Top 10 U.S. Employment Considerations

1. **Direct employment vs. EORs**: Both have pros and cons, depending on the business’s circumstances and growth stage.

2. **At-will employment**: Provides flexibility, but significant risks arise under discrimination, wage and other laws.

3. **Employment documents**: Terms and structure should align with U.S. laws and market practice (e.g., offer letters).

4. **Classifying workers as employees or consultants/contractors**: Depends on a legal test that focuses on the factual circumstances of the relationship.

5. **Overtime pay**: Employees are entitled to overtime pay unless a legal exemption applies.

6. **State law requirements**: Employment documents, policies and practices should reflect state law requirements.

7. **Restrictive covenants**: Non-competes are enforceable in some (but not all) states, but only if certain conditions are satisfied.

8. **Bonuses, severance and other compensation**: Greater risk of disputes if drafting is not clear; must also be structured to avoid certain tax penalties.

9. **Immigration**: Employers must verify employees are authorized to work in the U.S.