



KAISERSLAUTERN LEGAL INFORMER

2011 TAX SEASON OFF TO ROARING START



The 21st TSC Commanding General, MG Patricia E. McQuiston, joined by members of the Kaiserslautern Legal Services Center staff, cuts the ribbon at the grand opening of the Kaiserslautern Tax Assistance Center on January 31st.

by Steve Smith

The 2011 tax filing season is off to a roaring start, with more taxpayers heading to 21st TSC tax assistance centers for free tax help than in any recent tax season.

As of 25 February, the six tax assistance centers the 21st TSC OSJA operates in Germany and the Benelux had generated 2,075 federal and state tax returns, 515 more than in the same period in 2010.

USAREUR-wide, Army tax assistance centers generated 8,394 returns, almost \$1.3 million in savings, and a whopping \$20.7 million in refunds through February 25th, and the tax season has just begun!

These statistics indicate that, despite the availability of commercial tax preparers, off-the-shelf software, and other free tax preparation options, a growing number of

military taxpayers are finding taxes so complex that they need the kind of professional help our free tax assistance centers offer.

Where can you go for tax help? The Kaiserslautern Tax Assistance Center is located in the Kaiserslautern Legal Services Center in Room 101 of Building 3210 on Kleber Kaserne, across from the Shoppette. Call DSN 483-7688 or 0631-411-7688,

We also operate a tax assistance center on the ground floor of Building 3701 at Landstuhl Regional Medical Center, just below the Education Center. Call DSN 486-6334 or 06371-86-6334.

Both tax centers are open from 0900 to 1700, Monday thru Friday, and accept both walk-ins and appointments thru 1600 daily.

For a list of what to bring to the tax center, see the back cover of this newsletter.

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IRS Changes Policy on Taxability of German "Kindergeld"



by Steve Smith

I have good news to report for military taxpayers who receive German *Kindergeld*. The IRS Office of Chief Counsel, in a memorandum dated July 21, 2010, determined that *Kindergeld* is not income for U.S. federal income tax purposes. Why is that good news? Read on.

Kindergeld (i.e., child allowance) is an extremely valuable benefit if you qualify for it. My colleague, Joerg Moddelmog, wrote an article on "How to Apply for German *Kindergeld*" in the Spring 2009 edition of this newsletter, in which he outlined who qualifies for the benefit. Persons employed on the German economy qualify for *Kindergeld*, as long as they pay into the German social security system. And if a dependent spouse happens to be a German or a citizen of another EU member country, he or she does not even have to work in order to qualify for *Kindergeld*. They just have to have kids.

How much *Kindergeld* you receive a month from the German government depends on how many *Kinder* you have. Currently, parents receive 184 Euros a month per child for their first and second child. They receive 190 Euros a month for a third child, and 215 Euros a month for a fourth, fifth, or sixth child, and so on. That can really add up!

The German government pays this allowance to encourage the creation of a new generation of taxpayers to help support the aging German population. Germany has never taxed *Kindergeld*—to do so would defeat the purpose of the incentive. But for years, the IRS took the position that, on American tax returns, *Kindergeld* was taxable income that had to be reported on line



21 of Form 1040 as "Other Income." The reason for this was simple. The Internal Revenue Code defines "income" as "all income from whatever source derived," and, unless there is an exception under the Code (as there is for gifts, inheritances, and certain insurance payments) whatever increased your wealth was taxable. There was no exception for German *Kindergeld*. Indeed, there was a time when military taxpayers in Germany were audited to see if they had included the *Kindergeld* in their taxable income. That being the case, military tax assistance centers routinely included questions about *Kindergeld* on their intake sheets, and advised taxpayers to include *Kindergeld* in their income.

All this began to change a few years ago when the IRS Attaché's Office at the Frankfurt Consulate began advising taxpayers that *Kindergeld* was not taxable, because it was analogous to a welfare payment. As a result, some tax assistance centers stopped including it in income, some stopped asking about it on their intake sheets but would include it if the taxpayer brought it up, and others took the position that until we had something in writing saying it was not taxable, the most prudent course of action (given the prior auditing practices) was to continue to include it in income. Taxpayers got different advice depending on which tax center they went to for tax preparation assistance. This was unacceptable, and led the IRS Attaché to request a formal opinion from the IRS Office of Chief Counsel on the taxability of *Kindergeld*.

What if you have been including *Kindergeld* in your taxable income and paying tax on it all along? The good news is, you can amend your 2007, 2008, and 2009 returns to delete that income, and request that the tax you paid on it be refunded. Our tax assistance centers will prepare amended returns for you, as long as you bring us a copy of your original return and its supporting documents. **Note that the last day you can amend a 2007 return is April 15, 2011 (three years from the due date of your 2007 return). So if you want to amend for 2007, you need to move fast!** Our tax centers have copies of the Chief Counsel's opinion to attach to the amendments as supporting authority.

Tune in for our next AFN Radio Open-Line tax call-in show on Wednesday, March 30th, at 1000 hours, at 1107 on your AM dial!

Tax Options for Newlyweds

by CPT Yolanda Williams

Did you get married in 2010? If so, congratulations! Now that tax season is here, you are probably wondering what your options are. Here are some tax tips for newlyweds.

