



KAISERSLAUTERN LEGAL INFORMER

21st TSC TAX TEAM REVIVES AN AFN TRADITION



21st TSC's team of tax experts revived an old AFN tradition—the live “Open-Line” tax call-in show—on 24 February at AFN's studios in Mannheim. From left to right: Donald Davis, Steve Smith, Mark Christensen, and Joerg Modellmog.

by Steve Smith

Tax experts from Kaiserslautern took to the airways on Wednesday, 24 February, on American Forces Network radio to get the word out about recent changes to the tax laws and the availability of free tax assistance services in USAREUR. They participated in the first live AFN “Open-Line” tax call-in show in several years. The show reached approximately 250,000 listeners in 57 countries.

These tax call-in shows used to be a regular feature on AFN radio. Jerry Shiles from 21st TSC and John Martensen from V Corps appeared frequently on the shows in the 1990s. When Jerry went back to the States in the late 1990s, John asked me to join him, and we continued the shows until John retired in 2005, taking with him over 30 years of tax experience.

When Mark Christensen became Chief of Client Services at the Kaiserslautern Legal Services Center this summer, we decided to assemble a new team to revive the AFN Open-Line tax call-in show tradition. Our German Attorney-Advisor, Joerg Modellmog, who has a wealth of expertise on German tax issues, and our Legal Technician, Donald Davis, who has been preparing returns in Europe for over 20 years and coordinates our tax assistance program, rounded out our team.

Our second call-in show of the tax season will air on Wednesday, 7 April, on AFN radio's AM frequencies throughout Europe, just after the 10:00 am news. Give us a call at DSN 389-4595 or Civilian 0621-46085-595, or e-mail your tax questions to openline@afn.dma.mil, and we will do our best to answer them on the air!

IN THIS ISSUE...

- Military Spouses Residency Relief
- Tax Aspects of Home Ownership
- Lean Six Sigma
- Credit Reports
- Cell Phone Contract FAQs
- Government Purchase Cards
- Border Crossing
- And much more!



United States Army
Judge Advocate
General's Corps -
America's Oldest
Law Firm

The Military Spouses Residency Relief Act

"Breaking News" on state income taxes...

by Mark Christensen

Most Soldiers are familiar with the Servicemembers Civil Relief Act (SCRA), formerly called the Soldiers' and Sailors' Civil Relief Act. The SCRA provides tax relief to servicemembers who are stationed outside their home state. Specifically, a servicemember stationed away from his or her state of legal residence is still considered a resident of that state. Even though stationed pursuant to military orders in a new state, the servicemember remains a resident of the original state and the new state cannot tax their military pay.

Soldiers, like other U.S. citizens, can change their state of legal residence. Changing a state of legal residence requires physical presence in the new state with the intent to remain there permanently. Most residents prove their intent by showing they have acted as a resident by registering to vote and voting in the new state, getting a new driver's license and registering vehicles in the new state, and severing residency ties with the old state. A Soldier can change his or her state of legal residence, and after that will be subject to the tax laws of the new state of legal residence.

But these protections have not historically applied to the spouses of Soldiers. A spouse who moves from one state to another with a Soldier sponsor became a resident of the new state for tax purposes. Soldier couples might have to file separate state tax returns as residents, non-residents, or part-year residents in order to comply with different state tax laws.

On November 11, 2009, President Obama signed the Military Spouses Residency Relief Act (MSRRA). The MSRRA states that the spouse of a servicemember will not lose or gain a residence for purposes of taxation as a result of a move with a military sponsor, if the spouse shares the same state of legal residence as the servicemember.

This new law does not permit a spouse to pick and choose any state of legal residence. The spouse can designate a state of legal residence where the spouse has residency contacts, or can retain an original state of legal residence. The spouse can do this **ONLY** in order to retain a state of legal residence that is the **SAME** state of legal residence as the servicemember sponsor.

The effect of this law for a working spouse is that the state where the spouse works might not be able to tax the spouse. For instance, consider a Soldier from North Carolina with a spouse also from North Carolina. If the spouse has a job while they are stationed in Virginia, Virginia cannot tax the spouse's pay. Instead, North Carolina remains the spouse's state of legal residence and the Virginia pay will be reported on the couple's North Carolina tax return.



[continued on page 3...]

Military Spouses Residency Relief Act [continued...]

