



STATUS OF FORCES AGREEMENTS (SOFAs) OVERSEAS:

A Portability Roadmap for Military Spouses and Their Employers

Deborah A. Bradbard, Ph.D. | Amber Pitoniak, LMSW, B.S. | Rosalinda Maury, M.S. | Rachel Linsner, M.S.



About the Authors

DEBORAH BRADBARD, PH.D.

Deborah Bradbard is a Senior Research Associate at IVMF at Syracuse University. She is a psychologist whose research focuses on veteran and military spouse employment, military financial readiness, and military transition. She served as the Director of Research and Policy at Blue Star Families and was the primary author of the 2013 and 2014 Blue Star Families Annual Lifestyle Survey. Her work on military families and military financial literacy have been cited by the White House, members of Congress, CNN, the Center for Deployment Psychology, and the Defense Center of Excellence (DCoE). Dr. Bradbard previously worked as a consultant at Booz Allen Hamilton developing products focused on military mental health issues including PTSD, suicide, substance abuse, and traumatic brain injury. Dr. Bradbard received her Ph.D. in Counseling Psychology from Auburn University.

AMBER PITONIAK, B.S., LMSW

Amber Pitoniak is a Research Assistant at IVMF at Syracuse University. She received a Bachelor of Science in both Psychology and Neuroscience and a Master's degree in Social Work from Syracuse University. She works as a Clinical Research Coordinator for CNY Research Corporation at the Syracuse VA Medical Center. Pitoniak has served as a member of Syracuse University's Moral Injury Project for the past four years and volunteers with the Service to the Armed Forces division of the American Red Cross of Central New York.

ROSALINDA MAURY, M.S.

Rosalinda Maury is the Director of Applied Research and Analytics at IVMF at Syracuse University. She has worked on numerous projects, including the effects of personal financial mismanagement behaviors, training needs assessment, workload assessment, job and occupational analysis, equal pay for equal work, job compatibility assessment, and factors effecting military spouse and veteran employment. She has extensive experience in survey development and worldwide data collection and has been responsible for developing, implementing, and managing surveys for data collection on the large and small scale, for organizations and government sectors. Her work has been featured in numerous publications and she has presented at various professional conferences. Maury received her Master of Science in Psychology from the University of Texas at San Antonio.

RACHEL LINSNER, M.S.

Rachel Linsner is a Doctoral Research Fellow at IVMF at Syracuse University. She works on survey development, data analysis, and writing for research related to military and veteran families, military spouse employment, veteran transition, and civil-military relations issues. Previously, she worked as a research intern at the Center for the Study of Traumatic Stress (CSTS), a part of the Department of Psychiatry at the Uniformed Services University of the Health Sciences. Linsner is a Ph.D. candidate in the Department of Human Development and Family Science at Syracuse University. She holds a master's degree in Child and Family Studies from Syracuse University.

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About the “Force Behind the Force” Series

The Institute for Veterans and Military Families (IVMF), as part of its broader employment research efforts, and with the generous financial support and collaboration of Prudential Financial Inc., continues to explore the topic of military spouse employment. The “Employing Military Spouses -The Force Behind the Force” Series sponsored by Prudential Financial Inc. outlines the business case for hiring military spouses and provides guidance to companies and organizations on how to recruit, hire, and retain military spouse employees. The current work focuses exclusively on the impact of Status of Forces Agreements (SOFAs) on military spouses and employers.

THE NEWEST SUITE OF PRODUCTS IN THE “FORCE BEHIND THE FORCE” SERIES INCLUDES:



- [Defining and Enabling Job Portability Employment Solutions for Military Spouses](#) – a research brief that defines career portability and provides recommendations for employers.
- [Understanding Status of Forces Agreements \(SOFA\): Removing Barriers to Military Spouse Employment Overseas](#) – this research brief focuses on helping military spouses and employers better understand the issues related to SOFA as well as the barriers it presents to both finding employment and working overseas.
- [Helping Military Spouses Find Careers that Move with Them](#)– this research brief examines the relevant issues that apply to job portability, barriers to sustained employment related to relocation and job portability, and responsive portability solutions to support military spouse employees and their employers

PAST “FORCE BEHIND THE FORCE” PAPERS IN THIS SERIES INCLUDED A SUITE OF RESEARCH PRODUCTS FOR HUMAN RESOURCE PROFESSIONALS TO USE TO LEARN MORE ABOUT RECRUITING AND HIRING MILITARY SPOUSES.



- [A Business Case for Leveraging Military Spouse Employment](#) - this research paper outlines attributes and characteristics of military spouses relevant to the business environment. Military spouses bring attributes such as resiliency, adaptability, education, resourcefulness, team-orientation, entrepreneurial spirit, and social awareness, all of which contribute to successful performance in competitive business environments.
- [Case Profiles of Successful Military Spouses Balancing Employment, Service, and Family](#) - this research paper includes the personal experiences of eight dynamic military spouses selected to discuss their personal experiences surrounding employment during their time affiliated with the military. The case studies highlight the strategies many military spouses use to maintain their employment. This report describes military lifestyle barriers that impact military spouse resumes, and how those barriers impact employers’ perceptions about their potential fit for a position. This report provides recommendations to help Human Resource (HR) professionals better assess military spouse candidates.
- [Training, Leveraging, and Communicating about Military Spouses as Employees](#) - this training guide is designed for hiring managers and human resource professionals interested in hiring military spouses. This tool illustrates the unique strengths and challenges that military spouses bring to the workforce and provides key insights and ways to train, leverage talent, and communicate when employing military spouses.

PART I

STATUS OF FORCES AGREEMENTS (SOFAs): OVERVIEW, CHALLENGES, AND BARRIERS

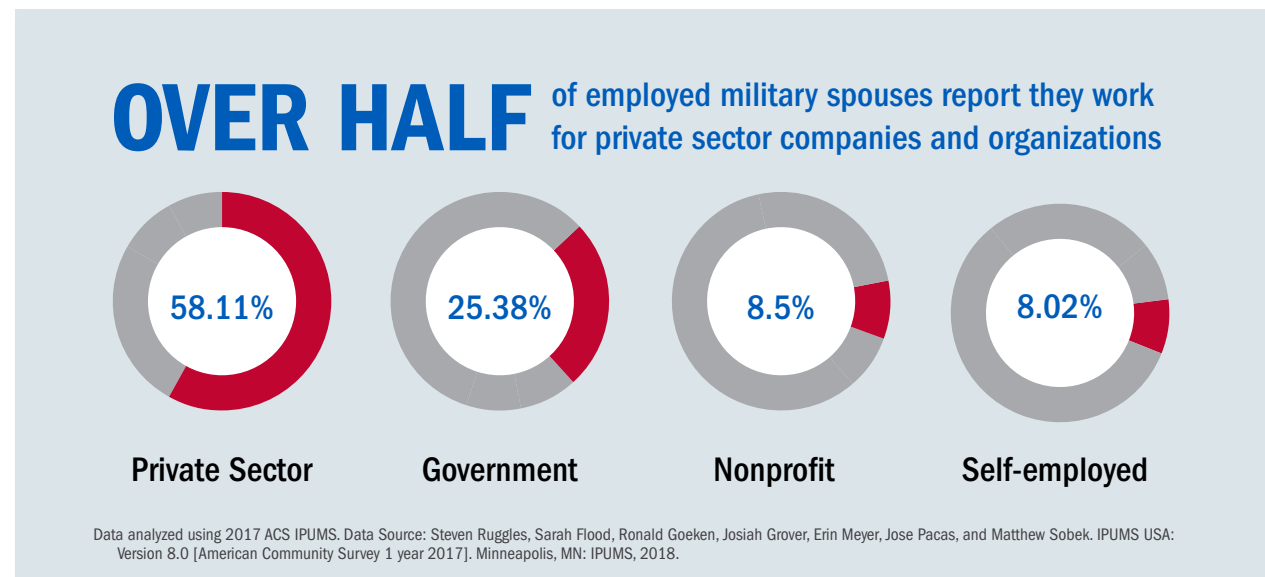
OVERVIEW

Emotional well-being, financial-readiness, and economic opportunity are among the many positive consequences of sustained employment. Within military families, military spouse employment also positively impacts service member retention.¹ Like their civilian counterparts, military spouses often want and need to work. But, unlike most civilians, military spouses may relocate overseas where their employment options are influenced by diplomatic agreements called Status of Forces Agreements (SOFAs). SOFAs apply to overseas employment, but they do not necessarily enable it or describe in detail how spouses or employers can comply with specific employment related requirements (most notably, payment of taxes) that vary across locations. As a result, SOFAs may present unanticipated and sometimes insurmountable barriers to military spouses who wish to work after relocating overseas.²

