



Working & Living in Germany 2018

Moving together. Making tomorrow.

A brief introduction to tax, social security,
immigration and employment law

Introduction

This booklet contains brief information about the main aspects of individual taxation, social security, immigration and employment law as of January 1, 2018.

It is written as a quick guide for employers considering sending an employee to Germany and for employees who are contemplating a working assignment to Germany. The booklet only presents a broad overview and simplifications have been made for readability. It does not provide in-depth answers to specific questions.

Because of the complexity of the various laws and ongoing legislative changes, none of the information contained in this booklet may be relied upon for specific planning. Rather, we encourage the reader to contact our Global Employer Services specialists to obtain detailed and up-to-date answers to questions.

Individual taxation

Tax Liability in Germany

In case of a residence or your habitual abode in Germany, the individual is considered to be a tax resident in Germany. The citizenship is irrelevant for German tax purposes.

A German tax resident is taxed on the world-wide income (unrestricted tax liability). Some foreign source income will be exempt from German tax but considered as progression income according to a Double Tax Treaty (increases applicable tax rate).

Married taxpayers may choose a joint or separate filing. If they choose to file jointly, a special tax rate will apply (splitting tariff). However, the splitting tariff will only be granted if both spouses are German residents (exceptions for EU nationals).

Germany has a progressive tax rate currently ranging from 14 % to 42 %. If a taxpayer receives income above the ceiling of € 260,533 (€ 521,066 for married couples), a special tax rate of 45 %, the so called "rich tax" applies. In addition, Germany levies a solidarity surcharge amounting to 5.5 % of the income tax liability and church tax of 8 % or 9 % if the taxpayer registers with a German church. In some cases (especially for assignees from predominantly catholic countries), we recommend to review the church tax position and possibly actively resign from German church. This can be handled when registering the German residence with the local registration office.



Employment income

All types of remuneration and most of the benefits received for services performed in Germany, regardless of who pays it and where or when it is paid, constitute taxable employment income. As mentioned before, employment income may be exempt from German taxation according to a Double Tax Treaty, if applicable. Employment income is subject to a German wage tax which is withheld and paid by the employer through a monthly payroll.

Business expenses

Employment related expenses are deductible from gross income if they are directly related to the employment in Germany, not reimbursed tax-free by the employer and if they incur during the period of German residency. Please note that expenses must be proven by documentation, e. g. invoices. Examples (if not reimbursed by the employer):

- Moving expenses
- Double household expenses
- Lump sum deduction for literature of € 110 (if actual expenses incurred are higher, then actual expenses are applied) and for banking fees of € 16
- A standard deduction of € 1,000 is granted if the actual expenses are not higher.

Rental income

Rental income from real estate in Germany is taxable in Germany at the taxpayer's tax rate. Deductions, such as mortgage interests, depreciation or other expenses (e. g. maintenance) are allowable. Losses may be offset against other taxable income.

Rental income from countries that are members of the European Union/EEA is in most cases exempt from German taxation. Rental income from countries that are not members of the European Union/EEA is mostly exempt from German taxation but will be taken into account when calculating the personal tax rate (progression income). Rental losses from foreign sources cannot be offset against positive income taxable in Germany but could be offset against positive income from the same source in future years.

Interest and Dividend income

According to German domestic law and the respective Double Tax Treaty, interest and dividend income from German and non-German sources received by a German tax resident are usually taxable in Germany. Taxes withheld at source in a foreign state can be credited against the German tax liability for this income.

Beginning 2009, the so called "Abgeltungssteuer" was established in Germany. This is a withholding tax amounting to 25 % (plus solidarity surcharge and – if applicable – church tax) which will be withheld by the bank (usually) and compensates the tax liability for income from capital investment. The withholding obligation however, only

applies to German bank accounts.

Income from foreign bank accounts will be declared in the tax return further on and will in general be taxed with the flat tax rate of 25 %. Only if the taxpayer's personal tax rate is lower than 25 %, he or she can opt to taxation at personal rates.

