

GMS Flash Alert

2023-025 | January 31, 2023



Germany – Overview of Important New Tax, Immigration, and Employment Law Rules

There have been some important changes in Germany in the areas of income tax, social security, immigration, and labour law for the assessment periods 2022 and 2023 that may impact assignees outbound from Germany as well as assignees inbound to Germany.

This *GMS Flash Alert* provides an overview of key changes for the assessment periods 2022 and 2023.

WHY THIS MATTERS

Tax regulations change every year, e.g., tax rates are adjusted, and new regulations are made in the area of social security and immigration law or employment law.

The impact of the tax measures highlighted in this newsletter will depend on each taxpayer's particular set of facts and circumstances. However, in most instances, we expect that an employee's German tax burden will decline as a result of these changes, which should help employees to some extent with the rise in the current cost-of-living.

In the case of tax equalised/protected employees on assignment in Germany, these changes should reduce the cost of these assignments to the employer.

Given the impact of these changes to the operation of payroll/shadow payroll, they should be communicated to relevant stakeholders as soon as possible, to help ensure that payroll processes and software can be updated in a timely fashion.

Income Tax

General Information¹

- Income Tax Rates as of 1 January 2023

Basic allowance (tax free amount of income)	EUR 0 – EUR 10,908
Top tax rate of 42% starts with income (single) of	EUR 62,810
Tax rate of 45% for high income starts with income (single) of	EUR 277,936

Source: KPMG in Germany

- Full Deduction of Pension Contributions as Special Expenses

As of assessment period 2023, all pension expenses in the basic care (pension insurance contributions deducted from the salary) can be deducted as special expenses to reduce one's taxable income. Conversely, pension income is taxed in full – however, the law only provides for this from 2040, and possibly not until 2060, according to the current government's coalition agreement.

- Child Allowances

Child allowances can be deducted from one's taxable income in the annual income tax return. Child support payments paid out monthly to the taxpayer are regarded as pre-payments on the child allowance.

Tax year	2022	2023
Child allowance for each parent p.a.	EUR 2,810	EUR 3,012

- Training Allowance for Adult Children

The training allowance is granted if an adult child, for whom parents are entitled to child support payments or a child allowance, does not live at home because of his or her vocational training. It can be deducted from the taxable income of the parents.

Tax year	2022	2023
Training allowance	EUR 924	EUR 1,200

Employment Income

- Inflation Compensation Premium – Subsidy Free of Tax and Social Security Contributions (to Compensate for Inflation)

In the period from 26 October 2022 to 31 December 2024, employers are entitled to pay their employees an amount of up to EUR 3,000 (subsidies and benefits-in-kind) tax- and social security-free in addition to the salary already earned.

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Employers are free to decide whether and to what extent – up to a maximum of EUR 3,000 – they grant their employees an inflation compensation premium. The payment should be clearly labeled “Inflation Compensation Premium” on the monthly payslips. Nevertheless, it does not have to be shown on the annual German wage tax statement, nor must it be stated by the employee in his or her German income tax return.

Therefore, employers of posted workers who pay this premium should make sure that the amount is reported abroad for foreign tax purposes. Depending on the country, it should be determined whether the amount can also be treated as tax-free under foreign (non-German) tax law.

- Employee Lump Sum

Employees can deduct an employee lump sum as income-related expenses from their income from employment without proof if they do not have any other employment-related expenses.

Tax year	2022	2023
Employee lump sum	EUR 1,200	EUR 1,230

- Commuting Between Home and Office

As of assessment period 2022, the costs for commuting between home and office can be deducted as a lump sum of EUR 0.30 per kilometre (one-way distance) for the first 20 kilometres and a lump sum of EUR 0.38 per kilometre from the 21st kilometre with a maximum amount of EUR 4,500 per calendar year.

- Deduction for Costs for Home Office

If the office at home is not the focus of the taxpayer’s professional and operational activity, but a taxpayer uses his office at home because he has no other workplace to do his work, a deduction of income-related expenses of EUR 1,260 is possible without any proof of expenditure as of assessment period 2023. In 2022, the employee could only deduct a maximum amount of EUR 1,250 of proven costs in such cases.

- Flat Rate for Home Office

A taxpayer can deduct a flat fixed rate for his home office from employment income he earns as employment-related expenses for every day the taxpayer worked from home.

Tax year	2022	2023
Flat rate for home office	EUR 5/day, max. EUR 600 p.a.	EUR 6/day, max. EUR 1,260 p.a.

Income from Capital

- Savings Allowance

The savings allowance reflects the tax-free amount for capital income.

	2022	2023
Singles	EUR 801	EUR 1,000
Married couples	EUR 1,602	EUR 2,000

- Loss Compensation as of Assessment Year 2022

As of assessment year 2022, it is possible to offset the loss from capital income of one spouse against the positive income from capital of the other spouse.

Wage Tax

There were some changes within the payroll tax guidelines², which are binding for the fiscal authorities. Below we note some important examples.

- Employees Whose Income Is Only Partly Taxable in Germany During a Calendar Month

If the activity of an employee within a calendar month is not entirely taxable in Germany (e.g., if she spends only a few days within a month in Germany), the salary must be taxed according to the daily wage-tax table as of 1 January 2023 (monthly wage-tax table until 31 December 2022).

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The practical implementation of this regulation has not yet been clarified. The GMS practice with KPMG in Germany is tracking this matter closely. We will endeavour to keep readers of *GMS Flash Alert* posted on any important developments.