Military spouses lack guidance related to SOFAs and so do their employers. According to the U.S. Census, 58 percent of employed military spouses work in the private sector.³ In theory, it is advantageous for employers to retain high-performing employees when they relocate overseas. But the guidance on remote employment as it pertains to military spouses covered under a SOFA is limited. When guidance is available, it is unclear how it should be applied to increasingly common overseas employment arrangements, particularly remote employment. Moreover, employers must weigh the costs and benefits of retaining their military spouse employees. For example, lack of compliance with tax and payroll laws can carry serious financial and legal consequences for employers. Instead of encouraging retention and seamless work opportunities for military spouses, these factors discourage it.

The task of untangling complicated, conflicting or ambiguous employment related SOFA requirements, most of which are unique to specific locations and employment arrangements, is problematic for several reasons. These complexities (1) diminish the employment opportunities for spouses who may have difficulty understanding how to obtain or pursue employment while maintaining their protected status under SOFA and (2) they may inadvertently discourage or disincentivize employers who might otherwise choose to retain their spouse employees after an overseas relocation.

2017 Active Duty Military Spouses Employment by Sector



WHAT IS A STATUS OF FORCES AGREEMENT (SOFA)?⁴

As noted previously, SOFAs are diplomatic agreements between countries that establish the legal status, rights, and privileges of U.S. personnel in a foreign nation.⁵ The U.S. government's negotiation of SOFAs are led by the Department of State (DoS) while the Department of Defense (DoD) cooperates with the DoS in implementing them.⁶ SOFAs normally apply to uniformed service members in the host country, but also to the civilian employees of Department of Defense, and (with some limitations) to their dependents.⁷ SOFAs differ in their specificity, complexity, and transparency, but their primary purpose is to address the safety of U.S. military personnel overseas. In fact, the criminal jurisdiction provisions are the highest priority of SOFAs for the DoD. This is notable because certain types of employment while available to military spouses may also result in a loss of SOFA protections. The consequences differ depending on the location but these might include an increased tax burden, loss of U.S. legal protections, or the loss of freedom to enter and exit the host country.¹ SOFAs also address some employment issues as well as a variety of other important issues related to living overseas. For example, SOFA protections include mail privileges, tax relief, and residency, to name a few.

SOFA AND MILITARY SPOUSE EMPLOYMENT OVERSEAS

The information about SOFA as related to military spouse employment is quite limited. Finding accurate information about overseas employment is time-consuming and requires patience and perseverance on the part of spouses and employers. Some key themes related to SOFA were noted while gathering information for this guide. These themes were collected from various sources including focus groups of military spouses, interviews with employers, and information gathered from location-specific subject-matter experts:

- ▶ Spouses who are employed on a military installation generally (some exceptions do apply) receive SOFA protections (e.g., ability to enter and exit the country).ⁱⁱ
- ▶ The consequences of losing SOFA protections aren't always clear. Spouses may be reluctant to pursue the full range of employment options in a given location simply because the consequences are ambiguous or unknown.
- ▶ Remote work is a potentially attractive employment option for spouses residing overseas because it enables long-term stable employment regardless of location. However, remote work for a U.S. employer while residing overseas isn't generally addressed by SOFAs or other guidance, decreasing the likelihood that employers will allow it.
- ▶ Time and effort are important but often overlooked factors related to accessing information about overseas employment. If the time it takes to access reliable information exceeds the time in given location, spouses will stop looking for employment and employers will not offer it.
- ▶ Complicated, expensive, or ambiguous payroll laws or excessive tax burdens while overseas may discourage U.S.-based employers from enabling portable or remote employment opportunities for their existing U.S. employees.⁹

When military dependents reside overseas as a result of military orders, they need specific paperwork to show they are covered under a SOFA. Usually this paperwork includes a "no-fee" passport that can be obtained prior to relocation. The passport also is accompanied by what was formerly known as a "SOFA stamp" but is now a piece of paper, card, or certificate. This SOFA paperwork functions like a VISA by granting the holder certain protections such as official permission to enter, leave, or stay in a country for a specified time period. The exact function of the SOFA paperwork depends on the actual location-specific SOFA, but, in general, it outlines certain rights and protections that apply to service members and families while assigned by the military to a particular country.⁸

ⁱ Some of the employment options that could lead to a loss of SOFA protections include working on the foreign economy, running a home-based business, or telecommuting with a U.S. company overseas in certain countries.

ⁱⁱ In general, military spouses working on a military installation are protected under SOFA; however, this does not imply that only those who work on an installation are SOFA protected. There are circumstances in which a spouse may work off a military installation and retain their SOFA status. For more information see Table 2: Summary of SOFA Related Employment Requirements by Country and Table 3: Summary of Work-related Requirements by Type of Employment Activity.



- ▶ Not all spouses wish to work on a military installation, and the employment opportunities may be limited for those who do.
- ▶ There is no single point of contact for information about SOFAs and employment; spouses and employers may seek information from a variety of individuals and continue to have unanswered questions. There is no clarity as to who has the requisite expertise to provide accurate information in a given location.
- ▶ Military spouses who work off the military installation, work remotely, or who run their own business can, in some instances, experience a loss of SOFA protections which may include unwanted tax implications (e.g., paying taxes in the host country in addition to U.S. taxes) or loss of certain court or legal protections, to name a few. Spouses may be forced to limit their employment options in order to retain their SOFA protections.

DEVELOPING A SOFA ROADMAP FOR MILITARY SPOUSES AND EMPLOYERS

To gain insight into employment issues related to SOFA, the IVMF surveyed military spouses who had been stationed overseas while pursuing employment. Military spouses reported several employment and SOFA-related issues.¹⁰ Of those spouses surveyed who had reported they had previously been stationed overseas and were familiar with the term SOFA:¹¹

- ▶ 60% reported their employers were able to provide information about working overseas.
- ▶ 50% reported they had experienced difficulty obtaining SOFA related information.
- ▶ 42% reported SOFA [negatively] impacted their employment options overseas.

The purpose of this project was to identify some of the key challenges for spouses and employers related to overseas employment and SOFA and provide a step-by-step roadmap which guidance on how those challenges can be addressed. This paper or roadmap focuses primarily on SOFA and its impact on military spouses and employers as they relate to U.S.-based private sector employers. Though it is not the focus of this project, we acknowledge that military spouse entrepreneurs, contractors, and spouses who work for foreign based companies also encounter SOFA-related issues.

THIS ROADMAP IS: focused on U.S. employers working with existing or new employees who are (1) military dependents and (2) who will be covered under an existing SOFA (within a host country), and (3) are transferring overseas as the result of a permanent change of station (PCS). This guide provides general information about SOFA and steps that employees and employers of U.S.-based companies can take to prepare for an overseas relocation.

