

Tax Information for Employees of the Goethe Institut

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Disclosure

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Agenda

- Categories of employees
- Exemptions from US Tax
- Taxation of US Citizens and Residents
- Tax Treaty
- Self-employment tax
- Deductions for unreimbursed employee business expenses
- SEP/IRA deductions & Self-Employed Health Insurance deductions
- Estimated Tax payments
- Joint filing election with nonresident alien spouse
- Foreign Bank Account Reporting (FBAR)
- Foreign Account Tax Compliance Act (FATCA)

Categories of Employees

Locally Engaged Staff

- US Citizens
- LPR/Green Card Holders

Exemptions from tax in the US

Income Tax

- Tax Treaty, Article 19
- US Law – Section 893

Social Security Tax

- US German Totalization Agreement

Tax Treaty Exemption

Article 19 of the US/German Income Tax Treaty agreement provides an exemption to employees of the German Government in the US who are **not** citizens or residents of the US.

Article 19 does **NOT** provide tax exemptions to US citizens or residents. They are subject to tax in the US on their income from world-wide sources.

US Law – Internal Revenue Code Section 893

Section 893 of the Internal Revenue Code provides an exemption from US income taxes to employees of the German Government in the US.

The exemption provided by Section 893 does **not** extend to US citizens or LPR/Green Card holders.

Exemption from Income Taxes

Classification of Employee	US/German Tax Treaty	US Law Section 893
US Citizen	Taxable [Article 19]	Taxable unless dual US/Filipino citizen IRC 893(a)(1)
LPR/Green Card	Taxable [Article 19]	Taxable No Reciprocity for Permanent Residents in Germany

US Citizens and Residents

Form 1040

- US citizens and residents:

Must ✓

- Report wages on Form 1040, Line 7
- Complete Schedule SE to pay into the US Social Security system as if they were self-employed. If dual US/German citizen, no SE tax due to US.
- Make Estimated Tax payments on Form 1040ES

Must Not ✗

- Report wages Schedule C
- Report wages as Other Income on Form 1040, Line 21
- Claim SEP/IRA deduction on Form 1040, Line 28
- Claim SE Health Insurance deduction on Form 1040, Line 29

LPR Green Card Holders

- In general, green card holders employed at the Goethe Institut are subject to U.S. income taxes on the gross amount of their wages.
- Green card holders are not subject to U.S. Social Security taxes.
- No exemption under Section 893 of the Internal Revenue Code is allowed for green card holders. Germany does not meet the reciprocity requirement of section 893(a) of the Internal Revenue Code with regard to permanent residents.

Employee Business Expenses

- US citizens and green card holders may have deductions for unreimbursed business expenses.

Expenses must be:

- Ordinary and necessary, required by employer.
- For items where no employer reimbursement available.
- Use Form 2106 to calculate the amount of unreimbursed employee business expense and claim deduction on Schedule A, Miscellaneous Itemized Deductions. Subject to 2% AGI limitation.
- Do not use Schedule C to claim employee business expenses.

Nondeductible items

Simplified Employee Pension (SEP/IRA) Retirement Accounts

- Available only to self-employed individuals.
- Wage income does not qualify as self-employment income for a SEP/IRA account.
- No deduction is allowed for a contribution to a SEP/IRA plan on Form 1040, Line 28. See IRS Revenue Ruling 73-38

Self-Employed Health Insurance Deductions

- Available only to self-employed individuals.
- Employees receiving wage income do not qualify to claim a deduction for self-employed health insurance on Form 1040, Line 29.

Taxation of US Citizen Employees

Self-Employment Tax

- For Social Security tax purposes only, US citizens working in the US for the German Government or a German Government MFGO are taxed as if they were self-employed. For all other purposes they are considered employees.
- Dual German/US citizens are covered by the German Social Security system and are not subject to self-employment tax in the US.
- Computation of self-employment tax is done on Schedule SE.
- For 2016 and 2017 the SE tax rate is 15.3%.
- A portion of self-employment taxes may be deducted on Form 1040, Line 27.

Estimated Tax Payments

Federal Estimated Tax Computation

Either

- 90% of the current year tax due
or
- 100% of the prior year tax
(110% if the AGI from Form 1040, Line 37 is greater than \$150,000)

State Estimated Tax Computation

- NY and CT - 90% of current year or 110% of prior year tax
- NJ - 80% of current year or 100% of prior year tax

Estimated Tax Payments

- Federal estimated tax payments are made on Form 1040ES
- Federal (IRS) due dates for the current year are:

Quarter	Federal (IRS) Due Dates	NY State Due Dates	DC/Maryland State Due Dates	Virginia State Due Dates
1 st Quarter	April 17, 2018	April 17, 2018	April 17, 2018	May 1, 2018
2 nd Quarter	June 15, 2018	June 15, 2018	June 15, 2018	June 15, 2018
3 rd Quarter	Sept 17, 2018	Sept 17, 2018	Sept 17, 2018	Sept 17, 2018
4 th Quarter	Jan 15, 2019	Jan 15, 2019	Jan 15, 2019	Jan 15, 2019

2017 Estimated Tax

File only if you are making a payment of estimated tax by check or money order. Mail this voucher with your check or money order payable to "United States Treasury." Write your social security number and "2017 Form 1040-ES" on your check or money order. Do not send cash. Enclose, but do not staple or attach, your payment with this voucher.

