§ 1.411(a)–6 Year of service; hours of
service; breaks in service.

(a) Year of service. Under section 411
(a)(5)(A), for purposes of the regula-
tions thereunder, the term “year of
service” is defined in regulations pre-
scribed by the Secretary of Labor
under section 203(b)(2)(A) of the Em-
ployee Retirement Income Security
Act of 1974. For special rules applica-
tible to seasonal industries and maritime
industries, see regulations prescribed by
the Secretary of Labor under subpara-
graphs (C) and (D) of section 203(b)(2) of
the Employee Retirement Income

(b) Hours of service. Under section
411(a)(5)(B), for purposes of the regula-
tions thereunder, the term “hours of
service” has the meaning provided by
section 410(a)(3)(C). See regulations
prescribed by the Secretary of Labor
under 29 CFR Part 2530, relating to
minimum standards for employee pen-
sion benefit plans.

(c) Breaks in service. Under section
411(a)(6), for purposes of § 1.411(a)–5(b)(4)
and of this paragraph—

(1) In general—(i) Year of service after
1-year break in service. In the case of
any employee who has incurred a 1-
year break in service, years of service
completed before such break are not re-
quired to be taken into account until
the employee has completed one year
of service after his return to service.

(ii) Defined contribution plan. In the
case of a participant in a defined con-
tribution plan or in an insured defined
benefit plan (which plan satisfies the
requirements of section 411 (b)(1)(F)
and §1.411(b–1)) who has incurred a 1-
year break in service, years of service
completed after such break are not re-
quired to be taken into account for
purposes of determining the nonforfe-
itible percentage of the participant’s
right to employer-derived benefits
which accrued before such break. This
subdivision does not permit years of
service completed before a 1-year break
in service to be disregarded in deter-
mining the nonforfeitable percentage
of a participant’s right to employer-de-
rived benefits which accrue after such
break.

(iii) Nonvested participants. In the
case of an employee who is a nonvested
participant in employer-derived bene-
fits at the time he incurs a 1-year
break in service, years of service com-
pleted by such participant before such
break are not required to be taken into
account for purposes of determining
the nonforfeitable percentage of his
right to employer-derived benefits if at
such time the number of consecutive 1-
year breaks in service included in his
most recent break in service equals or
exceeds the aggregate number of his
years of service, whether or not con-
secutive, completed before such break.
In the case of a plan utilizing the
elapsed time method described in
§1.410(a)–7, the condition in the pre-
ceding sentence shall be satisfied if the
period of severance is at least one year
and the consecutive period of severance
equals or exceeds his prior period of
service, whether or not consecutive,
completed before such period of sever-
ance. In computing the aggregate num-
ber of years of service prior to such
break, years of service which could
have been disregarded under this sub-
division by reason of any prior break in
service may be disregarded.

(2) One-year break in service defined.
The term “1-year break in service”
means a calendar year, plan year, or
other 12-consecutive month period des-
ignated by a plan (and not prohibited
under regulations prescribed by the
Secretary of Labor) during which the
participant has not completed more
than 500 hours of service. In the case of
a plan utilizing the elapsed time meth-
 hod, the term “1-year break in service”
means a 12-consecutive month period
beginning on the severance from serv-
ance date or any anniversary thereof and
ending on the next succeeding anniver-
sary of such date; provided, however,
that the employee during such 12-con-
secutive-month period does not com-
plete any hours of service within the
meaning of 29 CFR Part 2530.200b–2(a)
for the employer or employers main-
taining the plan. See regulations pre-
scribed by the Secretary of Labor
under 29 CFR Part 2530, relating to
minimum standards for employee pen-
sion benefit plans.

(d) Examples. The rules provided by
this section are illustrated by the fol-
lowing examples:

Example 1. (i) X Corporation maintains a
defined contribution plan to which section
411 applies. The plan uses the calendar year as the vesting computation period. In 1980, Employee A, who was hired at age 35, separates from the service of X Corporation after completing 4 years of service. At the time of his separation, Employee A had a nonforfeitable right to 25 percent of his employer-derived accrued benefit which was not distributed. In 1985, after incurring 5 consecutive one-year breaks in service, Employee A is reemployed by X Corporation and becomes an active participant in the plan. The plan provides that, for 1985 and all subsequent years, Employee A’s previous years of service will not be taken into account for purposes of computing the nonforfeitable percentage of his employer-derived accrued benefit, solely because of his break in service.

(ii) The plan fails to satisfy section 411. Section 411(a)(6)(B) would permit the plan to disregard Employee A’s prior service for purposes of computing his nonforfeitable percentage in 1985 only, but such service must be taken into account in subsequent years unless there is another break in service. Under section 411(a)(6)(C), the plan is not required to take Employee A’s post-break service into account for purposes of computing his nonforfeitable right to his prebreak employer-derived accrued benefits. This provision, however, would not permit the plan to disregard pre-break service in determining his nonforfeitable right to his benefit accrued after the break. The exception provided by section 411(a)(6)(D) does not apply in the case of a participant who has any nonforfeitable right to his accrued benefit derived from employer contributions.

Example 2. (i) X Corporation maintains a qualified plan to which sections 410 and 411 (relating to minimum participation standards and minimum vesting standards, respectively) apply. The plan permits participation upon completion of a year of service and provides that 100% of an employee’s employer-derived accrued benefit vests after 10 years of service. The plan uses the calendar year as the vesting computation period. The plan provides that an employee who completes at least 1,000 hours of service in a 12-month period is credited with a year of service for participation and vesting purposes. The plan also provides that an employee who does not complete more than 500 hours of service in that 12-month period incurs a one-year break in service. The plan includes the rule described in section 411(a)(6)(D) for participation and vesting purposes. Under this rule, an employee’s years of service prior to a break in service may be disregarded under certain circumstances if he has no vested right to any employer-derived benefit under the plan. The plan does not contain the rule described in section 411(a)(6)(B) (relating to the requirement of one year of service after a one-year break in service).

