

# THE SEVENTH ARMY JMTC LEGAL CORNER



Brought to you by the Seventh Army JMTC Office of the Staff Judge Advocate

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## Online Legal Assistance Appointment Requests available in Bavaria

The Seventh Army JMTC Legal Assistance Offices in Bavaria are now taking requests for appointments online at <http://www.eur.army.mil/JMTC/SJA.html>

Servicemembers and their Families can go to <http://www.eur.army.mil/jmtc/SJA.html> to request an appointment from any of the legal assistance branch offices in Bavaria. Locate your legal assistance branch office on the left-hand side of the Staff Judge Advocate webpage and click the button labeled "Request Appointment." Then, follow the instructions on the website. Online appointment requests are available for anyone who is entitled to legal assistance.

Appointments are available at Grafenwoehr, Vilseck, Ansbach, and Hoenfels.

### In This Issue:

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- How Many Exemptions Should You Claim?
- Filing Notice for PCS Claims
- Estate Planning in Germany
- Top Ten Things to Know About German Cell Phone Contracts

Please be sure to include an explanation of your legal issue with the following information in any request for an appointment:

- Previous client?: Yes/No/unsure
- First/Middle/Last Name:
- Other Last Names
- Gender
- Status (Family member, Service member, Civilian)
- Rank
- SSN (last 4)
- DoD ID Number
- Marital status
- Spouse (husband/wife) name
- Local Address (CMR)
- Home/Work/Cell Phone
- E-Mail Address
- Installation, Unit and Branch of Service
- Times and days you are available for appointments
- Whether your issue is time sensitive

Alternatively, you may email a request for an appointment by sending this information to any of the legal assistance centers directly at these email addresses:

**Ansbach:** [usarmy.ansbach.jmtc.list.ansbach-legal-assistance@mail.mil](mailto:usarmy.ansbach.jmtc.list.ansbach-legal-assistance@mail.mil)

**Grafenwoehr:** [usarmy.bavaria.jmtc-gta.list.grafenwoehr-legal-assistance@mail.mil](mailto:usarmy.bavaria.jmtc-gta.list.grafenwoehr-legal-assistance@mail.mil)

**Vilseck:** [usarmy.bavaria.jmtc.list.vilseck-legal-assistance@mail.mil](mailto:usarmy.bavaria.jmtc.list.vilseck-legal-assistance@mail.mil)

**Hohenfels:** [usarmy.bavaria.jmtc.list.hohenfels-legal-assistance@mail.mil](mailto:usarmy.bavaria.jmtc.list.hohenfels-legal-assistance@mail.mil)



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## It's Tax Time

by CPT Jennifer Bryer

It is time to pay the piper: U.S. federal taxes for 2015 are due April 18, 2016 (an exception to the normal due date of April 15th because of the Emancipation Day holiday in Washington D.C.). Living overseas can add another layer of complexity to taxes. Fortunately, the USAG Bavaria Tax Centers are here to help! Tax centers across Bavaria opened their doors on February 01, 2016. The tax centers provide free tax preparation services by IRS-trained Soldiers, Civilians, and attorneys. Here are some common issues to consider during tax season:



### STATE TAXES

States can require their residents and/or domiciliaries to pay income tax. A state has the authority to tax domiciliaries of that state, even if the domiciliary does not currently live in that state due to military assignment. Each state's law is different, so to be sure you are complying with applicable state law. Stop by your local tax center and inquire about the rules for your state of legal residence.

The Servicemembers Civil Relief Act (SCRA) allows Servicemembers to maintain their home of record for residency and tax purposes. Residency in a different state is not established unless the Servicemember takes active steps to establish residency in a new state.

The Military Spouse Residency Relief Act (MSRRA) provides similar protection to military spouses for issues of taxation, voting, and residency. If the military spouse and Servicemember are residents of the same state, then the spouse is able to maintain his/her state of residency even when they move to a new state because of military orders.

Both the SCRA and MSRRA only apply to a Servicemember's military pay and a spouse's pay, it does not address a Servicemember's non-military pay.

Every state has different requirements for establishing residency, but some of the common actions that establish residency in a state include registering to vote, paying taxes, getting a driver's license, and/or owning a home in that state.

State tax issues are often the most complicated part of a taxpayer's tax return. Every state has its own tax system, and many states have special rules for military income. Some states that do not tax military income still require military members to file paperwork. For a good overview of state tax issues, see <http://m.military.com/money/personal-finance/taxes/state-tax-information.html> or visit your local tax center.

