



OFFICE OF THE JUDGE ADVOCATE GENERAL LEGAL ASSISTANCE POLICY DIVISION



TAXATION IN GERMANY

EXEMPT from German Taxation:

U.S. Government pay under North Atlantic Treaty Organization (NATO) Status of Forces Agreement (SOFA), is exempt from German taxation (See NATO SOFA, Art. X, para. 1). The same applies to employees of Non-German Non-Commercial Organizations, Non-German Commercial Enterprises or Technical Experts exclusively servicing the US Forces, who are also under NATO SOFA Status (See NATO SOFA Supplementary Agreement, Articles LXXI – LXXIII). North Atlantic Treaty Organization, https://www.nato.int/cps/en/natohq/official_texts_17265.htm

NOT exempt from German taxation:

U.S. Personnel with “intent to return” to the U.S. will not face German taxation on SOFA-employment-derived income; however, other **German generated income** will be taxed in accordance with (IAW) NATO SOFA, Art. X, para. 2 and the rules laid out in the *Convention between the Federal Republic of Germany and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital and to certain other Taxes*, usually referred to as “German-American Tax Treaty.” In the context of the agreement, the term “resident” does not refer to ordinary or permanent residency/immigration status, but physically living in Germany (See “German-American Tax Treaty,” Art. 17) IRS, Germany Tax Treaty, <https://www.irs.gov/businesses/international-businesses/germany-tax-treaty-documents>

U.S. Personnel without “intent to return” to the U.S. will also not face German taxation on SOFA-employment-derived income IAW the rules laid out above; however, other **worldwide income** is taxed by Germany. Therefore, U.S. personnel who have income derived from non-SOFA-related jobs must be able, at any time, to prove their intent to return to the U.S. (i.e., that they are in Germany solely because of their SOFA job), IAW NATO SOFA, Art. X, para. 1 and German tax law, in order to establish their taxation status.

German Tax Offices may send out questionnaires in order to assess one's intent to permanently remain in Germany. For example, personnel may be asked to articulate the total amount of time spent in Germany, whether they are married to a German national, whether they have children attending German school, whether they own property in Germany, and whether they have ties to German civic associations. This information will be used to assess one's “intent to return” to the U.S.

Employment other than employment with the U.S. Government or one of the aforementioned organizations is always subject to German taxation in accordance with the rules laid out above (e.g., private home/business, job on local economy, working for U.S. company remotely, etc.).

Employment in the local economy or working for U.S. company remotely will also trigger mandatory contributions to the German Health, Unemployment, and Pension insurance systems, regardless of any existing U.S. insurance. Exemptions apply if teleworking for a U.S. company that already provides health insurance to the employee.

Self-employed individuals are also subject to German income taxes, but there are no mandatory contributions to the German Health, Unemployment, and Pension insurance systems. These individuals are treated like a one-person enterprise (See “German-American Tax Treaty,” Art. 7), which stipulates the income will be taxed in the country where the work is actually being performed.

The services of those who are self-employed are also subject to a German sales tax (known as the VAT, or Value Added Tax). VAT is usually 19%. However, some items or services are taxed at a reduced rate of 7%. Self-employed individuals have to file VAT declarations with the Posted (Financial Matters) Office, and they need to add the VAT to their invoices. They must collect the invoice amount including VAT and pay VAT for purchases or services received in Germany as part of their business. In the tax declaration, the amount of VAT paid will be deducted from the VAT owed for their services, so that they pay the differential. The German Tax Office may grant exemptions for small businesses or businesses dealing with customers with SOFA Status only. Some professions also require special permits or certified formal education and may trigger mandatory contributions to the German Chamber of Crafts or Chamber of Commerce.

Taxation in Germany

Military and civilian employee income derived from United States Government pay under the NATO Status of Forces Agreement (SOFA) is exempt from German taxation. However, Germany may be able to tax United States military members, civilian employees, and dependents who derive income from other sources while living in Germany. A host of factors, including the type of employment and the individual's intent to return (or not) to the United States determine how, when, and by whom you can be taxed. If you or any of your family members plan to operate a home business, obtain a job on the local economy, work for a U.S. company remotely, or derive income from any source other than a United States Government position under the NATO SOFA while living in Germany.

Please contact your local legal assistance office for additional information on this matter.

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