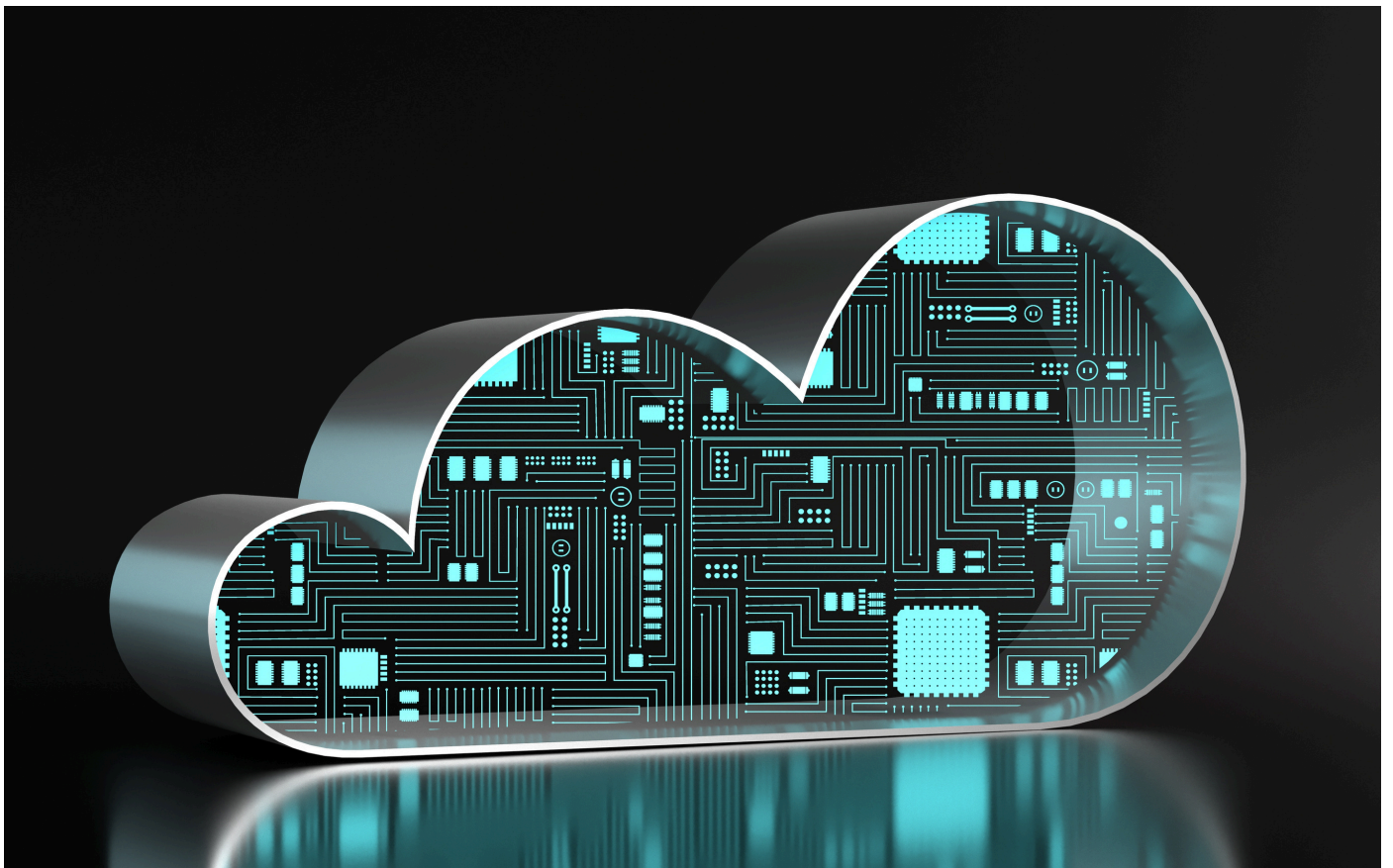


Vietnamese Labor Law for the Tech Sector

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This article outlines the areas of Vietnamese labor law that are of interest to employers operating in the technology sector.

1. Jurisdiction

Foreign companies without a local presence cannot enter into Vietnamese employment relationships with Vietnamese nationals residing and working in Vietnam. Therefore, as a common workaround, foreign companies often turn to alternative solutions, such as service contracts with individuals or maintaining a dedicated team at service providers or Employer of Record (EOR). The disadvantage of using an EOR includes the contractual obligation to indemnify the EOR for termination costs, which can be significant because employers need cause (e.g., theft and embezzlement, among others) or other statutory grounds to terminate employees. Furthermore, fixed-term labor contracts can become indefinite-term by operation of law.

2. Gig Economy & Freelancers

Contracting freelance or gig workers requires careful contract structuring to avoid misclassification as employees, which could lead to obligations such as social and health insurance contributions, personal income tax obligations, and penalties. Contracts should clearly emphasize the contractor's independence, with language stating the contractor's control over work, responsibility, and the lack of supervision. They should avoid any employment-like terms such as regular salary, paid leave, or social contributions. Encouraging contractors to register as a business or household enterprise under applicable laws adds robustness to their independent status. Payment structures should be project - or milestone-based, rather than hourly rates, which reinforces the nature of a business-to-business relationship and reduces the risk of legal reclassification.

3. Intellectual Property (IP)

Protecting IP is critical for software firms. Employment contracts should explicitly assign all work-related IP, including source code, inventions, and designs, to the employer through an irrevocable rights transfer. The agreements should also include clauses waiving "moral rights" to the farthest extent allowed by law, and restricting post-employment use of confidential information and IP. These rights should survive termination of employment. These measures protect the company's proprietary assets, minimize disputes, and provide the enforceability of IP rights across jurisdictions.

4. Confidentiality & Restraint Agreements

Confidentiality clauses are well-accepted and enforceable in Vietnam, vital for safeguarding sensitive data, source codes, and trade secrets. The legality of post-employment non-compete clauses is less certain and requires careful drafting-typically with compensation and limited in scope, time, and geography-to increase enforceability. Non-solicitation agreements, targeting client or employee poaching, are also not explicitly regulated. The parties can address the concerns mentioned above in a standalone contract, based on Vietnam's Civil Code and containing an arbitration provision. Structuring these agreements separately from the labor contract allows better legal support and clearer enforceability.

5. Overtime & Working Hours

Vietnamese law restricts daily working hours to 8-10 hours and weekly hours to 48, with overtime limited to 40 hours per month and typically 200 hours per year, extendable to 300 hours in exceptional cases. Overtime requires employee consent and payment of a premium for overtime hours. In the fast-paced, deadline-driven software industry, managing compliance is challenging, especially with agile sprints and remote teams across different time zones. Practical approaches include utilizing time-tracking tools, implementing approval processes, rotating shifts, and promoting sustainable work schedules to prevent burnout. Companies must carefully balance operational flexibility with legal obligations, ensuring compliance without compromising employee well-being or company reputation.

Overall, Vietnamese labor regulations pose specific challenges and opportunities for technology companies. Proactive measures-including sound contracting practices, IP protections, and compliance with overtime regulations-are essential to mitigate legal risks, protect assets, support workforce flexibility, and operate successfully within Vietnam's evolving legal framework.

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