Retire With A PLAN

Help Your Clients Choose A Retirement Plan For Their Employees

Retirement Plan Life Cycle

- **Choose**
- Establish
- Operate
- Terminate

We feel there is a life cycle to a retirement plan.

The first phase, choose - when a company or individual starts to think about those golden years and wants to learn the various ways that money can be put away to plan for their employees' retirement or maybe their own.

We'll walk you through the types of plans most suited to a small employer, who they cover, and how they work, so you and your clients can make an informed decision and know where to look for more help.

The first phase will be discussed today. The last three– Establish, Operate and Terminate a plan will be left for future sessions.

Choosing a Plan

- Small Businesses ≤ 100 Employees
  - 40 million employed
  - Only 8 million have retirement plans
- Social Security
  - $830 month on average

In 1999, 58% of all private wage and salary workers were employed by firms that sponsored pension plans.

Of the 40 million people employed by businesses with 100 or fewer employees, only 8 million are covered by a pension plan, that's only 20%.

The average amount paid monthly by Social Security in the form of a benefit is $830. Can someone live on $830 a month with no additional income?

Social Security was never intended to be the only form of retirement benefit. It was meant as a supplement. In many cases, it has become the sole source of income after retirement.

Why Have a PLAN?

- Attract quality employees
- Retain employees
- Positive effect on employee morale
- Tax advantages for employees and employers

Attracting quality employees can be very competitive. Having a retirement plan as part of the benefits package will make an employer a better choice over other employers.

A trained employee is a valuable commodity. Retaining those employees can be difficult. Maintaining some type of a retirement plan will help retain trained employees.

Showing your employees that you are taking a long term view for them will help morale. If a company cares for their employees, it will reap the benefits of a happier, more satisfied workforce.

Depending on the type of retirement arrangement a business chooses they can gain significant tax savings for themselves and/or their employees. Contributions by the employer may be deductible. Assets in a pension trust grow tax deferred. Salary deferrals are not included in income to the Employee until distributed.

New Incentives

- Tax Credit
  - Start-Up costs
  - Deferral by lower-income employees
    ("Savers Credit")
- Free IRS approval letter for new plans

Certain small business employers may be entitled to a tax credit of up to $500 per year for the first 3 years of the plan in tax years beginning after December 31, 2001. The Plan must be effective after December 31, 2001 in order to get this credit although the plan document could have been adopted and signed prior to December 31, 2001. This credit is for costs paid or incurred to set up and administer a SEP, SIMPLE or qualified plan and to educate employees about the plan.

Beginning in 2002, plan participants, including self-employed individuals, may be entitled to what is commonly referred to as the "Savers Credit", which is a tax credit of up to $2,000, depending on their contributions, gross income and filing status. Employers need to educate their employees so they can start deferring now in order to take the credit on their tax return.

Also, for requests made after December 31, 2001, employers who have 100 or fewer employees, at least one of whom is non-highly compensated, will no longer be required to pay a user fee for a determination letter request if certain requirements are met.

No Fuss Plans

- Payroll-Deduction IRA
- SEP-IRA
- SIMPLE-IRA

2002 IRS Nationwide Tax Forum

These are three types of very basic plans, all IRA’s, that we will discuss in greater detail.

Payroll-Deduction IRA

- Contributions made by employees
- No filing requirements
- Can be provided by any size business

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The Payroll Deduction IRA is probably the simplest retirement arrangement that a business can establish. This is not an employer sponsored plan but merely an arrangement for the employer to act as a conduit between the employee and the financial institution.

No plan is adopted under this arrangement and the employer has no filing requirements.

The employees establish an IRA with a financial institution and authorize a payroll deduction for all types of IRA's. These contributions are not reflected on Form W-2 and the employer has no responsibility for determining limits that apply to the employee.

The employer's responsibility is simply to transmit the employees' authorized deduction to the financial institution.

Any size business is eligible to set up a payroll deduction IRA arrangement.

In general, if it is offered to one employee, it should be offered to all employees.

Contributions

Payroll-Deduction IRA

- Employee only
- Limits:
  - $3,000 in 2002 – 2004
  - More in later years
  - More if employee is age 50 and over

Only the employee makes contributions – no employer matches are required or allowed.