In case a taxpayer moving to Germany owns investment funds it is highly recommended to have these investments reviewed before arrival in Germany. There may be a substantial and detrimental taxation of investment funds which do not issue a reporting of their earnings according to the provisions of the German tax law (which is quite often the case even if European investment funds are concerned).

Interest and dividend income is excluded from German taxation up to an annual lump sum amount of € 801 (€ 1,602 for married couples filing jointly).

Capital gains and losses

For shares or stocks bought after December 31, 2008, capital gains realised upon disposal will be fully taxable regardless of the holding period and will be subject to the above mentioned 25 % flat tax ("Abgeltungssteuer"). Profits from the sale of real estate may be tax-exempt if certain conditions are met.

Losses realised upon disposal of assets held privately can only be offset against positive income from private transactions.

Deductions

Special expenses

Special expenses are personal or family expenses which are not related to any income and which can be deducted according to the German Income Tax Code. These special expenses are e.g. tuition fees for private schools or charitable donations to German/EU institutions.

Please note that any expenses can only be considered with supporting documents, e.g. certifications, receipts.

Extraordinary burden / Support of needy dependents

Taxpayers are entitled to receive a tax relief with regard to an extraordinary burden which is unavoidable. Besides, the support of needy dependents is also deductible if certain conditions are met. A tax relief will however only be granted, if a reasonable threshold of the taxpayer's income is exceeded.

Child payment and benefit

Taxpayers may be entitled to receive a monthly tax-free cash payment of € 194 for the first and second dependent child, € 200 for the third dependent child and € 225 for the fourth and following dependent children. The tax-free cash payment will be paid up to the age of 18 (up to the age of 25 for children in full-time education) if certain conditions are met.

The taxpayer can also claim a child allowance in the amount of € 3,714 per year and child (€ 7,428 for married taxpayers) within the tax return if the resulting tax reduction is higher than the cash child payment received.

For further information please refer to "Parental benefit" on page 10.

Tax returns and compliance

The tax year is the same as the calendar year. In general, a German tax resident must file an annual tax return with the local tax office by July 31 of the year following the tax year. This deadline is extended if the return is prepared by a professional tax adviser. Non residents must file a tax return only under certain circumstances.

A further extension may be available upon special request. If the return is not filed on time the tax authorities automatically assess penalties amounting to 0.25 % of the assessed tax for each started month of delay.

The income tax is not payable at the time the tax return is filed. The tax authorities will review the tax return and issue a separate assessment notice (this may take 2 – 6 months depending on the tax authorities). Usually any payment will become due within one month after receipt of the assessment notice, unless separate instructions for payment have been received from the tax authorities. Penalties for late payment are 1 % per month of the amount due.

Interest is charged or credited on final tax payments if the assessment notice is not issued within 15 months after the end of the tax years. For each month after 15 months after the end of the tax year 0.5 % interest has to be paid.

Important notice

Documents that should be kept

- Proof of business and private trips outside Germany
- Documents supporting business expenses (e.g. travel expenses, moving expenses, double household expenses, job related literature, business telephone costs, computer, printer etc.)
- Documents supporting special expenses or extraordinary burden (e.g. donation certificates, non-reimbursed medical expenses)
- Original tax certificates concerning interest and dividend income (e.g. 1099s)



Social Security

Branches of social security

Compulsory health insurance

The insurance covers employees and their families. The general contribution percentage is 14.6 % of the monthly gross pay up to € 4,425 (the employer's contribution rate is 7.3 % and the employee's contribution is also 7.3 % plus an additional contribution if implemented by the respective insurance institution – on average 1 %). All workers with regular annual salaries lower than € 59,400 must be enrolled in the compulsory scheme.

Private health insurance

Salaried workers whose wages exceed the ceiling may opt out of the compulsory scheme and choose private health insurance. Privately insured persons may claim a contribution toward their premium from their employer equal to that required for the compulsory health insurance.