#### Contact Us!! — Legal Assistance Offices:

Tower Barracks Building 106; Rose Barracks Building 245

Hoenfels Building 313; Katterbach Building 5817;

Garmish Tax Center Building 203 (HQ)

Website: <http://www.eur.army.mil/JMTC/SJA.html>





# It's Tax Time



Continued from page 2, by CPT Jennifer Bryer

## FOREIGN EARNED INCOME

The IRS allows taxpayers to exclude up to \$100,800 in foreign earned income from their 2015 tax year. To qualify for the exclusion, you must meet one of two tests: 1) bona fide residence test, or 2) the physical presence test. The bona fide residence test applies to taxpayers who are residents of a foreign country, while the physical presence test applies to taxpayers who have lived outside of the United States for at least 330 days in 12 consecutive months and who have not spent more than 30 days total in the United States during that time. It is important to note that income earned as an employee of the United States Government or its entities is not excludable.

## ITIN

If your spouse is not a U.S. citizen or resident, she/he does not need to report earned income. It may be to your advantage, however, to elect to treat your spouse as a U.S. resident so that you can file a joint return. Foreign spouses ineligible for Social Security numbers will need to apply for an Individual Tax Identification Number (ITIN) using IRS Form W-7.

## FOREIGN BANK ACCOUNTS

Any United States citizen who has a financial interest in or signature authority (or other authority) over any financial account in a foreign country must report the account/s if the aggregate value exceeds \$10,000 at any time during the calendar year. This report is called a FBAR, and stands for a Report of Foreign Bank and Financial Accounts. The form number is FinCEN Report 114, and must be filed online (<http://bsaefiling.fincen.treas.gov/main.html>). If you currently have or have had over \$10,000 in any foreign bank account during 2015, you must report this to the Department of the Treasury on the FinCEN Report 114 not later than June 30, 2016. This form is not part of your federal tax return and it must be received by the Treasury Office by June 30, 2016. Accounts at on-post banking institutions such as Community Bank and Service Credit Union do not count as foreign accounts for FBAR purposes.

## HELP IS AVAILABLE

Taxes can be complicated. We are here to help. Visit your local tax center or contact the tax centers at <http://www.eur.army.mil/JMTC/taxcenter.html>.

## **Large Number of Claimed Exemptions Leads to High Tax Bills**

By CPT Jennifer Bryer

**Many Single Soldiers throughout Bavaria have claimed a large number of exemptions on their federal withholding forms causing them to owe a large debt to the IRS for failing to pay taxes during the year.**

The tax centers in Bavaria have seen a number of single Soldiers that are shocked to find out that they owe a large tax bill to the federal government. The large tax bill is usually caused by single Soldiers claiming a large number of exemptions on their federal withholding forms (IRS Form W-4). While claiming lots of exemptions can result in more money back each paycheck, failing to pay taxes during the year will result in a large tax bill at the end of the tax season and penalties for not making payments during the year. The number of exemptions Soldiers should claim is based on the number of people they are allowed to claim on their taxes. A single Soldier with no dependents should usually only claim one exemption. Soldiers might even choose to claim zero exemptions if they want to receive a larger refund when they file their tax return.

Single Soldiers who have claimed an incorrect number of exemptions can change the exemptions claimed by logging into MyPay and clicking on the “federal withholding” link under taxes. There are also payment plan options for Soldiers impacted by this issue, including: paying the amount from savings, applying for an interest free AER loan, applying for a payment plan with the IRS, and talking to a legal assistance attorney about a request for waiver of penalties.

While changing the number of exemptions is allowed, many of these Soldiers do not realize the implications this change will have come tax season. Since many of them owe over \$1,000 in taxes to the federal government, they are also subject to additional penalties for failing to make periodic payments during the tax year.

Soldiers are encouraged to visit their local tax center or legal assistance office if they have questions about income tax exemptions.



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# How Many Exemptions Should You Claim?

Following the chart can help you estimate how many exemptions you should claim on your federal withholding form in most situations (IRS Form W-4).