The situation is different if the servicemember and spouse do not share the same state of legal residence. Consider a North Carolina Soldier who marries a Texas resident while stationed in Texas. If the spouse gets a job while they are later stationed in Virginia, the spouse will have to file a Virginia resident tax return. If the spouse has no residency ties with North Carolina the spouse cannot adopt the Soldier's state of legal residence, and while the spouse works in Virginia the spouse must file a Virginia resident tax return.

The various U.S. state tax departments are still working out how this new federal law will be applied in their jurisdictions. A spouse may have to file with one state to get tax withholdings back, and file with their state of legal residence to report the income. When an employer in the state of employment does not withhold for the state of legal residence, the spouse may have to make periodic tax payments to the state of legal residence to avoid underpayment penalties.

The MSRRA does not address other residency matters for a servicemember's spouse, including driver licensing requirements. As much as possible, I recommend consistency in state residency contacts. As a resident of a state, you should not have residency ties with another state. Your intent, driver's license, vehicle and voter registration, and other documented residency ties should all be to the same state. If your residency contacts are not consistent, you or your spouse could face income taxation by different states and you might become ineligible for state benefits such as in-state college tuition or state veterans' programs.

The MSRRA affects 2009 state tax returns! If you have questions about how this important new law will affect you, call DSN 483-8848 or Civilian 0631-411-8848 to schedule an appointment to discuss it with a legal assistance attorney, or stop by the Legal Assistance Office to pick up a client handout on the MSRRA.

Hails & Farewells: This issue we bid farewell to our Trial Counsel, CPT Becky Evans, and our Court Reporter, SSG Dawn Davis. We welcome our new Claims Judge Advocate, CPT Jerrod Fussnecker, our new Legal Assistance Attorney, CPT Joshua Zell, our new Administrative Division NCOIC, SGT Jesse Saenz, our new NCOIC of Legal Assistance, SGT Evangelina Cabrera, our new Paralegal Specialist, PVT Emily Johnson, and our new Administrative Assistant, Joanie Ralston.



KAISERSLAUTERN LEGAL SERVICES CENTER

Building 3210 Kleber Kaserne

Legal Assistance 483-8848

Tax Assistance 483-7688

Claims 483-8414/8862

International Affairs 483-8854

Trial Defense Service 483-8165

[Civilian: 0631-411-XXXX]

Administrative Law 484-7450

Criminal Law 484-8311

[Civilian: 0631-413-XXXX]



AFN Open-Line: Legendary AFN broadcaster Gary Bautell (left) moderated the first "Open-Line" tax call-in show of the 2010 tax season (see the cover story on page 1). Mark Christensen and Steve Smith (above) fielded tax questions and beat the drum for the Army's free tax assistance program in Europe.



2010 Tax Season Off to a Great Start...

by Steve Smith

Free tax assistance is alive and well in USAREUR. Riding a tidal wave of command support, military taxpayers are beating a path to the door of their local tax assistance centers. Anyone who has seen GEN Carter Ham's AFN TV spot knows that last year USAREUR tax centers generated \$45 million in refunds for taxpayers stationed in Europe. We are well on our way to exceeding that figure this year. After six weeks of operations, USAREUR's tax centers have already brought in \$21.7 million in refunds, \$1.3 million more than they did at the same time last year. We're on a roll!

21st TSC Commanding General MG Patricia McQuiston showed her support for the tax assistance program by presiding over the Grand Opening of the Kleber Tax Assistance Center in February, and recognizing the efforts of the program's coordinator (see photos below).

21st TSC operates tax assistance centers in Bldg. 3210 on Kleber Kaserne and in Bldg. 3701 at Landstuhl Regional Medical Center (on the Ground Floor of the Education Center). Both walk-in services and appointments are available. Call DSN 483-7688 or Civilian 0631-411-7688 for Kleber, or DSN 486-6334 or Civilian 06371-86-6334 for Landstuhl. **See page 14 for what to bring with you...**



21st TSC Commanding General, MG Patricia McQuiston, helps members of the KLSC's tax team cut the ribbon at the Grand Opening of the Kleber Tax Assistance Center.



The ribbon was emblematic of the millions in tax refunds we directly deposit into the bank accounts of military taxpayers every tax season. [Let us show you the money!](#)



MG McQuiston presents the Achievement Medal for Civilian Service to Donald Davis for coordinating 21st TSC's highly successful tax assistance program in 2009.



21st TSC SJA COL Claes Lewenhaupt thanks IRS VITA Instructor Rawlin Tate, a Senior Tax Analyst from Atlanta, GA, for teaching our tax preparers the ropes.



