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Germany – Registration Rules Set for May 1 Implementation, Undergo Delay, Revision

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flash Alert

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Germany's lower house of Parliament ("Bundestag") passed a law in 2013, due to take effect in May 2015, concerning registration of residential addresses by foreign employees in Germany.¹ However, the new rules have been postponed until November 1, 2015, due to organizational and practical issues.²

In the past, an individual's registration formalities were governed by legislation passed/in force in each federal state in Germany – this gave rise to differences in the rules applied across the states throughout Germany. But with the passage of the federal law regarding registration formalities in 2013 (and the 2014 update – see footnotes 1 and 2), new rules set out competencies and established one standard applicable in all federal states, therefore, helping to assure greater legal certainty.

Why This Matters

Registration formalities are a part of the German legal framework for deployments/assignments in Germany regardless of the nationality of the individual.

Companies should be aware that the differences that existed across the states in Germany will be eliminated with effect as of November 1, 2015. This will lead to less confusion and simpler administration, which, hopefully, will have a knock-on effect in respect of proper and easier compliance. Moreover, this will potentially lead to more streamlined internal processes for companies and the employees they send to Germany, including a reduction in the steps to be taken to fulfill registration obligations.

Deployed individuals should be updated on the two new deadlines for the registration of an accommodation's address and the address of a flat to which they have moved. Otherwise, individuals may be hit with an administrative fine ranging from EUR 5 to EUR 1,000.

Background

Currently, all individuals residing in Germany are required to register a residential address at the local registration offices.³ Registration formalities apply to (returning) German nationals, EU/EEA-nationals, Swiss nationals, and all other foreigners in equal measure. Registration formalities are considered as part of an individual's immigration compliance requirements; and failure to comply with them can lead to administrative fines.

At the moment, individuals face different requirements regarding the registration formalities depending on their place of residence. This particularly relates to registration requirements for stays in hotels, motels, bed & breakfasts, etc. (henceforward, collectively called "accommodation") and registering that accommodation address as a "residential address."

Business travelers often reside in an accommodation during a stay in Germany and the registration might therefore be the only immigration obligation they have in situations where they enter the country and an entry visa or combined residence and work permit are not required.

New Changes from November 1, 2015 Regarding Registration

The 2013 federal law regarding registration formalities, updated in 2014, will become effective as of November 1, 2015 (instead of May 2015 as originally planned). There was a two-year “lead time” between enactment of the original law and its effective date. The long lead time accounts for the needs related to developing and implementing new information technology infrastructure.

The current requirements in the federal states require a registration of an accommodation’s address with a time-frame of between two and six months from the date of moving in. From November 1, 2015 on, the “unified,” standard time-frame for registering an accommodation’s address as the person’s residential address will be three months from the date of moving in and apply in all German states.

Generally speaking, each federal state’s laws differentiate between residing in a flat and residing in an accommodation. Individuals moving into a flat have to register, within two weeks of moving in, at the local registration office.⁴ (Existing federal laws mostly require a registration within one week instead of two weeks.) The individual must still make a personal appearance at the local registration office.⁵ As a related obligation, each landlord or landlord’s representative will be required to confirm the move of the individual into said flat within the same deadline.⁶ The confirmation must actually be submitted by the individual lodger/tenant.⁷ (Obtaining this additional document may be a reason for having extended the deadline for registration from one week to two weeks.)

Individuals residing in an accommodation usually have to provide their personal data, such as names, usual address, to the hotel receptionist or front-desk clerk; and that information ends up being directly transferred to the registration offices (special registration) – in such case, the regular registration process (as described above) does not apply. If an individual stays for more than three months at a time, he or she will be required to register the address of the accommodation with the registration office within two weeks after the 3-months-limit is reached according to the regular process. This would apply, for example, to a business traveler residing in a hotel apartment for four months at a time. For example, when moving into an accommodation on May 1, the business traveler would have to register the accommodation as a regular residential address at the latest on August 15.

Footnotes:

1 In German: *Bundesmeldegesetz* (“BMG”), part of *Gesetz zur Fortentwicklung des Meldewesens* (MeldFortG), published in: BGBl. I 2013, pages 1084 *et sequentes*. “BGBl” stands for *Bundesgesetzblatt*, Germany’s official gazette.

2 BGBl. I 2014, S. 1738. BGBl. I 2014, S. 1738 only revised the date the law (noted in footnote 1) shall come into force, but did not revise any other principles of that law.

3 In German: *Einwohnermeldeamt*. And once registered, the individual receives a “Meldebescheinigung.” This is a document confirming that the individual is registered and is helpful (sometimes necessary) for opening bank accounts, and (in some circumstances) applying for a final residence and work permit, etc.

Footnotes (cont'd):

4 See Sec. 17 (I) BMG.

5 See Sec. 23 (I) BMG.

6 See Sec. 19 (I) BMG, details regarding the extent of this confirmation are regulated in Sec. 19 (IV) BMG.

7 If the landlord or his/her representative refuses to issue the confirmation, the individual tenant will be obliged to inform the registration office immediately.

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The information contained in this newsletter was submitted by the KPMG International member firm in Germany. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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