



21ST TSC LEGAL INFORMER



SUMMER 2022

Farewell Gifts

By John Jakubowski

As PCS season nears it's a good time to think about the ethics rules governing gift-giving. Units frequently want to give a gift to show appreciation to departing Soldiers or civilian employee teammates. But gift-giving can present some challenging legal, as well as personal issues, best avoided by knowing what the Joint Ethics Regulation (JER) permits.

As a general rule, ethics regulations permit an appropriate gift to a superior on special and infrequent occasions. A PCS or retirement is such an occasion.

A gift, or the solicitation of a gift for a superior when there is not an independent justifying basis – like a special infrequent occasion; is improper. Conversely, it is improper to accept a gift from subordinates or from personnel who receive less pay when such a basis does not exist.

Personnel should use their best judgment when deciding whether an individual gift is appropriate for an occasion by assessing the nature of the gift (e.g., a book, a floral arrangement, or a reasonably priced bottle of wine are likely not problematic) as well as the value.

When soliciting contributions for a group gift to a superior, you may not ask for money in excess of \$10. An individual may, however, voluntarily offer to contribute more. The value of group gifts should not exceed \$300 per donating group regardless of the number of individuals contributing. There is no definition in the ethics rules for a “donating group,” but, generally a separate identifiable unit, or discrete organizational entity will likely be deemed a distinct donating group. However, if an individual donates to more than one donation group, then the groups are aggregated for purposes of determining the \$300 limit.

The \$300 limit on group gifts does not include the cost of food, refreshments, and entertainment at an event such as a farewell party. For instance, employees could gather donations for a \$300 group gift, and separately pool their money for food and refreshments. Sound judgment, reasonableness, and avoiding negative appearances should always be a guide.

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The 21st TSC Legal Informer is the newsletter of the 21st Theater Sustainment Command (TSC) Office of the Staff Judge Advocate.

Our mission is to provide outstanding legal support to Soldiers, Civilian Employees and Family Members assigned to or supported by the 21st TSC. Our headquarters is located in Kaiserslautern, Germany. We have branch offices in Baumholder and Stuttgart, Germany, Mons, Belgium, Brunssum, the Netherlands and Camp Bondsteel, Kosovo.

Copies of this and previous newsletters may be found at: <https://intra-net.eur.army.mil/21tsc/>

Farewell Gifts (continued)

A gift to a departing Soldier's or employee's spouse is considered a gift to the departing Soldier or employee and is subject to the rules noted above. However, if there is an independent basis or justification that is not linked to the individual's status as a spouse (for instance, there existed an ongoing close friendship independent of the relationship with the Soldier) then the gift does not have to follow the above rules applicable to gifts to Soldiers or civilian employees.

It is important to note that only Soldiers and Federal employees can contribute to PCS or retirement gifts. Gifts or contributions from contractors or entities off of the installation are not authorized.

Violations of rules dealing with gifts and contributions will likely require the departing Soldier or employee to either return the gift or pay fair market value, an awkward and potentially embarrassing situation for everyone including the command or office. In addition, failure to observe the JER could potentially lead to criminal, civil, or administrative actions. For Soldiers, that could mean potential punishment under the Uniform Code of Military Justice.

Reassignments and retirements are wonderful opportunities to honor teammates and bid farewell. But, know the "left and right limits" and always exercise good judgment and discretion.

German Censuses and Real Estate Property Tax Data Collection

By Joerg Modellmog

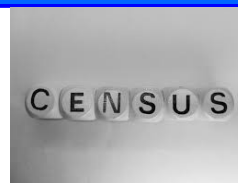
U.S. Forces personnel are exempt from most German registration and census laws. However, if you own any real estate in Germany, you will be required to respond to one special type of German census. There are two German censuses that are occurring this summer: a population census and a real property census.

U.S. Forces personnel are not required to respond to the first but, if they own real property in Germany, are required to respond to the second. In addition, real property owners have to respond to yet another letter from the German tax office concerning data collection related to property tax reassessment.

POPULATION CENSUS Ten percent of the population residing in Germany will be randomly selected and interviewed for the population census ("Haushaltsbefragung"). The participation criteria is based on residency and registration. It aims to gain data on persons and their economic family situation. U.S. Forces personnel with status under the NATO Status of Forces Agreement (SOFA) are exempt from German regulations in the field of registration of residence and aliens control. Therefore, if selected, you are NOT required to participate in the population census, but should inform the interviewer about your SOFA status.