Some US Tax Aspects of Home Ownership in Germany...

by Mark Christensen

Many members of the Kaiserslautern Military Community purchase a home while stationed here. Many factors influence the decision to buy a home in Germany, and tax obligations, savings, or expenses are as important as any other factor. This article provides some issues to consider when making the important financial decision whether to buy a home outside the United States.

An incentive to buy for many in the United States is that the US tax code permits homeowners to deduct home mortgage interest and property tax against income. The standard deduction afforded to single and married filers is often less than the mortgage interest and property tax paid out, so the deduction (especially when added to charitable contributions and unreimbursed medical expenses) can result in real tax savings to the average homeowner. This deduction is also available to US taxpayers who purchase homes outside the United States. Soldiers who receive the tax-free Overseas Housing Allowance can convert from Euros to dollars the amounts spent on home mortgage interest and property tax, and deduct those amounts from their gross income using Schedule A.

Civilians who receive the tax-free Living Quarters Allowance (LQA) can also deduct home mortgage interest and property tax paid on their primary home, but must reduce the deduction based on the amount of LQA received during the year. For instance, consider a civilian employee who receives LQA of \$9,000 during the year, and paid home mortgage interest, property tax, and utility expenses of \$10,000. The employee can deduct 10% of the paid home mortgage interest and property tax amounts, because 90% of those expenses were covered by a tax-free allowance.

Some who buy homes outside the United States do so with the intent of becoming a landlord, or may become a landlord because of a PCS move and a desire to retain ownership of the house. Just like being a landlord of a house in the US, the rental income must be reported on a tax return, and expenses associated with residential rental property are deductible on a US tax return. Using Schedule E, a landlord will report in dollars the rental income received, and deduct the expenses associated with the rental property. Deductible expenses include mortgage interest, management fees, property tax, utility assessments, cleaning, insurance, maintenance, and repairs. An important difference between US and non-US rental property is depreciation. US residential rental property is depreciated over 27.5 years (3.636% of the cost basis deducted each year). Residential rental property located outside the US may also be depreciated, but is done so over 40 years (2.5% of the cost basis deducted each year).

U.S. taxpayers who sell their primary home may be able to exclude up to \$250,000 of the gain associated with the sale from their income. This exclusion applies to taxpayers who sell homes located outside the United States. To qualify for the exclusion the taxpayer must have owned and lived in the home for two of the previous five years. Married filing joint taxpayers can exclude up to \$500,000 of gain. If the taxpayer ever had the property in rental prior to the sale they will be required to recapture the allowed (or allowable) depreciation for the rental period.

If you have questions about this or other income tax issue, put the question into the body of an e-mail and send it to tax@eur.army.mil. One of our tax attorneys will respond.





Lean Six Sigma

Tasty Kool Aid for the OSJA...

by LTC Harper Cook

"It's always been done that way" is never a satisfying answer for why we do things the way we do. Yet, knowing that those who came before us weren't incompetent fools either, how do we begin to ask ourselves if our processes can be better?

In the 21st TSC, Major General McQuiston has given her full support behind Lean Six Sigma (LSS), a mix of two methodologies borrowed from business that work together to improve processes. "Lean" tools help identify and eliminate waste in a process, such as unnecessary steps that don't add value to the product and waiting times during a process. "Six Sigma" tools help identify and reduce variation within processes. Simply put, both sets of tools are designed to make processes better and more efficient.



SFC Chrystal Drummonds, CPT Mark Oppel, and LTC Harper Cook map out proposals to improve the processing of General Officer Memorandums of Reprimand using Lean Six Sigma techniques...

Think about how we usually fix things in the Army. First, we discover something that we think is broken. Next, we do something that we think will fix the problem. If those changes don't work, we come up with new changes. Finally, when we think we have it right, we modify our standing operating procedures. Then, we PCS. Under the LSS approach, we don't rush in to implement changes until we know, after collecting and analyzing data about the process, exactly what should be fixed.

Say you want to improve how long it takes to process Article 15s in your military justice section. You know your team is really busy, so your first instinct might be to request more people to help. You'd probably get the support, too, because everyone wants to support being better and faster, right? But even if that seems to work, how can you be sure that adding more people was the right change to make? Moreover, can that change be sustained after you're gone?

Under LSS, you'd first measure how long it takes for your team to process Article 15s. You might cry, "Impossible! It depends! It depends on the type of case, the time to get a police report, whether local national police are involved, who's deployed, who's on leave, whether we're in court that week," and on and on. LSS lets you take all of those things into account to help you understand how long your process is taking and what specifically causes longer-than-desired delays. Once you have completed that analysis, you can make improvements and institutionalize new procedures that are designed to last even when you're long gone from here.

