



KAISERSLAUTERN LEGAL INFORMER

OSJA WELCOMES NEW LABOR LAW ATTORNEY



Chandra Postma is the 21st TSC OSJA's new Labor Law Attorney. She replaces Teresa Robison, who left Kaiserslautern for Fort Lee last spring.

by Steve Smith

Chandra R. Postma, a native of Columbus, Ohio, who spent the last 14 years practicing labor law with the Interior Department in Alaska, was selected this winter from an enormous list of applicants as the new Labor Law Attorney for the 21st TSC OSJA's Administrative & Civil Law Division.

No stranger to the U.S. Army Judge Advocate General's Corps, Ms. Postma served on Active Duty from 1995 to 2000 as a Legal Assistance Attorney at Fort Sill, as a Trial Counsel at Fort Bliss, and as Chief of Claims and a Trial Defense Counsel at Fort Wainwright. Since 2000, she has served as Personnel Attorney and Chief Criminal Attorney/Special Assistant U.S. Attorney for the Office of the Solicitor, Alaska Region, with the Department

of the Interior in Anchorage.

A 1994 graduate of Case Western Reserve University School of Law, Ms. Postma also holds a B.A. in economics from Denison University. She is a recipient of the Department of the Interior's STAR (Special Thanks for Achievement) Award, and multiple performance awards.

Accompanied by her daughters, Kathryn, Anna, and Lily, Ms. Postma arrived in Kaiserslautern in February. Her husband, Richard, a civilian attorney who is also a former JAG, is closing out his private practice in Alaska and will join the rest of the family in Kaiserslautern this spring.

We are fortunate to have this subject matter expert in the field of labor law on our staff, and welcome her and her family to Kaiserslautern, the 21st TSC, and back to the JAG Corps.

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

Foreign Bank Account Report Changes

A tax attorney explains how the new report works...

by Mark Christensen

U.S. persons who live outside the United States should be familiar with the requirement to file a report with the Department of Treasury if they own or have signature authority over offshore financial accounts worth more than \$10,000 at any time during a year. The report is due each year on June 30th and is now submitted electronically using [FinCEN Report 114](#) (which has replaced the now-obsolete TD F 90-22.1 form). FinCEN stands for Financial Crimes Enforcement Network, a name that may encourage taxpayers required to file the report. Review [FinCEN 114 Instructions](#) for more information and specific electronic reporting and filing instructions.



FinCEN Report 114 must be filed by “U.S. Persons” who have a financial interest in or signature authority over foreign financial accounts if the aggregate value of the foreign financial accounts exceeded \$10,000 at any time during the previous calendar year. A “U.S. Person” includes U.S. citizens and U.S. residents, those with lawful permanent residence status (a green card). Foreign financial accounts do not include U.S. Military Banking Facilities such as Service Credit Union, Global Credit Union, Andrews Federal Credit Union, or Community Bank.

There are additional requirements to disclose offshore financial assets using [IRS Form 1040 Schedule B](#) and [IRS Form 8938](#) when the value of those assets exceeds different levels based on residency and filing status. Unmarried or married filing separate taxpayers must file Form 8938 if the aggregate value of offshore accounts exceeds \$50,000 on December 31 or \$75,000 on any day during the year (if they reside inside the U.S.), or if the value exceeds \$200,000 on December 31 or \$300,000 on any day (if they reside outside the U.S.). Taxpayers filing joint returns file Form 8938 if the aggregate value of offshore accounts exceeds \$100,000 on December 31 or \$150,000 on any day (if they reside inside the U.S.), or if the value exceeds \$400,000 on December 31 or \$600,000 on any day (if they reside outside the U.S.).

Some U.S. persons are now having trouble maintaining or opening financial accounts outside the United States. The Foreign Account Tax Compliance Act (FATCA) not only requires taxpayers to report holdings as described above, but requires non-U.S. financial institutions to report those accounts to the IRS. Many non-U.S. financial institutions do not want to bother with the IRS and the mandatory reporting requirements and have either notified U.S. account holders that the accounts will be closed or have denied new accounts to U.S. persons. An unintended consequence of FATCA is that some U.S. persons residing outside the U.S. will have difficulty finding European banks willing to do business with them.

The area of offshore account disclosures continues to be important to the IRS and military community members with non-U.S. accounts. Look closely at account statements and reporting requirements, and contact your Legal Assistance Office for an appointment to meet with a tax attorney concerning questions and reporting obligations. Even U.S. persons not involved in money laundering or other illegal activity face heavy penalties for failing to disclose financial assets as required by law. Innocent acquisition of money or ignorance of the reporting requirements are not defenses for failing to disclose!

For an appointment to speak to a tax attorney, call the Kaiserslautern Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848. For tax preparation assistance, contact the Kaiserslautern Tax Assistance Center at DSN 483-7688 or Civilian 0631-411-7688, the Pulaski Tax Assistance Center at DSN 493-4033 or Civilian 0631-3406-4033, or the Landstuhl Tax Assistance Center at DSN 486-6334 or Civilian 06371-86-6334.

Our Tax Program Expands

by CPT Chris Leighton

The 21st TSC Tax Assistance Program has added a new tax center on Pulaski Barracks to better serve our expanding community. With the addition of the Pulaski Tax Assistance Center, the Army now offers three tax filing locations in the KMC footprint: **Pulaski Barracks, Bldg. 2886; Kleber Kaserne, Bldg. 3210; and LRMC, Bldg. 3701.** All three centers are full-service operations, meaning qualified ID cardholders need only to bring their supporting documents (see chart below) and our IRS-certified staff will individually prepare their federal and state tax returns from start to finish, free of charge.

Our staff at each tax center has been trained on issues relevant to overseas taxpayers. They work under the supervision of experienced tax experts (see back cover). Although some tax returns (e.g., those involving private business activities) are beyond the scope of the program, the overwhelming majority of taxpayers need look no further than their local Army tax center to maximize their refund. For those afraid they left money on the table in years past by doing their own taxes, our tax centers can also amend previous years' returns going back to 2010. [After April 15th we can only amend back to 2011.]