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- Reimbursement of Moving Expenses

In principle, tax-free reimbursement of relocation costs by the employer is possible insofar as there are deductible income-related relocation expenses. According to a simplification rule, a flat-rate deduction of income-related expenses in the amount of the flat-rate relocation costs is possible without proof. Therefore, a tax-free reimbursement by the employer up to this amount is possible without further examination.

In the new payroll tax guidelines³, it has now made clear that this also applies to moves from abroad to Germany.

- Taxation of Private Use of a Company Car

In principle, the fringe benefit for the private use of company cars is calculated accordingly: monthly 1 percent of the gross list price and 0.03 percent of the gross list price per kilometre for journeys between the employee's home and his or her first place of work.

The new wage tax guidelines⁴ make it clear that the monthly values must also be applied if the employee only used the vehicle occasionally or not at all during a certain month (e.g., due to home office or a stay abroad).

KPMG INSIGHTS

It should be noted that this regulation contradicts case law of the German Federal Fiscal Court ("BFH"), which denies the flat-rate approach of the fringe benefit according to the 0.03-percent method if the vehicle was not actually used for journeys (as specified in the rules).⁵

Social Security

- Child Support

Child support	First and second child	Third child	From the fourth child
2022:	EUR 219 per month	EUR 225 per month	EUR 250 per month
2023:	EUR 250 per month	EUR 250 per month	EUR 250 per month

- Extension of the COVID-Related "No-Impact Policy" until 30 June 2023

The so-called Europe-wide (EU, EEA, and Switzerland) "no impact-policy" was extended until 30 June 2023. As long as this regulation applies, COVID-related work from one's home office in the country of residence cannot lead to a change in the applicable social security law. (For related coverage, see the following issues of *GMS Flash Alert*: [2022-194](#) (24 October 2022), [2022-136](#), (13 July 2022), [2022-119](#) (17 June 2022).)

Immigration

- Opportunity Residence Act⁶

With regard to the entry into force of the new "Opportunity Residence Act" (*Chancen-Aufenthaltsgesetz*) as of 1 January 2023, spouses of third-country nationals – who apply for a national visa/residence permit for the purpose of employment – no longer require proof of German-language skills at level A1 when applying for their visas for the purpose of spousal reunification.

This privilege was previously only applicable to spouses of EU Blue Card applicants or if the spouse is a national of one of the countries listed in section 41 of the "Residence Ordinance" (including the USA) (*Aufenthaltsverordnung (AufenthV) - § 41 Vergünstigung für Angehörige bestimmter Staaten*).

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Since the spouses of U.S. citizens previously did not need proof of language proficiency anyways, this new regulation should not be very significant for U.S. nationals. However, for example, to an Indian citizen residing in the U.S. who wants to enter Germany with his or her spouse and is not eligible for an EU Blue Card, this change is relevant.

Employment Law

- Changes in the Evidence Act (*Nachweisgesetz*) as of 1 August 2022

Changes in the Evidence Act (*NachwG*) came into force on 1 August 2022.⁷ This means that employment contracts starting from this date have significantly more extensive information requirements about the main working conditions than before. In the case of assignments abroad and within the EU/EEA, the catalogue of information requirements has also been extended. For employment contracts which came into force before 1 August 2022, the employer must provide the information upon request of the employee. Moreover, the employee must be informed of any significant changes to the working conditions.

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A key issue for employers is the written form requirement. Providing the required information in electronic form will no longer suffice. Employers violating the information requirement may be subject to a fine of up to EUR 2,000 per case.

The changes in the *NachwG*, and in particular the written form requirement, mean a lot more work for HR departments in Germany – even more in cases where employees are assigned to other countries whether it be for a short period of only four weeks, for instance.

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KPMG INSIGHTS – IN CONCLUSION

There are many changes afoot in 2022 and 2023 in the areas of tax, social security, employment law, and immigration that impact individuals and employees travelling to Germany to live and work and for those travelling overseas to live and work outside Germany but who may still be subject to German tax law.

What we have described may be a lot to take in and sort through to determine who among an organisation's assignee population is impacted and how best to keep them – and the employer – in compliance. Concerned parties with questions and/or issues (potential or actual) should reach out to their qualified tax professional or a member of the GMS/People Services team with KPMG in Germany (see the Contact Us below).

FOOTNOTES:

- 1 To learn more about the German tax system as it pertains to globally-mobile employees, see "[Taxation of International Executives: Germany](#)," a publication of KPMG International.
- 2 Lohnsteuer-Richtlinien 2023 (LStR 2023), BStBl. I Sondernr. 2, S. 1.
- 3 Ibid.
- 4 Ibid.
- 5 BFH 04.04.2008, VI R 85/04, BStBl. II 2008, p. 887 and BFH 22.09.2010 – VI R 57/09, BStBl. II 2011, p. 359.
- 6 See [BMI - Gesetzgebungsverfahren - Gesetz zur Einführung eines Chancen-Aufenthaltsrechts \(bund.de\)](#).
- 7 The changes are based on Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union.

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Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in Germany:



Iris Degenhardt

Tel. +49 711 9060 41033

idegenhardt@kpmg.com



Dr. Tina Pavlovits

Tel. +49 89 9282-1612

tpavlovits@kpmg.com

** Please note the KPMG International member firm in the United States does not provide immigration or labour law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration and labour law matters.*

The information contained in this newsletter was submitted by the KPMG International member firm in Germany.

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