The 21st TSC SJA, COL Claes Lewenhaupt, has taken the lead in getting the OSJA on the LSS train. He approved my "LSS Journey" last November and he is currently sponsoring our first "Green Belt" project, which is designed to improve how we process mandatory DUI General Officer Reprimands. CPT Mark Oppel, CPT Ryan Howard, CPT Jerrod Fussnecker, SFC Chrystal Drummonds, and Mr. Gary Mathes are on our core LSS team. Several other members are on the extended team, including a representative from the Kaiserslautern Military Police.

I want to thank each of you who are on our inaugural project and others who have helped. To the rest of the OSJA team, please stay tuned for updates on our project, let me know if you are interested in LSS training, and keep an eye out for other processes which could be improved by LSS.

Getting Ready for Your Next PCS..

by Mark Christensen



As the summer PCS season approaches, many in our community will make another move. Most folks think in terms of pre-move events, such as making transportation appointments and clearing, collecting school and medical records for family members and pets, and the actual logistics of making the move. This article provides some information that may help you not just plan for your move, but help you in the event you have to file a claim for lost or damaged personal property after you receive your household goods and vehicle at your new duty station.

“Pre-Existing Damage,” or “PED,” for short, is the name we use to refer to the condition of an item prior to its shipment or pack-out by a carrier. When you deliver your vehicle to the vehicle shipment location, or the movers come to your house to pack out your household goods, they will indicate any PED on your property. At delivery if your property is lost or damaged you may want to file a claim. If there was documented PED you will only be paid for new damage. Also, PED can be used to value an item for replacement purposes.

Let’s talk about the POV shipment first.

When you bring your POV to the vehicle shipment point, you will have been directed to bring the vehicle clean, with less than a quarter tank of fuel. You will be given the opportunity to inspect the vehicle with the carrier representative. The representative will have a schematic of your vehicle and will make notes concerning mileage and PED. If there are dents, rubs, scratches or breaks on your vehicle, they will annotate the schematic. When you pick up your POV at the shipment destination, you will again have the chance to inspect the vehicle with a carrier representative. They will use the same schematic prepared at drop-off to note mileage and document new damage. If there is new damage you will have the opportunity to claim reimbursement from the carrier or your servicing claims office.

An important goal for you is to insure that the PED noted at drop-off is accurate. You will be held to what you sign for, so you should insure that the drop-off inventory of PED is complete and accurate. The carrier should be specific about any PED and its location.

The same rules apply to your household good shipments.

On the household goods inventory prepared by the carrier and signed by you there is a column for PED. When the carrier notes dented or scratched furniture at pick-up, you will have to prove there is new damage in order to be paid for a claim after delivery. If an item has substantial PED, and the item is severely damaged, destroyed, or lost, the carrier will use that information to reduce the item’s value when compensating you. You should insure that any noted PED is accurate, and that your inventory sufficiently describes your property. If you have high-value furniture, electronics, or antiques, your inventory should reflect the condition and status of those items so PED notations do not limit your ability to claim the true value of the item.

Good luck on your move! We hope your move is successful and smooth, and that you will be able to spend some time taking the steps discussed above that will help you make sure your claims rights are protected.

If you have claims questions or need help filing your claim, contact the Kaiserslautern Legal Services Center Claims Office at DSN 483-8414 or Civilian 0631-411-8414.

HOW TO CLEAN UP YOUR CREDIT REPORT...

by CPT Joshua Zell

It could happen to anyone. You are just moments away from owning the one thing you have always wanted, when suddenly the loan officer's smile becomes a blank stare. You've been denied because of a low credit score. But you always pay your bills on time, so how could this happen?

Errors on your credit report can cause serious headaches, so here are some tips on avoiding situations like this one. First, check all three of your credit reports at least once a year. The three major consumer reporting companies are Equifax (800-525-6285, www.equifax.com), Experian (888-397-3742, www.experian.com), and Trans Union (800-680-7289, www.tuc.com).

You can get a free credit report each year from each of the three national credit reporting companies under federal law by going to www.annualcreditreport.com. You can request one report from each company once each year, or you can request a report from only one reporting company every few months. That way you can check the status of your reports throughout a year without cost. If you want more than one copy of your report in a year, you may have to pay a fee.