Note that while taxpayers overseas are automatically entitled to a two-month extension to file (June 16th this year since the 15th falls on a Sunday), **there is no extension of the time to pay taxes owed.** Taxpayers who anticipate owing taxes must pay by the traditional April 15th deadline to avoid the assessment of interest and late payment penalties. Individuals seeking an extension of the time to file beyond June 16th should submit IRS Form 4868 by April 15th, and pay any amounts they expect to owe with that form.

All three of our tax centers operate from 0900 to 1600, Monday through Friday, and accept both walk-ins and appointments. For more information, or to make an appointment, call DSN 483-7688 or Civilian 0631-411-7688 (Kleber), DSN 493-4033 or Civilian 0631-3406-4033 (Pulaski) or DSN 486-6334 or Civilian 06371-86-6334 (Landstuhl).

WHAT TO BRING TO THE TAX CENTER...

- Government-issued ID card
- Social Security Number cards for taxpayer, spouse, and all dependents; if spouse has no SSN, bring spouse's ITIN*
- Birthdates of spouse and all dependents
- Statements for all income sources (W-2, W-2G, 1099-R, 1099-MISC, German "Lohnsteuerbescheinigung")
- Interest and/or dividend statements from all financial institutions (Form 1099) and mortgage interest statements (Form 1098)
- Copy of last year's Federal and State returns
- Bank routing and account numbers for direct deposit of refund
- Your spouse (if filing jointly) or a valid power of attorney



KAISERSLAUTERN LEGAL SERVICES CENTER

Building 3210 Kleber Kaserne

Legal Assistance 483-8848
Tax Assistance 483-7688
Claims 483-8855/8856
International Affairs 483-8854
Trial Defense Service 483-8397
[Civilian: 0631-411-XXXX]

Administrative Law 484-8043
Criminal Law 484-7419
[Civilian: 0631-413-XXXX]

TY 2013 KEY FIGURES:

Average Exchange Rate:
\$1.00 = .783 Euros*

Mileage Rates:

Business: **56.5 cents/mile**
Moving/Medical: **24 cents/mile**
Charitable: **14 cents/mile**

**Maximum Foreign Earned
Income Exclusion: \$97,600**

Standard Deductions:

MFJ/Qual. Widow(er) **\$12,200**
Single/MFS: **\$6,100**
Head of Household: **\$8,950**

Personal Exemptions: \$3,900

* this is the rate the IRS is using, but the IRS will accept "any reasonable rate"

* If your spouse has not yet been issued an ITIN, bring along your spouse's ID card and passport or *Personalausweis*.

\$\$\$ Tax Tips That Can Save You Money \$\$\$

by MAJ Karin Chelluri

What if just a few hours — or even minutes — of effort could result in hundreds more dollars in your bank account? You'd make the effort, right?

Unfortunately, many of us take shortcuts or overlook important items that result in our paying more to the IRS than is required by law. The best advice is to consider your taxes throughout the year, not wait until the filing deadline to try to sort things out. Save and file tax documents as they arrive throughout the year, so you'll have what you need when you file your return and won't end up paying more tax than you owe. Start early, do your research, and plan ahead. You'll be surprised; tax planning can be both challenging and fun.



Don't Forget Valuable Deductions

Many taxpayers forget to document expenses that qualify for deductions. Key examples are:

Job-hunting expenses. These include mileage, business cards, subscriptions to job posting web-sites, and job fair admission fees.

Education expenses. The Tuition and Fees Deduction allows you to deduct up to \$4,000 from your income for qualifying tuition expenses paid for you, your spouse, or your dependents. These expenses cannot include room and board, transportation, or other optional expenses.

Home mortgage expenses. Always deduct the interest you pay on a home mortgage. Mortgage interest deductions must be spread out, or amortized, over the life of the loan, but if you refinance, any "unamortized" mortgage points from your former mortgage can be deducted all at once. See a tax professional if you have refinanced a home to determine how much you can deduct.

Don't Omit Income

If you earn dividends and interest on investment accounts, it can be easy to forget about that income when tax season rolls around. But it's still income and it must be reported; otherwise, you could end up owing additional taxes, interest, and penalties. The IRS also receives a copy of every 1099 form that is sent to you. Be sure to keep those forms on file so they are readily available for your tax preparer at tax time. If you fail to include investment income, the IRS will bill you later — and the bill will be bigger. In addition to charging interest, the IRS imposes a failure-to-pay penalty of .5 percent of the amount owed per month, up to a maximum of 25 percent of the unpaid tax due.

If you've sold stocks or other investments, take time to track the cost basis. Basis is the amount you originally paid for the stock. Forgetting to keep track of your basis can result in your paying taxes on the entire sales price; but if you report the cost basis, you'll only have to pay tax on the earnings (or possibly get a refund, if you sold the investment at a loss). A more common basis mistake is not including the reinvested dividends, which causes you to underreport and underpay your taxes. If you are unsure how this works, seek the advice of our tax professionals to help you prepare not just for this year's taxes, but for a lifetime ensuring the IRS doesn't take more than it is due.

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Tax Tips That Can Save You Money (continued)

Don't Guess Your Filing Status

Taxpayers who don't use the best filing status for their circumstances often end up paying much more in taxes than necessary. If your life circumstances have changed or will change (due to divorce, adoption, etc.) consider the tax consequences; prior planning can make a substantial difference. Most married couples pay less tax if they file jointly. Single filers who have children or other dependents living with them will usually pay less tax if they file as "head of household" or "qualifying widow(er)." While using the wrong filing status can be corrected, it requires filing an amended return with the IRS. If you think you may qualify as "head of household," etc., ask a tax professional before you file. If you realize you've made an error in filing status in the past, you can file an amended tax return, using Form 1040X, to correct the situation. Generally, for a credit or refund, you must file your 1040X within three years (including extensions) after the date you filed your original return or within two years after you paid the tax, whichever is later.