The first tax decision you and your new spouse must make is what tax filing status to use. Whatever your marital status was on the last day of the tax year determines what your tax filing options are. If you were married on December 31, 2010, you are treated as if you had been married all year, and you normally have two options: married filing joint or married filing separate. Married filing joint is usually the better option, because you get a higher standard deduction and a personal exemption for your spouse, which lowers your taxable income and tax. One option you no longer have is filing single.

If you married a foreigner (a.k.a. “a nonresident alien”), things get a little more complicated when it comes to filing taxes. If you are going to file married filing joint or married filing separate, you are going to need to obtain a tax identification number for your new foreign spouse. Unless your spouse already has a valid Social Security Number (SSN) (e.g., from a prior marriage), you will need to file for an Individual Taxpayer Identification Number (ITIN) for your spouse, for use on tax returns until you move to the States and your spouse gets a job that will qualify him/her for a SSN.

ITINs can be issued to non-U.S. spouses of U.S. citizens and residents, but not to other family members or anyone eligible for a SSN. For instance, a child born to a U.S. citizen in Germany is eligible for a SSN, and is therefore not eligible for an ITIN. Also, non-U.S. step-children are not eligible for ITINs. If, for example, a U.S. citizen marries a German citizen with German children, the children are not eligible for an ITIN and cannot be claimed as dependents on the taxpayer’s tax return (at least until such time as they move to the U.S. and become U.S. resident aliens).

Filing a return with an ITIN affects eligibility for certain tax treatments. For example, taxpayers who file joint returns with a spouse with an ITIN are not eligible for the Earned Income Credit.

If you elect to file jointly with your foreign spouse, you must report that spouse’s income along with yours on your tax return. However, you may be able to take the foreign earned income exclusion (up to \$91,500 can be excluded for 2010) to exclude your foreign spouse’s earned income from being taxed by the U.S., or take the foreign tax credit if your spouse already paid taxes to a foreign government on his/her income (to avoid being double taxed on that income).

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KAISERSLAUTERN LEGAL SERVICES CENTER

**Building 3210
Kleber Kaserne**

Legal Assistance 483-8848

Tax Assistance 483-7688*

Claims 483-8414/8862

International Affairs 483-8854

Trial Defense Service 483-8165

[Civilian: 0631-411-XXXX]

Administrative Law 484-7450

Criminal Law 484-8311

[Civilian: 0631-413-XXXX]

*** for tax help at Landstuhl, call
DSN 486-6334 or 06371-86-6334**

TY 2010 KEY FIGURES:

Average Exchange Rate:

\$1.00 = .755 Euros

Mileage Rates:

Business: **50 cents/mile**

Moving/Medical: **16.5 cents/mile**

Charitable: **14 cents/mile**

**Max Foreign Earned Income
Exclusion: \$91,500**

Standard Deductions:

MFJ/Qual. Widow(er) **\$11,400**

Single/MFS: **\$5,700**

Head of Household: **\$8,400**

Personal Exemptions: \$3,650

Mandatory Financial Disclosures



by Mark Christensen

If you have financial accounts outside the United States, there may be up to three mandatory reporting requirements you have to meet in order to disclose those accounts to the U.S. Government. Although you're probably not involved in money laundering or the hiding of assets in off-shore accounts, you might have to disclose non-U.S. financial assets to the IRS.

These disclosure requirements do not apply to financial accounts held in U.S.-based financial institutions. For instance, if you have accounts in the U.S.-based credit unions or banks found on most U.S. military installations in Europe, those accounts do not trigger a requirement to report to the IRS.

These rules apply to U.S. persons, defined by the IRS as citizens and residents of the United States. This includes resident aliens (holders of lawful permanent resident status, or green card) who live in the U.S., as well as resident aliens who live outside the U.S. pursuant to military or civilian employment orders with the U.S. Government or U.S. military. Foreign persons are not subject to non-U.S. financial account disclosure rules. Foreign persons include nonresident aliens such as spouses of U.S. citizens who do not have resident or citizenship status with the U.S.

The first requirement is for filers of U.S. tax returns who have a non-U.S. financial account or accounts that had a combined value of over \$10,000 at any time during the tax year. If you did, answer "Yes" on Line 7a of Schedule B, and indicate the country where the account is located on Line 7b. Taxpayers who transferred money into or received money from a foreign trust must answer "Yes" on Line 8 of Schedule B, and may also have to file Form 3520. Form 3520 is not filed with the tax return, but is sent separately to the IRS.

The second requirement is for U.S. persons who have non-U.S. accounts for which the total combined and converted value exceeded \$10,000 at any time during the year. This is done on Form TD F 90-22.1 (*Report of Foreign Bank and Financial Accounts*, or FBAR). FBAR is filed separately from a tax return [the form must be sent to a U.S. Treasury Department address in Detroit which appears on the form] and is due on June 30 of the following year. For instance, if you had one or more non-U.S. accounts and the total value exceeded \$10,000 (converted to dollars using currency exchange rates) on any day during the year, you must file the FBAR by June 30 of the next year. You must also retain proof of the non-U.S. accounts for five years.