Second, if you find an error on one of your credit reports, notify the consumer reporting company in writing that you are disputing the information you think is inaccurate. If your dispute is not frivolous, the Fair Credit Reporting Act requires the consumer reporting company to investigate the dispute. The investigation is usually completed within 30 days. After the investigation is completed, the consumer reporting company must give you the written results and a free copy of your report if the dispute changed it. The consumer reporting company must also send you a written notice including the name, address, and phone number of the information provider (the alleged creditor who put the disputed information on your report).

Third, you can notify the information provider directly (again in writing) that you think they have made an error, and request an investigation. If the provider continues to report the information to a consumer reporting company during the investigation, it must include a notice of your dispute. If the information is found to be inaccurate, the information provider may not report it again.

Finally, if the investigation does not resolve the dispute, you can ask that a permanent statement of the dispute be included in your file, in future reports, and that the information provider provide a copy of it to anyone who received a copy of your report in the recent past. The information provider must also give notice of your dispute every time it reports that item to a consumer reporting company.

In some cases, the incorrect information on your credit report may not simply be a mistake; it may be the result of identity theft. If you suspect that you have been a victim of identity theft, there are some additional steps you should take immediately. First, report the crime to military or civilian police and request a copy of the police report. Alert all appropriate creditors and financial institutions through which the accounts were fraudulently accessed or opened, and close these accounts. Also alert the fraud departments of Equifax, Experian, and Trans Union, and have a "fraud alert" placed on your file so that new credit will not be granted without your approval. Finally, call the Federal Trade Commission's toll-free Identity Theft Hotline at 877-IDTHEFT (877-438-4338), or visit its website at: www.consumer.gov/idtheft.



A CAUTIONARY TALE — SAD BUT TRUE...

by LTC Bobby Don Gifford

Editor's Note: The following story is true. The names have been changed to protect the innocent...

“Checking the block,” he said to himself. “That’s all this is, just checking the block so I can get downrange.” As these thoughts echo through his head, the voice in the background is that of an attorney from the JAG office. Words such as “will,” “guardianship,” “SGLI,” and “trusts” all float through the air. The Soldier nods politely and mutters a “Roger that, Sir.” With a “good luck” and handshake from the attorney, the Soldier heads off for yet another appointment to check another block.

Sound familiar? Sure it does. It started the day you joined the military. This story is different though. It is one that can happen all too easily. It is about the consequences of not “taking care of business.”

On one mid-winter day in 2005, the parents of SPC John Henry were notified of the death of their son while he was serving in Iraq. SPC Henry was divorced and had a child. Before his death, SPC Henry completed the “Service Members Group Life Insurance (SGLI) Election and Certificate” to designate who should receive the insurance proceeds upon his death. SPC Henry designated his son as the principal beneficiary, to receive 100% of the funds. He wanted a future for his son in the event of his demise. What he did not do, and perhaps did not realize could be done, was to include special language in the SGLI form placing the funds into a trust.

When the Casualty Assistance Officer from the Army visited the family of SPC Henry, he inquired about the location of SPC Henry’s will. No one knew whether a will existed or where it might be located. In a last will and testament, a guardian and trustee could have been named, someone SPC Henry trusted, someone who would look after the distribution of his insurance proceeds and personal property, and take care of any other matters left unattended.

After SPC Henry’s death, Tina Fox, his ex-wife, filed a claim for death benefits on behalf of their child. She was informed that she would need to be the court-appointed guardian or conservator of the child’s property. Because no last will and testament was found and there was no mention of a trust having been set up for the child, Tina had the authority to assert herself in the management of the insurance proceeds. She went to court and petitioned to be appointed guardian of the child. Upon the granting of the guardianship, Tina soon received \$400,000 in SGLI proceeds, as well as a \$50,000 Death Gratuity and Social Security benefits for the child.

As with a Shakespearean tale, this one is filled with misdeeds and tragedy. In less than one year, Tina Fox burned through the money with expenses such as a \$12,000 vacation to San Antonio, \$4,000 for a trip to Las Vegas as a gift to her new boyfriend who had recently been released from prison, \$400 at Booger Red’s night club, \$800 on a single visit to Walmart, \$2,000 in Avon products, as well as roughly \$32,000 in monetary gifts to her boyfriend, brother, father, and cousins. The money was essentially all gone.

“I would never do anything to hurt my son,” Tina Fox claimed as she stood before a federal judge facing sentencing for the embezzlement of those funds. As she was sentenced to three years in federal prison and ordered to pay back the \$362,644 dollars she went through in less than a year, the judge told her that “your words ring hollow.”