Don't Delay, Ask Your Tax Questions Before You File

The Kaiserslautern Legal Services Center operates three tax assistance centers in the KMC to better serve you. They are located in Building 3210 on Kleber Kaserne, Building 2886 on Pulaski Kaserne, and Building 3701 at Landstuhl Regional Medical Center. To date, more than 2,000 taxpayers have beaten a path to one of these centers. ***It's a valuable service—use it or lose it!***



New For 2014! In an effort to reach out to taxpayers who live and work in the center of the KMC, the Kaiserslautern Legal Services Center opened a new tax assistance center on Pulaski Barracks this winter. Signs on Pulaski Barracks direct you to the tax center, which is on the ground floor of the center section of Bldg. 2886. There is reserved parking for tax center customers, a spacious and comfortable waiting room, and a dedicated staff ready to serve you. Call DSN 493-4033 or Civilian 0631-3406-4033 to make an appointment, or walk-in from 0900 to 1600, M-F.

We're On the Web!

Current editions of the "Kaiserslautern Legal Informer" are posted on the 21st TSC website at: <http://www.eur.army.mil/21TSC/mags.asp>

Back editions of this newsletter and articles we've published on legal assistance topics are posted on the 21st TSC OSJA website at: <http://www.eur.army.mil/21TSC/sja/LegalAssist/LegalAssistance.asp> Articles and information papers on claims topics are posted at: <http://www.eur.army.mil/21TSC/SJA/Claims/Claims.asp>

The "KLI" is also posted on JAGCNet and shared with legal assistance and claims practitioners Army-wide.

Straight Talk on Taxes...



A veteran tax attorney debunks some popular "assumptions"

by Steve Smith

A little bit of knowledge about tax can be downright dangerous. You should get your tax advice from experienced professionals, not from barracks lawyers or your buddies down at the Club.

During our annual AFN "Open Line" tax call-in shows (see page 18), we inevitably get a call or an e-mail from an anxious listener to this effect: "I'm a U.S. citizen who has been retired here in Germany for the last 20 years and I haven't filed a U.S. tax return since 1994. Am I going to jail?"



Here's the bottom line. U.S. citizens and resident aliens (a.k.a., green card holders) have an obligation to file a U.S. tax return every year, as long as they meet the minimum income threshold outlined at the beginning of the instructions to Form 1040. Most other countries tax you based on residency, not citizenship. If a Frenchman lives and works in Germany, he has to file a German tax return, not a French one. But Americans who retire overseas usually wind up having to file a return in the country where they reside and an American return, too, because of their U.S. citizenship or resident alien status.

If you are a "chronic non-filer," sooner or later the IRS will likely catch you, especially if you are receiving a 1099-R from DFAS every year listing your pension income. The IRS computers will eventually notice that no return was ever filed bearing the SSN that appears on the 1099-R, and the IRS will track you down. You may not wind up in jail for tax evasion, but you will be hit with a variety of penalties plus interest on any amount of back tax you owe. It is always better to "come in from the cold" voluntarily. You can usually "get right with the Government" by filing tax returns for the last six years. Our tax assistance centers can prepare those returns for you. All you have to do is bring us the supporting documents.

A lot of Americans buy homes overseas and wind up renting them out. It comes as a big shock to some of them when they discover they must report that rental income on their American tax return. Many just "assume" that because the home is outside the U.S., they don't have to report it on their U.S. tax returns. Others "assume" that because they are Americans they don't have to report that rental income to the German government, either. ***You should never "assume" anything when it comes to taxes.***

Likewise, many Americans living overseas have no idea they are required to file a Foreign Bank Account Report ("FBAR" for short) with the Treasury Department if they had more than \$10,000 in a foreign bank account or accounts (in the aggregate) at any time during the previous calendar year (see related article on page 2). If they are filing a federal tax return jointly with a foreign spouse, and that spouse, like most Europeans, likes to put money in the bank for a rainy day, that can be enough to trigger a FBAR filing requirement, whether or not the American spouse is a joint owner of the account(s). By electing to treat your foreign spouse as an American for tax purposes and filing jointly, so you can take a higher standard deduction and a personal exemption for your spouse, you expose your spouse to the long arm of American law. This can be a trap for the unwary.

Americans who marry foreigners pass on their American citizenship to their children. Once those children start making enough money to be taxable, they need to file U.S. tax returns if they want to be able to renew their U.S. passports or avoid being detained because of a federal tax lien when they attempt to enter the U.S. Many of these children (most of whom have become adults

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Straight Talk on Taxes... (continued)

in the meantime) have no idea this requirement exists. Most of them won't wind up having to pay any tax to the U.S. if they work on the economy and can take the foreign earned income exclusion (it's gone up to \$97,600 for 2013), but they still have to file. In fact, the only way you can avail yourself of the foreign earned income exclusion is to file a Form 1040, attach Form 2555 or Form 2555-EZ, and affirmatively claim the exclusion.

A lot of Americans overseas blithely assume (there's that dirty word again) that they are not required to file a state income tax return. "After all," they reason, "I'm not living in the state, and I'm not using their roads or schools, so why should I pay taxes to them?" Not so fast! There is an unwritten rule that basically says that you remain a legal resident of whatever state you were a legal resident of when you left the U.S. to come overseas, until such time as you return to the U.S. and meet the residency requirements of some other state. If your state of legal residence is one that taxes its residents no matter where they happen to reside, you need to keep filing with that state while you are stationed overseas. Even retirees who become ordinarily resident in Germany often have difficulty convincing their former state of legal residence that they have abandoned their legal residency and have no further tax obligation to that state.