Long-term nursing care/disability insurance

This scheme is compulsory. Contributions are 2.55 % of the monthly gross salary up to € 4,425, payable half by employer and employee each. Additionally, since January 1, 2005, employees without children have to pay a supplemental 0.25 % of their contribution base. This does not apply to persons under the age of 23, born before January 1, 1940, or currently drafted in military or civil service. If the employee has opted for private health insurance, he/she must still enrol in the compulsory long term insurance, but the account will be administered by the private carrier.

Accident insurance

The insurance covers work-related accidents and occupational diseases and is financed entirely by employer contributions. These are calculated at year-end based on the actual wage base and occupational risk categories.

Unemployment insurance

The compulsory unemployment insurance scheme is financed by contributions of 3.0 % of the gross monthly salary up to € 6,500 (€ 5,800 in the former Eastern states), payable half by employer and employee each.

Pension insurance

The statutory pension scheme calls for contributions of 18.6 % of gross monthly salary up to € 6,500 (€ 5,800 in the former Eastern states), payable half by employer and employee each.

Social coverage for international assignees

Employees coming from outside Germany would normally be subject to social taxes. Very often, however, a social security agreement exists between Germany and the employee's home country that will allow the employee to remain in his/her home scheme for a limited number of years under certain conditions. Germany has concluded such agreements with 50 countries. The home country employer must file an application for a certificate of coverage (form A1 in Europe) to request the exemption from German social taxes. One must note that not all agreements cover all branches of social coverage so it may not be possible to obtain complete exemption.

Social security administration

Mandatory social insurance contributions for employers and employees combined reach on average 40 % of gross wages below annually defined ceilings. Employers and employees split most of these charges in a variety of ways. The employee's portion to the social security is withheld directly by the employer from the employee's gross salary. The employer is obliged to remit the total contributions to the health insurance carrier on a monthly basis.

Parental benefit

Employed parents are entitled to apply for parental benefit (Elterngeld) if they reside in Germany and one parent interrupts his/her employment (or reduces his/her working time to a maximum of 30 hours per week) for the child's care and education. Parents with an annual income of more than € 500,000 (€ 250,000 for single parents) are not entitled to parental benefit.

The parental benefit amounts to 65 % – 67 % of the parent's last net income but not more than € 1,800 per month. However, entitled parents receive at least a basic allowance of € 300 per month. Parental benefit is paid basically for a period of 12 months. If the other parent also interrupts or reduces his/her employment for child care and education, the parental benefit is paid for an additional 2 months.

The parental benefit can also be claimed during a job-related stay abroad.

A precondition is that the parents maintain their place of residence in Germany or that they are assigned by their German employer to another country within the context of that employment for a limited period. In case of assignments within the EU/EEA or Switzerland, an entitlement to parental benefit will exist if the employee continues to be subject to the German legislation on social security (i.e. an A 1 certificate can be applied for).

Even non-EU-citizens, who do not have the right to move and reside freely within Member State's territory, can acquire an entitlement to parental benefit if they establish a residence in Germany and are in possession of a specific residence title (e.g. an unlimited settlement permit).

Social security rates and ceilings of contributions for 2017

	%	€/month
Pension insurance*	18.6	5,800 – 6,500
Unemployment insurance *	3.0	5,800 – 6,500
Long-term care/disability**	2.55 – 2.8	4,425
Health insurance***	14.6	4,425

* Lower ceilings apply to former East Germany.

** 2.55 % + 0.25 % extra charge for individuals without children, with some exceptions.

*** The contribution rate for the employee may be increased individually by the relevant chosen health insurance carrier (on average 1 %)

Immigration

General Immigration regulations

In general, the immigration authority examines, where appropriate with the involvement of the labor authority (One-Stop Government), whether

- the activity of the foreign employee has disadvantageous impacts on the local labour market,
- there are German or EU-nationals available on the local labour market who can fill the same position (so called “priority check of the labour market”), and
- the same conditions of employment regarding compensation, working time and vacation granted to comparable German employees are also offered to the foreign employees.