THIS ROADMAP IS NOT: a complete overview of all the SOFA-related scenarios facing military spouses and dependents in all overseas locations. This roadmap also is not intended to cover in-depth all the variations in types of employment for military spouses outside the continental United States (OCONUS) such as running a private business in a host nation, working as contract employee, or choosing to work on a foreign economyⁱⁱⁱ without SOFA status protections. Finally, this paper does not address military spouses who prefer to work on the foreign economy with or without SOFA protections.

PRIMARY EMPLOYERS AND INDIVIDUALS ADDRESSED IN THIS PAPER:

- ▶ U.S.-based companies employing SOFA protected individuals working in select overseas locations
- ▶ U.S.-based employees and employers seeking guidance about remote employment overseas

EMPLOYERS AND INDIVIDUALS NOT PRIMARILY ADDRESSED IN THIS PAPER:

- ▶ Foreign Companies or their employees
- ▶ U.S. self-employed individuals working on or off an installation or on the foreign economy

ⁱⁱⁱ In general, this refers to a non-citizen working for a company or organization or self-employed in another country where local laws and taxes apply (e.g., a U.S. citizen working for a German company or running a home-based business while overseas in Germany). While having SOFA status may reduce one's tax burden or limit tax requirements (if applicable), working on the foreign economy sometimes poses a risk of losing one's SOFA status. The types of employment scenarios that could potentially trigger a loss of SOFA protections vary country to country.

STATUS OF FORCES AGREEMENTS (SOFAS): LIMITATIONS IMPACTING MILITARY SPOUSE EMPLOYMENT OVERSEAS^{iv}

Due to the myriad of Status of Forces Agreement (SOFA) complexities that cannot be fully addressed in a single paper, this roadmap focuses primarily on U.S.-based companies whose employees fall under a SOFA while working remotely overseas. Because information on this specific employment arrangement is limited, the goal is to outline some of the basic steps and resources military spouses and their U.S.-based employers can utilize to help them navigate SOFAs when relocating overseas.

This project touches upon additional employment scenarios potentially impacted by SOFA to further distinguish what SOFA protections or exclusions might apply to military spouses working overseas by identifying the “type of employment” being sought.¹² **We acknowledge that additional work is needed to address specific employment situations, most notably entrepreneurship, that are often negatively impacted by SOFA-related restrictions.**¹³

SOFAs apply to employment but do not necessarily address employment directly

Since employment of military dependents is not the primary focus of SOFAs, it is often difficult to understand how and when SOFAs impact the employment situation of military dependents living overseas as the result of military orders. SOFAs dictate the conditions under which military spouses can work, how they pay taxes, and what must be done to comply with the local laws and procedures under a foreign jurisdiction. Though many spouses are aware that SOFAs impact their employment overseas, it isn’t always clear exactly how their employment is impacted or even where they would seek accurate information about those agreements. For example, Military OneSource, an online repository of military-specific information instructs spouses to consult their country’s SOFA to obtain information about overseas employment, but in actuality, many SOFAs are either inaccessible or so riddled with legal jargon that they are not helpful to the layperson reading them.

For example, some employment situations (e.g., employment on the foreign economy) could change whether a spouse continues to be covered under a SOFA, but it is not always clear exactly when this would occur or how an individual or employer would be impacted.^v As a result, military spouse dependents and their U.S. employers often do not have consistent access to the very information they would need to make educated decisions about their employment options or to determine how a SOFA may impact their (or their employees’) employment overseas.

SOFAs are complicated because they intersect with employment, tax laws, and other legal requirements

Complicating matters further is the fact that SOFAs intersect with a variety of legal requirements, installation-specific guidelines, and payroll and tax laws. This makes it difficult for any one person to dissect the complex requirements for each unique employment situation. For example, individual circumstances may necessitate a knowledgeable tax attorney, employment specialist, and/or legal advisor. Yet, it may often take time for spouses to recognize that special guidance is needed.

SOFA complexity disincentivizes employers who want to retain their military spouse employees

Employers who have invested in hiring military spouse employees also may have an inherent interest in retaining them if they relocate overseas. But like military spouses, employers must understand SOFA requirements that will impact their payroll and taxes. There is little guidance to help organizations interpret and apply such requirements. For example, SOFAs do not specifically address remote employment arrangements, which are increasingly common, and their tax consequences. For employers, the complex and ambiguous expectations related to SOFA, payroll, and other tax requirements may be too burdensome to disentangle because they raise risk concerns over tax compliance and other unknown costs or operational obligations. These and other barriers discourage otherwise motivated employers from exploring arrangements that could help them retain valuable employees when they relocate overseas.¹⁴

Given these complexities, it may be impractical for employers to implement overseas employment options because the steps, costs, or consequences related to various types of employment including the tax and financial implications are unclear or unknown. Similarly, spouses may conclude that seeking overseas employment is not worth the effort if they must navigate an international move on short notice or if they reside in a given location for a short and finite period of time.

SOFAs have not kept pace with changing workforce norms such as remote employment

A small percentage of military spouses reside overseas at a given time (less than 1% of all dependents).¹⁵ Yet, gaps in employment, underemployment, and loss of income can have significant long-term consequences for those military families.¹⁶ Despite these relatively small numbers overall, some SOFAs were written, in part, to ensure host-nation citizens’ employment was not impacted in a negative way by the U.S. military presence.¹⁷ It is easy to see how these same protocols may today restrict employment of spouses either on or off an installation. Because the exact number of spouses who are employed (as well as their type of employment) is unknown, it is not clear whether the original concerns that are addressed and remain in the existing agreements specific to employment are still relevant or necessary. Also, it is not known how many military spouses living overseas are unemployed either (1) because they cannot find work or (2) because they could not determine how to seek or maintain employment. The ability to work remotely for a U.S.-based company could improve employment options for those spouses who prefer to remain employed while overseas, and ostensibly, would minimize concerns about employment competition with host-nation citizens. That said, current SOFAs may not reflect updated workforce norms around spouse employment including the fact that remote work and dual career couples are increasingly common.¹⁸

Time is an important but often overlooked factor related to accessing information about overseas employment: if the time it takes to access reliable information exceeds the time in given location, spouses will stop looking for employment and employers will not offer it. This underscores the need for clear, up-to-date and accessible guidance about overseas employment.

There is no central clearinghouse of SOFA-related information specific to employment making it difficult for spouses and their employers to access or clarify location specific employment information

Although many SOFAs can be accessed online, within the U.S. government, there is no central point of contact or centralized clearinghouse of information for SOFAs. Even when SOFAs are unclassified and publicly accessible, without clear written guidance that a layperson can understand, spouses are likely to have difficulty in interpreting and understanding their implications specific to employment. Clear, location-specific guidance on overseas employment is needed. Compiling this information in a centralized location could provide easier access for military spouses and their employers. Guidance could include specific actions and procedures to undertake in order to seek and accept employment, tax implications and compliance guidelines for employers, guidance specific to remote employment, as well as the specific tax and financial implications of working for a U.S.-based company while abroad.

