

BIPO TIMES



Understanding US Labour Law & Employment Regulations

United States

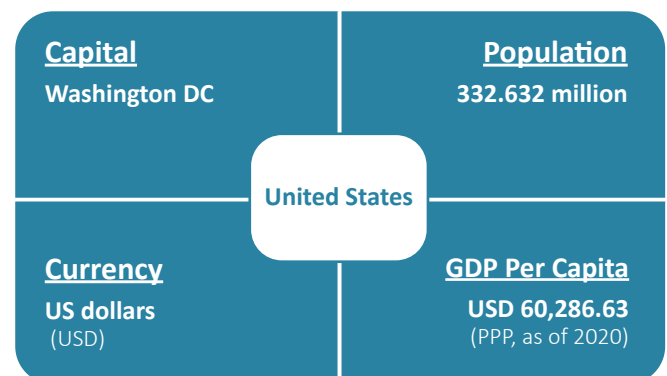
The United States is the largest economy in the world in terms of Nominal Gross Domestic Product (GDP). In 2020, the country's nominal GDP amounted to 20.89 trillion US dollars. The country's biggest GDP contributor is its service sector; including finance, real estate, insurance, professional and business services, and healthcare.

Overview

1. US Employment Law 101

The US employment law derives from acts passed by Congress, State Legislatures, and local governing bodies. The employment law focuses mainly the fair treatment of people in the workplace. Nearly all employment laws can be categorised in the 4 areas of the regulatory environment

- Equal employment
- Total rewards
- Safety and health
- Labor relations



2. Equal Employment

Equal employment opportunity (EEO) laws prohibit specific types of job discrimination in the workplace. EEO laws and executive orders are intended to eliminate employment discrimination. The EEOC (Equal Employment Opportunity Commission) is responsible for developing guidelines and overseeing compliance with most anti-discrimination laws.

Demographic characteristics that cannot be used for employment decisions includes (According to Title VII of the Civil Rights Act):

- Race
- Sex
- Religion
- Colour
- National origin
- Age
- Disability
- Veteran status
- Preganancy
- Genetic information

Discriminatory Practices

1. Disparate treatment: where an individual is treated differently because of the characteristic that defines their protected class
2. Disparate impact: a more subtle and usually unintentional form of discrimination that's also known as adverse impact.
3. Harrasment: unwanted and unwelcome treatment because of a protected class.
4. Retaliation: the law prohibits employers from retaliating against an employee for making the complaint of harassment or discrimination.

3. Total Rewards

Over the course of time, the administration of employee compensation has been regulated by Federal, State and Local governments.

Timeline of Compensation Regulation:

Year	Name of Act
1931	Davis Bacon Act
1936	Walsh-Healey Act
1938	Fair Labor Standards Act
1963	Equal Pay Act
2009	Fair Pay Act

The Fair Labor Standards Act (FLSA), is administered by the Wage and Hour Division of the Department of Labor. The Act establishes standards for minimum wage, overtime pay, recordkeeping, and child labor.

Minimum Wage

Equal Pay laws ensures that no employer discriminate between employees on the basis of their gender by paying wages to employees at a rate less than the opposite gender. The federal minimum wage has not been raised since 2019. However, 21 states have raised their minimum wage effective from 1 January 2022. 39 localities—cities and counties—have minimum wages higher than the states minimum wage.

Current Federal Minimum Wage

Effective Date	Amount
2019	7.25 USD

4. Safety and Health

Workplace safety law consists of federal and state regulations imposed on businesses to keep employees safe from harm and reduce the risk of accidents and illness in the workplace. Government agents have the authority to investigate violations and issue citations for non-compliance. These regulations applies to nearly all employers. Offenders are subjected to monetary fines, and in some cases, imprisonment and other criminal penalties. The Occupational Safety and Health Administration (OSHA), is responsible for protecting the health and safety of workers.

Workers Compensation

Workers' compensation is regulated on the state level, and each state has its own requirements and penalties. Nearly every state requires employers to carry workers' compensation insurance. In some states, employers must purchase workers' compensation insurance from a state fund. Typically, the number of employees determines when a business needs workers' compensation insurance. Most often, it's required as soon as you hire your first employee.

In California, it is a criminal offense to not provide workers' compensation for your employees. It's punishable by up to a year in jail and a fine of no less than \$10,000 – or both. Illegally uninsured employers could face a penalty of up to \$100,000.

5. Labor Relations

Laws regarding labor relations help maintain relationships with employees organized by labor unions, including the establishment, negotiations, and administration of collective bargaining agreements.

Three Acts — passed over a period of almost 25 years — constitute the core of the U.S. Labor Law

- Wagner Act of 1935 (National Labor Relations Act)
- Taft-Hartley Act of 1947 (Labor Management Relations Act)
- Landrum-Griffin Act of 1959 (Labor Management Reporting and Disclosure Act)

6. 401(K): What It Is & How It Works

What is a 401(K) Plan

A 401(K) is an employer-sponsored, defined contribution, retirement savings plan. The plan is defined by payroll contributions that employees can make towards their own retirement. The plan gets its name from Internal Revenue Code, section 401(K).

How does it work?

Employees who are offered the benefit can choose to make voluntary contributions towards their retirement. Employees can also choose how to invest their contributions by selecting among a set of given investment choices, usually mutual funds.

