

reason of a maternity or paternity absence described in section 410(a)(5)(E)(i) or 411(a)(6)(E)(i) is the second anniversary of the first day of such absence. The period between the first and second anniversaries of the first day of absence from work is neither a period of service nor a period of severance. This rule applies to maternity and paternity absences beginning on or after the first day of the first plan year in which the plan is required to credit service under sections 410(a)(5)(E) and 411(a)(6)(E).

(2) *Example.* The rules of this section are illustrated by the following example:

Assume an individual works until June 30, 1986; is first absent from employment on July 1, 1986, on account of maternity or paternity absence; and on July 1, 1989, performs an hour of service. The period of service must include the period from employment commencement date until June 30, 1987 (one year after the date of separation for any reason other than a quit, discharge, retirement, or death). The period from July 1, 1987, to June 30, 1988, is neither a period of service nor a period of severance. The period of severance would be from July 1, 1988, to June 30, 1989.

(b) *Other methods.* This paragraph provides a safe harbor for plans that compute years of service under the hours of service methods or permitted equivalencies. Such a plan will be treated as satisfying the requirements of sections 410(a)(5)(E) and 411(a)(6)(E) if the plan increases the minimum period of consecutive 1-year breaks required to disregard any service (or deprive any employee of any right) by one. Thus, a plan will satisfy sections 410(a)(5)(E) and 411(a)(6)(E) without having to compute service for maternity or paternity and sections 410(a)(5)(D) and 411(a)(4)(D) and (a)(6)(C), by increasing the period of consecutive breaks-in-service from 5 to 6.

[T.D. 8219, 53 FR 31852, Aug. 22, 1988; 53 FR 48534, Dec. 1, 1988]

§ 1.410(a)-9T Elapsed time (temporary).

- (a)-(b) [Reserved]
- (c) *Eligibility to participate.*
 - (1) [Reserved]
 - (2) *Determination of one-year period of service.*

- (i) [Reserved]
- (ii) For purposes of section 410(a)(1)(B)(i), a “2-year period of service” shall be deemed to be “2 years of service.”

(d) *Vesting—(1) General rule.*

- (i)-(iii) [Reserved]
- (iv) For purposes of determining an employee’s nonforfeitable percentage of accrued benefits derived from employer contributions, a plan, after calculating an employee’s period of service in the manner prescribed in this paragraph, may disregard any remaining less than whole year, 12-month or 365-day period of service. Thus, for example, if a plan provides for the statutory three to seven year graded vesting, an employee with a period (or periods) of service which yields 3 whole year periods of service and an additional 321-day period of service is twenty percent vested in his or her employer-derived accrued benefits (based solely on the 3 whole year periods of service).

[T.D. 8170, 53 FR 239, Jan. 6, 1988]

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- ESOP.
- Former employee.
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- Multiemployer plan.
- Noncollectively bargained employee.
- Nonhighly compensated employee.
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- Plan year.
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- Ratio percentage.
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[T.D. 8363, 56 FR 47641, Sept. 19, 1991; 57 FR 10954, Mar. 31, 1992, as amended by T.D. 8487, 58 FR 46838, Sept. 3, 1993; T.D. 8548, 59 FR 32914, June 27, 1994]

§ 1.410(b)-1 Minimum coverage requirements (before 1994).

(a) *In general.* A plan is not a qualified plan (and a trust forming a part of the plan is not a qualified trust) unless the plan satisfies section 410(b)(1). For plan years prior to the applicable effective date set forth in § 1.410(b)-10, a plan satisfies section 410(b)(1) if it satisfies the requirements of paragraph (b)(1) or (b)(2) of this section. See also § 1.410(b)-2 for plan years beginning on or after the applicable effective date set forth in § 1.410(b)-10.

(b) *Coverage tests—(1) Percentage test.* A plan satisfies the requirements of this subparagraph if it benefits—

- (i) Seventy percent or more of all employees, or