SOFA guidance is often situation-specific, but it isn’t clear where spouses or employers could receive customized guidance

Although spouses and employers may not know this when they begin to investigate their employment options, to ensure compliance with legal, tax, and local laws related to employment, specific customized guidance often must come from a variety of professionals including human resource (HR) professionals, tax attorneys, and legal officers overseas. However, because there is no designated subject-matter expert that can bridge all these knowledge areas (not to mention specific location related expertise) regarding SOFA and employment, spouses and employers must attempt to reconcile complicated information across all these professionals. Sometimes it is unclear whether particular guidance is accurate or correct. In turn, this may prevent some spouses from seeking employment or complying with employment requirements. This is complicated further when spouses only reside in a given location for a finite period of time.¹⁹

^{iv} For more information on Status of Forces Agreements, see 1) Bradbard, D., Maury, R., & Pitoniak, A. (2018). Understanding Status of Forces Agreements (SOFA): Removing Barriers to Military Spouse Employment Overseas. https://ivmf.syracuse.edu/wp-content/uploads/2018/07/Job-Portability_Research-Brief_Final-7.9.18-004accessible.pdf and 2) International Security Advisory Board (2015, January 16). Report on Status of Forces Agreements. Retrieved from <https://2009-2017.state.gov/t/avc/isab/236234.htm>

^v The terminology “working on the economy” is used when discussing overseas employment, and it can have multiple meanings. Loosely, this phrase refers to work that is performed off of a military installation. In reality, the phrase is more nuanced because it also refers to which economy benefits (e.g., where taxes are paid) from that work. This is one reason why guidance on remote employment is needed.



PART II

STATUS OF FORCES AGREEMENTS ROADMAP: STEPS FOR MILITARY SPOUSES AND EMPLOYERS

SOFA ROADMAP

For military spouses who want or need to work while they are stationed overseas, the absence of information about their employment options is a barrier. Specifically, spouses may be unsure about how to comply with ambiguous SOFA requirements. Employers face similar but somewhat different issues. For example, there is very little legal or tax information to guide employers when their military spouse employees are operating remotely from an overseas location, putting them at risk legally or financially if they inadvertently fail to comply with legal requirements.²⁰

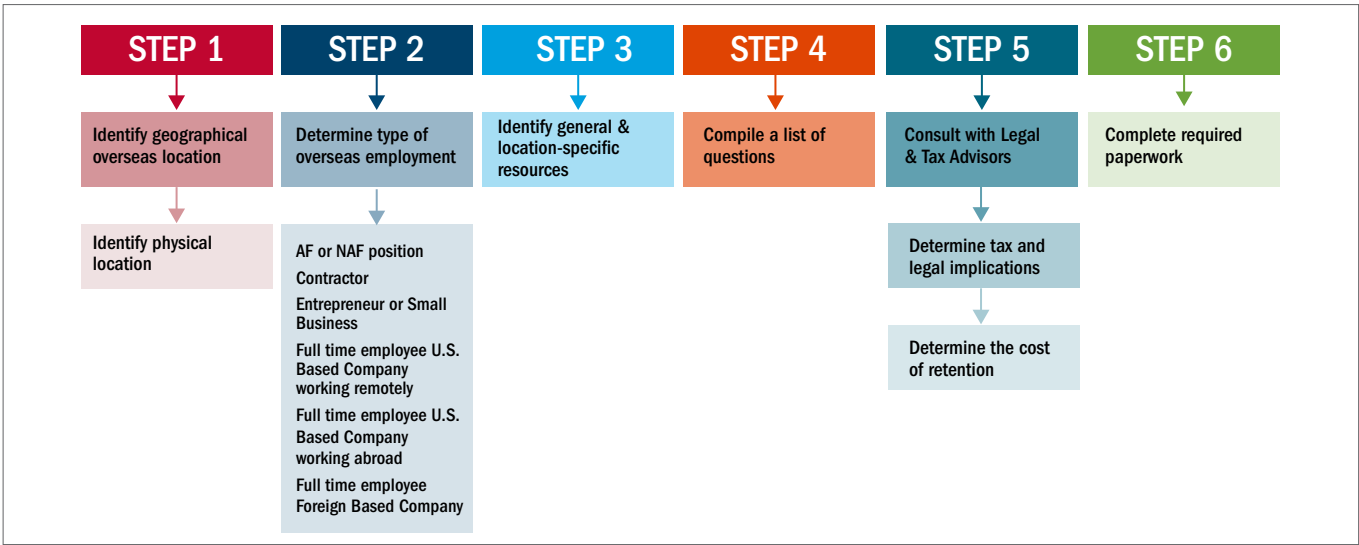
SOFAs are written for a specific diplomatic purpose for which employment is but one component. However, the lack of specificity related to employment impacts military spouses while they reside overseas as a result of military orders and the difficulties locating information we describe most likely parallel the experience that military spouses and their employers face when they attempt to access location-specific information about overseas employment.

As a first step in trying to simplify SOFA-related employment issues, this guide outlines an aspirational “roadmap” to identify some of the critical steps military spouses and employers can take once they have determined they (or their employee) are relocating overseas. The roadmap is aspirational in nature because locations vary as to how much information or guidance is available. Therefore, spouses and employers may have difficulty completing all the roadmap steps in every location. While military spouses relocate to numerous installations across the globe, we focus this paper on (1) several of the most common locations and (2) locations of interest to the employers who participated in this research project. The countries covered include Germany, Belgium, Italy, Japan, and South Korea.

The following content provides:

- ▶ **An initial roadmap** to identify resources, gather information, and develop situation-specific guidance to address unique individual circumstances specific to SOFAs.
- ▶ **A starting point** for discussions on how to clarify how SOFAs applies to employment.
- ▶ **Recommendations** to stakeholders intended to reduce employment barriers imposed by SOFAs.

Figure 1: SOFA Roadmap: Steps for military spouse and employers



Step 1: Identify Geographical and Physical Overseas Employment Location

Foreign employment laws and regulations are complicated. Identification of one's employment location is helpful prior to a permanent change of station (PCS) move, but it does not guarantee a simple or streamlined process for spouses or their employers.

THE IMPORTANCE OF GEOGRAPHIC AND PHYSICAL LOCATION

Location is important, but it is not necessarily obvious that both the geographic location and the physical location of employment are relevant to how a SOFA is applied. These nuances are important. For example, because of the physical work location an individual might be covered by a SOFA, and still be responsible (e.g., they are not necessarily exempt) for paying some foreign taxes. Where work is being performed and where and how income is earned can impact one's SOFA status, taxes owed, and types of paperwork that are required. Some of the issues that might be relevant to the physical work location include:

- ▶ Will the employee work for a U.S. business from a local office in an overseas location?
- ▶ Is the employee working remotely for a U.S. company from a residence on a military installation?
- ▶ Is the employee working remotely for a U.S. company from an office on a military installation?
- ▶ Is the employee working from "home" for a foreign company on a military installation?
- ▶ Is the employee working from "home" on the local economy (e.g. running a business from their home while living off an installation while overseas)?

From this, the next step in determining how SOFAs impact employment is to identify the geographic location of the duty station and country where the employee will be working. This step is critical for employers and employees as location significantly impacts the laws that apply and procedures that are required. For example, in Belgium, income from any employment - whether self-employed, on the Belgian economy, or with an American employer (other than the U.S. government or one of its agencies) - is taxable under Belgian law.²¹ It is important to ask specifically whether your individual circumstances will impact your SOFA status, your taxes, or both.