Contribution limits are:

$3,000 for 2002 – 2004

$4,000 for 2005 – 2007 and

$5,000 for 2008

If the employee is age 50 and over, a special "catch-up" contribution is permitted. This additional contribution is $500 per year for 2002 – 2005 and an additional $1,000 per year for 2006 and after.

Ex. Of Accumulation if Maximum Saved and 5% interest assumed.

Start Saving at	Approximate Lump sum at 67	Approximate Annual Amount
Age 25	$680,000	$68,000
Age 35	$380,000	$38,000
Age 45	$180,000	$18,000

To give you an example of how this would accumulate over time:

For someone 25 if they start saving in 2002, at SSRA (67) they will have accumulated approximately $680,000 based on a 5% interest rate, which works out to about $68,000 per year over their remaining lifetime.

For someone 35 if they start saving in 2002, at SSRA (67) they will have accumulated approximately $380,000 based on a 5% interest rate, which works out to about $38,000 per year over their remaining lifetime.

For someone 45 if they start saving in 2002, at SSRA (67) they will have accumulated approximately $180,000 based on a 5% interest rate, which works out to about $18,000 per year over their remaining lifetime.

Pros and Cons

Payroll-Deduction IRA

- Easy to set up and administer
- Low cost to employer
- NO annual filing requirement
- NO loans
- Directed investments
- Lower contribution limit

There is no plan to adopt or update and no annual filing requirement, so the employer has no administrative expenses involved.

A downside to this type of arrangement is the Employer receives little credit for this service from employees and there is no employer deduction for the business.

Loans are not allowed with a payroll deduction IRA and the IRA can not be used as collateral.

In-service withdrawals are allowed, but are subject to income taxes and an additional 10% penalty if the employee is under age 59 ½.

The employee has complete control over where his or her money is invested.

As we will see in comparing the different types of plans, this plan has a much lower contribution limit than other types of arrangements available.

The employer can have another retirement plan in addition to the payroll-deduction IRA, but the employee must be aware of the limits that may apply.

SEP-IRA

- Contributions made by employer
- Ways to establish a SEP
  - Complete Form 5305-SEP
  - Adopt a Prototype SEP
- Can be provided by any size business
- Employer may maintain another plan

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SEP is the acronym for Simplified Employee Pension and is established under IRC section 408(k). Because this is a simplified plan, its administrative costs should be lower than the more complicated types of plans. Under a SEP-IRA, a written plan is adopted that allows you to make contributions toward your own (If you are self-employed) and your employees' retirement without getting involved in a more complex qualified plan.

Any size employer can adopt a SEP IRA using Form 5305 as long as it does not currently maintain any other retirement plan. An employer currently maintained a plan cannot adopt Form 5305 but may adopt a Prototype SEP.

The employer must establish separate IRA accounts for each participant.

If the a SEP IRA is adopted, it must be offered to all eligible employees. An eligible employee is an individual who has reached age 21, has worked for the employer in at least 3 of the last 5 years and who has received at least $450 in compensation from the employer in 2001.

A SEP-IRA can easily be established at many financial institutions, simply by placing a phone call. The institution will walk the employer through the process.

Contributions

SEP-IRA

- Employer only
- Limits:
  - 25% of each employee's compensation

  OR
  - $40,000 limit per employee

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The employer is not required to make contributions each year. However, if contributions are made, they must be based on a written allocation formula and must not discriminate in favor of highly compensated employees. The term discrimination, when used in the context of a retirement plan, is highly compensated employees v. non-highly compensated employees. The maximum amount of contributions is 25% of pay or $40,000, whichever is less.

Contributions must be made to all participants who performed personal services during the year for which the contributions were made, even employees who terminated employment or died before the contributions are made.

Generally, the employer can deduct the contributions made to a SEP-IRA of his employees, including himself if he is self-employed. A Self-employed employee's maximum deduction must be made with a special computation. This calculation can be complicated. Publication 560, which is available at the TE/GE Booth, includes step by step instructions on this calculation.