The third requirement derives from the Internal Revenue Code, IRC §6038D. This new section requires U.S. taxpayers with foreign accounts and assets with an aggregate value exceeding \$50,000 to report them on an informational return, starting with tax years beginning after March 18, 2010. The IRS has not yet issued guidance for how this disclosure is to be done; at this time it is up to taxpayers to make the disclosure in the way they deem best. Form 8275, *Disclosure Statement*, is one option, and should be filed with Form 1040. This disclosure, if applicable, is in addition to any FBAR requirement.

Note that filings to the IRS (Schedule B and Form 8275) are protected by the same confidentiality rules that govern tax returns. The FBAR is filed with the Treasury Department, and is not subject to the same confidentiality protections as tax returns.

If you have questions about mandatory financial disclosures or other income tax issues, e-mail them to: tax@eur.army.mil

If you have questions about other legal assistance issues, e-mail them to: legal@eur.army.mil

Hails: We welcome SPC Jasmin Hunter, who is working in the Kaiserslautern Tax Assistance Center, PFC Matthew Teemant, who is working in Legal Assistance, and SPC Reynaldo Larriba, who is cross-training.

Farewells: We are fortunate to have no farewells to report in this edition. We're busy, and need all hands on deck!



Tempus Fugit! Longtime criminal investigator Tahzib Hasnain celebrated 30 years of fighting crime with the 21st TSC OSJA at a luncheon held in his honor on February 4th at Gasthaus Quack.



Taxes are a major headache for many military taxpayers, but with the talented tax team we have assembled for the 2011 tax season, they're a piece of cake!



21st TSC taxmen Donald Davis, Steve Smith, Mark Christensen, and Joerg Modellmog conducted their first AFN Open-Line tax call-in show of the season on February 23rd. Tune in again on March 30th for their second.



COL Lewenhaupt visited K-town's tax training seminar to thank IRS instructor Anita Carter (in red sweater) and to "fire up" members of the K-town/Landstuhl tax team.



Double take: PFC Angel Hunter (left) works in Military Justice, while her twin sister, SPC Jasmin Hunter, serves in the Kaiserslautern Tax Assistance Center.

Taking NTVs to the Airport: How not to get tripped up on your next TDY flight...

by Rick Schwartz

This article focuses on some common misperceptions pertaining to the authorized use of NTVs for TDY travel to and from transportation terminals, including airports. Using an NTV and driver for travel to the airport is fraught with the potential for others to perceive a convenience or perquisite for the traveler, as opposed to an official need of the Government, and these rules are in place to ensure users can articulate why this particular type of resource was necessary. Misuse of NTVs exposes you to adverse action, so when appropriate NTV use is in question, you should consult with the OSJA for specific guidance.



The regulations governing NTV use in USAREUR permit commanders to authorize NTV transport of Army personnel on official orders to or from commercial or military transportation terminals only in the following circumstances: (i) where they are located where other means of transportation are not available or (ii) where other means of transportation cannot meet mission requirements. The Army regulation would also allow an NTV to be used when “[r]equired for emergencies or for security,” but you should consult with the OSJA before applying this exception. You should also consult with the OSJA prior to using an NTV to transport a traveler to or from living quarters, which is rarely an appropriate use of an NTV. The following examples may be instructive in applying the relevant rules:

(1) Three civilian employees from a section are attending a course in CONUS and think it would be cheaper to take an NTV to the airport than a shuttle service. Is an NTV appropriate? No, unless it is “[j]ustified by cost analysis and approved by the Secretary of the Army.” AR 58-1, para 2-3i (1)(c). Absent specific prior approval from the Secretary of the Army, cost benefit is not a factor in these circumstances.

(2) (i) A Warrant Officer is catching a TDY flight out of Ramstein on Sunday morning and doesn’t like taking cabs or leaving her car unattended in the lot. May her commander authorize an NTV? No, because other means of commercial transportation are available. (ii) What if it were a CSM or a COL instead? No, because “[v]ehicles will not be provided when the justification is based solely on reasons of rank, position, prestige, or personal convenience.” AR 58-1, para 2-4a.

(3) A General Staff principal with an assigned NTV is arriving into Frankfurt Airport from an extended TDY late Friday evening after the trains have stopped running. May his commander authorize a driver to pick him up with that NTV? Yes, but only if there are no shuttle services available or a shuttle won’t meet mission requirements (*e.g.*, he has meetings that night following his trip and the shuttle won’t get him there in time).

(4) A SGM needs to be at the airport before PT is even over for his TDY flight, he doesn’t like

[continued on page 7...]

Frankfurt traffic as it is, and if he takes the shuttle he'll have to waste even more time waiting for it to pick up other travelers. May his commander authorize an NTV? No, unless the additional shuttle time doesn't accommodate his mission that morning (*e.g.*, he is required at a meeting, must go directly to the airport afterward, and doesn't have time to chance a shuttle/cab being late to pick him up) and he can't drive himself because he is required to work during the ride.

These examples are designed to illustrate the general principles involved. If you have any question about whether your circumstances justify the use of an NTV, do not hesitate to contact your organization's Ethics Counselor.