Think your state won't notice you've stopped filing or won't come after you? Think again. State departments of revenue can obtain information on your income from the IRS, and often calculate your state tax obligation for you based on what you reported on your federal income tax return. Then they tack on interest and penalties, and send you a letter demanding you pay up.

Not all states do this. Some, like Florida, Texas, Washington, South Dakota, Nevada, and Alaska don't even have an income tax. Others like New York, New Jersey, Connecticut, Pennsylvania, West Virginia, Missouri, and Oregon have an income tax, but you don't have to pay it if you meet a 3-part test. If you maintained no permanent home in the state, maintained a home outside the state, and did not spend more than 30 days of the tax year in the state, you probably don't owe them tax, but you might still have to file to get back state tax that was withheld.

Ignorance of federal or state tax laws is no excuse, particularly when it is so easy to download forms, instructions, and publications on the Internet.* You may also want to review the tax information on the website of American Citizens Abroad: <http://americansabroad.org/> Some of the articles posted there are enough to turn your hair white and could cost you a lot of sleep. They might also convince you it's time to make an appointment to see a tax attorney.



We welcome back CPT Joseph Nosse and CPT Yolanda Williams from their deployment to Afghanistan with the 18th MP Brigade. We also welcome CPT Dimitri Goubarkov, the incoming Brigade Judge Advocate for the 30th Medical Brigade (21st TSC's newest Brigade) and CPT Karen Berggren, who recently deployed to Kosovo. She will serve as an Administrative Law Attorney with the 21st TSC Office of the SJA. *"First in Support!"*

* You can download current and past year federal tax forms, instructions, & publications at: <http://www.irs.gov/Forms-&Pubs>



An Update on State & Federal "Death Taxes"



by MAJ Eric Feldhake

"The only sure things in life are death and taxes..."

"Death taxes" are a tax on property (cash, real estate, stock, life insurance, or other assets) transferred from deceased persons (*a.k.a.*, "decedents") to their heirs. Only the wealthiest estates in the country pay federal estate tax because it is levied only on the portion of an estate's value that exceeds a specified exemption level (\$5,250,000 in 2013 and \$5,340,000 in 2014). However, many states have their own "death taxes," some of which are imposed on as little as the first dollar of an estate. Although federal estate tax is no longer a matter of concern to most Soldiers, state death taxes can be, particularly since many states include life insurance proceeds in the taxable estate, and many Soldiers have \$400,000 worth of Servicemembers Group Life Insurance coverage.

STATE DEATH TAXES

Typically, there are two separate and distinct state death taxes on decedents' estates: inheritance tax and estate tax.

Inheritance Tax is a transfer tax imposed on the transferee's right to receive property from the decedent's estate. As such, the tax rate and exemption amount will depend upon the relationship of the decedent to the individual receiving the property. Frequently the amounts range from 5% to 15%, but can exceed 30% in some states for large estates. For administrative ease, the tax is required to be paid by the executor prior to the distribution of the estate. Accordingly, the actual amount which any beneficiary would receive is "net" of inheritance taxes.

Estate Tax is a tax imposed on all estates in excess of each state's exemption or exclusion value. Deductions for administrative expenses and for amounts to the surviving spouse are permitted. In addition to potential administrative concerns, the estate should consider the possible use of Disclaimers to reduce taxes. A court ordered "modification" of a Will or testamentary trust may also be needed to minimize taxes.

FEDERAL ESTATE TAX

The American Taxpayer Relief Act ("ATRA"), signed into law in 2013, dramatically changed estate planning in many ways. The increased federal exemption of over \$5 million per person and the concept of "portability" of estate tax exemptions have significantly altered the estate planning landscape.

One of the major improvements of ATRA is the fact that it has *finally* given the estate and gift tax a permanent law upon which taxpayers can rely. By way of background, the estate tax has been in a state of constant uncertainty since a 2001 tax law that sought to "repeal" the estate tax. A subsequent tax law, enacted December 17, 2010, relaxed the applicability of the estate tax but that law was set to expire again after two years, on January 1, 2013. Now, the ATRA provides that the estate tax will only apply to estates where the value of the estate is greater than a certain figure, which is indexed for inflation. For 2014, that figure is \$5,340,000.

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An Update on "Death Taxes" (continued)

Another important change concerns estate tax rates. Historically, the estate tax had included a graduated rate structure leading up to a 55% bracket. The ATRA now sets the estate tax rate at 40%.

Under the federal estate tax, the rules have always been applied to allow tax-free transfers to a spouse (as long as the spouse is a U.S. citizen) or to charity (as long as the charity is "qualified" under section 501(c)(3) of the Internal Revenue Code). Unlike income tax planning, where a tax year ends on the last day of the calendar year, the estate tax only applies at the time of a taxpayer's passing.

If a non-citizen spouse inherits, an exemption will exist if a special trust, called a "qualified domestic trust" or "QDOT," is established under IRC section 2056A. The property must be transferred to the trust, by the time the estate tax return of the deceased spouse is due. The trustee—that is, the person or entity in charge of trust assets—must be a U.S. citizen or a U.S. corporation such as a bank or trust company.

A second aspect of the ATRA concerns the so-called "portability" of estate tax exemptions. In the past, a spouse could leave assets to a surviving spouse without tax; however, that transfer would waste (not utilize) the estate tax exemption of that predeceasing spouse. Thus, many planners would suggest that families leave assets to a trust (generically referred to as a "credit shelter," "bypass," or "family trust") for the surviving spouse to ensure that the exemptions of both spouses/parents are used and that twice the amount of the exemption is shielded from estate tax. Now that the estate tax exemption is "portable" this planning may not be needed. In order to avail an estate of portability, a federal estate tax return (Form 706) must be filed and an election made.

