

WHAT INTERNATIONAL TECH STARTUPS NEED TO KNOW ABOUT US EMPLOYMENT LAW: YOUR TOP 10 LIST

Insights
Dec 3, 2025

Expanding into the United States is a major milestone for any international tech company, but it also means entering one of the most complex employment law environments in the world. The US system is decentralized, with overlapping federal, state, and local rules that can surprise even seasoned founders. Before your startup makes its first US hire, here are the top 10 key issues every global tech employer should understand.

1. State Law Differences Matter

There is no single "US employment law." Each state has its own wage, leave, and termination rules. Compliance strategies that work in traditionally conservative states like Texas or Florida may not pass muster in traditionally progressive states like California or New York. Choose your first hiring state with care.

2. Lay the Groundwork Early

Before hiring, set up a US entity, obtain an EIN, register for payroll taxes, and develop compliant offer letters, IP assignments, and employee handbooks. Even if you do not have many US-based employees, it is critical to establish basic policies that establish your workplace culture and prevent liability.

3. Employment is "At Will"

In most US states, employment is "at will," meaning either the employer or employee can end the relationship at any

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time, for any lawful reason. There's generally no required notice period or severance unless provided by contract. For non-US employers, this flexibility is often unexpected – as is the significant legal risk that arises when policies or communications inadvertently promise job security.

4. Use Offer Letters Instead of Long Contracts

US employers rarely use lengthy employment agreements. Instead, they issue concise offer letters confirming at-will status, salary, and benefits. It is vital to review your offer letters to ensure that you are not creating a contractual right to employment.

5. Contractor Classification is a Hot Button Issue

Simply labeling a worker an “independent contractor” isn't enough to ensure that the worker is actually considered a contractor under the law. Multiple agencies, including the Department of Labor, IRS, and state regulators, apply different tests to determine whether someone is really an employee instead of a contractor. Misclassification can lead to significant tax, wage penalties, and benefit liabilities.

6. Wage and Hour Rules are Rigid

The federal Fair Labor Standards Act (FLSA) establishes minimum wage and overtime rules, but states like California, New Jersey, and New York impose stricter requirements. Even highly skilled workers such as software engineers or designers may not qualify as “exempt” unless they meet specific salary thresholds and duties tests.

7. Immigration Planning is Essential

If you intend to transfer team members or hire foreign talent, US immigration law requires early planning. Visa categories such as H-1B, L-1, and O-1 are common in tech, but quota limits and processing times can disrupt scaling plans. Navigating the immigration landscape can be complex. The good news is that there are [several visa and employment authorization options available](#) to founders and initial employees who want to live and work in the US.

8. Anti-Discrimination and Accommodation Laws are Expansive

Federal, state, and local laws prohibit discrimination based on protected characteristics such as race, sex, disability,



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Wage and Hour

age, religion, and more. These laws also require an employer to engage in an interactive process to explore possible accommodations if an individual needs one for their disability, health condition, or religion. Many jurisdictions also mandate anti-harassment policies and annual training. A consistent, compliant policy framework is critical for early US operations. Consider implementing written policies on requesting accommodations in the workplace and reinforce with your managerial and HR staff the importance of thoroughly documenting all communications and decisions made related to them.

Industry Focus

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9. Equity and Benefits Need US Structuring

Offering stock options or equity incentives to US employees can trigger securities, tax, and ERISA compliance obligations. You must also evaluate benefit programs under federal and state leave laws, which vary widely across jurisdictions.

10. Data Privacy Rules are Exploding

The United States does not have a federal privacy standard. Rather, there is a growing patchwork of privacy laws with varying degrees of compliance from state to state. Employee data is covered under various state laws and mismanaging the same can lead to steep penalties. Employers should review how they collect, store, and monitor employee information, especially for remote workers using personal devices.

Bottom Line

For support in selecting the most appropriate strategy for your business, please contact your Fisher Phillips attorney, the authors of this Insight, or any member of our [Technology Industry Team](#). Make sure you are subscribed to [Fisher Phillips' Insight System](#) to receive the most up-to-date information directly to your inbox.