Tax Options for Newlyweds [continued]



An ITIN is obtained by filing Form W-7 (Application for an ITIN) with a tax return. Form W-7 requires the applicant to furnish proof of their identity (*e.g.*, the non-U.S. spouse's passport or other non-military identification). Mr. Donald Davis, our Tax Program Coordinator, who works at the Kaiserslautern Tax Assistance Center on Kleber Kaserne, is authorized to act as a Certifying Acceptance Agent to facilitate the processing of Form W-7, and can provide identification certification services. Our tax centers can electronically prepare Form W-7 when they prepare the accompanying tax return. The return must be mailed to the IRS. It normally takes four to six weeks for the ITIN to be issued. The IRS's ITIN Unit will write the ITIN in the blank block on the return where the spouse's SSN would normally go and forward the return to the IRS Service Center for further processing. The ITIN Unit will mail the applicant a letter containing the ITIN, and send Mr. Davis a copy. Be sure to keep the ITIN notification letter for future reference, as the ITIN must be used on every subsequent tax return until the non-U.S. spouse becomes eligible for an SSN.

If you married a foreigner, and desire to file jointly, you need to make an election to treat your nonresident alien spouse as if they were a resident alien for U.S. tax purposes. This can be accomplished by attaching a declaration to your first married filing joint tax return. The declaration should state that one spouse was a non-resident alien and the other spouse a U.S. citizen or resident alien on the last day of the tax year and that you choose to be treated as U.S. residents for the entire tax year. The name, address, and SSN or ITIN (if available) of each spouse should also be included. [See IRS Publication 54, pages 6 & 7, for more guidance on making this election.]

Another filing option is married filing separate. If you married a foreigner, and want to file separately, you'll still need to apply for an ITIN for your spouse [assuming your spouse does not have a valid SSN and won't qualify for one since they are not working in the U.S.].

One other option when married to a nonresident alien is to file head of household. You may only do this if you have other qualifying dependents on the return. German step-children are not considered qualifying dependents. Children who are American, Canadian, or Mexican citizens do qualify, as long as they meet the other dependency tests. Resident alien children may also qualify if they pass the other dependency tests. If you decide to use head of household filing status you will not need an ITIN for your spouse. Keep in mind this filing status can only be used until the kids grow up and can no longer be claimed as dependents, and that at some point in the future you may need to obtain an ITIN for your spouse.

As you can see, this is a complicated area. We've only scratched the surface in this article. For more information make an appointment to see a Legal Assistance Attorney by calling DSN 483-8848 or Civilian 0631-411-8848, contact one of our two tax assistance centers, or send an e-mail to: tax@eur.army.mil

Tune in for our next AFN Radio Open-Line tax call-in show on Wednesday, March 30th, at 1000 hours, at 1107 on your AM dial!

The Army JAG Corps' New Strategic Plan Poster...



THE JAG CORPS



America's oldest and largest law firm. Established by General George Washington in 1775, we have grown to approximately 10,000 personnel in the Active Army, US Army Reserve, Army National Guard, and Civilian Corps.

VISION

One Team, values-based and committed to justice, with one focus: proactive legal support, while deployed and at home station, to enable the successful conduct of full spectrum operations for the Nation we serve.

MISSION

Develop, employ, and retain **One Team** of proactive professionals, forged by the warrior ethos, who deliver principled counsel and mission-focused legal services to the Army and the Nation.

ENABLING OBJECTIVES

Operationalize the Reserve Components to achieve one integrated and balanced Corps.



Recognize and honor the professionalism, dedicated service, and sacrifice of our Soldiers, Civilians, and Families.



Use our strategic communication plan to increase transparency and build esprit de corps.



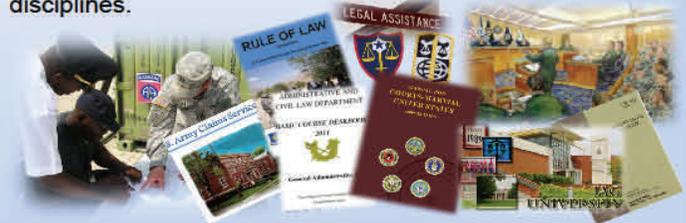
Employ ARFORGEN to provide predictability and to rapidly deploy tailored legal support.



Use Information Technology and Knowledge Management to enhance efficiency and effectiveness of our business practices.



Develop and sustain proficiency in our core legal disciplines.





Improving Administrative Separations with Lean Six Sigma

by LTC Harper Cook

The 21st TSC Office of the Staff Judge Advocate (OSJA) is leading an effort to improve the speed and quality of administrative separation, or “chapter” actions, using Lean Six Sigma (LSS) tools. Since October, a team of over 15 command, legal, medical, mental health, ASAP, and information technology experts has taken baseline data and analyzed why chapter actions take over two months to complete. Armed with that information, the team is now developing and piloting improved solutions to the chapter process.



Eleven members of team OSJA participated in a Lean Six Sigma Improve Phase Conference from 3-4 February to identify solutions to the administrative separation process. In foreground (L to R) are SFC Drummonds, SSG Eaddy, SGT Glover, SGT Beckwith, and SSG Denney, as CPT Howard and LTC Cook look on. Conference participants not pictured: CPT Fussnecker, SGT Saenz, SPC Jancek, and PFC Smith.