CONCLUSION

Federal and state death taxes come in various sizes and rates. State death taxes are more common and typically have lower rates. Federal death taxes, while only imposed on substantial estates, can impose liabilities of over 50% when combined with certain state death taxes. The best way to protect an estate from such taxation is to visit a competent estate planner to get a better understanding of the federal and state death tax implications for your estate.



MAJ Eric Feldhake brings invaluable private sector experience to his work as an estate planning expert for the U.S. Army Reserve.

Major Feldhake is a Reservist assigned to the 153rd Legal Operations Detachment in Willow Grove, PA. In civilian life, he is a shareholder with the law firm of Kulzer & DiPadova in Haddonfield, NJ, where his areas of practice include estate and tax planning, administration, and litigation, and real estate and business transactions. Major Feldhake holds J.D. and M.B.A. degrees and a LL.M. in taxation from Temple University in Philadelphia. He teaches taxation to JAGs in the Graduate Course at The Judge Advocate General's Legal Center & School in Charlottesville, VA. He spent two weeks this winter on Overseas Deployment Training (ODT) with the 21st TSC OSJA. Our ODT program brings dozens of Reservists to Kaiserslautern and Baumholder each year, where they help us keep appointment backlogs down in Legal Assistance and assist us in other areas of our practice. ODT is a win-win situation; it provides excellent training opportunities for Reservists, enabling them to "hit the ground running" when mobilized, while helping us meet the needs of our clients and providing us valuable points of contact for highly-specialized areas of our practice, like taxation and estate planning.

Nonappropriated Fund Claims

by CPT A.J. Browell

Sometimes it is obvious when you have a valid claim to file with your local claims office: a distracted Soldier drives a Humvee into your parked car; the military postal service loses your package; an automatic door in an Army office building inexplicably closes on you breaking your wrist...

However, valid claims are not limited to injury or damage caused by the Army and its personnel. Claims can also arise through the negligent acts of employees of Nonappropriated Fund Instrumentalities (NAFIs) and the Army and Air Force Exchange Service (AAFES).

What are NAFIs? NAFIs are Department of Defense-sanctioned programs, typically through MWR, that provide morale, welfare, and recreational programs for military personnel and civilians. Common examples of NAFIs found on-post include auto skills centers, car washes, bowling alleys, child development centers, clubs, fitness centers, golf clubs, and movie theaters. NAFIs do not include concessionaires operating on post like many name brand restaurants and specialty stores.

If you have a claim for property damage and/or personal injury caused by the negligent or wrongful act of a NAFI or AAFES employee acting within the scope of employment, you must present the claim to your local claims office within two years of the date the incident took place, or within two years of the date you discover the damage or injury. [Note: The procedures for permanent residents of Germany and tourists (including U.S. tourists in Germany) to file such claims are completely different. They must file their claim with a special German claims office (“Schadensregulierungsstellen des Bundes”) WITHIN THREE MONTHS of the date the incident took place or the date they discover the loss. Your local claims office can provide the proper address and appropriate forms.]

The proper format for filing a NAF claim is a completed Standard Form 95. The SF95 can be picked up from your local claims office or downloaded at www.gsa.gov at “Forms Library.”

Although all NAF claims submitted will be thoroughly investigated by your local claims office, it is important for you to provide detailed facts that form the basis of your claim. You should, to the best of your ability, list the incident location and identify all persons involved. Additionally, you should attach the police report/incident complaint report, if you have one, and submit written statements from witnesses, if applicable.

Make sure the SF95 states a definite sum of money for the claimed damages. Failure to provide a sum certain on the SF95 could invalidate/delay the filing of your claim. All SF95 forms submitted must be dated and signed. The more information you provide to the claims office about the claimed incident, the easier it will be for the claims office to adjudicate the claim. While the claims office decides whether the claim is payable and, if so, in what amount, it is the responsibility of the NAFI to make payment out of their own funds.

The laws and regulations surrounding NAF claims are complex; the claims experts at your local Military Claims Office are standing by to assist.

If you have further questions about these or other claims-related issues, call the Kaiserslautern Claims Office at DSN 483-8855/8856 or Civilian 0631-411-8855/8856, or visit the office, located in Room 112 of the Kaiserslautern Legal Services Center, and consult with our claims experts.



The "Neutral & Detached" Legal Advisor

by CPT Alex Straatmann

Many lawyers in the Army are assigned to advocate one side or the other. Well known examples include the U.S Army Trial Defense Service (TDS) advocating for Soldiers suspected of misconduct, legal assistance attorneys representing Soldiers on their personal legal matters, and trial counsel pursuing the good order and discipline needs of commanders. Administrative Law Division attorneys are often assigned to cases advocating for neither side; instead, they assist hearing officers with no legal training in accomplishing their roles involving administrative and judicial functions. Examples of these proceedings include Summary Courts-Martial and Boards of Inquiry. The term "neutral and detached" commonly refers to the Military Magistrate Program established under Chapter 8 of AR 27-10, *Military Justice*; "an Army-wide program for review of pretrial confinement and the issuance of search, seizure, and apprehension authorizations, on probable cause, by neutral and detached magistrates." However, it is equally fitting to the proceedings described above.



What does the legal advisor do in a Summary Court-Martial? In a Summary Court-Martial, DA Pam 27-7, *Guide for Summary Court-Martial Procedure*, requires the legal advisor to be "totally uninvolved in the case." The Summary Court-Martial Officer (SCMO) is usually not a judge advocate. As such, the legal advisor is the only judge advocate to advise the SCMO on legal and procedural issues. The legal advisor may not answer questions related to the factual determination of a particular case. In other words, the legal advisor doesn't assist the SCMO in determining the outcome, but gives the SCMO the tools to make the determination on his or her own.

What is the difference between a legal advisor's role in a Board of Inquiry and other administrative hearings? In a Board of Inquiry, the legal advisor not only advises the presiding officer, but the entire board. AR 600-8-24, *Officer Transfers and Discharges*, states the legal advisor is prohibited from taking part in presenting the case or cross-examining witnesses. Legal advisors are also non-voting members of the board.

