



21ST TSC LEGAL INFORMER



SPRING 2019

Gifts to the Boss

By J. Michael Langham, 21st TSC Ethics Counselor

PCS season is fast approaching. As senior personnel prepare to depart, many units are considering giving them gifts before they go. Whether you are the departing boss or one of the subordinates tasked with gathering funds for a gift for the boss, you need to be aware of the rules governing gifts between employees.



As a general rule, a subordinate employee may not give a gift to an official superior, make a donation toward a gift for an official superior, or solicit a contribution from another employee for a gift to either his own or the

other employee's official superior. Also as a general rule, a higher-paid employee may not accept a gift from an employee receiving less pay unless the two are not in a subordinate-official superior relationship and there is a personal relationship between the two employees that would justify the gift.

As with many general rules, there are exceptions. One of the exceptions to these general rules allows gifts on occasions that terminate the subordinate-official superior relationship, such as retirement, resignation, or transfer. The following rules apply to gifts given on such occasions.

1. \$300 limit. The gift or gifts may not have a market value of more than \$300.

2. Donating groups. Donating groups may not pool their money to buy a gift over the \$300 limit. For example, it is not permissible for two donating groups each with \$250 to combine their money and buy a \$500 gift.



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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, and Schinnen, the Netherlands.

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

Gifts Between Employees (continued)

3. Gifts that come in sets. As noted above, donating groups may not pool their funds and buy a single gift that has a market value over \$300. This includes splitting an item normally sold as a set, such as golf clubs or china, into individual gifts to be purchased and presented by different donating groups.

4. Contributing to more than one donating group. The value of gifts from two or more donating groups shall be aggregated and considered to be from a single donating group if the employee to whom the gift is offered knows or has reason to know that a subordinate is a member of more than one group. For example, if a subordinate contributes to two different donating groups, the departing employee knows or has reason to know of that fact, and each group purchases a \$175 gift, the departing employee would not be able to accept both, because the value would be more than \$300. A plaque or other item that has little intrinsic value and is intended primarily for presentation is excluded from the definition of the word “gift.” As a result, the cost of such a plaque is not included when determining the value of gift or gifts from a donating group.

5. Soliciting contributions for a group gift. Government employees may solicit other government employees for a contribution to a group gift, and the solicitation may include a suggested dollar amount. If the solicitation includes a suggested amount, the suggested amount may not exceed \$10, and the solicitation must include a statement that the solicited employee is free to contribute less or nothing at all. It should also state that contributions are purely voluntary, and it should not contain any language implying a contribution is required, expected, or is “the right thing to do.” Senior personnel may not pressure subordinates or junior personnel to make contributions. Government employees may not solicit contributions from prohibited sources (including DoD contractors or contractor employees). Finally, an employee may contribute more than the suggested amount for a gift.

6. Gift to a departing employee’s spouse. If a gift is given to a government employee’s spouse simply because he or she is married to the departing employee, the gift is considered to be a gift to the employee. Such a gift may be accepted only in accordance with the acceptance rules discussed in this article. If there is an independent basis for the gift; e.g., friendship or a professional relationship, the gift is not considered to be a gift to the departing employee, and the spouse may accept it.

7. Gift certificates. Depending on the type, a gift certificate may not be allowed under federal ethics rules. Consult an ethics counselor for details.

8. Appropriated funds may not be used to purchase gifts or plaques for departing employees. This includes incorporating unit coins or other items purchased with appropriated funds into plaques or similar items.

If you have questions about gifts, contact your local ethics advisor. In the 21st TSC, your ethics advisor can be reached through the Administrative Law Division of your local legal office.



Final Rest in Germany

By Christian Geier

Nobody wants to think about death and its consequences while alive and well. However, it is best to be prepared if the unthinkable happens. This is especially true in Germany, where Americans are unfamiliar with the rules and procedures.

For U.S. forces personnel who wish to be buried in the United States when they die, the procedures are relatively simple. The local military Casualty Assistance Center can generally provide advice and assistance to the deceased's loved ones. The U.S. Army Regional Mortuary, located on the grounds of the Landstuhl Regional Medical Center, will usually assist with the transportation of the deceased's remains back to the United States and the funeral and burial arrangements. However, for Americans who want to be buried in Germany when they die, the procedures are completely different. Their loved ones will need to follow German laws.

One of the obvious consequences when someone dies is the need for a funeral. Funerals held outside of a US military installation must comply with German regulations. As with so many other things, funerals are strictly regulated in Germany. Funerals are subject to legislation by each of the sixteen German states. Kaiserslautern is located in the German state of Rheinland-Pfalz; funerals in this state are regulated by its Funeral Act (Bestattungsgesetz).



