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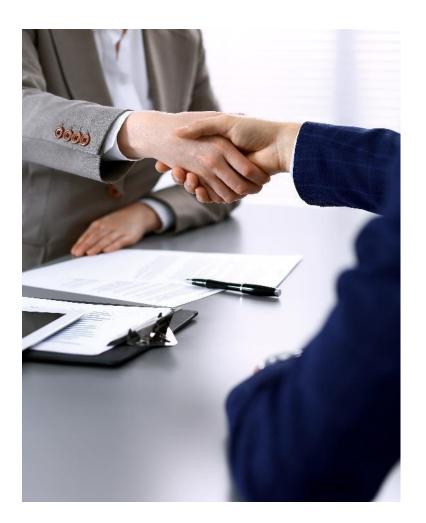
Flexible Staffing

Qin Anqi, September 3, 2021



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- 2. Working Hours
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Various Forms of flexible Hiring

Various Forms of Flexible Hiring

Project-based Labour Contract

Legal Basis

Article 15 of Labour Contract Law

"....An employer and an employee may, though mutual consultation and agreement, conclude a labour contract with a term that expires upon the completion of certain assignments."

- Key Points Need to Know
- Clarifying the nature of the contract: a contract which expires upon the completion of assignments
- Formulating a clear definition of the agreed assignments/projects: scope, contents, tasks etc.
- Special situation: assignments/projects on client's site

Various Forms of Flexible Hiring

Part-time Labour Contract

Legal Basis

Article 68 of Labour Contract Law

"The term "part-time employment" refers to a form of employment for which the employee's remuneration is calculated <u>on an hourly basis</u>, and where the employees generally work for the same employer for <u>not more than four hours per day on average</u> and <u>not more than 24 cumulative hours per week</u>."

Flexibility Enjoyed

- No mandatory requirement for written contract
- Employer may terminate the contract at will
- Optional social insurance contribution

Risk Control

"Red Line"

the cross of "Red Line" may lead to full-time employment

- No probation period
- Upper limit for daily and weekly working hours
- Payroll cycle shall not exceed 15 days

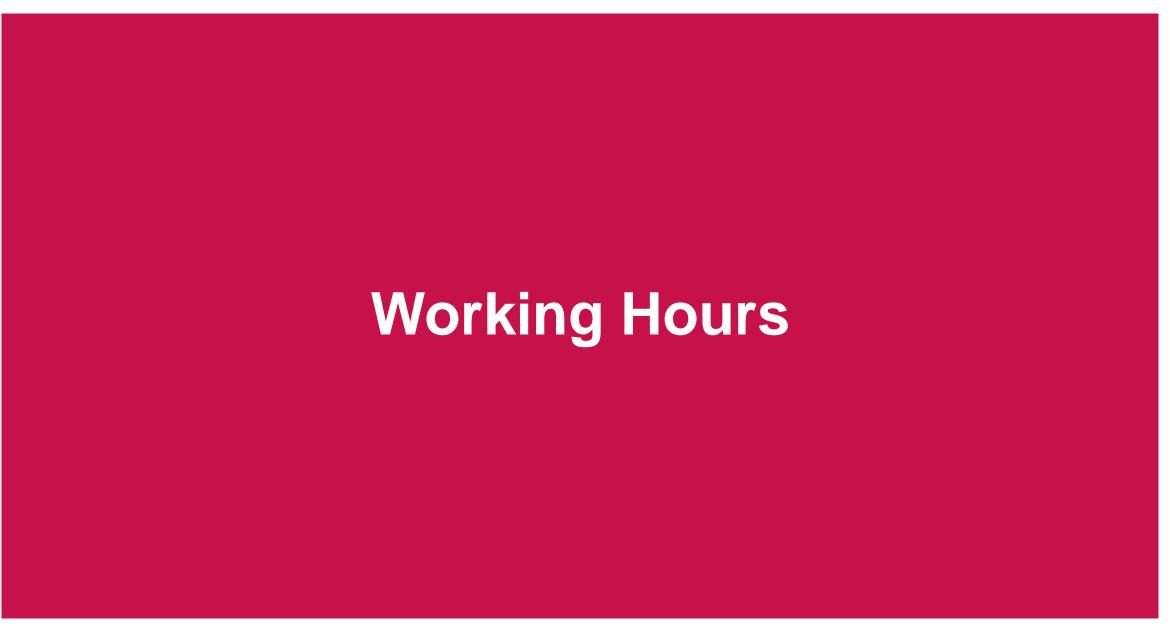
Various Forms of Flexible Hiring

Labour Outsourcing

- ➤ Legal Basis: PRC Civil Code instead of Labour Law or Labour Contract Law
- Contract relationship between the company (which uses the labour sources) and the service provider
- > No labour relationship between the company and those staff under labour outsourcing

Risk of being regarded as <u>de facto labour relationship</u>: How to avoid?