If the clock could be turned back, SPC Henry would undoubtedly have done things differently. He would have ensured that his SGLI beneficiary designation included trust language for his young son. He would have also ensured that his parents knew where his last will testament was located. And undoubtedly that last will and testament would have specifically spelled out the wishes of this Soldier as to how his insurance proceeds and personal property were to be managed and distributed in the event of his death. “Checking the block” is a part of military life, but you should take the time to prepare as if you might die tomorrow, just in case you do not live to a ripe old age.

LTC Bobby Don Gifford is an Army Reserve JAG who is a federal prosecutor in Oklahoma City in civilian life. He prosecuted the real “Tina Fox” in federal court.

FAQs ON PHONE CONTRACTS

by Joerg Modellmog

Recently an increasing number of my clients have sought legal advice on issues surrounding their cell phone contracts, because their expectations were not in line with the terms and conditions applicable to the cell phone contracts they had signed. To enable you to make a better-informed decision before entering into a cell phone contract, let's look at five of the most common areas of misunderstanding:



(1) How long does a 24-month contract run?

If you think it lasts two years, just covering your tour in Germany, you might have made an expensive mistake. The 24-month period does not refer to the length of the contract but to the period during which the contract cannot be terminated. The contract itself runs for an indefinite period of time, for all cell phone contracts contain an automatic renewal clause, extending the contract for one year and thereafter for another year and so on, once the first 24 months have passed.

(2) What do I need to do to stop an automatic renewal of the contract?

If your guess is that you just need to tell them so, you are gambling. Your desire to prevent an automatic renewal needs to be expressed in writing to the cell carrier no later than three months **BEFORE** the contract is up for renewal. You could ask for the automatic renewal to be blocked right after you signed the contract. If you wait until the day on which the contract is up for renewal, you are too late and on the hook for another 12-month period.

(3) What happens if I lose or break my phone?

The cruel truth: too bad for you, as you have a 24-month contract (with an automatic renewal clause). The company will issue a replacement SIM card for a fee. However, the SIM card and the phone are two separate items. The latter is often merely subsidized, depending on the contract, but losing or breaking the phone does not entitle you to a new one and provides no ground for an early termination or discontinuance of your 24-month contract (with automatic renewal clause).

(4) Is an online bill a good idea?

The answer depends on your personal situation. How good is your German? Chances are that the carrier's website is all in German. Set-up, registration, and/or modifications via the website will be impossible unless you have a basic idea of what you need to do. Often the companies charge an additional fee for mailing a hard copy of the bill to you. If you wish to receive a bill in the regular mail, make sure your mailing address is correctly displayed on the contract; a letter addressed to SPC John Doe, Kleber Kaserne, Kaiserslautern, will not find its way to you.

(5) Do I have a right to terminate the contract with "military orders"?

The Servicemembers Civil Relief Act (SCRA) is a US law that does not apply to German contracts. Absent such a statutory right to terminate cell phone contracts upon a PCS move, the issue is left to the individual phone service carriers and the contracts concluded with them. The shop representatives never put their eloquent verbal sales statements into writing, making it next to impossible to prove them. They often simply claim to have used a lot of vague language like "may," "might," and "could," because, contrary to any allegations, the general terms and conditions of the cell phone contract do **NOT** provide for an extraordinary termination right in case of presentation of military orders. Consequently, cell phone companies generally offer to dissolve the contract in consideration for a lump sum payment, based on the remaining monthly basic fees still owed under the contract up to the next ordinary termination period.

Advice and assistance on any of the matters discussed above is available by making an appointment to speak with a German Attorney-Advisor. Call DSN 483-8848 or civilian 0631-411-8848 for an appointment.

FUNDRAISING BY PRIVATE ORGANIZATIONS

by CPT Erik Lapin

There are numerous private organizations operating on US installations throughout the European theater. This article describes guidelines private organizations must follow when conducting fundraising activities in Europe. It is not meant to be all inclusive. Specifically, there are rules governing who can conduct fundraisers, the location of fundraising events, individuals who can participate in fundraising, and fundraising methods in general.



A private organization is a self-sustaining, non-federal entity, operated on an Army/DOD installation with the written consent of the installation commander or higher authority. It consists of individuals acting exclusively outside the scope of any official capacity as officers, employees, or agents of the federal government or its instrumentalities. Fundraising is any activity conducted for the purpose of collecting money, goods, or other support to benefit others.