Administrative and judicial hearings serve an important purpose in the Army. Administrative Law Division legal advisors serve an equally important function in helping sift through complex legal issues and in assisting the presiding officer or board in reaching an outcome without influencing their decision. They do this by remaining "neutral and detached" from the cases on which they advise.

Editor's Note: CPT Straatmann is a Reservist with the Omaha Team of the 8th Legal Operations Detachment in Independence, MO. In civilian life, he serves as Missouri Congressman Adrian Smith's Counsel for Constituent Services in Omaha. He authored this article while serving on Overseas Deployment Training (ODT) in Baumholder.



Claims Brochures Now Available on Our Website!

All of the claims brochures that are available in hard copy in the display rack at the Kaiserslautern Claims Office can now be downloaded from the 21st TSC OSJA website. They cover topics like Household Goods Claims, Full Replacement Value, Receiving Your POV, POV Vandalism, Security Barriers, Power Surges, Flood Claims, and Article 139 Claims. Just click on this link: <http://www.eur.army.mil/21TSC/SJA/Claims/Claims.asp>, scroll down to "Claims Brochures," select the topic you want, and print it out double-sided.

New Banking Terms Explained

by Joerg Modellmog

In Germany, people generally do not send personal checks or money orders. Apart from cash transactions, the preferred method for the transfer of money is a bank-to-bank payment based on a transfer slip (“*Überweisungsauftrag*”).



In the past, these German transfer slips were easy to read as they contained among other things the eight-digit German bank routing code (BLZ, “*Bankleitzahl*”), the account number (“*Kontonummer*”), and the bank’s name. They basically looked like this:

beneficiary (“ <i>Empfänger</i> ”):	Creditor’s Name
beneficiary’s account No. (“ <i>Empfänger-Kto</i> ”):	0000000000
beneficiary’s bank routing code (“BLZ”):	123 456 78
beneficiary’s bank (“ <i>Bank</i> ”):	Creditor’s Bank
amount to be transferred (“ <i>Betrag</i> ”):	Amount in Euro (€)
purpose of payment (“ <i>Verwendungszweck</i> ”):	Reference #
remitter (“ <i>Kto-Inhaber</i> ”):	Sender’s Name
remitter’s account No. (“ <i>Kto-Nr. des Kto-Inh.</i> ”):	0000000000

Since February 1, 2014, you may have seen a new kind of transfer slip being used. These were used for cross-border bank transaction within the EU before and are now being introduced for use in all bank transactions within the EU (plus Iceland, Norway, and Liechtenstein). In fact, their use for businesses becomes mandatory on August 1, 2014, while consumers have until February 1, 2016. However, many banks already switched their system to SEPA back in February of this year.

The new bank slips are called SEPA transfer slips. SEPA stands for Single European Payment Area. They contain the following information:

beneficiary (“ <i>Begünstigter</i> ”):	Creditor’s Name
beneficiary’s IBAN (“ <i>Begünstigten-IBAN</i> ”):	DE00-123-456-78-0987654321
beneficiary’s bank BIC (“BIC/SWIFT-Code”):	
amount to be transferred (“ <i>Betrag</i> ”):	Amount in Euro (€)
purpose of payment (“ <i>Verwendungszweck</i> ”):	Reference #
remitter (“ <i>Kto-Inhaber</i> ”):	Sender’s Name
remitter’s IBAN:	DE00-000-000-00-0000000000

[continued on page 13...]

New Banking Terms Explained (continued)

The International Organization for Standardization (ISO), in cooperation with the European Committee for Banking Standards (ECBS) and the European Payments Council (EPC), developed the IBAN. It was introduced as of January 1, 2002. The IBAN has a maximum of 34 alphanumeric characters but Germany only uses 22 characters.

If you compare the old and new transfer slips described above, the composition of the IBAN becomes apparent and the 22 characters will no longer be a mystery to you. The IBAN starts with the country code, telling you where the account is located, *e.g.*, “DE” for Germany (“*Deutschland*”) or “FR” for France, followed by a random 2-digit check number. The final part is the domestic bank routing code and the account number. Note, if the account number does not have ten digits, zeros will be added in front of it.

For an interim period (until February 2016), SEPA transfer slips also require a BIC (Bank Identifier Code, a.k.a. SWIFT-Code), consisting of a combination of numbers and letters. If you don't know where to find the BIC or your IBAN, take a closer look at your bank statement; these new codes should be printed on it.

***If you are looking for more information on SEPA or banking transactions, stop by the Kaiserslautern Legal Services Center's Legal Assistance Office to pick up a copy of our of our handout on “Banks & Bills .”
If you have questions about a specific case, you can schedule an appointment to speak with one of our German attorneys by calling DSN 483-8848 or Civilian 0631-411-8848.***

SEPA-Überweisung

Nur für Überweisungen in Deutschland, in EU-/EWR-Staaten und in die Schweiz in Euro.
Bitte Meldepflicht gemäß Außenwirtschaftsverordnung beachten!

Angaben zum Zahlungsempfänger: Name, Vorname/Firma (max. 27 Stellen, bei maschineller Beschriftung max. 35 Stellen)		SEPA
IBAN		
BIC des Kreditinstituts/Zahlungsdienstleisters (8 oder 11 Stellen)		
Betrag: Euro, Cent		
Kunden-Referenznummer - Verwendungszweck, ggf. Name und Anschrift des Zahlers - (nur für Zahlungsempfänger)		
noch Verwendungszweck (insgesamt max. 2 Zeilen à 27 Stellen, bei maschineller Beschriftung max. 2 Zeilen à 35 Stellen)		
Angaben zum Kontoinhaber: Name, Vorname/Firma, Ort (max. 27 Stellen, keine Straßen- oder Postfachangaben)		
IBAN		
16		
Datum	Unterschrift(en)	

Vordruck 4130 | Schreibmaschine: normale Schreibweise | Handschrift: Blockschrift in GROSSBUCHSTABEN, Schreibfelder beachten!
01.12

A scanned version of the new SEPA bank transfer slip...

