



## The Blue Chip Blast – August, 2022

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### *Does a Safe Harbor Plan make sense for you?*

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A traditional 401(k) Plan is subject to the ADP test to prove that the deferrals made by the Highly Compensated Employee (HCE) group are not discriminatory compared to those made by the non-HCE group. This can result in refunding deferrals to the HCE group, limiting their ability to build a retirement nest egg.

Education to the employees about the plan and the need to save for retirement can help boost participation as can funding an employer match. Sometimes though even the best efforts in these areas are not enough to avoid refunds. There is however an option that will always avoid refunds, but of course it comes with a cost.

A safe harbor plan requires the employer to make a 100% vested contribution to employees for the tradeoff of getting an automatic pass on the ADP Test. The contribution can come in the form of a 3% contribution to all eligible employees or in the form of a match to only those who defer. The match is 100% of the first 3% deferred and 50% of the next 2% deferred which is a maximum of a 4% match.

A safe harbor match can only be implemented at the beginning of a plan year, so it is too late for a calendar year 2022 plan, but now would be the time to think about the change for 2023. A safe harbor 3% formula however can be added up until 30 days before the plan year end, so for calendar year plans you have until December 1<sup>st</sup>. Further, after 12/1 you can still add a safe harbor feature to your plan for 2022 until 12/31/23 if you add a 4% contribution instead of 3%.

There are many considerations when determining if this feature makes sense for your plan, which formula would be the most beneficial and when this can be implemented. If you think this may be an option worth considering for your Plan, please contact your Compliance Consultant at Blue Chip to discuss these questions related to your Plan.

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### *Deposit Timing*

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The Department of Labor regulations require that participant contributions (ie: Employee Deferrals and loan payments) must be deposited to the Plan as soon as it is administratively feasible to segregate them from company assets. Administratively feasible is not defined in the regulations however a safe harbor of seven (7) business days is available for plans with under 100 eligible Participants. For larger plans we recommend depositing the contributions within 3 business days but if possible to do it the same day as payroll.

There is a specific question on the 5500 Form relating to this subject which is why we are recommending that you review your plan's deposit procedure. Failure to comply with the Department of Labor deposit rules is a prohibited transaction and the company could be liable for lost income as well as excise taxes. Showing a late deposit on Form 5500 can also be a flag for the plan to be pulled for audit.

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## *Required Minimum Distributions (RMD) – When do I HAVE to start taking funds from my 401(k)?*

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As a 401(k) participant gets closer to retirement, it is inevitable that questions will pop up regarding Required Minimum Distributions (RMD). As with most IRS rules, the rules regarding the Required Minimum Distribution (RMD) can be confusing. While your Blue Chip Compliance Consultant is happy to answer any questions you may have, here are some helpful facts regarding RMDs and when they apply.

- An RMD is the minimum amount that must be distributed to a participant each year starting with the year they turn 72 (70.5 if the participant was born before 07/01/1949).
- If the participant is still employed upon reaching the above noted age, they can delay their RMD until the year they retire as long as the participant does not own more than 5% of the company that sponsors the 401(k) Plan. More than 5% owners must start taking their RMD upon reaching the above noted age even if still employed.
- The first RMD can be delayed until April 1<sup>st</sup> of the year following retirement, but all subsequent RMDs are due each year by December 31<sup>st</sup>.
- RMDs are calculated based on the participant account balance as of the prior December 31<sup>st</sup> and an IRS annuity factor based on their age (and possibly their spouses age if the participant's spouse is their beneficiary and is more than 10 years younger than the participant). In the earliest years of required distributions, someone typically will have to take between 3.5% and 4.25% of their account balance.
- RMDs cannot be rolled to a different retirement plan. They must be paid directly to the participant.
- The taxable portion of an RMD (non-Roth funds) are subject to a 10% withholding tax (unless participant chooses a higher or lower percentage of tax withholding) and Federal taxation will be at ordinary income rates. RMDs may also be subject to state and local taxes.
- Failure to take an RMD by the appropriate deadline results in a penalty to the participant of 50% of the RMD value.

