

Overview

Employment Issues



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In the following we would like to provide you with a short overview on German laws and regulations on employment issues which might be useful for foreign investors considering to invest in Germany.

1. How to find suitable staff

Companies searching for suitable staff usually advertise positions in newspapers, journals, on their internet homepage or on one of the many internet job markets.

Alternatively, they may also contact the Federal Employment Office, a public institution having the task of finding new jobs for jobseekers all across Germany. Services of the Federal Employment Office are free of charge.

Apart from that, companies may entrust private employment agencies in helping them to find suitable specialists. However, such employment agencies usually charge the employer with a fee equivalent to 1.5 – 2 monthly gross salaries of the future employee.

2. Employment Contract

German law does not provide for a fixed form of an employment contract. However, several issues are highly recommended to be contained in such agreement:

- area of activity including a job description,

- date the employee will commence his work,
- probationary period,
- remuneration (e.g. fixed, bonus),
- vacation, sick leave,
- period of cancellation,
- confidentiality clause and,
- if applicable, a non-competition clause.

The daily working hours usually must not exceed eight hours, whereas on Sundays and public holidays generally no work is to be performed. The statutory minimum leave (vacation) is 24 days per year, counted on a six-day working week. Upon submission of a respective doctor's certificate, an employee is entitled for a sick-leave of up to six weeks. During such period he is continuously to be paid by the employer.

Unless regulations for a minimum wage should apply, employee's salary can be negotiated freely. However, for reference, the average monthly gross wage for a young commercial clerk will amount to approximately gross €2.200,00.

3. Notice of Termination

An employment contract may need to be terminated either for economic or personal reasons. Such termination is possible in any company provided that the applicable conditions of notice are observed.

While in case of short-term contracts, the end of employment is contractually agreed from the very beginning, for permanent employment contracts the statutory notice period applies. According to these statutory provisions, the termination notice period increases the longer an employee has been employed. While initially the notice period is four weeks only, it may rise up to seven months after 20 years of continuous employment. Within the probationary period (maximum term = 6 months), the employment contract can be terminated within two weeks without giving any reason.

Small companies with no more than 10 employees may dismiss their employees at any time provided that the relevant termination notice period has been observed. However, special rulings protecting young mothers, mothers to be, and severely disabled people may apply and need to be considered.

Additionally, for companies with more than ten full-time employees, the German Dismissal Protection Act (Kündigungsschutzgesetz) applies for every employee whose employment has been uninterrupted for more than six months. In these companies, the termination of an employment contract within the applicable notice period is only possible if it is “socially justified“.

The termination of an employment contract must be served in writing – electronic form is not sufficient – which should generally

name one of the following reasons for termination:

- business reasons
- personal reasons
- conduct-related reasons
- extraordinary termination

All of such reasons can be explained more detailed if required.

4. Works Council

In accordance with the German Works Council Constitution Act, employees of companies with at least five employees may form a work council, which is responsible for dealing with workforce issues. The number of members of such council depends on the number of employees employed by the company. For companies with no more than 20 employees, the works council will consist of a single person only.

If required we can provide you with more detailed information about the tasks and responsibilities of the work council.

5. Social Security System

In contrast to some other industrialized countries, the core social security in Germany is financed collectively by means of a process of redistribution, known as the generation contract. The government pays the current costs directly from contributions made by covered employees

and employers. Social security is made up of the following elements:

a) Health Insurance

Health insurance is shared almost equally by the employee and the employer. The public health insurance contribution rate currently is 14.9% of the gross wage (7% paid by employer and further 7,9% by employee).

b) Nursing care insurance

The contribution rate is 1.95% of the gross wage. Half is paid by the employer and half by the employee. Employees without children need to pay further 0,25% in addition.

c) Pension insurance

The contribution rate for a state pension is currently 19.9% of the gross wage and is divided equally between employee and employer.

d) Unemployment insurance

Unemployment insurance is another mandatory contribution. The contribution rate amounts to 2.8% of the gross wage and is shared by employee and employer.

e) Accident insurance

In contrast with the other four obligatory insurances, the costs for accident insurance

are exclusively borne by the employer, the employee is exempted from contributions.

6. Payroll accounting

In contrast with some other countries, in Germany an employee receives a wage or salary from which tax and social security contributions have already been deducted (net salary). The employer calculates the gross wage, but withholds a percentage of it and transfers this to the health insurance company responsible for collecting the complete social security contribution and to the tax authority. Gross incomes are therefore much higher than the amount actually paid out.

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