Watch Out for Charges from "Third-Party Providers" on Your Phone Bill!

by Holger Blug

Do you always check your phone bill before paying it? If not, you may have paid some extra Euros that you will probably never get back. You should carefully scrutinize your phone bill every month for any unauthorized withdrawals before paying it.

If you don't have an all-inclusive flat rate, you should request an itemized bill so you can see every call made and every charge assessed. You should review that bill to make sure that there are no incorrect charges from your phone provider.

An increasing number of our clients are discovering unauthorized charges from so-called "third party providers" on their phone bills. These providers charge amounts of anywhere from €4,99 up to €19,99 a month. Usually the customer doesn't realize he requested any kind of service and he doesn't even know the provider. If he contacts the provider they tell him that he ordered a subscription to download ringtones or photos, to download games, to register for raffles, or to watch movies or listen to music. The customer supposedly did that by calling a number, sending a text message, or clicking on a website. Since the alleged contract had been concluded over the phone and the phone number had served for identification, the fees wind up being charged on the customer's phone bill.

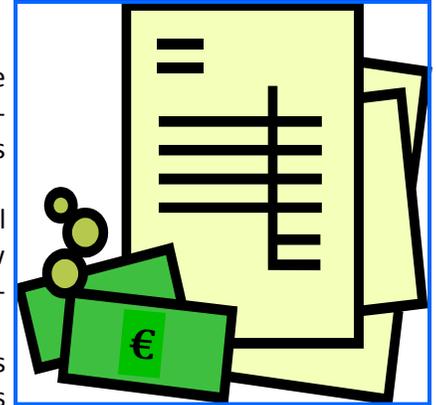
If you discover charges from a third-party provider on your phone bill and you never requested any service from the provider, you should immediately contact your phone provider and dispute the bill. You should also contact the third-party provider to dispute their charges and terminate the alleged subscription. If you haven't been checking your phone bill on a regular basis, you may discover that the third-party provider has been charging you for many months. Of course, you can ask them to verify their claim and refund the fees, but since these providers are frequently in foreign countries it is often difficult or impossible to get your money back.

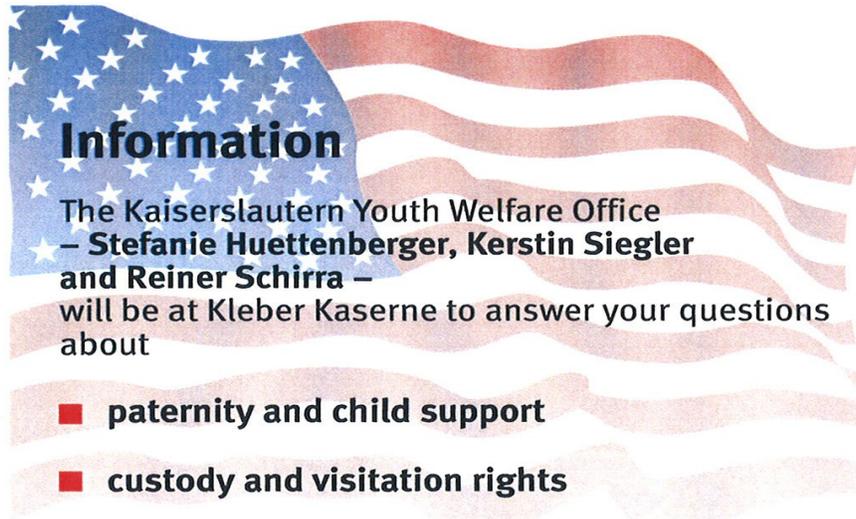
If you discover unauthorized charges on your phone bill you could elect to simply not pay the bill, unless the bill is automatically debited from your bank account. However, this is not always the best option, since many phone companies turn off a customer's phone service if there are unpaid bills. It is sometimes better to pay under protest and sort it out later with the third-party provider.

If you don't want to conclude any contracts over your phone, there is a preventive measure you can take. You can ask your phone provider to lock your phone against any third-party providers ("*Drittanbietersperre*"). The phone company is obligated to honor your request. This is one sure-fire way to avoid any future charges from a third-party provider.

Finally, it is very important to check your phone bills. Many customers don't do that. A lot of them don't even have their bills. There was a time when phone companies sent you paper bills in the mail every month, but nowadays they offer online billing, which means you can register on their website and view the bill on your computer screen. Whenever the bill is ready, they send you an e-mail reflecting the total amount owed, but it does not provide any details about how they calculated that amount; it does not break down the basic fees, the connection fees, or any other charges. Many customers do not register on the website to be able to view their bill; either they don't know how to do it or it is just not convenient for them. They just accept and pay the amount mentioned in the e-mail, and they never even realize that there is an unauthorized charge from a third party provider on the bill.

When you sign up for phone service, make sure you understand how to register on the phone company's website so you can view your itemized phone bill. And give serious thought to locking your phone against any third-party providers.





Information

The Kaiserslautern Youth Welfare Office
– **Stefanie Huettenberger, Kerstin Siegler
and Reiner Schirra** –
will be at Kleber Kaserne to answer your questions
about

- **paternity and child support**
- **custody and visitation rights**

You can find the case workers in Building 3210,
Room 117 (Hearing/Conference room), Kleber
Kaserne, Legal Service Center on

3rd April 2014, from 1:30 p.m. until 4:00 p.m.

