From the compliance desk...

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Partial Plan Terminations

Due to the difficulty of the current economic conditions, many employers may have found themselves in a position where they need to trim their workforce to remain competitive in their respective marketplace. However, reducing your workforce could have an impact on vesting of retirement plan benefits. If you are an employer who has reduced your workforce by 20 percent or more, you may be impacted by the Partial Plan Termination Rules. According to the IRS (Revenue Ruling 2007-43), if a company's turnover rate is at least 20 percent, there is a presumption that a partial plan termination has occurred. The turnover rate is determined by using the following formula: *number of participating employees who had an employer-initiated severance from employment during the "applicable period," number of participating employees at the beginning of the "applicable period," plus employees who became participants during the "applicable period."*

"...reducing your workforce could have an impact on vesting of retirement plan benefits..."

The applicable period depends on the circumstances: the applicable period is a plan year (or, in the case of a plan year that is less than 12 months, the plan year plus the immediately preceding plan year) or a longer period if there are a series of related severances from employment. All participating employees are taken into account in calculating the turnover rate, including vested, as well as nonvested participating employees. An employer-initiated severance from employment generally includes any severance from employment other than a severance that is on account of death, disability, or retirement on or after normal retirement age. An employee's severance from employment is employer-initiated even if caused by an event outside of the employer's control, such as severance due to depressed economic conditions. In certain situations, an employer may be able to verify that an employee's severance was not employer-initiated. If the result is a turnover rate of 20 percent or more, there is a presumption that a partial plan termination has occurred. However, the IRS has indicated that the facts and circumstances of a situation should also be considered when making the determination. For example, circumstances indicating that the turnover rate for an applicable period is routine for an employer, or that the employer replaced the terminated employees with new employees who performed essentially the same job with comparable benefits, favor a finding that no partial plan termination has occurred. If a partial plan termination does occur, all participating employees who had a severance from employment during the applicable period must be made fully vested in their account balance. If you feel you may fall into a partial plan termination scenario, or have general questions regarding this topic, please feel free to contact us at 800.548.2994.