The impetus for the project was generated, in part, by a recent Army report concerning Health Promotion, Risk Reduction, and Suicide Prevention. The report states that the past decade of prolonged deployments has degraded leader skills and experience with garrison tasks, including good order and discipline processes such as chapters. This has contributed to an overall increase in Soldiers who engage in high risk behavior, including some who pose an unacceptable risk to themselves and the Army. The team has taken the report to heart, including the VCSA’s direction for leaders to “ensure that Soldiers who cannot adapt to the rigors and stress of this profession find sanctuary elsewhere for their own wellbeing and for that of the force.”

The LSS team is focused on improving active duty enlisted chapter actions that fall within the area jurisdiction of the Commanding General of the 21st TSC, which includes the garrison communities of Kaiserslautern, Mannheim, Stuttgart, and the BENELUX. The team is examining the following involuntary chapters: 5-8 (parenthood); 5-17 (other designated physical/mental conditions); 9 (alcohol/drug rehab failure); 13 (unsatisfactory performance); 14 (misconduct (pattern or serious)); 18 (body fat failures). The project does not include medical chapters, cases which require a board process, or officer separations.

The average time to process a brigade-level chapter from the flagging date to separation decision is 66 days. The battalion-level chapter baseline is 54 days. The team’s goals are to reduce process time to 30 days and to reduce process variability, while ensuring the process is fair to Soldiers.

The team is now piloting solutions to improve the most critical inputs to the process, which are: (1) overall waiting and transportation delays caused by a paper-based process; (2) command recommendation processing; (3) command rework required prior to legal intake; (4) pre-separation medical and mental screens; and (5) legal processing methods.

Thanks to each of you who continue to make all OSJA processes better for the benefit of our commanders, our Soldiers, and our Army.

OSJA LSS Belt Status	
Black Belt: LTC Cook	
Green Belts:	
CPT Howard	CPT Fussnecker
Yellow Belts:	
COL Lewenhaupt	SGT Beckwith
LTC Takushi	SGT Saenz
MAJ Abbott	SGT Glover
MSG Haarer	SPC Jancek
SFC Drummonds	PFC Smith
SSG Denney	Gary Mathes
SSG Eaddy	

To become a Yellow Belt, you must (1) Have some level of LSS Training (online, formal, or belt-led training); (2) Have participated on an LSS project team and be listed on the project charter; and (3) If a DAC or U.S. Military, have a Power Steering account. The OSJA goal for Yellow Belts by the end of FY11 is 18 personnel.

Contact LTC Cook for information regarding all LSS Training.

Tips for Successful Conference Planning

by Rick Schwartz

Formal Conference *vs.* Conference *vs.* Training *vs.* Meeting *vs.* Off-site *vs.* Any number of terms can be used to describe events such as those above; but statutes, regulations, and Comptroller General opinions distinguish between them by the substance of the event, not the label you give to it. The following issues are those typically related to holding one of the above events, but **YOU SHOULD CONSULT WITH THE OSJA EARLY IN THE PROCESS** to identify the specific considerations applicable to your event.



Fiscal Law. Common fiscal law considerations in holding one of the above-listed events include:

(1) These events remain subject to general fiscal law principles, the foremost being that there must be a necessary purpose within the unit's mission (*e.g.*, training) to hold the event. Planners are charged with conserving government resources (*e.g.*, no-cost venues) and considering alternatives (*e.g.*, teleconferencing) that minimize the expenditure of government funds. Social events, including 'icebreakers' or networking functions, are not official events and therefore cannot be financed with appropriated funds.

(2) The general rule that food is a personal expense for which appropriated funds may not be used still applies. Only in rare circumstances may the government provide meals to its employees at their principal place of duty. Providing meals in kind to those in a travel status is also subject to specific requirements, including that meal costs are limited to the applicable per diem rate and employees may not claim them on their travel voucher. Food and beverages outside of meals are also subject to stringent analysis and should not be ordered without knowing that the criteria have been met.

(3) A requirement for external conference planning services should be analyzed in conjunction with legal and contracting experts and remains subject to rules on procurement and interaction with non-Federal entities (NFEs). Legal advice must be sought before accepting free or "no-fee" services.

(4) Speakers, trainers, and other paid facilitators are subject to the same constraints described for external conference planners. Gifts, mementos, souvenirs, or commemorative items for these individuals or other attendees are an inappropriate use of appropriated funds.

Co-Sponsorship. Co-sponsoring an event with a NFE is only possible in limited circumstances and always requires a written agreement. In order to be eligible for co-sponsorship, the NFE must be a recognized scientific, technical, educational, or professional organization approved by an Ethics official at HQDA. There are also limitations on the event itself, including that it be open to and involve non-DoD attendees.

Procurement. Goods and services needed for your event can only be ordered by a person with specific authority to make purchases (*e.g.*, a Contracting Officer (KO)), and

Tips for Successful Conference Planning (continued)

transactions by anyone else that purport to bind the government expose that person to personal financial liability for the items as well as adverse personnel action. Using a KO, as opposed to a Government Purchase Card (GPC) holder, enables the unit to acquire the goods and services in a way that is favorable to the government. The key is adequate planning and involving contracting experts early in the process to meet all the procedural requirements. Even for small events, the GPC holder should consult the OSJA or card-issuing authority regarding any ambiguity in purchasing authority.