FINDING LOCATION-SPECIFIC RESOURCES

According to the Department of Defense (DoD), Spouse Education and Career Opportunities (SECO) program, SOFAs may have implications on spouse employment overseas. The SECO website directs spouses to contact their installation employment readiness specialist to gather information on the impact of SOFA on an overseas job search. For example, MilitaryINSTALLATIONS is a tool military spouses can use to search by military installation, state, or program to find location-specific information. This tool allows users to: Select 'Spouse Education, Training, and Careers' from the list of programs and services, enter their installation or postal code, and select 'Search' to find a point of contact in a given location.²²

LOCATION-SPECIFIC TERMINOLOGY AND REQUIREMENTS

While this list is by no means comprehensive, among other things, both employees and employers must consider the following:²³

- ▶ **Permanent Establishment (PE) - this determines if a corporate entity is subject to the host country's tax filing requirements.** PE is a fixed place of business abroad which can lead to an income or value added tax (VAT) liability in a particular jurisdiction. PE may be determined by the company's 'taxable presence,' a notoriously gray area that often requires clarification by the host country where the business is located. Often, a PE can be avoided by an employee by not using a home address as a company address on emails, business cards, and other correspondence. Additionally, the employer should be clear that work can take place from anywhere, inside or out of the home.²⁴ Employers should seek advice on the impact of SOFA status and whether working or living on or off an installation impacts whether PE applies. In cases where a proposed telecommuting arrangement triggers a PE, guidance recommends that the employer either reject a telecommuting proposal or that an in-country corporate presence be registered.
- ▶ **Payroll law compliance and employment structure** - For military spouse employees covered under SOFA, employers need to consult with payroll, international tax attorneys, or both, to determine how or if SOFA impacts their compliance with payroll laws either in the host country or the United States and develop a strategy for complying with relevant host country payroll laws if necessary.
- ▶ **Documentation of the employment agreement** - Employers should ensure that the employment and telecommuter agreement is documented including special accommodations specific to the telecommuting arrangement in compliance with host-country laws. In addition to a written employment agreement, documentation might include HR policies and any restrictive covenants that might apply.

Information for employers about remote work overseas can be found at: [How to Employ- and Payroll-a Telecommuter Working from Overseas](#)

FINDING LOCATION-SPECIFIC AGREEMENTS BY COUNTRY

This paper addresses SOFAs for the following countries:

- ▶ Germany
- ▶ Belgium
- ▶ Italy
- ▶ Japan
- ▶ South Korea

SOFAs exist for countries in addition to those covered here. However, five countries were selected because they had (1) comparatively more guidance specific to employment and (2) a relatively high military-spouse-presence. Even among the countries discussed below, access to employment-specific information for military spouses is extremely limited and typically not available in the SOFA. Germany offers the clearest guidance. The type, quality, and complexity of SOFA and tax-related information available specific to Germany can guide U.S. employers and military spouses planning for employment overseas. Finally, The German Compliance Matrix and accompanying tax tables (see Appendix) presented in this paper can serve as a template for the type of information and level of detail that is needed for other countries.

The Treaties and Agreements by Country (Table 1) summarizes some of the important treaties and agreements applicable to employment and taxation for each of the five countries addressed in this paper. It should be noted that while a treaty for the avoidance of double taxation is included for Germany, many other countries have similar treaties with the U.S. Although these treaties are important for tax purposes, they are not the focus of this paper. Thus, a treaty not listed in the following table does not imply the withdrawal or annulment of a treaty.

Treaties can be located in the Department of State’s Annual Treaties in Force and online databases such as HeinOnline and Kavass Current Treaty Index. Specifically, the Treaties and other International Acts Series (T.I.A.S.) are a series of pamphlets or “slip” treaties published by the Department of State to serve as legal evidence of international agreements between the U.S. and other countries.²⁵ With regard to these agreements:

- The T.I.A.S. number denotes the treaty, SOFA, or other agreement.
- The multilateral NATO SOFA applies to all NATO allies²⁶ and addresses topics related to civil and criminal jurisdiction, passport and visa regulations, taxation of enterprise, residency, customs, and duty-free privileges.
- Supplementary agreements to an original treaty contain important amendments that may apply to contractors, military personnel, and/or their dependents.

Table 1: Treaties and Agreements relevant to SOFA by Country

COUNTRY	KEY SOFAs AND TREATIES	GUIDANCE
Germany	NATO SOFA, T.I.A.S. 2846 Agreement between the parties to the North Atlantic Treaty regarding the status of their forces. Signed at London June 19, 1951. Entered into force August 23, 1953.	Addresses respect of laws in the receiving state, entry/departure, visas, residence, passport regulations, taxation in a foreign jurisdiction, etc
	T.I.A.S. 5351 (supplementary agreement to the NATO SOFA with respect to forces stationed in the Federal Republic of Germany)	Covers residence, work permit, and other requirements
	U.S. and Germany Totalization Agreement	Covers payment of social security taxes
	The Convention between the United States of America and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, 1990	Covers German and American taxation such as corporate, trade, capital, excise, and U.S. Federal income tax; Exemptions from personal income tax; and permanent establishment
Belgium	NATO SOFA, T.I.A.S. 2846 Agreement between the parties to the North Atlantic Treaty regarding the status of their forces; Belgian SHAPE agreement	Utilizes NATO SOFA
Italy	NATO SOFA, T.I.A.S. 2846 Agreement between the parties to the North Atlantic Treaty regarding the status of their forces	Utilizes NATO SOFA
	1995 Memorandum of Understanding (MOU) Between the Ministry of Defense of the Republic of Italy and the Department of Defense of the United States of America concerning use of installations and infrastructure by U.S. forces in Italy	Technical agreement with annexes; supplements the NATO SOFA and addresses mutual defense cooperation; customs, taxation, and employment of dependents
Japan	T.I.A.S. 4510, 11 UST 1652, Agreement under Article VI of the Treaty of Mutual Cooperation and Security, Facilities and Areas and the status of U.S. Armed Forces in Japan	Specifies exemptions from Japanese passport, visa laws, and regulations (Art. IX); Addresses exemptions from taxes on income derived from Japanese or other sources (Art. XIII)
S. Korea	T.I.A.S. 6127, Mutual Defense Treaty, 17 UST 1677, Agreement under Article IV of the Mutual Defense Treaty regarding facilities and areas and the Status of U.S. armed forces in the Republic of Korea;	Specifies exemptions from Korean passport, visa laws, and regulations (Art. VIII); Addresses exemptions from taxes on income derived from Korean or other sources (Art. XIV)
	Korean Memorandum of Understanding (MOU)	Covers preferential hiring of Koreans, family members, and employment of dependents of the U.S. armed forces, and visa categories



For more information on International Treaties, Agreements, and SOFAs see:

- ▶ [NATO Multilateral Agreement \(T.I.A.S. 2846\)](#). Agreement between the parties to the North Atlantic Treaty regarding the status of their forces. Article III addresses visa, residence, and passport regulations. Article X addresses taxation with respect to residence or temporary presence in the receiving State as well as taxation of profitable enterprise (e.g., paragraph two states that any profitable enterprise will be subject to taxation in the receiving state).
- ▶ [U.S. Department of State Treaties in Force \(TIF\)](#).^{vi} The TIF is published annually and indexes treaties and other international agreements between the U.S. and other countries currently in effect as of January 1st of the most current publication year. It is arranged in two main sections: 1) bilateral and 2) multilateral treaties and agreements.
- ▶ [U.S. Treaties and Agreements Library and Kavass Current Treaty Index \(HeinOnline\)](#).^{vii} These are the most comprehensive databases to date for U.S. treaties and agreements, providing a large catalogue of treaty information that includes full text and access to many SOFAs. Search criteria may be refined by treaty number, date, country, etc. Additional sources for finding information related to SOFAs (not addressed in this paper) include RAND’s Database of U.S. Security Treaties and Agreements, U.N. Treaty Collection Database, and Yale Law School’s Avalon Project.
- ▶ [International Security Advisory Board: Report on Status of Forces Agreements](#).^{viii} A consensus document based on guidance from DoS and DoD. Provides an overview of SOFA, identifies gaps in current SOFA, and some recommendation about how SOFA can be updated.