Since January 1, 2017 the general statutory minimum wage for all work performed in Germany has been increased to € 8.84/ per hour worked. In addition the total remuneration (minimum salary plus additional allowances) of each employee must achieve an amount which is comparable to local colleagues working in the same position with a comparable professional background.

Please note that a non-compliance regarding the salary requirements might lead to the withdrawal of the current residence/work permit or to the rejection of a new application.

Entry visa requirements

EU-/EEA-nationals and citizens of privileged countries, as the US, Canada, Japan, Australia, New Zealand, Israel, Republic of Korea, may enter Germany without a visa. Nationals of other countries must apply for an entry visa at the German embassy or consulate in their country of residence before traveling to Germany to take up gainful employment. The process takes approximately 4 – 8 weeks before the employee will be in a position to travel to Germany and commence his/her assignment. Entry visas allowing to work are generally valid for 90 days. After arrival this visa will have to be converted into a short or long term residence permit.

Blue Card EU

The Blue Card EU is a simplified temporary work permit for highly educated skilled employees. The requirements to be met in order to have a Blue Card issued are a recognized university degree and a proof of a specific offer of a local German employment contract with an annual gross salary threshold of at least € 52,000 (in 2018). For shortage occupations (doctors, IT professionals, mathematics, engineers, etc.) according to the Federal Ministry of Labor the annual salary threshold amounts to € 40,560 (in 2018). In those cases the employees are dispensed with the time-consuming priority review.

Blue Card holders can receive a permanent residence permit ("Niederlassungserlaubnis") after 33 months. If German language skills according to level B1 can be proven, this period is shortened to 21 months.

Residence and work permits for non EU-citizens

Non-EU-citizens, who wish to take up a gainful employment in Germany, are required to be in possession of a residence permit allowing to work in Germany. Such permit will be issued in the form of an electronic residence card. The issuing authority is the local immigration office of the district/city where the applicant will reside and not the one of the district where the employer is located.

Residence permits allowing to work are generally issued for a particular job with a specific employer at a determined location and a particular place of work, not for employment in general. If the job as such or the location changes, it will be necessary to ask for an amendment of the existing German residence permit.

International staff exchange program

Under certain circumstances, skilled employees with a university degree working for a multinational company can obtain a residence and work permit if they are seconded to an affiliated German company, provided the assignment occurs within the scope of an intra-company staff exchange program. However, the intra-company staff exchange program is only applicable, if

- the company has established a global staff exchange program and is registered with the central labour authority,
- the German branch or subsidiary has seconded employees abroad in the past,
- the applicant holds a university degree.

This procedure generally simplifies the application proceedings and is less time-consuming.

Intra-Corporate Transfer (ICT)

Under certain conditions, employees who hold the position of a specialist, a manager or a trainee working for a multinational company can obtain a residence and work permit based on the ICT-Directive. One condition is that the employee to be sent abroad is transferred from an undertaking established outside the territory of a Member State to an entity established in an EU Member State belonging to the same undertaking or group of undertakings.

The application process of an ICT-permit can be characterized as accelerated and simplified. An ICT-permit allows new options regarding Intra-EU-Mobility. Third country nationals, holding a valid ICT-permit in one of the Member States of The EU, can during the period of validity of the ICT-permit enter, stay or work in one or several second Member States of the EU. Depending on the duration of stay, a simplified single application procedure or a notification procedure is necessary. Generally speaking, an ICT-Permit is only applicable if:

- The employee is defined as manager, specialist or trainee (definition given by law)
- Employer is a multinational company with headquarter outside the EU
- Host company belongs to the same undertaking or group of undertakings
- Employee receives locally comparable salary

EU- and EEA-citizens

EU nationals do not require a residence or work permit for Germany.

Dependents

The application for residence permits for accompanying family members can be made at the same time as the main one, and a work permit is granted automatically for the accompanying spouse. Applications for accompanying dependents could last longer, as the local immigration office of the intended city of residence could be involved in the process as well.