Under the Rheinland-Pfalz Funeral Act, the wishes of the deceased determine the type and place of the funeral. The deceased's heirs will be primarily responsible for making the funeral arrangements. If a will cannot be found or the heirs cannot be determined in time or are otherwise unable to fulfill their obligations in time, the responsibilities fall on legally competent relatives in the following order: (1) spouse or registered partner; (2) children; (3) parents; (4) custodian; (5) siblings; (6) grandparents; and (7) grandchildren.

Whenever a person dies, an initial postmortem medical examination has to be performed by a licensed physician without delay to determine death, time of death, type of death and cause of death. The German Supplement to the NATO Status of Forces Agreement allows US physicians to conduct this examination for US forces personnel.

Some of you may remember American movies in which one of the characters keeps an urn with the remains of his parents on the mantle of his fireplace. This is not an option in Germany and neither are some other ways you may be thinking of, such as scattering the ashes in a river or in the woods.

Final Rest in Germany (continued)

The Rheinland-Pfalz Funeral Act mandates that every corpse receive a funeral and provides the definition of what a funeral is. There are two options: burial or cremation. Burial (Erdbestattung) is defined as burying a corpse that is contained in a casket in a cemetery. Cremation (Feuerbestattung) is defined as the burning of a corpse and interment of the ashes at a cemetery. For both forms the use of cemetery grounds is mandatory in Rheinland-Pfalz.

Off-post funerals in Rheinland-Pfalz also require a permit that will be issued by the local Department of Public Safety and Order at your district or city administration office. Under the Rheinland-Pfalz Funeral Act, a funeral will not be authorized until at least 48 hours have passed since the time of death. Also, the burial or the cremation has to be completed within 7 days from the time of death, but waivers for this deadline are usually available from the local authorities if this does not pose a risk to public health and safety. Embalming the remains of deceased persons is not generally authorized in Germany.

Of course, this wouldn't be Germany, if we did not have a definition for cemeteries as well. The most common one is the local municipal cemetery. It is mandatory for municipalities to provide cemetery grounds. A local ordinance will provide guidance on who may be laid to rest in the specific cemetery, the design and size of permissible headstones and the duration of the undisturbed peace of the dead. Unlike cemeteries in the United States, families lease German grave sites for a specific period of time, usually from 15 to 30 years. If a family is unable or unavailable to renew the lease, the grave's contents are removed and the grave site reverts to state ownership and may be reused.

A relatively new but trending form of funeral is the forest cemetery (Friedwald or Waldbestattung), where defined areas of a forest have been dedicated to be cemetery grounds. A forest cemetery has no traditional gravesites, but a certain number of decomposable urns are buried around the roots of a tree. Some are completely anonymous, some may allow for a plaque on or near the tree. This depends on the terms and conditions or local ordinance for the specific forest cemetery.



While it is certainly possible to walk through the jungle of regulations and permits yourself and make all arrangements without professional help, it would be very uncommon. Most Germans rely on the services of a funeral home (Bestattungsinstitut) which will apply for all required permits and make all the necessary arrangements. Some of them even offer prepaid arrangements with the living so that when they die everything is taken care of. As mentioned above, the Casualty Assistance Center and U.S. Army Regional Mortuary can also provide assistance and advice, even if the burial will occur in Germany.

The use of funeral home services is strongly recommend if you want to pursue a funeral here in Germany. But as always when dealing with someone making a living by selling you goods and services, you need to be careful to stay within your budget. Funerals can be very expensive and the sky is the limit. Don't be ashamed to ask for budget-friendly alternatives. Funeral homes can accommodate most budgets, even though they may show you the more fancy (and costly) alternatives first.

This article is only meant as a general overview of what to observe when it comes to a funeral in Germany. It cannot replace the individual advice of a legal professional. If you have any specific questions, please contact your local legal assistance office.

Vignettes in Europe

American personnel who travel in Europe need to be familiar with the requirement to purchase a special toll sticker (called a “vignette”). The vignette is required to travel on the highways of a number of countries, including Austria, Bulgaria, the Czech Republic, Hungary, Latvia, Moldova, Romania, Slovakia, Slovenia and Switzerland. Failure to purchase the vignette in advance can result in hefty fines if you are caught.

In most countries where they are required, the vignette consists of a small, colored sticker affixed to a vehicle windshield. However, in Bulgaria, Hungary, Romania and Slovakia these stickers have been superseded by electronic vignettes. In Moldova and Romania vignettes are required for the use of any road, and in Bulgaria are required for the use of any road outside built-up areas. In the other countries vignettes are required only for the use of motorways and expressways.