Competition. These events must comply with applicable competition in contracting requirements. Specific requirements are based on the total cost of goods and services needed for the event (as opposed to individual items), and while no-cost government-owned facilities (e.g., internal meeting spaces) are always required to be used if available and able to meet mission requirements, government-owned NAF or MWR facilities or services are not accorded special consideration when it comes to competition for appropriated funds.

Interacting with NFEs. DoD entities may not provide unauthorized support or preferential treatment to, or imply favoritism toward, or endorsement of, particular NFEs. These principles apply when considering procurement, co-sponsorship, and all other aspects of event planning.

Keeping these considerations in mind will help to ensure that your event is a success while still staying within legal guidelines. If you have any questions regarding a specific course of action, you should contact the Administrative Law team in the 21st TSC OSJA.

OUR 2011 TAX CENTER STAFF — ONE TEAM, ONE FIGHT!



KMC EAST: The staff of the Kaiserslautern Tax Assistance Center, which is located in Room 101 of Bldg. 3210 on Kleber Kaserne, includes (from left to right) 21st TSC Tax Program Coordinator Donald Davis, Chrystal Bonds, SPC Jasmin Hunter, Cindy Nettlingham, and SGT Diana Esparza. The Kaiserslautern Tax Assistance Center is the place to go if you have more complicated tax returns or need an ITIN.



KMC WEST: The staff of the Landstuhl Tax Assistance Center, which is located on the ground floor of Bldg. 3701 at Landstuhl Regional Medical Command includes (from left to right) Rachel Powell, SGT Michelle Venson, SGT John Rudegeair, Nicole Salazar, and SGT Kristen Jones (not pictured). SPC Sarah Red also provides free tax help at Miesau Army Depot by appointment; Miesau taxpayers can reach her at DSN 481-3733 or 06372-842-3733.

Attorney Explains Flood Claims Procedures

by CPT Mike Gilbertson

Each year at this time, as winter snows melt and give way to spring showers, storage areas and basements are flooded and property is damaged. You should take precautions now by storing your property off of basement floors (e.g., on shelves or wooden pallets). However, if you are a service member or DoD civilian employee who suffers damage from flooding in your on- or off-post quarters, you may be able to receive compensation for your loss through your local military claims office. You have two years from the date of the incident to file your claim, but if you wait the full two years, you may have difficulty substantiating your losses. There are four things you can do that will help ensure your claim is properly adjudicated:



Basement storage areas are prone to flooding. Placing wooden pallets under your stored items can help mitigate your damages.

First - **Mitigation:** claimants have a duty to take all necessary steps to minimize damage. If you have not tried to dry, scrub, and clean your damaged property, please do so. We may not be able to provide compensation for items that could have been salvaged by the claimant.

Second - **Notification:** if you have private insurance coverage, notify your insurance company immediately. Some private renters', homeowners', or personal property insurance will cover flood damage. Before the military claims office can adjudicate a flood claim, regulations require that you first file with your private insurer. Claiming flood damage with your private insurer is not supposed to result in raised premiums.

Third - **Substantiation:** document your damaged property. Gather all the information you can about your personal property (including purchase receipts or credit card transactions), each individual item's value (e.g., current replacement cost from AAFES), and the steps you took to save the property (e.g., cleaning bills), or explain why you did not keep it (e.g., it was covered with mold and presented a health hazard). Include any available photographs of your property before the damage, after the damage, and after your mitigation attempts. Have your unit claims officer, platoon leader, or platoon sergeant inspect your damage and prepare a damage report. The more specific and detailed the report is, the better.

Fourth - **Retention:** do not immediately throw away items that appear to be damaged. Remember, mitigation and substantiation. The more expensive the item, the better it is to keep it until your claim is settled. In some cases, you may be able to place the item on a balcony or on your carport. However, if the item appears to be a health hazard, photograph and document the state of the item and contact the local claims office before you throw it away.

For more information on flood damage claims procedures, contact your local claims office. If you are a Soldier or a Department of the Army Civilian, contact the Kaiserslautern Legal Services Center's Claims Office in Building 3210 on Kleber Kaserne at DSN 483-8414 or Civilian 0631-411-8414 and ask to speak with one of our claims examiners, Ms. Berndt or Ms. Jordan. US Air Force claimants should visit the 86th Air Wing SJA Office's Claims Section in Building 2137 on Ramstein Air Base or call DSN 480-5911 or Civilian 06371-47-5911 and ask to speak with Ms. Kinzinger.

"OUT OF AFRICA" – TROUBLE IN PARADISE

by Joerg Modellmog

After a rough winter, many of us are yearning for some warmer weather. What better idea than to cross the Mediterranean and spend some time in sunny northern Africa, where spring is already in the air... You may have already booked such a vacation, but watching the news and following the latest developments in that part of the world may lead you to reconsider your plans. Can you cancel your booking without incurring any penalties?

If you booked your vacation through a German travel agency or travel organizer, whether on-line or in person, your contract falls under German law, and, under § 651j of the German Civil Code, you may terminate the contract if the trip is "substantially obstructed, jeopardized, or impaired" due to unforeseeable severe circumstances (in legal terminology "*force majeure*").

