

Telework by Spouses of U.S. Forces Personnel

By: Joerg Modellmog, Marianne Schoonjans, Jarin Nijhof and LTC Justin Evison

While Germany allows dependent spouses to work, such employment is not protected by the NATO SOFA

and, therefore, subject to German rules.

Luckily, there is an Agreement between Germany and the US on Social Security.

Based on it, your US employer may apply online for a Certificate of Coverage with the US Social Security Administration at https://www.ssa.gov/international/CoC_link.html. It will allow you to be kept under the US social security system.



However, when it comes to income taxation, the situation is much more complex. If you are present in Germany for more than 183 days and perform telework in Germany, you will generally be subject to German income taxation, even if your employer is American and is located in the United States. An exception exists if your stateside employer is a governmental agency.

If your work in Germany is minimal and preparatory in nature and you fly back to the US on a regular basis to perform the clear bulk of your work there, you will not be subject to German income tax. An

example is a spouse working for a Florida real estate broker who posts photos of Florida homes on a US website in Germany but regularly flies to Florida to show the homes and to close the deals. Teleworking Americans will generally only be subject to limited taxation (beschränkt steuerpflichtig) in Germany: the Germans will only tax the income generated by the teleworking in Germany. On the US side, you should be able to avoid double taxation of that income by using the Foreign Earned Income exclusion when doing your federal taxes and claiming the "physical presence test" on IRS Form 8833.

While teleworking Americans can opt for unlimited taxation (unbeschränkt steuerpflichtig) in Germany, it is generally not advisable to do. It will subject your worldwide income to German taxation. Finally, in order to file taxes, you will have to pay a German tax consultant because all paperwork and software will be in German.

(Extracted from the 21st Theater Sustainment Command Office of the Staff Judge Advocate newsletter The 21st TSC Legal Informer. Modellmog et al., (2024, Spring). Telework by Spouses of U.S. Forces Personnel. The 21st TSC Legal Informer, spring 2024, https://armyeitaas.sharepointmil.us/sites/21TSC_SJA)