CENSUS CONCERNING REAL PROPERTY AND BUILDINGS The second census deals with real property and buildings ("Befragung zur Gebäude- und Wohnungszählung"). It applies to ALL owners of such property. There is no exception for U.S. Forces personnel with SOFA status. U.S. Forces personnel who own real estate in Germany are obligated to comply. The census questionnaire can be completed online at https://www.zensus2022.de/DE/Home/_inhalt.html. After entering the access code contained in the letter requesting your participation, you can switch the language on the website from German to English. In the alternative, you can talk to the interviewer directly. Failure to comply can ultimately trigger a fine.

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German Census and Real Estate Property Tax Data Collection (continued)

DATA COLLECTION FOR PROERTY TAX RE-ASSESSMENT

If you own real estate in Germany, you are also required to comply with a data collection effort related to property tax. The German States have been required to implement a property tax reform ("Feststellung des Grundsteuerwerts"). Therefore, they enacted new real estate property tax laws.

While property tax continues to be assessed on an annual basis at the level of the German municipality in which the real estate is located, the calculation will now change. This data collection effort is independent of the above-stated census concerning real property and buildings and in addition to it.

ALL real estate owners have to submit a data collection return during the period July 1 through October 31, 2022



In order to allow for a proper assessment real estate owners have to submit electronically a tax return schedule with information on the location of the real estate, its size, the standard land value, the type of building, living space size, and the year of construction, among other things. The new schedule from will be released on July 1, 2022 and needs to be summited no later than October 31, 2022.

Compliance requires registration on the Elster.de online tax platform. That triggers a tax number. Moreover, the Schedule is only available in German and needs to be completed when logged on. Consequently, you may want to consider engaging a German tax consultant to carry out this task on your behalf as these professionals have special access rights to Elster.de.

Based on the information submitted, the finance office will calculate the real estate value and property tax assessment basis to be used by the municipalities in setting the new annual property tax. The new property tax rules will enter into effect as from 1 January 2025 onwards and be based on the valuation date for the property set at 1 January 2022. Additional information can be obtained from the following websites (all in German): <https://www.elster.de/eportal/login/softpse> and <https://grundsteuer.de/steuererklaerung/formulare>.

Fundraising Activities and Ukraine

By John Jakubowski

Many are outraged after witnessing the appalling events orchestrated by Russia in Ukraine. Understandably, there is a desire to want to reach out or assist - to help out in some way. Often, fundraising activities or clothing drives are fashioned as a way to reach out, motivate, and provide a means for others contribute to a "good cause." Such activities are, by and large, admirable. But, they can also be problematic. Laws and regulations seek to provide a roadmap to guide Federal employees and service members through twists and turns associated with issues pertaining to ethics, conflicts, pressures, appearances, and official endorsements.

Before engaging in fundraising activities of any kind on a federal or other military installation, or before seeking contributions from employees or other service members, make sure you coordinate through appropriate command channels, prior to the event.

Fundraising Activities and Ukraine (continued)

In the Army, that usually means ensuring the Office of the Garrison Commander has approved the event and has oversight – normally, through the installation MWR. All fund-raising on Army installations must comply with Army Regulation (AR) 600-29 “Fundraising within the Department of the Army”.

The broad, general rule is that the Army may officially support fundraising authorized by the Combined Federal Campaign (CFC). Activities to raise funds in a Federal facility other than the CFC can be problematic because they may disrupt work, compete with the CFC for donations, promote an abuse of authority by superiors in relation to subordinates, and cause subordinates to contribute in order to seek favor with their supervisors. Thus, there is a legitimate need to regulate and oversee fundraising activities outside of the CFC.

Besides the CFC, there are generally four types of fundraising activities authorized within the Army. These activities are: 1) fundraising approved by the Office of Personnel Management (OPM) for emergency or disaster appeals, 2) fundraising in support of Army Emergency Relief (AER), 3) local fundraising that is scrutinized and approved under AR 600-29, and 4) religious fundraising conducted in accordance with AR 165-1 (such as chapel tithes and offerings).



The focus here is local fundraising drives. Army regulations permit fundraising by organizations composed primarily of Army personnel or their family members (including installation MWR activities as provided for in AR 215-1), among their own members (excluding contractor personnel) and only to benefit welfare funds for their own members. This includes informal funds such as cup and flower funds.

