Construction work by Foreign Craftsmen in Germany

Notification of Services to the Chamber of Skilled Crafts

Skilled-crafts businesses from the EU wishing to pursue a regulated profession in Germany on a temporary basis only are obliged to first register with the Chamber of Skilled Crafts (notification of services). Registration should be carried out at the Chamber of Skilled Crafts in the district in which the profession will initially be pursued.
Application HWK Lübeck
Application HWK Flensburg

The Chamber of Skilled Crafts will review the qualifications of the owner of the business or the operations manager before issuing an EU certificate. This certificate serves as proof for foreign businesses that they may pursue their regulated profession in Germany and therefore must be available for inspection at all times. The certificate is valid for 12 months, after which time it must be extended.

The certificate is generally subject to a charge. The fee charged by the Chambers of Skilled Crafts Lübeck and Flensburg is EUR 102. There is no charge for extending the certificate when the notification occurs in due time.

The owner of the business or the operations manager must be suitably qualified in order to obtain an EU-certificate. How this can be proven depends on whether or not the profession is regulated (requires a licence) in your country of origin.

If the profession is regulated in your country of origin, please provide proof that you are qualified in your country of origin by submitting the following documents:
- Application form
- Copy of applicant’s document of identity
- Excerpt from Commercial Register
- EU-certificate
- Proof of licensing in country of origin

If the profession is not regulated in your country of origin, please provide proof that you completed formal vocational training. If you are unable to provide such proof, please provide proof that you gained at least one year´s work experience in this profession within the last ten years by submitting the following documents:
- Application form
- Copy of applicant’s document of identity
- Excerpt from Commercial Register
- EU-certificate
- Copy of apprenticeship diploma
- Alternative proof of your work experience

All documents submitted must consist of certified copies together with certified German translations.

Proof of qualification for activities involving particular risks

Special permits or qualifications are required for certain professions.
Gas, Water, Electricity: Entry in the Directory of Plumbers and Electricians of the respective supplier is obligatory to carry out work on the gas network, water and sewage systems and the power supply network. A certificate issued by the Chamber of Skilled Crafts must be submitted.

Industrial Accidents: Personalised Certificates of Competence are required for certain activities, e.g., driving industrial trucks. Information can be obtained from the competent Employers' Liability Insurance Association (Berufsgenossenschaft).

Working with hazardous materials: Working with hazardous materials often requires a personal certificate confirming specialist knowledge (e.g., refrigerants) or a permit (e.g., asbestos). You should contact the state Authority for Occupational Health and Safety (Arbeitsschutzbehörde) in the respective federal state.

Customs Reporting Obligation (Minimum Wage Notification Portal)

In some branches you are obliged to register the posting of employees to Germany. This applies, for example, to construction services. The reporting obligation does not apply to self-employed sole-proprietors.
Customs Reporting Obligation

Minimum Wages

A statutory minimum hourly wage of EUR 12.82 applies in Germany. If the activity falls within the scope of a universally applicable collective agreement, the (higher) wage plus allowances must be paid. This applies to employees posted to Germany. In addition, the employer has to pay for travel expenses, food and lodging.
Statutory Minimum Wage
Industry specific minimum wage

When the effective duration of a posting exceeds 12 months, can be extended to 18 months, German terms and conditions of employment will be applicable.

Paid Leave Procedure

All companies in the construction industry, including foreign companies, are obliged to contribute to the SOKA-BAU Paid Leave Fund. Exception: You can apply for an exemption if you already pay into a foreign paid-leave fund. Self-employed sole-proprietors are not required to pay into the funds.

Social Insurance

Persons posted within the EU/EEA Member States remain socially insured in their country of origin for up to 24 months. The social insurance coverage is documented by the A1 Posting Certificate which is recognised throughout Europe. Self-employed sole-proprietors also require an A1 Certificate.
Competent bodies for A1 certification in Europe

Retention of Documentation on Construction Sites

The following German-language documents must be retained on construction sites:

- Identity document
- Timesheets specifying the start, end and duration of the daily working hours
- Timesheets for work that qualifies for allowances
- Contract of Employment/Job description
- Wage slips and proof of payment of wages
- A1 Social Insurance Certificate

Right of Residence

An identity card suffices for EU/EEA nationals to enter Germany. A visa, residence permit or work permit is not required. This also applies for nationals of Switzerland. If you remain in Germany for a continuous period of more than three months, you are obliged to register with the Citizens Office responsible for the district in which you reside. The three-month deadline starts anew on re-entry.

Non EU-nationals from Bosnia and Herzegovina, Macedonia, Serbia and Turkey can temporarily be posted to Germany within the scope of services quotas. Application for work permits have to be admitted for every posted worker.
Merkblatt 16 Agentur für Arbeit

Value Added Tax

The Reverse Charge Procedure, pursuant to which the liability to pay VAT is transferred to the German customer, applies to commercial clients. The foreign contractor issues a net invoice including the following reference “Steuerschuldner ist der Leistungsempfänger gemäß § 13b UStG” (German Turnover Tax Act). The German client is responsible for the payment of tax.

Please note: If you engage a foreign subcontractor, you are obliged to register to pay VAT. In the case of private clients, you are obliged to register with the competent German tax authority, charge German Value Added Tax and pay the tax to the tax authority.
Value Added Tax Registration

Income Tax and Corporation Tax Liability

The applicable Double Taxation Treaty (DBA) regulates when the income tax liability and corporation tax liability shifts to Germany. If employees are posted to Germany for a period of less than 183 days in a year the income tax liability remains in the country of origin. Other rules apply to temporary employment. Please note: In Germany, the procedure for determining whether one is dealing with a service contract or temporary employment is extremely strict.

In relation to construction work the corporation tax liability only shifts to Germany in the case of a permanent establishment. If the construction work exceeds 12 months from the start until acceptance thereof, a permanent establishment in Germany exists and subsequently the earnings of the permanent establishment and the employees are retroactively subject to taxation in Germany.

Building Tax Deduction (Construction Industry Scheme)

Commercial clients of companies providing construction services are obliged to retain 15% of the invoiced amount as a building tax deduction, which they are obliged to transfer to the competent German tax authority. If the foreign service provider has no tax liability, the tax will be refunded on application. The tax will otherwise be offset against the tax liability.

Exception: You have a Certificate of Exemption

Advice

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