The USAG Commander is the approval authority for private organizations and for their fundraising activities. Generally speaking, fundraising activities are prohibited in the federal workplace. The federal workplace includes areas in the immediate area of federal employees performing official duties (*e.g.*, work space/offices). Fundraising is only authorized on the US-controlled installation and the USAG Commander will typically approve the designated location for each fundraising event. Permissible fundraising areas may include areas near public entrances, in community-support facilities, or in government quarters on a limited basis. Fundraising is limited to individuals who have SOFA status. Money will not be solicited or accepted from host nation citizens or other individuals not authorized SOFA status or individual logistic support. Fundraising by a private organization may not include the resale or other transfer of AAFES merchandise, Defense Commissary Agency merchandise, items imported through the APO or MPS, or items purchased through the individual VAT tax-relief system, to any unauthorized recipient.

DoD personnel may not endorse private organization fundraising activities, personally solicit funds from subordinates or outside sources, or require subordinates to participate in fundraising activities. Military personnel may not engage in fundraising activities while in military uniform.

Fundraising requests are very fact-specific and require a separate legal review along with command approval. As such, the USAG legal advisor should be consulted early and often in the process. Further information on fundraising can be found in Army Regulation 600-29, Army in Europe Regulation 210-22, and the Joint Ethics Regulation (JER) (DoD 5500.7-R).

FIRST IN SUPPORT! For the second year in a row, 21st TSC won 8 of the 11 DA-level legal assistance and claims awards won in USAREUR. The 21st TSC Commanding General, MG Patricia McQuiston, presented all eight awards at the 21st TSC OSJA's Legal Conference in December. The Kaiserslautern Legal Services Center was one of only three law offices in Europe to win both the FY08 Army Chief of Staff Award for Excellence in Legal Assistance and the FY08 TJAG Award for Excellence in Claims Support. After the award presentation, MG McQuiston joined 21st TSC JAG personnel from all six 21st TSC legal offices for a group photo. **Hooah!!!**



The Ethics Corner...

by Teresa Robison

**YOUR GOVERNMENT PURCHASE
CARD: BE CAREFUL HOW YOU USE IT...**

The Government Purchase Card (GPC) was introduced as a convenience to facilitate easier purchasing for certain low-cost items. Use of the card is governed by Army Regulation 715-XX, the GPC SOP. Use of the card is a serious responsibility, and this article seeks to provide an overview of the permissible boundaries. The most important thing to remember is that, if you have any doubt about whether a GPC purchase is acceptable, contact the experts: the GPC contracting officer or your fiscal law attorney.



The first limitation on use is that the card is not for personal use under any circumstances. Such use can subject you to both criminal and administrative sanctions, based on the particular circumstances.

The second limitation on use is your credit limit. For most, this will be the micro-purchase threshold, which is \$3,000. Some have higher limits based on the need to purchase higher-value items. The temptation here may be to engage in something called “splitting,” which is conducting multiple purchases at different times to purchase something over the micro-purchase threshold. Splitting is strictly prohibited. This is the kind of conduct that GPC auditors will be specifically looking for in any audit.

The third limitation is on what may be purchased. As a general rule, you can only purchase items which are a “necessary expense,” *i.e.*, items necessary to support the mission of your unit or organization. Some specific limitations:

- ⇒ Morale-type purchases are rarely, if ever, authorized GPC purchases; unit funds or MWR funds are probably more appropriate. This includes limitations on morale events, such as battalion balls, company picnics, etc. Check with the experts before attempting to make any such purchase.
- ⇒ Rules about specific items which must be purchased or obtained through specific avenues must also be observed, *e.g.*, the purchase of stationary, clothing, or commanders’ coins.
- ⇒ Items which do not directly support the mission, such as kitchen equipment, can sometimes be purchased, but because of limitations on these types of purchases you should check with the experts.
- ⇒ Items which may be viewed as personal, such as food, bottled water, or T-shirts intended to be kept by the wearer, are rarely authorized. Again, check with the experts.

Specific limitations on use may be found at Appendix C of the GPC SOP, always a good place to start if you have questions about a proposed purchase. Note: this list is not exhaustive.

Consequences for misuse of the card can be harsh. Cardholders who negligently misuse their cards may be assessed the value of the improper purchase, up to one month’s pay, and for the entire amount if the misuse is deliberate. Billing officials who improperly certify a purchase may be held responsible for the full amount of the purchase. In addition, criminal sanctions and administrative sanctions may be imposed on civilians and military alike. The GPC SOP may be found at: <http://www.usma.edu/doc/gpc/GPCArmyReg.pdf>.