Blue Chip Retirement Plans does monitor our clients' plans for RMDs. However, it is important that we are notified if a non-owner over the ages of 70.5/72 is terminated. This way we can notify the terminated participant in a timely fashion and ensure their RMD is processed by their appropriate deadline.

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## *Meet the Staff – Highlight of a Blue Chip staff member*

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Lisa Pipik - Compliance Support Assistant

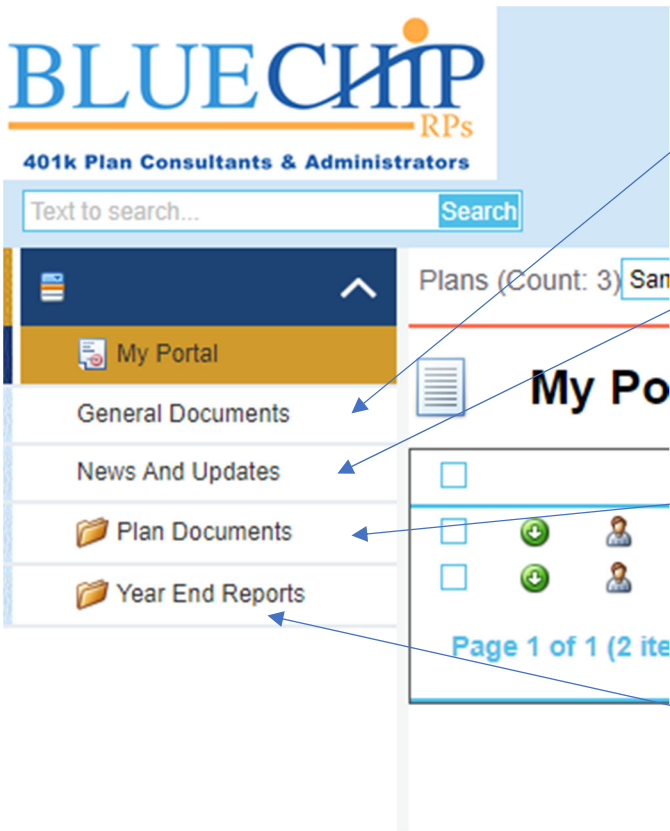
Lisa joined Blue Chip in January, 2022 and is finding the industry challenging and exciting. The position offers a variety of tasks which utilize many of her skills.

Lisa and her husband reside in New Berlin, Wisconsin. They have 2 children, Drew and Hunter who live in Naperville, Illinois and Tampa, Florida.

Her interests include fitness, cooking, travel, shopping and gardening.

## PENSION PAL PORTAL TIPS

As a refresher to everyone we wanted to review the different pieces of the Pension Pal Portal and where to find things. When you log onto the secure portal, the landing page is “My Portal” as indicated on the left side menu. This is where we upload general items for you during the year. And where you upload documents to us.



General Documents Folder contains the Basic Plan Document for all 401(K) and ESOP plans.

News & Updates contains the Blue Chip Blast editions and important news and legislative updates we share with all clients.

Plan Documents are specific to your plan and contain your legal plan documents. The most recent documents are Cycle 3 documents.

Year End Reports are your plan specific annual report files.

OTHER FOLDER IDENTIFICATION – On the my portal page, you will see this folder identification

		Folder	File
		Open	2022 <a href="#">Sample 2 Census Request 12-31-2021.xlsx</a>
		Open	2021\Year End <a href="#">Annual 401(k) Plan Compliance Questionnaire.pdf</a>
		Open	2021\Year End <a href="#">401(k) Plan - Census Request Instructions.pdf</a>
		Open	2021\Year End <a href="#">2022 Retirement Plan Limitations &amp; Deadlines.pdf</a>
		Open	<a href="#">Trust Data Worksheet.xls</a>
		Open	<a href="#">2019 Required Minimum Distribution.pdf</a>

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These are internal folders on the portal where we can upload your items. You can sort the information by clicking on “Folder” to assist you in finding or identifying files. For instance, if you are looking for a distribution file, you could sort and look for items posted in the “Payouts” folder. Or if you want to see what you uploaded for last year’s census you can look for “2020 Year End”. When you upload files you can also find these folders so you can upload to specific folders on the My Portal page.