Registration with municipal authorities

All individuals regardless of their nationality are required to register with the town hall of their place of residence within 14 days after arrival.

The confirmation of registration is a pre-requirement for the residence permit application. The registration will also trigger the issuance of a Tax Identification Number (TIN). This TIN is imperative to be indicated when filing the personal income tax return with the German tax authorities. The tax office will assign a tax number upon the filing of the tax return, thus, no special registration is necessary with the tax authorities.

Since November 2015 not only a valid lease agreement but also a landlord's confirmation is required for the registration.

The de-registration at the town hall is also necessary upon leaving.



Employment law

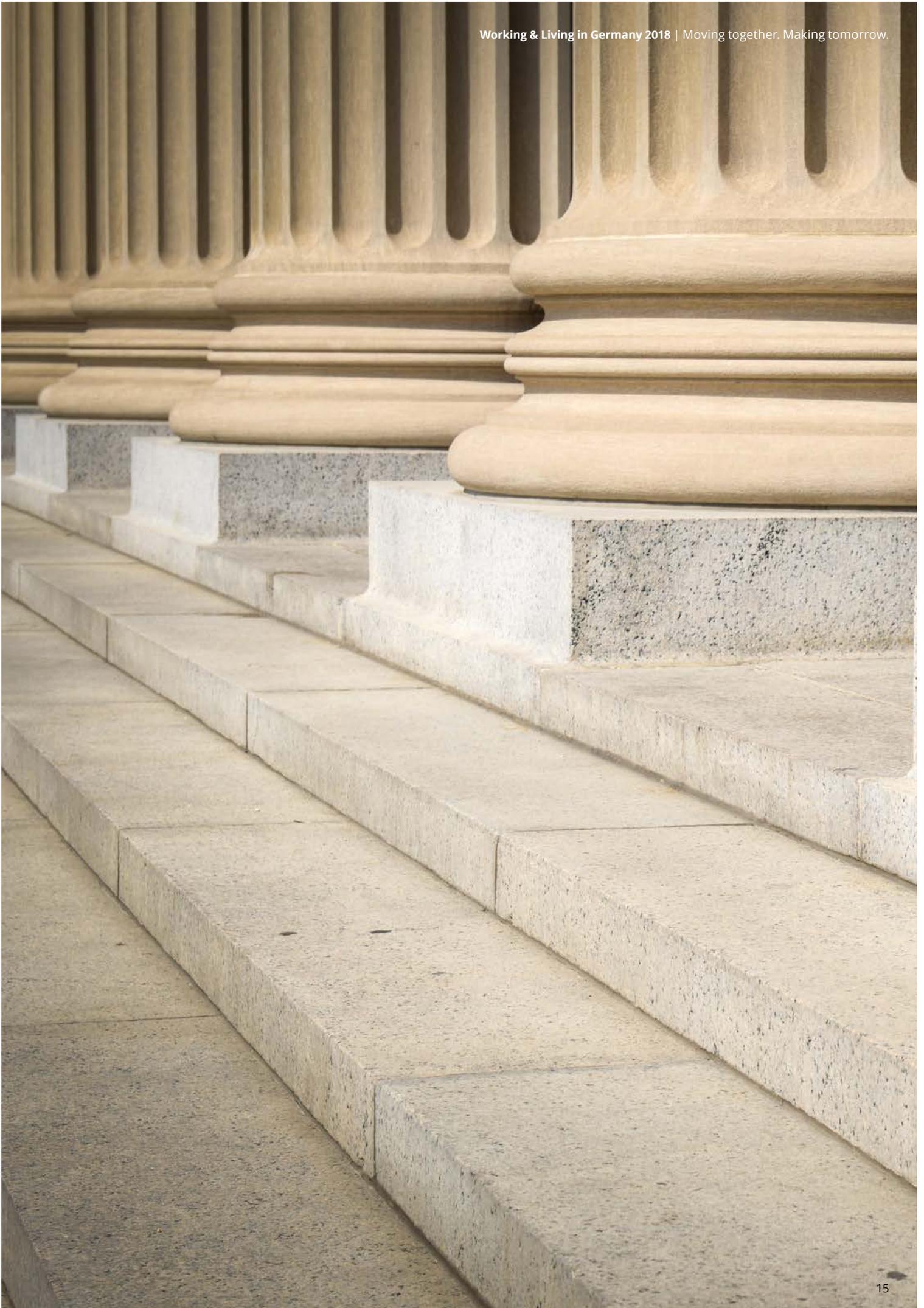
Employees' rights

There is no single law governing the individual and collective aspects of employment in Germany. The relationships between employer and employees are governed by collective bargaining agreements between trade unions and employers but also by works agreements between employers and works councils, the individual employment contracts entered into between the parties and different specific employment laws. The German Civil Code mainly regulates the general requirements concerning (employment) contracts but also specific aspects like notice periods.

Co-determination in certain operational matters through works councils on company level as well as the joint participation of labour and management

in policy decisions within supervisory boards of enterprises with more than 500 employees are well established.

German labour law is heavily weighted in favour of the employee and it may be difficult to terminate employment relationships. For dismissals involving a certain number of employees, companies may need to work out a social plan with the works council and notify the local labour office in advance. Statutory minimum notice periods vary depending on the employee's seniority. Notice periods may be modified, within limits, in collective bargaining agreements. Executives are often employed under limited contracts, with no guarantee of renewal. The prerequisites regarding terminations for firms employing ten or less persons are considerably less stringent.



Working hours and holidays

Working hours in Germany are governed by law. The normal working day is eight hours. There are specific regulations for certain business sectors as set out especially in collective bargaining agreements. Union agreements are very specific on shift work. Overtime pay often starts at a 25 % premium but can even be higher. In particular cases, employers may choose to pay higher overtime pay or to give workers additional time off instead.

