Those Vexing Changes between Full-Time and Other Statuses
Under the Affordable Care Act’s Employer Mandate

Many employers have employees who are hired as full-time employees but within weeks, months or years the employees transition to part-time, seasonal, variable hour (including per diem) or other less-than-full-time status. Other employees go the other way...they begin their tenure as part-time, seasonal or variable hour and then, sooner or later, transition into a full-time position.

How does the employer address these employees from under the Affordable Care Act’s (ACA) employer mandate? The answer depends on three factors:

1. Is the employer using the look-back measurement method or the monthly measurement method to determine full-time employee (FTE) status?
2. Was the employee hired as a full-time employee (FTE) or something else?
3. When did the change in status occur...before or after the employee completed an entire standard measurement period (at that point the employee is considered an “ongoing employee”)?

The vast majority of employers use the look-back measurement method for determining FTEs. The chart below assumes the employer is using that method. (Note: Under the employer mandate rules, an employer that uses the look-back measurement method nevertheless applies the monthly method for newly-hired FTEs, until they’ve been employed through an entire standard measurement period. That fact is reflected below.)

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<th>The Change in Status is...</th>
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| From an FTE on the start date, to Part-Time, Seasonal or Variable-Hour | Status as an FTE for a given month is determined at month’s end, depending on whether the employee averaged 30+ hours of service/week for that month. Note: Once the employee has been employed through an entire standard measurement period, FTE or non-FTE status for an ensuring standard stability period is based on average hours per week during the immediately preceding standard measurement period. **Pointer:** If the employee had enrolled in coverage prior to the transition to non-full-time status, the employer might want to simply allow eligibility to continue at least until the beginning of the employee's first standard stability period. Doing so moots the possibility that the now less-than-full-time employee might actually average 30+ hours per week for a month, but not have an offer of coverage from the employer. | If the employee averaged 30+ hours per week during the most recently completed standard measurement period, he or she is considered an FTE (under the ACA’s employer mandate) for the ensuing standard stability period irrespective of a change in status to something less than full-time. **Pointer:** There is a quirky exception to this rule. If the employee:
- Was continuously offered minimum value (MV) and affordable coverage from not later than the 1st day of the 4th full calendar month of employment, and
- During each of the 3 calendar months following the change in status the employee averaged <30 hours of service per week, then
- The employer may treat the employee as no longer an FTE on the 1st day of the next calendar month if employee averages <30 hours of service per week during that month, and
- During the remainder of the standard stability period the employee must be treated as an FTE for any calendar month during which he or she averages 30+ hours of service per week. |

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1 To avoid having this document spiral off into myriad other directions, we’re assuming the reader has at least a fundamental understanding of initial and standard measurement, administrative and stability periods. Note, too, that this piece does not address how and when an employer may treat an employee as a newly-hired employee following a re-hire, layoff or other break in service. See Compliance News, Spring 2014.
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| **Full-Time to Part-Time During a Stability Period** | If the employee’s FTE status is based on averaging 30+ hours per week during an initial measurement period (i.e., the employee was hired as variable hour or part-time, but averaged full-time hours during an initial measurement period), that status continues for the entire initial stability period.  
If that initial stability period ends before the employee’s first standard stability period, the FTE status continues to the beginning of that first standard stability period.  
FTE status during that period depends on average hours of service per week during the first full standard measurement period. | No effect (unless the quirky 3-month rule above applies, and the employer wants to take advantage of it). FTE status during a standard stability period is based solely on average hours of service per week during the immediately preceding standard measurement period, and no change in employment terms or hours of service terminates that FTE status before the end of the standard stability period. |
| **Part-Time, Seasonal or Variable-Hour to Full-Time** | If, during an initial measurement period the employee moves to a position which would have resulted in being considered an FTE from his or her start date, had he or she been hired into it, he or she is considered an FTE upon the change in status. To avoid potential penalties the employer must offer coverage not later than the 1st day of the 4th calendar month after the change.  
**Pointer:** If the change occurs late in the initial measurement period, and the employee averages 30+ hours per week over that initial measurement period, the coverage offer should come by the 1st day of what would have been the employee’s initial stability period, if that date falls earlier than the 1st day of the 4th calendar month after the change in status. | If the employee is treated as a non-FTE during an initial stability period based on average hours of service per week during the immediately preceding initial measurement period, but the employee averages 30+ hours of service per week during his or her first standard measurement period, the employee should be treated as an FTE for his or her first standard stability period even if that period begins during the employee’s initial stability period for which he or she is treated as a non-FTE.  
**Pointer:** In short, the employee’s FTE status coming out of his or her first standard measurement period trumps – cuts short – his or her non-FTE status for the initial stability period.  
If the employee is treated as a non-FTE during a standard stability period based on average hours of service per week during the immediately preceding standard measurement period, no change in employment terms or hours of service terminates that non-FTE status before the end of the standard stability period. |