Calendar year—Due Sept. 15, 2017

Amount of estimated tax you are paying by check or money order.

	Dollars	Cents
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Print or type	Your first name and initial		Your last name	Your social security number
	If joint payment, complete for spouse			
	Spouse's first name and initial		Spouse's last name	Spouse's social security number
	Address (number, street, and apt. no.)			
	City, state, and ZIP code. (If a foreign address, enter city, also complete spaces below.)			
	Foreign country name		Foreign province/county	Foreign postal code

For Privacy Act and Paperwork Reduction Act Notice, see instructions.

Tear off here

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Calendar year—Due June 15, 2017

Amount of estimated tax you are paying by check or money order.

	Dollars	Cents
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Print or type	Your first name and initial		Your last name	Your social security number
	If joint payment, complete for spouse			
	Spouse's first name and initial		Spouse's last name	Spouse's social security number
	Address (number, street, and apt. no.)			
	City, state, and ZIP code. (If a foreign address, enter city, also complete spaces below.)			
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Calendar year—Due April 18, 2017

Amount of estimated tax you are paying by check or money order.

	Dollars	Cents
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Print or type	Your first name and initial		Your last name	Your social security number
	If joint payment, complete for spouse			
	Spouse's first name and initial		Spouse's last name	Spouse's social security number
	Address (number, street, and apt. no.)			
	City, state, and ZIP code. (If a foreign address, enter city, also complete spaces below.)			
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Form 1040-ES (2017)



Joint Filing Election with Nonresident Spouse

- One-time election to file a joint tax return with a nonresident alien spouse
- Written election is required in year of election
- Nonresident alien spouse is required to report worldwide income
- The election can be revoked, but once revoked cannot be made again

Foreign Bank Account Reporting

FinCEN Form 114

- Required of US citizens or residents with a financial interest in or signature authority over foreign financial accounts if the total value of the accounts exceeded \$10,000 at any time during the year
- FinCEN Form 114 is not an IRS form; it is filed electronically with the US Treasury. Do not include with your tax return or send by mail.
- Form is required whether or not a tax return is filed
- Filing deadline is April 15th of each year and can be extended
- Filing of Form 114 is required in addition to FATCA Form 8938 filing

Failure to file is risky – penalties are extreme

- Non-willful penalty is \$10,000 for failure to file
- Willful penalty is the greater of 50% of the account balance or \$100,000

Foreign Account Tax Compliance Act (FATCA)

Form 8938

- Required of US citizens or residents with an interest in Specified Foreign Financial Assets exceeding certain amounts
- Form 8938 is an IRS form and is required to be filed with your US tax return
- If a tax return is not required to be filed, no Form 8938 has to be filed
- Filing of FATCA Form 8938 is in addition to filing of FBAR Form 114

Failure to file is risky – penalties are extreme

- Penalty for failure to file starts at \$10,000 and continues up to \$50,000 for continuing failure to file after IRS notification
- Additional 40% penalty for failure to report income on tax return
- Statute of Limitations does not start until accurate Form 8938 is filed

Foreign Account Tax Compliance Act (FATCA)

Form 8938

- Specified Foreign Financial Assets include:
 - Bank and investment accounts
 - Direct ownership of foreign stock
 - Foreign retirement accounts
 - Foreign life insurance policies
 - Foreign partnership interests
 - Foreign estate and trust interests

- **When in doubt file Form 8938**

Foreign Account Tax Compliance Act (FATCA)

Form 8938

- Form 8938 must be filed when Specified Foreign Financial Assets exceed specified amounts
- File Form 8938 if Specified Foreign Financial Assets exceed either the Year-end Total or Highest Annual values in the table to the right

Filing Status / Location	Year-end Total (greater than)	Highest Annual (greater than)
Single in U.S.	\$50,000	\$75,000
Single Overseas	\$200,000	\$300,000
Joint in U.S.	\$100,000	\$150,000
Joint Overseas	\$400,000	\$600,000
Separate in U.S.	\$50,000	\$75,000
Separate Overseas	\$200,000	\$300,000

Taxation of US Citizens

Questions?