If you wish to schedule an appointment for that day
please contact:

Stefanie Huettenberger, phone 0631-365 2709
stefanie.huettenberger@kaiserslautern.de

Kerstin Siegler, phone 0631-365 2671
kerstin.siegler@kaiserslautern.de

Reiner Schirra, phone 0631-365 2645
reiner.schirra@kaiserslautern.de

You can also contact
Ms. Amanda Martins Goncalves,
phone 0631-411 8859
amanda.martinsgoncalves.LN@mail.mil

**Walk-ins are welcome, but scheduled appointments
take priority. If you have questions – please feel free
to stop by.**



The Ethics Corner...**OVERSEAS JOB SEEKERS
BEWARE...**

by Rick Schwartz

Living and working in the USAREUR footprint presents many great personal and professional opportunities; so when it's time to retire from the uniformed service it's to be expected that some of us will consider continuing our professional lives in Europe. In seeking post-government employment, retirees should keep in mind the Emoluments Clause of the U.S. Constitution (Art. I § 9, cl. 8). This provision, carved into our founding document, prohibits an individual who holds an "Office of Profit or Trust" in the U.S. Government from accepting a compensated position from a foreign state unless Congressional consent is obtained. The penalty for violation of the clause, even inadvertent, is steep—where the clause has been violated, unless another statutory exception (e.g., 5 U.S.C. § 7342, the Foreign Gift and Decorations Act) applies, the recipient of the 'emolument' would be subject to the U.S. Government's debt collection procedures for the entire amount received from the foreign state.

Who does the Emoluments Clause apply to? Those who hold an "Office of Profit or Trust" in the U.S. Government include not only all DoD civilian appointees and active-duty military personnel (both officers and enlisted members), but also all retired regular military officers and enlisted personnel. Reservists, even after they complete the requisite period to be eligible for retired pay, are also subject to the Emoluments Clause.

What is an "Emolument?" The term emolument is defined as "the profit arising from office or employment; that which is received as a compensation for services, or which is annexed to the possession of office as salary, fees, and perquisites; advantage; gain, public or private" [except, of course, as permitted by Congress]. The term is thus very broad and is interpreted to include not only a salary or stipend, but also honoraria, travel expenses, meals, funded relocation or housing costs, as well as outright gifts.

What is a "Foreign State" for purposes of the Clause? A foreign state for purposes of the Emoluments Clause includes any organization that is owned or operated by a foreign government, including federal, regional, and local governments. Foreign public universities that are controlled by an element of a foreign government can therefore also be considered instrumentalities of the foreign state for purposes of distributing emoluments when certain conditions are met.

How do I obtain advance approval to accept an "Emolument?" Each military department has established its own process for obtaining the advance Secretarial approval required to accept foreign state emoluments that Congress has permitted. Within the Army, the process for a military retiree to obtain advance approval to work for a foreign government is contained in AR 600-291.

(1) Paragraph 5 of AR 600-291 directs the Assistant Secretary of the Army (Manpower & Reserve Affairs) to approve or deny such requests and to make the necessary coordination with the Department of State.

(2) Paragraph 4 of AR 600-291 dictates what the request for advance approval must include. The written request itself should (as of this date) be sent to the following address instead of the one included in the regulation:

**[continued on page 17...]**

OVERSEAS JOB SEEKERS BEWARE (Continued...)

U.S. Army Human Resources Command
ATTN: AHRC-PDR
1600 Spearhead Division Avenue
Department 420
Fort Knox, KY 40122-5402
Telephone: 502-613-8980

Even where the Emoluments Clause concern has been eliminated (by advance approval or otherwise), consideration should still be given to other aspects of the Government Ethics obligations in working for an element of a foreign government. These include, depending on the nature of the work to be performed, the representation bans, registration as a public agent, and prohibition on disclosure of non-public information obtained in military service. As always, if you have questions about the practical implications of the topics discussed here, contact your servicing Ethics Counselor. for more information.

Deaths, Autopsies, & Our Treaty Rights

by Joe Hall

Deaths are relatively uncommon in our military communities, where most people are young, healthy, and pretty fit. But they do happen. They can result from heart attacks or from traffic accidents or from criminal assaults.

This article addresses only the first stage of the processing of those bodies, the legal issues of: should the body go to U.S. or to German facilities – or, if an autopsy is necessary, who performs it?

Article 16 of the Supplementary Agreement (SA) to the NATO SoFA provides the answer, and it is quite easy. The U.S. Forces have the right to the deceased person's remains. The U.S. Forces also have the right to do any necessary autopsy.

Commanders, all U.S. Forces military investigators, MPs, and legal advisors need to know about Article 16, SA, and to assert the U.S. Forces' rights as set out in Article 16. They all need to know that, as a policy matter, we never waive those rights. We don't leave our dead on the battlefield; we don't send our peacetime deaths to German facilities.

If ever called upon to respond to the death of a member of the U.S. Forces who has SoFA status, the U.S. law enforcement agent and/or the legal advisor must tell the German police and/or the German prosecutor that the body only goes to the U.S. Forces Mortuary Affairs facilities located at the U.S. Forces' Landstuhl Regional Medical Center, and, if an autopsy is necessary, it will be done there.

It does not matter whether the body is found on or off post, or who has exclusive or primary concurrent criminal jurisdiction in the case. The body goes to, and any autopsy is done at, the U.S. facilities.





Kaiserslautern's team of tax talkers appeared on AFN's "Open Line" radio call-in program on March 13th. For the fifth tax season in a row, they answered tax questions and beat the drum for the Army Tax Assistance Program. The show was broadcast from the newly-remodeled AFN studios on Vogelweh, and moderated by AFN Kaiserslautern's Demarrio Spence (center). Tax experts included (left to right) German Attorney Joerg Modelmog, Tax Program Coordinator Donald Davis, and Attorney-Advisors Steve Smith and Mark Christensen.

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. Parking on Kleber Kaserne is difficult—allow a few extra minutes to circulate until you find an open spot. Bldg. 3210 is directly across from the former site of the Kleber Shoppette. Enter Bldg. 3210 from the door on the east end of the building.