The employee is always 100% vested (or has total ownership of) in the contributions to their SEP-IRA's

Pros and Cons

SEP-IRA

- Easy to set up and operate
- Low cost to employer
- NO annual filing requirement
- NO loans
- Directed investments

Administrative costs or requirements are low. The employer must execute a written formal agreement to provide benefits to all eligible employees. You must give each eligible employee certain information about the SEP and a separate SEP-IRA must be set up by or for each eligible employee. The written agreement requirement may be satisfied by adopting the IRS model SEP using Form 5305-SEP. Existing model SEP IRAs may not be used to establish new SEP IRAs after October 1, 2002 (Rev. Proc 2002-10 and Rev. Proc. 2002-49). An employer using an existing model SEP who wants to take advantage of the EGTRRA changes (increased limits for contributions), must adopt a revised model plan (or an appropriate amended prototype plan).

The plan has flexible contribution requirements – that is, the employer is not locked into making contributions each year.

This is a good plan if cash flow is an issue.

Participant Loans are not permitted.

In-Service withdrawals are allowed, but are subject to income tax and an additional 10% early withdrawal penalty if the employee is under age 59 ½.

The employer can provide for directed investments with a SEP-IRA.

The employer has until the due date of his return to establish a SEP-IRA.

SIMPLE-IRA

- Both employer and employee contributions
- Establish with Form 5304-SIMPLE or 5305-SIMPLE or adopt a Prototype
- Must be a small business (≤100 employees)
- Employer cannot maintain another plan

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SIMPLE is the acronym for Savings Incentive Match Plan for Employees IRA and is established under IRC section 408(p).

You must be a small business, that is, you must have 100 or fewer employees who received at least $5,000 of compensation from the employer for the preceding year to adopt a SIMPLE-IRA plan. Generally, once you set up a SIMPLE-IRA plan, you must continue to meet the 100 employee limit each year you maintain the plan. However, there is a 2 year grace period for growing employers to still be considered as a small employer even if they go over the 100 employee limit.

You can not have any other type of retirement plan.

To establish the SIMPLE IRA, the employer must do one of the following; complete and retain form 5304-SIMPLE (if each participant is allowed to select the financial institution receiving his or her SIMPLE-IRA plan contributions) or Form 5305-SIMPLE (if the employer requires that all contributions under the SIMPLE-IRA plan be deposited initially with a designated financial institution) or adopt a prototype arrangement. As with the SEP IRAs, the SIMPLE IRAs need to be amended for EGTRRA.

Employee Contributions

SIMPLE-IRA

- Limits:
  - Employee - $7,000 in 2002, $8,000 in 2003
    - More in later years
    - More if employee is age 50 and over

The SIMPLE-IRA provides for both Employer and Employee Contributions.

The employee contribution or salary deferral is limited to $7,000 in 2002. This amount is increased by $1,000 per year until the limit is $10,000 in 2005. The employee salary reduction contribution is voluntary.

If the employee is age 50 and over, an additional "catch-up" contribution is allowed. This additional contribution amount is,

2002 - $500

2003 - $1,000

2004 - $1,500

2005 - $2,000

2006 - $2,500

Employer Contributions

SIMPLE-IRA

– Employer
  - Match up to 3% of compensation

  OR
  - 2% of compensation non-elective contribution

The employer is required to make a dollar for dollar match of up to 3% of pay or a 2% non-elective contribution for each eligible employee. The non-elective contribution is not contingent on an employee's salary deferral contributions. An eligible employee is every employee who received at least $5,000 compensation in any 2 preceding years and is expected to earn at least $5,000 in the current year

Both Employee and Employer contributions are 100% vested immediately with the SIMPLE IRA.

Pros and Cons

SIMPLE-IRA

- Easy and low-cost to set up and operate
- NO loans
- NO annual filing requirements
- Directed investments

After initial establishment of the plan there are no filing requirements. The financial institution maintaining the arrangement handles most of the other paperwork. An employer using an existing model SIMPLE IRA plan, must adopt a revised model plan (or an appropriate amended prototype plan) by the end of 2002.

The employer has two choices to meet their contribution requirements.

This is a good plan if you want your employees to help share responsibility for their retirement.

Participant loans are not permitted

In-Service withdrawals are permitted, but are subject to income taxes and if taken within the first 2 years of participation an additional 25% penalty if the employee is under age 59 ½. After the first two years the penalty drops to 10%.

Depending on the type of SIMPLE adopted (5304 or 5305), the participants may be able to choose their financial investments.