Fundraising for Army museums done in conjunction with private museum organizations are permitted and regulated by other specific Army regulations. It is also permissible to occasionally fundraise in support of on-post private organizations and to conduct other limited fundraising activities to assist those in need as authorized by the Garrison Commander or heads of organizations. Door to door solicitations are not permitted, normally, without an exception to policy approved through command channels.

Most fundraising is admirable and intended to be virtuous. But, it can get complicated on federal installations for reasons noted above. Be careful, and run fundraising events involving federal employees or service members through the chain of command.

Finally, with regard to Ukraine, you should note that President Biden ordered federal assistance to help ease the burdens on people in Europe and refugees around the world impacted by the war in Ukraine. He authorized a SPECIAL CFC SOLICITATION period that opens the CFC donation portal from April 18, 2022 through June 30, 2022 allowing you to support your favorite CFC-participating charity. Find the portal at <https://cfcgiving.opm.org>.

France Increases Speeding Controls

By Joerg Modellmog

France's police are gradually transferring responsibility for roadside speeding radar checks to private companies, which use special vans containing video radar equipment. The idea is to free up time for the police to focus on other tasks, such as checking for alcohol and drugged driving violations.



Thirty-nine private video radar vans are now deployed in the "Grand Est" region of France, which borders Germany. The video radar vans are on the road 24 hours a day 7 days a week and travel as part of normal traffic. The camera automatically detects speeding offenders. The driver of the video radar van does not know how many speeders he or she catches during a trip. Neither the driver nor the private company have access to the photos of the speeders caught and there are no bonuses paid to van drivers or private companies for speeding offenders caught. A tolerance of 10 kilometers per hour is granted up to a speed of 100 kilometers per hour; above 100 kilometers per hour, there is a ten percent tolerance.

Additionally, the French police are still using stationary radar devices and a number of police radar vehicles to check for speeders.

A 2005 decision of the European Union council provides the basis for the enforcement of speeding tickets issued in one EU Member State in other EU Member States. Thus, French speeding fines can be collected in and by Germany. As a result, all U.S. Forces drivers must be vigilant to comply with speed limits throughout Europe.

FRANCE

50



80



Effective July 2018

130



110



21st TSC Legal Offices

Kaiserslautern

Kleber Law Center

Kleber Kaserne, Bldg. 3210

Legal Assistance: DSN 483-8848/6782

Claims: DSN 483-8968

International Law: DSN 483-8854/8859

Trial Defense Service: DSN 483-8397

(Civilian: +49-631-411-XXXX)

Main OSJA

Panzer Kaserne, Bldg. 3004

Administrative Law: DSN 523-0470

Criminal Law: DSN 523-0488

Special Victim Team: 523-0524

(Civilian: +49-0611-143-523-XXXX)

Baumholder Law Center

Smith Barracks, Bldg. 8680

Legal Assistance: DSN 531-2445

(Civilian: +49-611-143-531-XXXX)

Stuttgart Law Center

Kelley Barracks, Bldg. 3312

Legal Assistance: DSN 421-4152

(Civilian: +49-711-729-4152)

Northern Law Center

SHAPE (Mons, Belgium), Bldg. 318

Legal Assistance: DSN 423-4910 or

4868

(Civilian: +32-65-44-4910 or 4868)

Netherlands Law Center

USAG Benelux-Brunssum, Bldg 8

Legal Assistance: DSN 597-4182

(Civilian: +31-45-534-0182)

Kosovo Law Center

Camp Bondsteel, Bldg 1330C

Legal Assistance: DSN 781-4575

(Civilian: +383-49-774-628)



Legal Training



The 21st Theater Sustainment Command Office of the Staff Judge Advocate gathered on 20 May 2022 for training on changes in military justice, which will become effective at the end of next year. COL Tony Kim, the Staff Judge Advocate, led the training. Over 70 personnel from Germany, Belgium, the Netherlands and Kosovo participated.

KAISERSLAUTERN LEGAL ASSISTANCE OFFICE

Directions to Kleber Kaserne: From Vogelweh, Ramstein, or Landstuhl take the Autobahn A6 in the direction of 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 a stop light. Proceed straight ahead at the intersection and follow the priority road as it curves to the right behind the Real store. Enter Kleber Kaserne by the east gate. Turn right after passing the clinic. Drive north until you reach an intersection with 4 stop signs. Bldg. 3210 sits to the left of that intersection. Parking on Kleber Kaserne is difficult—allow a few extra minutes to circulate until you find an open spot. Enter Bldg. 3210 from the door on the east end of the building.