Who can contribute to 401(K)?

Employees who are actively employed with an employer who sponsors this retirement plan benefit.

Eligibility Requirements

- Usually limited to full-time employees over the age of 18.
- Waiting period can be set up by employer

Contributions and Limits

- Eligible employees make voluntary contributions. Either in a set dollars amount or percentage.
- The maximum 401(K) contribution for taxable year 2022 is \$20,500.
- Employees over 50 years old can make "catch up contributions" of an additional \$6,500 in 2022.

Traditional and Roth 401(K) contribution types

Traditional: Pre-tax, defer income taxes on contributions and earnings

Roth: After tax contributions, contributions are made after taxes and tax benefits comes later

Employer 401(K) match

The amount of the match is determined by a formula. For example:

- \$ to \$ match up to certain limit;
- Example: (employer match up to 4%)
- Employee earns \$40,000 annually, and elect to make \$200 401(K) contribution every half month.
- $\$40,000/24 \times 4\% = \$66.67 < \$200$.
- Employer match per paycheck is \$66.67.

401(K) tax benefits

- Employers can deduct contributions on the company's federal income tax return to the extent that the contributions don't exceed certain limitations.
- Elective deferrals and investment gains are not currently taxed and enjoy tax deferral until Distribution.

Tips

Staying Competitive for Top Talents

When vying for quality talents with industry competitors, a 401(K) plan—even better, offering a company match—can help your business stand out, especially if candidates are weighing job offers.

Employee Satisfaction and Retention

Offering retirement plans can help in employers' efforts to engage employees and reduce turnover. Employees who are making an investment in their future through retirement plans may be less likely to move on to other companies — in particular, when employers make matching contributions or provide additional value it adds to an employee's total compensation.

Meeting state mandates

Some states, such as California, Illinois, and Oregon, have rolled out their own retirement savings programs, requiring employers of certain sizes to enroll in a retirement program through the state or establish a qualified plan of their own. Some cities such as New York City are following suit. Employers can take this as an opportunity to meet their state's requirements, and also bridge the gap toward their employees' non-working years who may not otherwise have access to a retirement plan.

7. US Work Visas

6 Most Common U.S. Work Visas

Visa Name	Details & Requirements
H-1B Specialty Occupation (Most popular)	<ul style="list-style-type: none">• Available to foreign nationals who work in specialty occupations (e.g. engineering, computer science)• 85,000 yearly, 20,000 are reserved for individuals with master's degree, 65,000 for everyone else
L-1 Intracompany Transferee	<ul style="list-style-type: none">• Reserved for employees who need to transfer managers, executives or employees with specialized knowledge from a foreign entity• L-1A visas are available to high-level company executives or managerial employees with supervisory duties• L-1B visas are for foreign employees with specialized knowledge that benefits the sponsoring employer. Employee must possess essential qualifications that others in the company and industry do not have
O-1 "Extraordinary Ability"	<ul style="list-style-type: none">• For foreign nationals who possess "extraordinary ability or achievement in the sciences, education, business, or athletics."• The individual is to be known nationally or internationally for their achievements and is on top of their field.
TN Visa	<ul style="list-style-type: none">• TN visa is a special classification for citizens of Mexico and Canada. Eligible individuals includes accountants, engineers, lawyers, and other specifically designated professionals.• There is no annual cap for this visa and can be renewed indefinitely in three-year increments
E-1 and E-2 Treaty Visas	<ul style="list-style-type: none">• E-1 visa is used for companies or individuals who are involved or want to develop substantial trade between the U.S. and a country that maintains an appropriate treaty.<ul style="list-style-type: none">- Substantial trade refers to flow of sizable international items that involves many transactions over time• E-2 visa is used for applicants entering the U.S. solely to develop and direct an enterprise where they have invested a substantial amount of capital.
E-3 Australian Specialty Occupation	<ul style="list-style-type: none">• Applicable to Australian nationals in specialty or professional occupations.• Spouses and children of primary petitioners can also be granted an E-3 visa.• Annual cap is 10,500. Spouses and children do not count against the numerical limitations.• To qualify, the primary petitioner must possess a bachelor's degree or a foreign equivalent, received a legitimate job offer in the U.S., and fill a specialty occupation that requires a specific skill set.

8. Types of Leave

There is no law regulating minimum annual leave in the United States. Currently, there are individual states are setting out the minimum number of annual leave. However, employees are usually given 10 to 15 days of annual leave according to the contract the employer and employee agrees on.

US Public Holidays

The number of days varies from employer to employer, but on average, US workers receive around 10 days of paid holiday each year.

Date	Public Holiday
1 January	New Year's Day
Third Monday in January	Martin Luther Kind Jr. Day
Third Monday in February	President's Day
Last Monday in May	Memorial Day
19 June	Juneteenth
4 July	Independence day
First Monday in September	Labor Day
Second Monday in October	Columbus Day
November 10, 11, or 12	Veterans Day
Fourth Thursday in November	Thanksgiving
25 December	Christmas Day

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Established in 2004, and headquartered in Singapore, we are better connected to support your payroll and people solutions needs through a global network of 27+ offices, four R&D centers, and business partners across 100+ countries.

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