Fuss Plans

- 401(k)
- Profit-Sharing
- Money Purchase
- Defined Benefit

These types of plans have annual filing requirements and varying degrees of complexity. This complexity may not relate to the order in which the different types of plans are presented today. All require a plan document and it may be wise to have a benefit specialist available to answer more difficult questions.

The first three are defined contribution plans.

401(k) Plans

- Both employee and employer contributions
- Must adopt a plan document
- Available to any size business
- Employer can maintain other retirement plans

A 401(k) plan is a qualified defined contribution plan. Each participant has a separate account and their retirement benefit depends on the amounts contributed to the plan and the earnings or losses on the accounts. The employee chooses to defer a portion of their salary and it is contributed to their account. If the employer chooses, the employee may direct where they want their account invested, based on a menu of options.

A formal written plan document must be adopted by the employer and followed in operation and updated as required by law changes.

A form 5500 and other annual reporting is required.

This type of plan is available to any size business.

Employee and Employer Contributions

- Limits:
  - Employee - $11,000 in 2002, $12,000 in 2003
    - More in later years
    - More if employee is age 50 and over
  - Employer
    - Match and/or discretionary

With a 401(k) plan, contributions can be made by the employer, the employee,either or both.

The employee can elect to defer compensation or not. If they do elect to defer, they are limited to deferring $11,000 in 2002, increasing each year in $1,000 increments until the limit is $15,000 in 2006.

If the employee is age 50 and over, an additional "catch-up" contribution is allowed. This additional contribution is,

2002 - $1,000
2003 - $2,000
2004 - $3,000
2005 - $4,000
2006 - $5,000

The employer can elect to make a matching contribution to the employee's deferral or a discretionary profit sharing contribution or both. The employer contribution must be a written predetermined allocation formula and must not be discriminatory in favor of highly compensated employees. The 401(k) plan has a special non-discrimination test known as the ADP/ACP test. This testing can be more complicated than the non-discrimination testing of the profit sharing or money purchase pension plans.

The 401(k) plan generally must be offered to all employees at least age 21 who worked at least 1,000 hours in the previous year.

The employer's deduction will not be reduced by the employee deferrals.

Total Contributions

401(k) Plans

- Limit:
  - Lesser of 100% of compensation

  Or
  - $40,000

The 100% of compensation limit is not necessarily what can be deducted by the employer, there is an overriding 25% of compensation limit which applies to all defined contribution plans of the employer.

Employees are always 100% vested in their salary deferrals. Vesting means your degree of ownership.

Employer matching or discretionary contributions may be vested using a graduated vesting schedule. The employer may provide a more liberal vesting schedule.

These limits are overall individual limits.

Pros and Cons

401(k) Plans

- Greater flexibility in contributions
- Employees may contribute more
- Administrative costs may be higher
- The plan can be simple or complex
- Annual Form 5500 filing requirement
- Loans permitted
- Directed investments

With a 401(k) plan, both the employer and the employee has greater flexibility in contributions. This plan is a good choice if cash flow is an issue – the employer contribution can be discretionary.

The employee can contribute more with this type of plan than with the IRA plans.

Administrative costs can be slightly or substantially higher with this type of plan depending on the complexity of the plan adopted. For example, a prototype 401(k) plan can be adopted if the employer wants to keep the administrative burden to a minimum.

One requirement of the 401(k) plan is the testing to determine the plan meets the nondiscrimination requirements of the Code. This adds to the administrative burden of this type of arrangement. Annual nondiscrimination testing can be avoided with safe harbor provisions.

There is an annual Form 5500 filing requirement for this type of plan.

The 401(k) plan may have additional features not available in IRA's – participant loans and hardship withdrawals. However, while these features add additional flexibility for the employee, they add administrative burden for the employer. These features are optional. The employer can elect to include these features in the plan that is adopted. However, these features must be in the plan document.

Other distributions are not allowed until an event specified in the plan document occurs – death, disability, separation from service.

SIMPLE 401(k) Plans

- Both employer and employee contributions
- Must adopt a plan document
- Must be a small business ($\leq$ 100 employees)
- Employer can not maintain other retirement plans

2002 IRS Nationwide Tax Forum

The IRS has issued Model Amendments for SIMPLE 401(k) Plans. These Model Amendments permit a 401(k) plan to become a SIMPLE 401(k) Plan if certain requirements are met.