^{vi} See <https://www.state.gov/treaties-in-force/>

^{vii} See <https://home.heinonline.org/content/u-s-treaties-and-agreements-library/>

^{viii} See International Security Advisory Board (2015, January 16). Report on Status of Forces Agreements. Retrieved from <https://2009-2017.state.gov/t/avc/isab/236234.htm>

Country-Specific SOFA Guidance

Generally, SOFA rules and regulations are quite nuanced, and multiple approvals for different employment activities may be necessary.²⁷ Spouses often find themselves in the precarious situation of searching for multiple sources of guidance and expertise simply because rules vary depending on location (physical and geographic) and nature of employment.

Many SOFA-related challenges are beyond the scope of this paper (e.g., changes in installation guidance or protocol, changes in foreign relations, amendments to existing SOFAs or tax treaties). Therefore, it is advisable to seek out qualified legal and tax specialists within the country where you plan to make a permanent change of station (PCS) to determine individual requirements and ensure compliance with local laws (see Table 4: Location-specific resources and contact information).

The following provides a snapshot of some of the key SOFA and employment-related issues for five selected countries due to their larger military spouse population. Currently, there is little data on military spouses who simultaneously hold SOFA status while retaining employment with a U.S. employer. The following sections explore some of the issues pertaining to this specific employment situation by delineating what we know about SOFAs as well as what needs further clarification. The following country-specific SOFA guidance has implications for both military spouses as well as their U.S. employers abroad.

GERMANY



As noted, the majority of countries with SOFAs do not address military spouse employment specifically. Even though information can be difficult to locate, Germany was found to have the most comprehensive guidance for military spouses working abroad due to several online sources and documents pertaining to employment, taxation, and SOFA as well as greater accessibility of information. Additionally, we were able to obtain direct guidance via personal communication from both legal and tax experts in Germany.

For reference, guidance memoranda are included in the Appendix (See German Compliance Matrix Tax Table, Table 6) to cover some of the salient tax and employment regulations as they relate to employment. The German Compliance Matrix²⁸ highlights the likely tax and filing requirements based on SOFA and employment-related status. According to the table, not all SOFA holders are equally eligible for certain German employee benefits while working in Germany. For example, U.S. SOFA holders who work for an American company in Germany are not eligible whereas SOFA holders who are subsequently employed by a German-based company are eligible. On the other hand, SOFA holders²⁹ working for either an American company or German company are both required to obtain a German tax number and pay a German wage tax while working in Germany. While this tax compliance table does not cover all individual cases of employment, it can serve as a template for the type and specificity of information that is needed for other countries where U.S. employers and military spouses relocate.

SOFA status allows one to seek employment in Germany because it functions as a labor permit; however, it does not confer SOFA status for that work.³⁰ In other words, having SOFA status as a military dependent does not waive one's German tax requirements. Military spouses with SOFA who are working for a U.S. company in Germany do not need to obtain a work or residence permit. In other words, SOFA allows military spouses to stay and work in Germany until they leave, but they must pay German taxes, because they are not working for the U.S. government by being with a

“Germany is special and most beneficial to spousal employment, because of the special provisions in the German Supplementary Agreement (SA) to the NATO SOFA. Most other European countries will only grant a resident visa to dependents (Art. I c NATO SOFA) and limit or even exclude or prohibit any work visa.”

J. Moddelmog, Senior Attorney-Advisor in Germany,



U.S. employer, so they may stay and work in Germany without registration, but they will have to pay German taxes and are treated as single status if working for an American company.”^{ix}

When working on the German economy, income generated in Germany is taxable under German law.^x In the event one loses SOFA status (and intends to remain in Germany), the requisite work and residence permits must be obtained in accordance with German law.

Decision trees for overseas work in Germany^{xi}

The following decision trees (Figures 2 and 3) were created with the assistance of tax advisors, legal experts, and subject experts in international business. While the decision trees presented are specific to Germany and can serve as a useful tool for understanding SOFA and tax implications in Germany, they also serve as an example of tools that could be developed specific to SOFA in other countries where military spouses reside and work. These decision trees are intended to provide guidance on overseas work as it pertains to SOFA in Germany. These decision trees do not cover all possible employment scenarios and were based on the information available from various advisors and experts at the time of publication. They should not be construed as legal advice. It is recommended that spouses and employers seek individualized guidance from local resources including legal and tax advisors.

With respect to German taxation and the decision tree below, please note the following:

- ▶ The first decision tree (Figure 2) applies to those with SOFA protected status whereas the second decision tree (Figure 3) applies to those with a German visa (no SOFA protected status).
- ▶ German taxes do not apply if job itself provides for SOFA status (e.g., GS, NAF, AF, TESA status contractor).^{xii}
- ▶ A “Single Permit Directive,” also referred to as a merged labor permit, is a single application process for both residing and working in Germany.

^{ix} For jobs on the German economy, a “U.S. qualified taxpayer can exclude a substantial sum as foreign earned income from total taxable federal income via the physical presence test for SOFA holders.” Income is converted into the average exchange rate for that year into U.S. dollars must be reported on Form 2555 (Moddelmog, 2019). For more information, see Moddelmog, J.C. (2019). Spousal Employment in Germany. Kaiserslautern Legal Services Center.

^x For jobs on the German economy, a “U.S. qualified taxpayer can exclude a substantial sum as foreign earned income from total taxable federal income via the physical presence test for SOFA holders.” Income is converted into the average exchange rate for that year into U.S. dollars must be reported on Form 2555 (Moddelmog, 2019). For more information, see Moddelmog, J.C. (2019). Spousal Employment in Germany. Kaiserslautern Legal Services Center.

^{xi} The following Decision Trees (figures 2 and 3) specific to Germany was created by the generous assistance of Joerg C. Moddelmog, Senior German Attorney-Advisor and International Affairs & Legal Assistance Attorney at Kaiserslautern Legal Services Center in Germany and Susanne Lang, Managing Assistant, Certified Foreign Language Correspondent, Certified Administrative Officer, and expert in international business concerns at RFP Steuerberatung Tax Consulting in Germany.

^{xii} General Schedule (GS), Non-Appropriated Fund (NAF), Technical Expert Status Accreditation (TESA)