Given the flexibility of these legal terms, you and your travel organizer could reach different interpretations, depending on whether you are easily scared. Therefore, some objective criteria need to be considered.

Like the US State Department, its German counterpart, the Foreign Ministry, issues travel advisories ("*Sicherheitshinweise*") and, in more severe cases, travel warnings ("*Reisewarnung*"). While the latter term implies a possible threat and potential danger, the first term already indicates a specific risk for travelers in general or in a certain area. But a travel advisory or travel warning is NOT a legal prerequisite to terminating your vacation contract.

You should follow the news coverage about your holiday destination, in order to obtain information on the situation in your designated vacation spot. It is possible that the foreign country is still at peace but there are already signs of unrest in your vacation area, or vice versa. In the end, if you wish to cancel your booking you will have to prove by an objective standard that your vacation would have been "substantially impaired." Reliable news coverage or travel advisories/warnings can be great supporting evidence.

Now, what happens if you are already on vacation when trouble breaks out? First of all, it's important to assess the impact of the unrest. If it happens only in the far-away capital city and you are in a quiet holiday resort area next to the beach, you are not affected, unless the unrest and protests are predicted to spread. Again, the "substantially impaired" standard applies.

If you have to leave because the situation is becoming too dangerous, any extra costs for the return transportation are to be split between you and the travel organizer. Keeping yourself informed about the current news and practicing good situational awareness should help you avoid any trouble in paradise, so that you don't wind up "Out of Africa."

For more information on booking cancellation and related issues, make an appointment to see a Legal Assistance Attorney, by calling the Kaiserslautern Legal Services Center Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848. You should always consult the DoD Foreign Clearance Guide at <https://www.fcg.pentagon.mil> to determine whether country clearance is required for the country you plan to visit.



DRIVING UNDER THE INFLUENCE: BOOZE AND CONSEQUENCES...



A routine DUI stop...

by CPT Josh Zell

It's 0300 hours on Sunday morning. You're sitting in your car, on the side of the road, and the Polizei are shining a flashlight in your face. Hopefully, the good news is you haven't killed or seriously injured anyone. The bad news is you'll be riding the bus to work on Monday, and your bright future in the military just got a lot darker. The reason for all this is that you decided to end a night of drinking downtown by driving yourself home.

You had a plan to leave your car parked overnight. You have the number for every cab company in town in your wallet, along with the numbers for your company commander, your first sergeant, and your squad leader. You stood in formation for two hours on Friday afternoon while your battalion commander told you not to drink and drive, then your company commander told you not to drink and drive, then your platoon leader told you not to drink and drive, then your squad leader told you not to drink and drive. So, after four beers and two shots, you decide to ... get in your car and drive? Seriously?

You may be thinking this article is aimed primarily at 18-year-old Soldiers right out of AIT who can't hold their beer – and you would be wrong. According to an analysis of all DUIs for this jurisdiction in 2009, the average DUI offender was 26 years old, married, with a pay grade of E4 or E5 (before the DUI, that is). The average BAC of those offenders was well over .10. German beers generally contain far more alcohol than American beers, and they come in nice, big glasses. It doesn't take much to send even an experienced drinker past the .05 mark (the legal limit in Germany) and well beyond.

So, for all you married E4s and E5s, imagine explaining this to your spouse: for a BAC of .05 to .079, the folks at the driver's license office will suspend your license for three months. For a BAC of over .08 you win the grand prize of having your license revoked for one year, and you have to take and pass an ASAP course and the ever-popular driver's license exam again before you are eligible for a new license. And that's just the administrative stuff – next comes the real consequences. A BAC of .05 to .099 could result in a permanently-filed GOMOR, which can end even the brightest of careers. A BAC of .10 or higher could earn you the permanently-filed GOMOR plus a field-grade Article 15. In case you're wondering, that field-grade Article 15 could be worth up to 45 days' restriction, 45 days' extra duty, two months of your pay, and your rank.

This is an attempt to get your attention with some cold hard facts, in the hopes that this one message among the thousands against drunk driving will finally get the point across. The reason commanders talk for hours every Friday about not drinking and driving, the reason first sergeants are willing to come drive Soldiers home at 0300, the reason they hand out the numbers for every cab and shuttle service in town, and the reason for this article, is that drinking and driving kills careers and it kills people. I could write several more pages relating the stories of the Soldiers who die tragically every year in alcohol-related accidents. So, next time you're ready to find your way home after a few drinks, think about the rank you wear on your chest, think about your paycheck, feel your own heartbeat, think about your spouse or your family – then ask yourself if it makes sense to drink and drive. Hopefully by then you'll understand the answer.

