

German Taxation of Military Retired Pay, US Social Security and VA Disability Pay

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While US income taxation depends on US citizenship (or being a green card holder), Germany obligates all ordinary residents to submit an income tax return - German citizenship is generally not a criteria. US citizens who retire in Germany or lose coverage under the Status of Forces Agreement will become "ordinary residents" of Germany. Such persons will be required to file a German income tax return, in addition to a US tax return.

The German-US Tax Treaty provides taxation rules, specifying which country gets to tax what kind of income and when taxes already paid to one country will have to be credited by the other country. The treaty divides your world-wide income into different categories. The tax treatment of some of these categories is described in this article.

(1) Military Retired Pay. Military retired pay paid to US citizens who are ordinary residents of Germany will NOT be taxed in Germany. However, it has to be reported on the German tax return because that income will be considered in determining the tax-rate/bracket for other income of yours that is taxable in Germany. That way your income subject to German taxation will be taxed at a higher rate, so-called progressive taxation ("Progressionsvorbehalt").

(2) US Social Security. A portion of US social security paid to US citizens who are ordinary residents of Germany is subject to German taxation. The payments will generally be treated like German ordinary retired pay. The Germans will calculate the taxable and tax-free portions of your social security based on the first full calendar year you started drawing social security. As an ordinary resident of Germany you report US Social Security in block 20a of your US tax return but write "Exempt" on line 20b, and attach Form 8833 to show you are invoking a treaty-based exemption under Article 18 paragraph 5 of the German-US Tax Treaty because Germany is going to tax it.

(3) VA-Disability Pay. The good news is that VA-Disability won't be subject to taxation either in the US or in Germany. It won't even influence the tax bracket and, therefore, does not have to be reported.

(4) Other Income. Please note, there are also rules in place for rental income, capital interest, dividends, TSP and other 401(k) income. The treatment of this income is complex and will be discussed in future articles in this newsletter. You may also refer to the article on retiring in Germany on the following pages of this newsletter; the section on German income tax appears on pages 6 and 7.

If you have specific questions about your situation, you should make an appointment with your local legal assistance office.