Figure 2: Decision Tree for those with SOFA Status Working Overseas in Germany

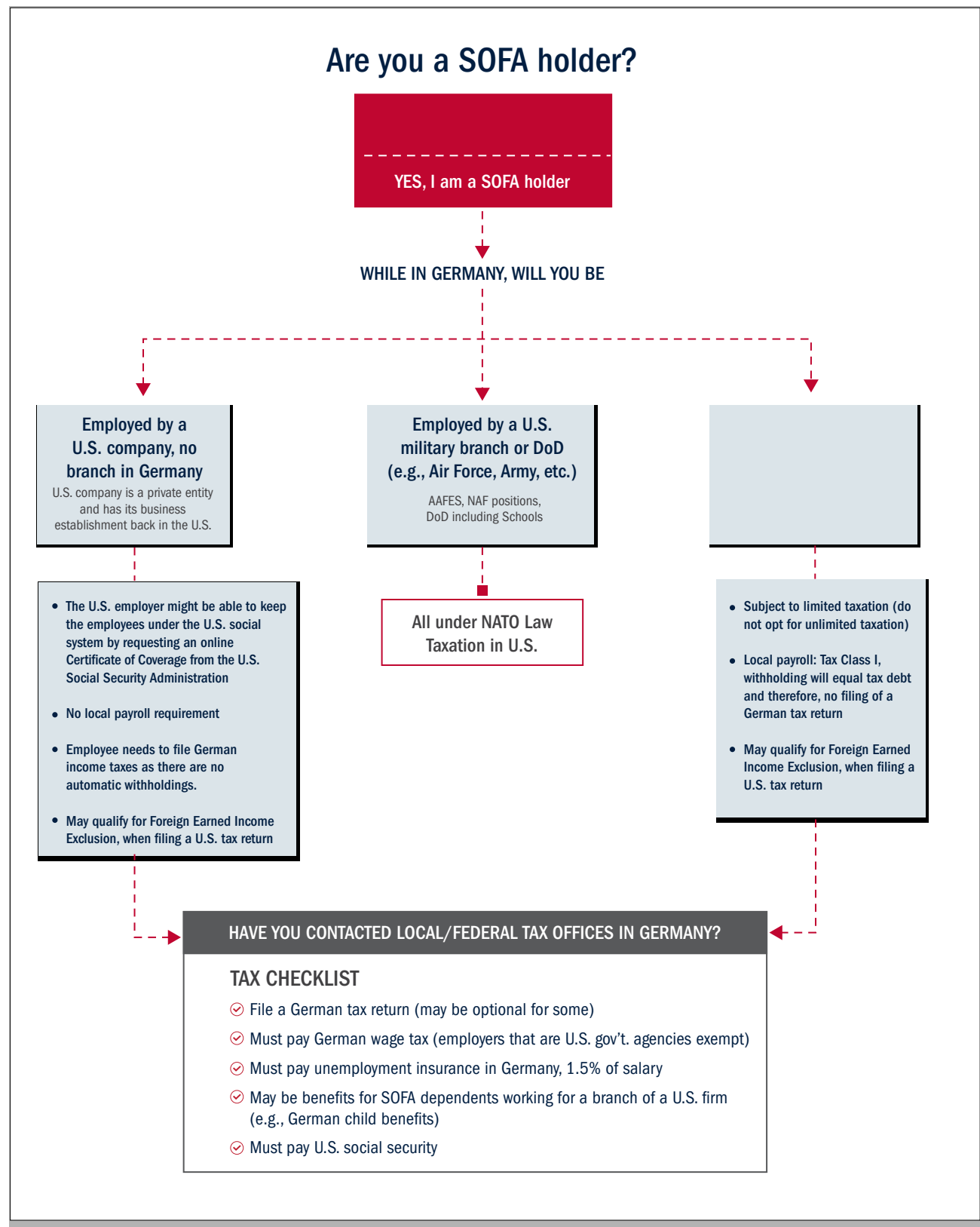


Figure 3: Decision Tree for those with no SOFA Status, Working Overseas in Germany

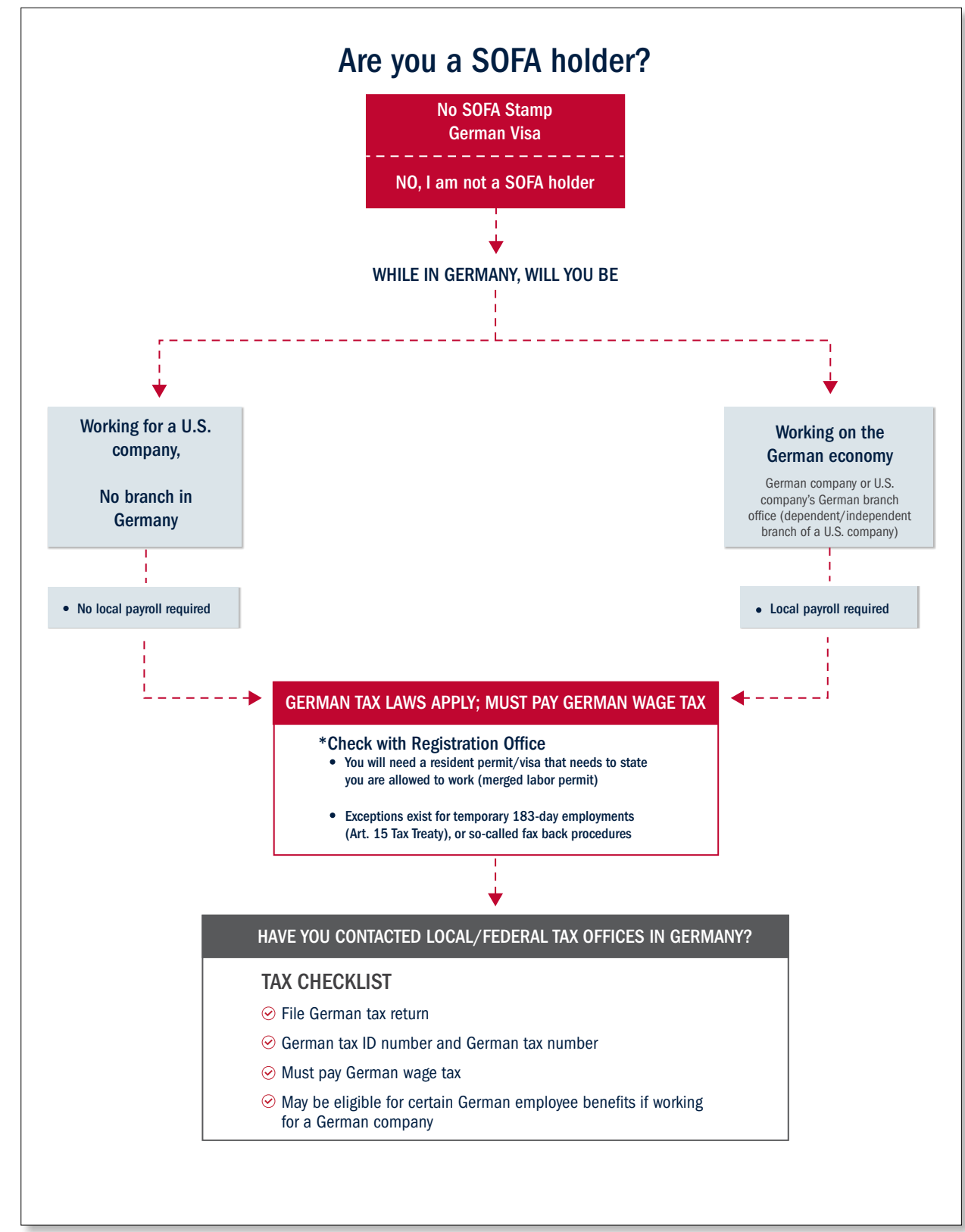


Figure 4: Totalization Agreements and Social Security in Germany

Social Security and Totalization Agreement between Germany and U.S.

A totalization agreement is an international agreement made between countries in order to avoid double taxation of income with respect to social security.^{xiii} The following information provides guidance for U.S. employers, deployed employees, spouses of active duty, and civil service employees.

For SOFA holders, spouses, and deployed employees:

- ✔ Employer needs to apply for a certificate of coverage at Social Security Administration (SSA), Baltimore, which exempts the employee from German social security contributions for five years. (paying U.S. social security is cheaper, currently 7.5%).
- ✔ SOFA holders must pay unemployment insurance (employer and employee each pay 1.5%).
- ✔ Deployed employees are exempted from all German social security portions if they have a certificate of coverage.

For U.S. employees with a work permit, working for a German company but U.S. owner

(with no connection to a U.S. firm) or a U.S. employer who has not applied for a certificate of coverage:

- ✔ Must contribute in full to German social security system: health insurance, retirement insurance, unemployment insurance, home nursing care 22% for each party.
- ✔ Please note: If an American employee contributes into German retirement insurance system, employee can receive a refund if they worked less than 5 years in Germany. After a waiting period of 2 years, employer can apply for it.

If employee worked more than 59 months in Germany, they are entitled to a German pension.