The SIMPLE 401(k) is similar to the traditional 401(k). However, you must be a small business to adopt a SIMPLE 401(k) and the employer can not maintain other retirement plans. There is a grace period of 2 years for growing employers.

Like the 401(k), employees are eligible to make salary deferrals with a SIMPLE 401(k).

Unlike the 401(k), the employer is required to make a contribution with a SIMPLE 401(k).

Employee Contributions

SIMPLE 401(k) Plans

- Limits:
  - Employee - $7,000 in 2002, $8,000 in 2003
    - More in later years
    - More if employee is age 50 and over

The SIMPLE 401(k) provides for both Employer and Employee Contributions.

The employee contribution or salary deferral is limited to $7,000 in 2002. This amount is increased by $1,000 per year until the limit is $10,000 in 2005. The employee salary reduction contribution is voluntary.

If the employee is age 50 and over, an additional "catch-up" contribution is allowed. The catch-up provision must be provided in the plan document. This additional contribution amount is,

2002 - $500

2003 - $1,000

2004 - $1,500

2005 - $2,000

2006 - $2,500

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Employer Contributions

SIMPLE 401(k) Plans

- Employer:
  - Match up to 3% of compensation

  Or

  - 2% non-elective contribution

The employer is required to make a dollar for dollar match of up to 3% of pay or a 2% non-elective contribution for each eligible employee. The non-elective contribution is not contingent on an employee's salary deferral contributions. An eligible employee is every employee who received at least $5,000 compensation in any 2 preceding years and is expected to earn at least $5,000 in the current year.

The employee is always fully vested in both employee and employer contributions

Pros and Cons

SIMPLE 401(k) Plans

- No discrimination testing required
- Annual Form 5500 filing requirement
- Loans permitted
- Directed investments

Because the plan is not subject to the ADP/ACP tests of the 401(k) plans and both employee and employer contributions are always fully vested, the SIMPLE 401(k) allows for easy administration.

Like the more complex 401(k), the SIMPLE 401(k) has an annual Form 5500 filing requirement

Like the more complex 401(k), participant loans are permitted with the SIMPLE 401(k), as are in-service withdrawals but they have to be provided under the plan. The in-service withdrawals may be subject to an additional 10% penalty if the employee is under age 59 ½. Additionally, like the more complex 401(k), the employer can choose to allow the participants to direct their investments.

Profit-Sharing Plans

- Contributions made by the employer
  - Do **NOT** need **Profits**!
  - Discretionary
  - Allocation formula
- Must adopt a plan document
- Available to any size business
- Employer can maintain other plans

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You don’t need profits to have a profit sharing plan.

Contributions to a profit sharing plan are discretionary, you do not need to make set contributions.

The plan must have a written allocation formula. This can be as simple as a percentage of compensation, for example all employees receive an allocation based on their compensation in relation to the total compensation of plan participants to very complex. The employer can decide how simple or complex they want the formula to be.

This type of plan is available to any size business and can have them in combination with other plans.

Employer Contributions

Profit-Sharing Plans

- Limit:
  - Lesser of 100% of compensation

  Or
  - $40,000

Although contributions are not required, when they are made they are the sole responsibility of the employer. For each individual covered they can not contribute more than 100% of a participant's compensation or $40,000, whichever is less.

The 100% of compensation limit is not necessarily what can be deducted by the employer, there is an overriding 25% of compensation limit which applies to all defined contribution plans of the employer.

The plan can provide for a graduated vesting schedule or immediate vesting.

Pros and Cons

Profit-Sharing Plans

- Contributions discretionary
- Higher administrative cost
- Plan must not discriminate
- Annual Form 5500 filing requirement
- Loans permitted
- Directed investments

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Keep in mind that although contributions are discretionary, when made they must be non-discriminatory. There are set tests the allocations within a profit sharing plan must pass. The tests can be simple or complex, depending on the features the employer chooses within the plan. Due to this testing and the requirement for annual filing of the 5500, administrative costs can be higher than for less complex plans. On the flip side, this type of plan allows the employer great flexibility.

Any optional features must be provided for in the terms of the plan.

Money Purchase Plans

- Contributions made by the employer
  - Required contributions
- Must adopt a plan document
- Available to any size business
- Employer can maintain other retirement plans

This type of plan has a defined contribution formula based on the formula in the plan. For example, a plan may state that 5% of each participants' compensation will be contributed to their account.