The Ethics Corner...

by Rick Schwartz

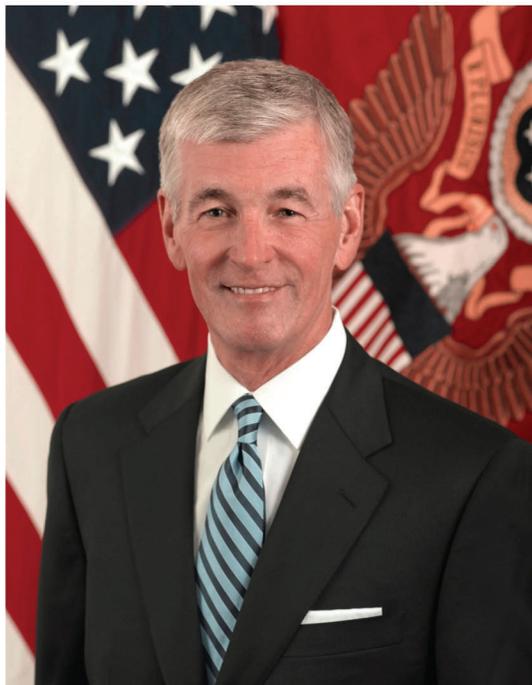
***CONTINUING COMMITMENT TO
HIGHEST ETHICAL STANDARDS***

The Secretary of the Army, following up on a similar message from the Deputy Secretary of Defense, recently issued a memorandum to all Army personnel reiterating that “ethical conduct and ethical decision-making is a high priority for DoD and that ‘all DoD personnel will adhere to the highest ethical standards at all times.’”

In elaborating on why he expects Army leaders, supervisors, and managers to lead by example and promote fundamental ethical values within their commands, the Secretary goes on to say:

The Army is an advocate for American values—integrity, fair play, equal treatment, impartiality and respect—which sustain a strong ethical culture. In conducting the Army’s business, we must hold ourselves accountable for implementing these important ethical values and culture and endeavor to avoid even the slightest appearance of ethical compromise in the performance of our official duties. We must maintain the integrity of DoD and Army business processes and decisions so the public maintains its confidence in the integrity of Army programs and operations. The public expects to be treated fairly and impartially when dealing with the Army, and that is how it will be treated.

To ensure that we meet these public expectations, we have been provided “detailed standards of conduct—laws, principles, and rules—to help us avoid confusion that may arise in the performance of our official duties.” The Secretary charges each of us with “consciously reaffirm[ing] our commitment to compliance with the Principles of Ethical Conduct for Government Officers and Employees (E.O. 12731), the conflict of interest laws, the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. 2635, and the Joint Ethics Regulation (DOD 5500.7-R).”



*The Honorable John McHugh
Secretary of the Army*

The Deputy Secretary of Defense goes on to point out that in addition to compliance with these laws, rules, and regulations, “we must also vigilantly avoid any action that gives rise to public concern about the integrity of DoD business processes and decisions,” since “[h]onorable intentions or personal ethos cannot justify conduct that creates public doubt about the propriety and fairness of our programs and operations.” They both make clear that ethical decision-making is as much about considering the appearance of actions—to peers, subordinates and the public—as it is about determining whether a law or regulation permits that action.

The full text of the Secretary’s memorandum may be found at: <http://ogc.hqda.pentagon.mil/EandF/Documentation/SecArmyEthics2011.pdf>. As always, if you have any question about implementing the ethical decision-making he describes, do not hesitate to contact your organization’s Ethics Counselor.



21st TSC Staff Judge Advocate COL Claes Lewenhaupt presented Mrs. Angelika Stepholt, who serves as a Paralegal Specialist in the 21st TSC OSJA Civil Law Division, with an award for 45 years of dedicated service to the United States Government at the Civilian Length of Service Award Ceremony held at the KCAC on February 16th. Mrs. Stepholt was the longest-serving employee to be recognized at the ceremony, which was hosted by the 21st TSC Commanding General, MG Patricia E. McQuiston. Congratulations to Angie on a major milestone in her career!

WHAT TO BRING TO THE TAX CENTER

by Donald Davis

Our tax preparers need to see certain supporting documents in order to prepare your tax return. Please bring the following with you when you come to the tax center:

- ⇒ Your ID card, and all W-2, 1099, & 1098 forms
- ⇒ Social Security Number cards for spouse and dependents
- ⇒ Copies of last year's federal and state returns (if available)
- ⇒ Blank check or bank card bearing both the routing and account numbers of your checking or savings account
- ⇒ If filing jointly, bring your spouse with you, or bring a general power of attorney or a special power of attorney for filing tax returns
- ⇒ If filing with a spouse who has no social security number, bring your spouse's Individual Taxpayer Identification Number (ITIN)
- ⇒ If you are a landlord, bring complete information on rental income and expenses
- ⇒ If you sold stocks or mutual funds, be sure to bring your basis in the shares sold
- ⇒ If you paid for child care, bring the SSN or EIN of the child care provider and the amount you paid for child care.

Directions to Kleber Kaserne: From Vogelweh, Ramstein, or Landstuhl take the A6 direction Mannheim. On your right you will see a large store called Möbel Martin. Make sure you are in the right lane as you take the Kaiserslautern Ost Ausfahrt (exit). Turn right as you leave the exit ramp and drive downhill until you reach the stop light. Turn right and proceed straight until the next stoplight. Turn left and you will be beside Kleber Kaserne. Follow the perimeter until you come to an open gate. Once you are on post, park in the Shoppette parking lot. Bldg. 3210 is directly across from the Shoppette. Enter Bldg. 3210 from the end door, closest to the Shoppette.