Czech Republic Vignette

In Austria, you can buy a vignette good for ten days. Currently, the ten-day sticker for a passenger car costs 9.20 Euros (roughly 10 US dollars). You can purchase an Austrian vignette at gas stations, tobacco stores and motorway rest stops near the border before reaching Austria. Alternatively, you can purchase an Austrian digital vignette. Unlike the analogue vignette, the digital version is tied to your license plate. More information is available at <https://www.asfinag.at/toll/vignette/>.

A Swiss motorway vignette for a passenger car costs 40 Swiss Francs (roughly equivalent to 40 US dollars). The Swiss vignette is valid for a calendar year, regardless of when you purchase it. You may use it for 14 months: from December 1 of the previous year to January 31 of the next year. Vignettes can be purchased at the Swiss border or online. More information is available at the Swiss website: <https://www.ch.ch/en/swiss-motorway-sticker>.

Vignettes are constructed in such a way that detaching and reattaching them is impossible without destruction, ensuring that they cannot be used on more than one vehicle. You must affix the vignette to the inside of the windshield of your vehicle in the spot designated in the instructions.



Vignettes in Switzerland

The requirement to purchase a vignette also applies to rental vehicles used to travel on official duty in these countries. This includes rental vehicles which accompany a U.S. vehicle convoy. While tactical military vehicles in a convoy may be exempted from the requirement to purchase a vignette, civilian and rental vehicles accompanying the convoy generally are NOT. Official duty travel will, of course, also require a diplomatic clearance obtained through the appropriate U.S. Embassy.



Austrian Vignette

In Austria, you can buy a vignette good for ten days. Currently, the ten-day sticker for a passenger car costs 9.20 Euros (roughly 10 US dollars). You can purchase an Austrian vignette at gas stations, tobacco stores and motorway rest stops near the border before reaching Austria. Alternatively, you can purchase an Austrian digital vignette. Unlike the analogue vignette, the digital version is tied to your license plate. More information is available at <https://www.asfinag.at/toll/vignette/>.



Vignette Road Sign In Hungary

Funded Legal Education Program

Every year the Army Office of The Judge Advocate General in Washington, D.C. accepts applications for the Army's Funded Legal Education Program. Under this program, the Army sends active duty commissioned officers to law school at government expense. Selected officers will remain on active duty while attending law school.

Interested officers should review the Chapter 10 of Army Regulation 27-1 to determine eligibility. Information on the program can be accessed through the Army Judge Advocate Recruiting Office web site at <https://www.jagcnet.army.mil/JARO#>.

The Army Funded Legal Education Program is open to commissioned officers in the rank of second lieutenant through captain.

Applicants must have at least two, but not more than six, years of total active Federal service at the time legal training begins. Eligibility is governed by statute (10 U.S.C. section 2004) and is non-waivable.

Application procedures are detailed each year through a MILPER message. Interested officers must complete an application and interview with a Staff Judge Advocate at their installation. Interested officers should have taken or be scheduled to take the Law School Admission Test at the time of application. The application deadline is normally in the fall.

Interested officers should contact their local Staff Judge Advocate for further information. The 21st Theater Sustainment Command Office of the Staff Judge Advocate is located in Building 3004 on Panzer Kaserne in Kaiserslautern. You can reach the office at DSN 523-0489 or civilian 0611-143-523-0489.



21st TSC Legal Offices

Kaiserslautern

Kleber Kaserne, Bldg. 3210

Legal Assistance: DSN 483-8848/6782

Tax Assistance: DSN 483-8848

Claims: DSN 483-8968

International Law: DSN 483-8854/8859

Trial Defense Service: DSN 483-8397

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

Panzer Kaserne, Bldg. 3004

Administrative Law: DSN 523-0470

Criminal Law: DSN 523-0488

Special Victim Team: 523-0526

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

Baumholder Law Center

Smith Barracks, Bldg. 8222

Legal Assistance: DSN 531-2445

Trial Defense Service: DSN 531-2463

(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

Schinnen, Bldg. 37

Legal Assistance: DSN 360-7688

(Civilian: +31-464-43-7688)



Tax Centers Open



The 21st TSC tax centers opened for business earlier this year. From the left are pictures of the openings of the Stuttgart Tax Center and Belgium Tax Center on 28 January, the Kaiserslautern Tax Center on 5 February (top right) and the Baumholder Tax Center on 7 February. Most tax centers will remain open until late April—contact your local legal office for more information.

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.