A participant's benefit is based on the amount in their account at the time they retire. The account will share in the gains and losses of the trust.

Employer Contributions

Money Purchase Plans

- Limit:
  - Lesser of 100% of compensation

  Or
  - $40,000

Limit applies to all plans of an Employer combined.

The 100% of compensation limit is not necessarily what can be deducted by the employer, there is an overriding 25% of compensation limit which applies to all defined contribution plans of the employer

Pros and Cons

Money Purchase Plans

- Contributions required
- Higher administrative cost
- Plan must not discriminate
- Annual Form 5500 filing requirement
- Loans permitted
- Directed investments

There is an excise tax associated with a money purchase pension plan if the company does not meet the required annual funding obligation under the plan.

Money purchase pension plans have additional joint and survivor requirements that a profit sharing plan may not have. Due to these increased requirements, this type of plan generally has higher administrative costs than the profit sharing plan, with less flexibility.

With a money purchase pension plan, distributions are generally not allowed until retirement. Participant Loans, however, are permitted as long as provided under the the terms of the plan.

Money purchase plans existed because in past years they had greater deductible limits than profit sharing plans, this is no longer the case.

Defined Benefit Plans

- Both employer and employee contributions
  - Fixed pre-established benefit
  - Required contributions
- Must adopt a plan document
- Available to any size business
- Employer can maintain other retirement plans

These plans may provide for employee contributions in addition to employer contributions.

This is a completely different type of arrangement than we have looked at so far. The benefit under these plans are set in the plan document and can only be changed by a plan amendment and can not be changed retroactively to decrease benefits.

Employer Contributions

Defined Benefit Plans

- Limits:
  - – Contributions determined by Enrolled Actuary
  - – Benefit amount limit
    - Maximum 2002 $160,000
    - Compensation limit 2002 $200,000

Contributions are based on the benefits in the plan and are calculated by an Enrolled Actuary. An Enrolled Actuary is not the same as an Enrolled Agent. The plan document specifies the annual retirement benefit, for example 75% of compensation or 2% of the high 3 year average compensation times years of service. The contribution requirement will be based on what is actuarially determined necessary to attain that promised benefit in the future. Based on the earnings and losses of the trust, the required funding can shift dramatically from year to year. The employer has little control of the amount required to fund this type of plan from year to year.

Pros and Cons

Defined Benefit Plans

- Contributions required
- Higher administrative cost
- Enrolled Actuary MUST be hired
- Plan must not discriminate
- Annual Form 5500 and Schedule B filing requirement
- Loans permitted

There is an excise tax associated with a DB plan if a company does not meet the funding obligation under the plan.

The cost associated with a DB plan is much higher. A benefit plan advisor is almost always necessary and an enrolled actuary must be hired to determine the funding requirement and fill out the schedule B that is associated with the required 5500 filing each year.

The plan must be non-discriminatory. It must not favor highly compensated employees.

As was the case with the money purchase pension plan, distributions are generally not allowed until retirement. Participant loans may be permitted, however, they can have an adverse impact on the qualification if not handled properly.

The optional features must be provided under the terms of the plan.

What's Next…

- Establish
  - See your tax advisor or financial institution for options
  - Plan document
- Operate
  - Maintain and update for tax law changes
- Terminate
  - Decision to terminate existing plan
  - Start cycle over

In future sessions we will discuss the process involved in establishing a plan or arrangement.

Next will come information on operating a plan. Each type of plan has it's own set of rules and requirements. As the tax law involving pension plans evolves the plans that operate by these laws must be amended. Sometimes a change in law may create a new type of plan or even eliminate a type of plan. We will keep you up to date on these changes through these sessions and on our web site.

And finally, we will help you through the termination process if that is the point you have reached. In future sessions we will explain what is needed on a termination basis for each type of plan.

?? Still have Questions ??

- Additional help:
  - Visit our booth
  - Publications:
    - 560 Retirement Plans for Small Business
    - 590 Individual Retirement Arrangements
  - Visit our Website at **www.irs.gov/ep**
  - E-mail us at **RetirementPlanQuestions@irs.gov**
  - Call us at 1-877-829-5500

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CHOOSING
A RETIREMENT SOLUTION
for Your Small Business