<p>A. Enter "1" on line A if no one else can claim you as a dependent</p>	<p>A. _____</p>
<p>B. Enter "1" on line B if:</p> <ul style="list-style-type: none"> <li>• You are single and have only one job; or</li> <li>• You are married, have only one job, and your spouse does not work; or</li> <li>• Your wages from a second job or your spouse's wages are \$1,500 or less</li> </ul>	<p>B. _____</p>
<p>C. Enter "1" on line C for your <b>spouse</b> if you are married (you may choose to enter "0" to avoid having too little tax withheld if your spouse works or you have a second job)</p>	<p>C. _____</p>
<p>D. Enter the number of <b>dependents</b> (other than your spouse or yourself you can and will claim on your tax return) on line D</p>	<p>D. _____</p>
<p>E. Enter "1" on line E if you will file as <b>head of household</b> on your tax return</p>	<p>E. _____</p>
<p>Add Lines A through E and enter the total on line F</p> <ul style="list-style-type: none"> <li>• If you have children who are eligible for the Child Tax Credit, you may be eligible for additional exemptions, please see the Personal Allowances Worksheet of IRS Form W-4.</li> <li>• If you itemize your deductions on your tax return, please see IRS Form W-4 for additional instructions on the number of exemptions you should claim.</li> <li>• Alternatively, use the withholding calculator online at: <a href="https://www.irs.gov/Individuals/IRS-Withholding-Calculator">https://www.irs.gov/Individuals/IRS-Withholding-Calculator</a></li> </ul>	<p>F. _____</p> <ul style="list-style-type: none"> <li>• This is the number of exemptions you are entitled to claim on your federal withholding form (the max you can claim on MyPay is 10).</li> <li>• If you want to have a larger refund during tax season claim a lower number of exemptions than you are entitled to claim (this can decrease your paycheck as more will be withheld in taxes).</li> </ul>



**Contact Us!! — Legal Assistance Offices:**  
 Tower Barracks Building 106; Rose Barracks Building 245  
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 Website: <http://www.eur.army.mil/JMTC/SJA.html>



## Claims Smarts Tip — File Notice of Loss/Damage Within 75 days

By Mr. Ed Pontoon

Now that the PCS season is over and your household goods have likely arrived, you must provide notice of loss or damage to the carrier/TSP (the moving company, also known as the Transportation Service Provider) within 75 days of delivery. If you miss the 75 days notice period, your payment may be reduced. Further, the process is not over after you have filed notice. You must still file the actual claim. While the deadline for filing the claim itself is nine months from the date of delivery (if filing with the carrier) or two years from the date of delivery (if filing with the Military Claims Office), the critical first step is to give notice within 75 days.

**You can maximize your claim recovery option by giving notice in the following ways:**

1. Filing notice at the time of delivery: Note lost or damaged goods on the form titled "Notice of Loss or Damage at Delivery" (NOLD) at the time of delivery. This satisfies the 75-day notice requirement for those items.
2. Filing notice of damage discovered after the date of delivery online: File online at [www.move.mil](http://www.move.mil). You should provide notice on the Defense Personal Property System (DPS) at <http://www.move.mil>. You can do this from the comfort of your home or office, or you can take advantage of the computer kiosks at the Bavaria OSJA Claims Offices. When you use our kiosk, our claims professionals can talk you through the process of filing your notice or claim online and answer claims related questions.
3. Filing notice of damage discovered after the date of delivery by fax, e-mail, and mail: Loss or damage discovered after the movers have departed can also be noted on either DD Form 1840R/1851 "Notice of Loss or Damage After Delivery" and using the contact information listed on the delivery document.

4. Within the first 70 days after delivery, go to your servicing Military Claims Office! Claims personnel can dispatch the notice to the carrier/TSP and help you file notice for your claim, or can assist you in filing your claim online. Our claims experts can confirm proper notice and help clear up any confusion.

5. If you file your claim within 75-days of delivery, you do not have to file the NOLD, or give the carrier/TSP notice of the loss or damage at delivery or after delivery. Also you do not have to worry about the nine months deadline to file your claim.

6. The 75-day notice period could be extended if you were deployed, on extended TDY, or hospitalized during the 75 days after delivery. Requests for an extension must be approved by the Area Claims Office. However, it is best not to count on receiving an extension, and to make every effort to put the TSP/carrier on notice as soon as possible. Keep track of this 75-day notice period and avoid missing out when it comes to payment of your claim!

**If you have claims questions or need assistance in providing notice or filing your claim, call our experienced claims personnel or visit our claims offices:**

**Rose Barracks Law Center:**

Building Number 245, DSN 476-2240 or 09662-83-2240

**Tower Barracks Law Center:**

Building 106, DSN 475-8428 or 09641-83-8428

**Ansbach Claims Office**

Building 4856, DSN 467-2104 or 09802-83-2104

**Hoenfels Claims Office**

Building 313, DSN 520-5570 or 09472-83-5570



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## Estate Planning for Soldiers and Families in Germany

By CPT Clyde J Kilgore

In the event of a Soldier or Family-member death, courts may apply German Law, the law of a U.S. jurisdiction, or a mixture of both, depending on the circumstances. Soldiers are encouraged to visit the Legal Assistance Office to speak with an attorney about estate planning.