Full-time employees with a five-day working week will by law be granted a minimum of 20 days of vacation. On average, the workforce is entitled to an annual vacation of 30 days.

Wages and benefits

Since January 1, 2015, the German Minimum Wage Act is in effect. Accordingly, employees in Germany are entitled to a minimum wage of € 8.84 gross per hour. This applies to all employees who render their services on German territory no matter how long these services are rendered. Therefore, the minimum wage also applies for example to foreign employees who are assigned to Germany. There are only very few exceptions made from the minimum wage, e.g. as regards certain kinds of internships. In addition to defining a minimum wage, the Minimum Wage Act also contains certain documentation and reporting obligations that might need to be considered by employers.

Furthermore, many industries are subject to minimum wages regulated under collective bargaining agreements. Wages in foreign owned firms are basically similar to those in domestic companies.

Notwithstanding the minimum wage, wages and salaries vary by location, seniority and skills of the employee. They are often lower in rural districts than in major cities.

Germany's comprehensive state pension scheme requires compulsory payroll deductions.

Fringe benefits, such as extra-pay at Christmas or vacation pay, are customary in most German firms.

In the event of illness, an employer must continue to pay 100 % of the salary or wages for up to six weeks. If the illness lasts longer, the employee's health insurer grants sick pay amounting to 70 % of gross pay (but not exceeding 90 % of normal net pay).

Mothers are entitled to 14 weeks' maternity leave (six weeks before and eight weeks after the birth), during which they receive compensation. Subsequently, both parents may take unpaid leave of up to three years (parental leave) and must be guaranteed employment of equal status (though not necessarily in the same position) when they return. During parental leave, parents are entitled to work part-time if they wish. Parents who interrupt their employment can apply for a parental benefit (please refer to page 10).

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This makes us the world's largest provider of international assignment consulting services for assigned employees.

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- International Assignment Tax Services
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- Employee Benefit Taxation
- Immigration
- Mobility Technology Solutions
- Employment Law*

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