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Notes From the JAG

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Drinking and Driving in Germany

For military personnel stationed in Germany, especially during the winter months, it can seem as if there is always some party, festival, cultural happening, or some other excuse to sample the wide variety of local wine and beer. For those who partake, there may be a temptation to get behind the wheel because, "It was only one or two," or "I don't even feel buzzed."

But the law in Germany, on or off base, isn't concerned with the number of drinks you've consumed or how "buzzed" you feel. The legal standard for intoxication is based on your Blood-Alcohol Content, or BAC, which can be determined through either breath or blood tests.

In Germany, the legal intoxication limit BAC is 0.05. This is lower than the U.S. legal intoxication limit of 0.08. The German limit applies on base as well.

For anyone involved in an accident, however, the legal intoxication BAC limit drops to 0.03. If you're involved in an accident and your BAC is over 0.03, your license will be suspended. While this may all sound like common knowledge, something that might surprise you is that, in Germany, **individuals under the age of 21 will automatically be found at fault for the accident.** Further, it is illegal in Germany for anyone under the age of 21 to drive with any amount of alcohol in their system.

German blood-alcohol limits apply on military installations as well. In accordance with the Uniform Code of Military Justice,

service members can be arrested for DUI **even if their vehicles are parked.** This means that drunk individuals can be charged if they have "physical control" of a vehicle, to include sitting in the driver's seat with the keys in their pocket, or even running the engine just to use the heater or listen to the radio.

Did you know that, in Germany, **you can be breathalyzed as long as six hours after an accident?** This means that if you chose to drink after an accident, and before the investigation was concluded, the results of your breathalyzer *will* be considered valid and used for purposes of suspension or revocation.

Speaking of breathalyzers, refusal to provide a breath alcohol sample upon request can lead to your license being provisionally suspended for up to 30 days. Refusal to provide a breath sample could also lead to investigators obtaining permission to draw a blood sample to be tested for alcohol content.

Driving under the influence of alcohol endangers everyone on the road, and can lead to career ending, potentially life ruining consequences.

Call a taxi, utilize a designated driver, or plan to spend the night where you're drinking. The consequences of a DUI are simply too serious to risk it.

If you ever find yourself in need of a ride, please reach out to Spangdahlem's Airmen Against Drunk Driving at 06565-61-2233.

Vehicle Accidents in Germany

Did You Know – Reporting Traffic Accidents in Germany.

Road conditions and weather fluctuate daily, especially during the winter months. Though drivers can take extra precautions to reduce the risk of being in a traffic accident, the best laid plans cannot always guarantee you a safe journey.

In the unfortunate event of a traffic accident, you should immediately address anyone requiring immediate help. Germany has a **Good Samaritan Law** that, in the case of danger or distress, requires everyone to render appropriate aid to those who need it. Failure to do so could result in a fine or imprisonment.

It is also **vital** important that you inform the appropriate authorities **as soon as possible**. If the accident occurs on base, Security Forces **must** be called immediately. If the accident occurs off base, German Polizei **must** be called and Security Forces needs to be notified within 72 hours of the accident. Failing to immediately notify German or U.S. military law enforcement can lead to the driver of the vehicle involved being charged with failure to report an accident, or fleeing the scene of the accident. Either of these offenses could constitute grounds for an Article 15 or even a court-martial.

Legal Residence

Q. Can I change my state of residence through the finance office?

A. Changing a state of residency isn't as easy as just going to finance and submitting a new DD Form 2058, *State of Legal Residence Certificate*. Every state has specific requirements that must be met in order to change a state of residency.

A legal residence is the state of which you are considered to be a resident. This status is usually acquired by your physical presence within the state, coupled with a desire to become/remain a permanent legal resident or citizen of that state.

In most cases, you must actually reside in the new state at the time you form the intent to make it your permanent home. Some of the first steps to establish a new residence include registering to vote in the new state, obtaining a local driver's license, registering your vehicle in the new state, closing old bank accounts in favor of new accounts in the new state, and acquiring property in the new state.

Failing to take the appropriate steps to change your state of residency could open you up to possible tax liabilities down the road.



My Tax Filing Status

The following filing statuses are recognized by the IRS and must be reported on your personal income tax return (Form 1040). Review each status carefully, as one may offer you more tax benefits than another, depending on your specific situation.

Single: A taxpayer may file as “single” if he/she is unmarried, divorced, legally separated, or widowed as of the last day of the calendar year (December 31st). Individuals who have dependents, but who were not the primary caregiver for more than half of the year, must also use this filing status. The IRS generally requires taxpayers to file as “single” if they do not meet the criteria for the other filing statuses.



Married Filing Jointly: Married couples who file under this status must file one shared/combined tax return and jointly take responsibility for the income reported and taxes owed. To qualify, the couple must be legally married as of the last day of the applicable tax year. Widow(er)s whose spouse died in the past year and who did not remarry may also use this status. The majority of couples file jointly because it offers them more benefits, such as lower tax liability, than if they had filed separately.

Married Filing Separately: Married couples who file under this status generally have separate high income and/or large itemized deductions (e.g., from charitable contributions or medical expenses). However, if a couple files separately and one spouse itemizes deductions, the other spouse cannot claim the standard deduction. Also, certain tax breaks (such as student loan deductions and child tax credits) cannot be claimed, or are reduced, for separate filers. In terms of tax benefits, this status is usually considered less advantageous because it can result in a higher overall tax for a married couple. It is highly recommended that spouses compute their tax liability under both “joint” and “separate” statuses to see which will work best for them.

Head of Household: A taxpayer may file as “head of household” if he/she is unmarried as of the last day of the year (December 31st). To qualify, the head of household must also be paying for over half the costs to maintain his/her home and have a qualifying dependent (e.g., child or relative) who has lived in the home with them for at least 6 months, but special exceptions may apply to dependent parents. This status is generally used by single parents who have custody of their children. Head of household offers more benefits than the “single” or “married filing separately” statuses, including lower tax rates and higher standard deductions.

Qualifying Widow/Widower with Dependent Child: This status can only be used by a widow(er) who lives with a dependent child and has not remarried. It may apply for the year in which their spouse passed away, and it can be used for up to 2 years after their spouse’s death. A qualifying widow(er) must have been entitled to file a joint return with their spouse in the year that he/she passed, regardless of whether that return was actually filed. This filing status allows individuals to use the same tax rates as those who are “married filing jointly” as well as the highest standard deduction provided they do not itemize deductions.

ASK A JAG

Q: *What if I haven't filed my taxes but I know I don't owe any money?*

A: You'll lose your refund if you don't file within 3 years of the tax filing deadline date.

Q: *What if I haven't filed my taxes but I owe taxes?*

A: You'll be subject to the failure-to-file penalty, which amounts to 5% of your unpaid tax bill for every month your tax bill remains unpaid after the April deadline, up to a maximum of 25%. In the meantime, the IRS will send you several reminders to file. If ignored, the IRS may then file a substitute return on your behalf. And while this may sound like a clever way to hand off your tax-prep chores, keep in mind that government-prepared returns may not grant you every deduction or credit you're entitled to.



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For will worksheets or Powers of Attorney, please visit our website below.

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American Attorneys

Please call for all appointments, including wills.

German Legal Advisor

Appointment Only

Mon, Tues, Thurs (0900-1100)

Wednesday (1300-1500)

Powers of Attorney & Notaries

WALK-IN HOURS:

Mon-Fri (0900-1500)