- No labour management or personal management over the staff under labour outsourcing
- Assessment only based on the completion of labor services
- No requirements on the involved personnel



Working Hours

Flexible scheduling under standard working hours system

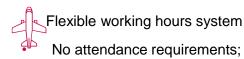
- > Standard working hours system daily working hours shall not exceed 8 hours, and average weekly working hours shall not exceed 40 hours.
- How to make the scheduling flexible?
- Mutual consensus under the daily and weekly working hours limits
- At least 1 day as rest day per week
- OT calculation basis

Working Hours

Special working hours systems



Approval from the labour authority is a MUST!



- Flexible arrangements by employees;
- Benefits on OT
- Only applicable to certain group of employees
- Consent from employees concerned is required

Comprehensive working hours system

- Only applicable to certain employees
- Calculating the working hours in a comprehensive cycle
- Average working hours to be limited
- OT calculations
- Consent from employees concerned is required

- Case Study-OT

No labor management!

Agreement to waive the OT payments- Valid? - No

OT against internal policies- Pay? Or Not? - Pay

OT payments included into the salary- Valid? - No



Case Study-Labor Outsourcing

Salary and social insurance paid by labor outsourcing company- Safe? - No

What should I pay attention to? Qualification of labor outsourcing company - Business scope

Selection and recruiting of outsourced staff - By labor outsourcing company

Written labor contract with labor outsourcing company

Calculation and payment of service fees - Based on actually rendered services

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Remuneration Arrangement

Remuneration Arrangement

Salary and Bonus

- Composition of Salary (monthly fixed salary, performance salary etc.)
- Calculation and payment of overtime salary
- How to maximize the incentive effect of bonuses?
- Performance based annual bonus
- Retention bonus
- lump-sum bonus payable upon the completion of project
- ...





Your Contact



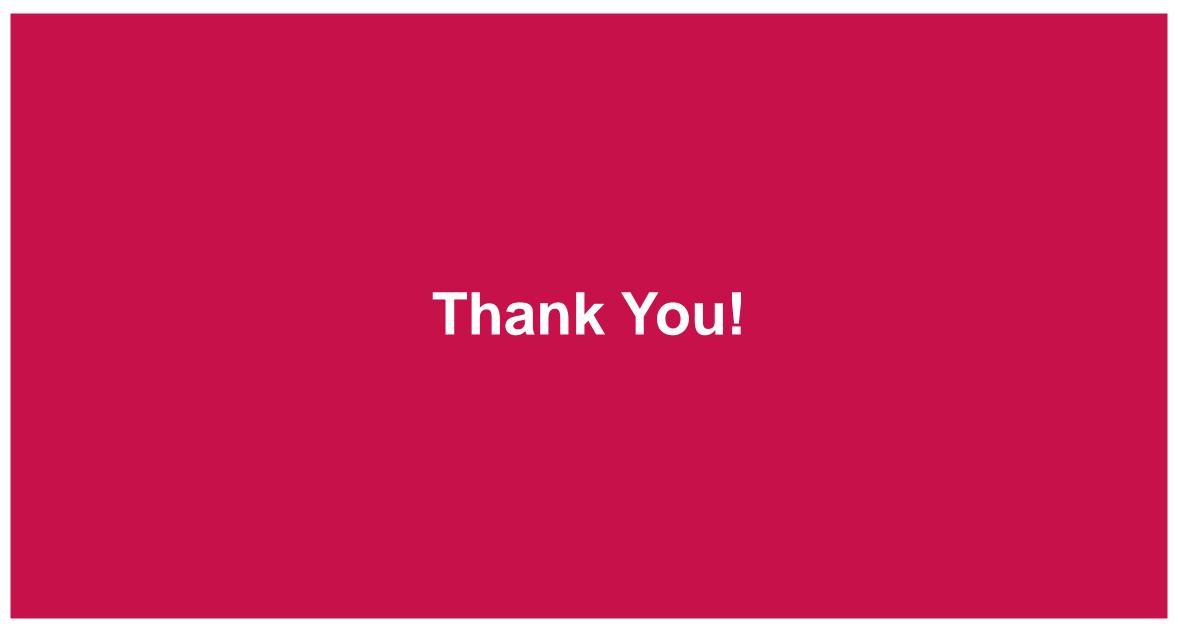
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