### Property

Typically, German courts will not be involved in the disposition of personal property of a deceased US Soldier. The disposition of personal property of deceased soldiers will usually be handled through the casualty assistance officer, and in accordance with any wishes of the deceased and the law of the Soldier's home state.

German courts will be involved in the distribution of German real estate and or German bank accounts owned by a deceased Soldier. The German courts will look to see if the Soldier had a will, and then distribute the property in accordance with the will. If a will was executed in accordance with the law of the Soldier's home state or in accordance with German law, the German courts will treat the will as valid. If a soldier dies without a will, the German courts will distribute the property located in Germany according to the intestacy statutes of that soldier's home state.

If a German citizen-spouse of a Soldier dies, the German courts will look to see if that spouse had a will, and distribute the property accordingly. If the deceased German citizen-spouse of a soldier dies without a will, then the property will be distributed according to German intestacy statutes. Under the German intestacy statutes, the estate would be divided between the spouse and any children of the deceased.

Anyone who owns significant property located in Germany, such as German real estate or German bank accounts should speak to a German attorney regarding estate planning.

### Children

Generally, if the parents are married to each other and one parent is deceased, the other parent will assume full custody of the children. Both German and American courts tend to treat this situation similarly, and there is usually no need for the involvement of government agencies; custody simply passes to the surviving spouse. This rule will function similarly regardless of whether the surviving spouse is a German citizen or a US Citizen, unless extenuating circumstances require court involvement.

If both parents are deceased and the minor child of a Soldier is located in Germany, DoD Social Work Services (Location: Rose Barracks Bldg 316 Room 218 DSN Phone: 476-2995 or 476-2100 CIV Phone: 09662-83-2995 or 09662-83-2100) will make an initial determination as to what relatives will be determined to be the best guardians for a child. However, the guardianship ultimately will need to be decided by a court, either in the U.S. or in Germany, depending on where the child will live. German courts have jurisdiction over the minor children of deceased parents as long as the children are physically located in Germany. If there are German relatives that would like to become the guardians for the child, the German Youth Welfare Office will make a recommendation regarding guardianship to the German courts. In any event, guardianship of the minor will be decided based upon the best interests of the child, next of kin, and any wishes the parents have expressed.



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## Top Ten Things to Know About German Cell Phone Contracts

by Tower Barracks LAO

**1. A German cell phone contract IS a legal contract.**

**2. How long does my contract last?**

Most German cell phone contracts are for a period of 24 months. Then, most of them automatically renew themselves for 12 months or even longer. The contracts do NOT end unless you terminate the contract.

If you upgrade your contract or make changes to your services, most companies will re-start the 24 months. Make sure you know when your contract formally starts and ends.

**3. How do I get out of my German cell phone contract?**

You have to terminate the contract. Most contracts require that you give your provider some notice. This can be between six weeks and three months before the 24 months are up. Make sure that you know what your contract says!

**4. How do I terminate my contract?**

Your termination must be in writing, which means you have to write a letter. Always state your name, your full address, your customer number and your phone number. Ask the company to confirm the termination back in writing. Some companies have a pre-made fillable form you can use.

BTW: Never provide your Social Security Number (SSN) to a German company. The German system uses a person's DOB (date of birth) for identification purposes. Therefore, many German companies have no idea how to use a SSN.

**5. What do I do with the termination notice?**

The termination has to be received by your German cell phone company, so fax the termination or send it

through the German mail system via registered mail (return receipt requested). Keep copies of all of the documents because the burden of proof for the termination is on YOU.

If you do a termination through one of your provider's shops, make sure you get a copy of the termination and of the fax receipt. Keep those documents on file!

**6. Can I not just send an email?**

NO! An email or phone call does NOT count as written termination. Some companies might accept an email but be careful!

**7. What if I PCS/ETS?**

Immediate cancellation? NO!

However, under German law, if you are moving to a new area where your current service is not provided, you can terminate your contract at the end of the month--BUT you must give at least 3 months' notice and you have to provide a copy of your orders.

**8. What do I do if I do not have my orders yet?**

Just because your PCS/ETS orders arrive late, this does not mean the company will waive the 3 months' notice. If you are awaiting your orders, try using a memorandum from your CDR or 1SG instead, as most German cell phone companies will accept that.

**9. Remember:**

You may need to terminate several contracts: 1. Cell phone 2. Cell phone insurance ("Wertgarantie") 3. Downloaded 3rd party apps.

**10. Finally, a word of warning:**

Keep all documents referring to your contract (original contract, bills, receipts of paid bills, termination notice, fax receipt etc.). Some German phone companies cooperate with US collection agencies and unpaid bills might follow you to the U.S. and show up on your credit report.

