in CalSavers will provide some basic employee roster information to CalSavers. CalSavers will then contact employees directly to notify them of the program and to instruct them about how to enroll or opt-out online. Those who enroll will have an online account which they can access in order to change their contribution levels or investment selections
- Once an Eligible Employer has enrolled in CalSavers, their subsequent obligations are limited to deducting and remitting each enrolled employee's contributions each pay period, and to adding new eligible employees within 30 days of hire (or of attaining eligibility by turning age 18, if later).
- Eligible Employers are shielded from fiduciary liability to employees that might otherwise arise regarding investment performance or other aspects of participation in the CalSavers program.
- There are employer penalties for noncompliance. The penalty is $250 per eligible employee for failure to comply after 90 days of receiving the CalSavers notification, and $500 per eligible employee if noncompliance extends to 180 days or more after the notice.

Here are some online resources for Eligible Employers:

- Employer checklist to help employers prepare for enrollment,
- CalSavers Program Disclosure Booklet providing details of the program, and
- Online FAQs.

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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.................................$2200 + $50 per eligible participant

DB/DC Combination Plans:
Installation/Documents (takeover no charge)..................................$2700 + $20 per eligible participant
Administration including actuarial certification.................................$3650 + $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.................................$1700

Owner Only – DB/DC Combination Plans:
Installation/Documents (takeover no charge)..................................$1700
Administration including actuarial certification.................................$2100

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
Cycle 3 Restatements (Owner only $550)......................................$950

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.

5-19-2021