(ii) Employee A commences employment with the X Corporation on January 1, 1977. Employee A’s employment history for 1977 through 1989 is as follows:

<table>
<thead>
<tr>
<th>Year ending December 31</th>
<th>Hours of service completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1977</td>
<td>1,000</td>
</tr>
<tr>
<td>1978</td>
<td>800</td>
</tr>
<tr>
<td>1979</td>
<td>1,000</td>
</tr>
<tr>
<td>1980</td>
<td>400</td>
</tr>
<tr>
<td>1981</td>
<td>1,000</td>
</tr>
<tr>
<td>1982</td>
<td>0</td>
</tr>
<tr>
<td>1983</td>
<td>400</td>
</tr>
<tr>
<td>1984</td>
<td>1,000</td>
</tr>
<tr>
<td>1985</td>
<td>0</td>
</tr>
<tr>
<td>1986</td>
<td>0</td>
</tr>
<tr>
<td>1987</td>
<td>500</td>
</tr>
<tr>
<td>1988</td>
<td>200</td>
</tr>
<tr>
<td>1989</td>
<td>1,000</td>
</tr>
</tbody>
</table>

Employee A’s status as a participant during this period is determined as follows:

1978: Employee A was a plan participant on January 1, 1978, because he completed a year of service (1,000 hours) in 1977. He did not complete a year of service in 1978 because he completed fewer than 1,000 hours in that year. Because he completed more than 500 hours of service in 1978, however, Employee A did not incur a one-year break in service that year.

1979: Employee A completes a year of service in 1979. Because he did not incur a one-year break in service in 1978, the plan may not disregard his 1977 service for purposes of determining his years of service as of January 1, 1979.


1981: Because Employee A had completed 2 years of service prior to 1981 and had incurred one 1-year break in service prior to 1981, under section 411(a)(6)(D), the plan may not disregard his pre-1980 service in 1981. Employee A completes a year of service in 1981.


1983: Employee A incurs a one-year break in service in 1983. As of the end of 1983, he has completed 3 years of service and has incurred 2 consecutive one-year breaks in service.

1984: Employee A completes a year of service in 1984. Under section 411(a)(6)(D), his pre-1982 service may not be disregarded in 1984 because, as of the beginning of 1984, his pre-1984 years of service (3) exceed his consecutive one-year breaks in service (2).


1989: Employee A’s pre-1989 service is disregarded in 1989 and all subsequent plan years because his years of service as of January 1, 1989, equal the number of consecutive one-year breaks he has incurred as of that year.
§ 1.411(a)–7 Definitions and special rules.

(a) Accrued benefit. For purposes of section 411 and the regulations thereunder, the term "accrued benefit" means—

(i) Defined benefit plan. In the case of a defined benefit plan—

(A) If the plan provides an accrued benefit in the form of an annual benefit commencing at normal retirement age, such accrued benefit, or

(B) If the plan does not provide an accrued benefit in the form described in subdivision (i) of this subparagraph, an annual benefit commencing at normal retirement age which is the actuarial equivalent (determined under section 411(c)(3) and § 1.411(c)–(5) of the accrued benefit determined under the plan. In general, the term "accrued benefits" refers only to pension or retirement benefits. Consequently, accrued benefits do not include ancillary benefits not directly related to retirement benefits such as payment of medical expenses (or insurance premiums for such expenses), disability benefits not in excess of the qualified disability benefit (see section 411(a)(9) and paragraph (c)(3) of this section), life insurance benefits payable as a lump sum, incidental death benefits, current life insurance protection, or medical benefits described in section 401(h). For purposes of this paragraph a subsidized early retirement benefit which is provided by a plan is not taken into account, except to the extent of determining the normal retirement benefit under the plan (see section 411(a)(9) and paragraph (c) of this section). The accrued benefit includes any optional settlement at normal retirement age under actuarial assumptions no less favorable than those which would be applied if the employee were terminating his employment at normal retirement age. The accrued benefit does not include any subsidized value in a joint and survivor annuity to the extent that the annual benefit of the joint and survivor annuity does not exceed the annual benefit of a single life annuity.

(ii) Defined contribution plan. In the case of a defined contribution plan, the balance of the employee’s account held under the plan.

(b) Normal retirement age—(1) General rule. For the purposes of section 411 and the regulations thereunder, the term "normal retirement age" means the earlier of—

(i) The time specified by a plan at which a plan participant attains normal retirement age, or

(ii) The later of—

(A) The time the plan participant attains age 65, or

(B) The 10th anniversary of the date the plan participant commenced participation in the plan.

If a plan, or the employer sponsoring the plan, imposes a requirement that an employee retire upon reaching a certain age, the normal retirement age may not exceed that mandatory retirement age. The preceding sentence will apply if the employer consistently enforces a mandatory retirement age rule, whether or not set forth in the plan or any related document. For purposes of subdivision (i) of this subparagraph, if an age is not specified by a plan as the normal retirement age then the normal retirement age under the plan is the earliest age beyond which the participant’s benefits under the plan are not greater solely on account of his age or service. For purposes of paragraph (b)(1)(ii)(B) of this section, participation commences on the first day of the first year in which the participant commenced his participation in the plan, except that years which may be disregarded under section 410(a)(5)(D) may be disregarded in determining when participation commenced.

(2) Examples. The provisions of this paragraph are illustrated by the following examples:

Example 1. Plan A defines normal retirement age as age 65. Under the plan, benefits payable to participants who retire at or after