Europe Without Borders

"Not so fast, Bucko..."

by Joe Hall

In 1985, five of the European Union (EU) countries agreed to facilitate travel within their alliance by generally eliminating border passport checkpoints. To do this, they signed a treaty at the city of Schengen in Luxembourg – the so-called "Schengen Agreement."

The Schengen Agreement now includes some 25 European countries. While certain EU member states like Ireland and Great Britain decided not to join the Schengen Agreement and, therefore, still have mandatory passport checks in place, some non-EU member states like Iceland, Norway, and Switzerland did join the Agreement.

So, nowadays, when you cross the border into any neighboring country of Germany, you may well see deserted passport control facilities. But be careful and be prepared. That open border may not be so open.

Regarding passport control. Unfortunately, the United States is not a member of the Schengen Agreement. What that means to US Forces, members of the civilian component, and family members is that you still need to have your passport with you when you take leave/leisure travel from Germany into any other European country. As an alternative, uniformed personnel normally can travel on their military ID cards and leave or travel orders.

You may not get stopped at the border, but remember the phrase above – "generally eliminating." You still could be stopped and checked, not only at the border (especially at times of heightened security) but at any time and anywhere during your visit. Without your passport (or military ID card and leave form or travel orders), you are subject to being arrested and possibly fined/prosecuted and/or expelled from the country you had planned to visit. Definitely, a lousy day-trip experience.

Then there are custom controls. Start with Switzerland. Although the Swiss have generally dropped their passport controls, they still have an active customs control policy – so you have to slow down when entering Switzerland and may be stopped at the border to declare your goods or have your trunk inspected. The other Schengen countries generally have dropped their customs inspections, but inspections still could happen at the border or they could be conducted by roving customs patrols several miles from the border.

Finally, for official travel requirements, you need to have the appropriate ID card and NATO travel orders for military, or an official duty passport for US Government civilian employees.

The electronic foreign clearance guide: <https://www.fcg.pentagon.mil/fcg.cfm> sets out required documentation, approvals, and clearance lead times in detail, and should be consulted well in advance of any official or unofficial travel you intend to take outside of Germany.

So, get out there and enjoy visiting the other countries of Europe, but when it comes to your ID card and leave or travel orders, or your civilian passport - like the commercial says, "Don't leave home without it."



Memorial at Schengen, commemorating the signing of the Schengen Agreement. Schengen is located on the Mosel River in the beautiful German-French-Luxembourg tri-border area approximately 90 minutes from Kaiserslautern. A short day-trip there will reveal the benefits of the treaty.





CPT Nancy J. Lewis, an Operational Contract Law Attorney assigned to the 409th Contracting Support Brigade in Kaiserslautern, deployed to Port-au-Prince in January in support of humanitarian earthquake relief efforts as part of Joint Task Force Haiti. She is pictured here with Oscar-winning actor/director Sean Penn, one of many Hollywood celebrities who are assisting in relief efforts in Haiti.

WHAT TO BRING TO THE TAX CENTER

by Steve Smith

Our tax preparers need to see certain supporting documents in order to prepare your tax return. Please bring the following documents with you when you come to the tax assistance center:

- ⇒ Your ID card, and all W-2, 1099, & 1098 forms
- ⇒ Social Security Number cards for spouse and dependents
- ⇒ Copies of last year's federal and state returns (if available)
- ⇒ Dollar amount of any economic recovery payment you received in 2009 (if known)
- ⇒ Blank check or bank card bearing both the routing and account numbers of your checking or savings account
- ⇒ If filing jointly, bring your spouse with you, or bring a general power of attorney or a special power of attorney for filing tax returns
- ⇒ If filing with a spouse who has no social security number, bring your spouse's Individual Taxpayer Identification Number (ITIN)
- ⇒ If you are a landlord, bring complete information on rental income and expenses; if you sold stocks or mutual funds, be sure to bring your basis in the shares sold.

Directions to Kleber Kaserne:

From Vogelweh, Ramstein, or Landstuhl take the A6 direction Mannheim. On your right you will see a large store called Möbel Martin. Make sure you are in the right lane as you take the Kaiserslautern Ost Ausfahrt (exit). Turn right as you leave the exit ramp and drive downhill until you reach the stop light. Turn right and proceed straight until the next stoplight. Turn left and you will be beside Kleber Kaserne. Follow the perimeter until you come to an open gate. Once you are on post, park in the Shoppette parking lot. Bldg. 3210 is directly across from the Shoppette. Enter Bldg. 3210 from the end door, closest to the Shoppette.