REGARDING income statements from U.S. and Germany for tax returns in Germany and the U.S.:

- ✔ U.S. employer needs to provide the U.S. employee with a W2 form.
 - Gross salary in U.S. dollars with no federal income tax withheld
 - U.S. social security is retained if certificate of coverage is applied.
- ✔ If a German payroll is required, employee will receive:
 - German income statement reflecting salary in Euro, German wage tax and solidarity surcharge withheld, no German social security or just a small portion unemployment insurance.

Information on social security and SOFA as well as German taxation was generously provided by Susanne Lang, Managing Assistant, Certified Foreign Language Correspondent, Certified Administrative Officer, and expert in international business concerns at RFP Steuerberatung Tax Consulting in Germany near Ramstein Air Base.

^{xiii} For more information see <https://www.irs.gov/government-entities/federal-state-local-governments/totalization-agreements>

Compared to other locations, the information about employment in Germany tends to be easier to access, and there is more information about how the agreements between the U.S. and Germany apply to employment.

Some military spouses, regardless of where they reside (e.g., this is not country-specific) may choose to work on the military installation in a Non-appropriated Fund (NAF) or Appropriated Fund (AF) position to minimize the potential for legal and tax-related complications because employment in these positions simplifies many of the legal requirements that pertain to other, more complex, employment situations. (See Appendix "SOFA and Common Employment Options for Military Spouses Overseas")



Figure 5: Employment on the German Economy for SOFA holders

The following summarizes some of the rules in Germany regarding SOFA status and employment according to the NATO SOFA and German Supplementary Agreement (SA).

- ▶ SOFA-CARD. According to Art. III SOFA, dependents need a passport with the NATO Status of Forces Certificate therein. Since January 15, 2005 the new blue SOFA certificates replaced the old SOFA stamps and now bear an expiration date.
- ▶ For any person bearing the SOFA certificate in the passport, the German Residence Act ("Aufenthaltsgesetz - AufenthG") does not apply. Furthermore, these persons are exempt from the requirement to obtain a labor permit. Consequently, the dependent spouse can look for a job right away after obtaining the SOFA certificate.
- ▶ Although SOFA status also allows you to seek any kind of employment in Germany because it also serves as a labor permit, it is very important to understand that in any such jobs you will have no SOFA status for that work. For example, if you are a dependent, then you only have SOFA status as a dependent (stay-home family member) and will be subject to German taxes in any other job. The only exception is if that job itself provides for SOFA status of the employee, such as a dependent working in a GS-job or Department of Defense Contractor Personnel (DOCPER) approved contractor job with Technical Expert Status Accreditation (TESA) status.

Excerpted from J.C. Modellmog, Senior German Attorney-Advisor and International Affairs & Legal Assistance Attorney at Kaiserslautern Legal Services Center, "Spousal Employment in Germany."



BELGIUM

Belgium is the location of National Atlantic Treaty Organization (NATO) Headquarters.³¹ While revisions and supplementary agreements to the NATO SOFA are common in other parts of Europe, Belgium does not have a separate or supplementary agreement and adheres to the generic NATO SOFA. Especially in certain areas such as Brussels, Belgium, the availability of jobs is more limited, and employment on the economy can be difficult to find.³²

In Belgium, certain types of employment might impact one's SOFA status. For example, running a home-based business or seeking employment that is off the military installation can result in the loss of one's SOFA status. If loss of SOFA status occurs, then one can be considered an ordinary resident of Belgium and be subject to visa and work permit requirements.^{xiv} Consequently, one may lose special exemptions from taxation and be ineligible for certain types of employment (e.g., U.S. forces, NATO, or SHAPE in Belgium, which may include Commissary jobs).³³ According to Belgian law and SOFA, any profitable enterprise is subject to taxation in the receiving state and thus, one's wages in Belgium can be subject to the tax, visa, and work permit requirements.³⁴ Employment for military spouses in Belgium may be easier to secure on the military installation such as those in the Morale, Welfare, and Recreation (MWR) and commissary. Working in these positions can eliminate many of the challenges associated with working on the Belgian economy. Nevertheless, employment opportunities on certain installations overseas may be limited when there are only certain types of jobs available or due to so-called "reverse SOFA laws."

Military spouses also may consider continuing employment with their current U.S. employer during their stay in Belgium, but little guidance exists for this employment arrangement, particularly if the work is done remotely. It is important to know that those employed in Belgium by a U.S. company will have their income subject to Belgian tax.³⁵ The Installation Commercial Affairs and Employment Readiness Offices are resources spouses can consult prior to starting work in Belgium to ensure they are meeting all requirements under SOFA. However, guidance can vary depending on the knowledge and expertise of the staff at any given time. It is also advisable to check with the appropriate local sources to determine when and if 'ordinary resident' applies for employment purposes.



ITALY

Italian law and SOFA can significantly impact employment options for military spouses. Because SOFA designates the number of positions on the installation to be filled by local civilians, employment options may be limited. Further complicating matters is that those not specified as European Union (EU) citizens, which is all dependents, are required to have specific documentation to be eligible for employment on the installation in Italy, and this includes: a "Missione Visa" and "Missione Soggiorno" permit. The Missione Visa and Missione Soggiorno are two documents provided to those with SOFA protected status who are in Italy "solely for the purpose of the U.S. military mission," and restricts eligibility for employment to the U.S. forces (e.g., GS, NAF, and U.S. government contracted positions) on the installation.³⁶ The Missione Soggiorno permit grants the 'permission to stay,' allowing one to legally reside in Italy for the duration of the military assignment.³⁷ It should be noted that the Missione Visa and Missione Soggiorno permit do not authorize work in Italy for positions other than with the U.S. forces, and any other type of employment is strictly prohibited. For example, telecommuting for a U.S.

"Reverse SOFA law" is a colloquial expression. The phrase is used to refer to components of some SOFAs (e.g., Germany and Japan) that require a certain number of foreign nationals be employed on a military installation. The intent is to ensure that foreign nationals' employment is not unfairly impacted by the U.S. military presence. However, these agreements also may limit employment opportunities available to military spouses who might otherwise pursue those same positions.

employer, "de minimis" employment, and working on the Italian economy with a Missione Visa or Missione Soggiorno permit is strictly prohibited; employment in these cases could require additional authorizations and lead to the loss of one's SOFA status.³⁸

On the other hand, working on the Italian economy or for an American company in Italy requires an Italian visa and Italian work permit. As stated, the Missione Visa and Missione Soggiorno Permit only allow for employment on the installation with the U.S. Forces, and dependents are typically not allowed to work in a position off the installation without having an Italian work visa.³⁹ For the special case of changing one's status from a Missione Visa to an Italian work visa to be able to work in any other capacity, if allowed, one would need to return to their country of nationality to apply for the Italian work visa.⁴⁰

For U.S. companies and their employees who will be working in Italy with an Italian Visa, it is important to make sure they are in compliance with the laws and regulations before sending employees abroad. The following are some of the key points that employers and companies should consider. According to the U.S. Embassy and Consulates in Italy:⁴¹

- ▶ A written job offer or employment contract does not constitute a valid document for work purposes in Italy.
- ▶ An employer is required to apply for preliminary clearance from the provincial employment office in the proposed city of employment.
- ▶ If clearance is granted, the employer is required to obtain the requisite work permit with the approval of the regional and central authorities.
- ▶ A permit to reside in Italy is obtained after arrival from the central police office.



JAPAN AND SOUTH KOREA

Both Japan and South Korea have an existing treaty as an underlying source of authority for their SOFAs.⁴² Specifically, Japan's SOFA was concluded as a separate and concurrent agreement to the Treaty of Mutual Cooperation and Security between the U.S. and Japan (1960), "Agreement under Article VI of the Treaty of Mutual Cooperation and Security" and has been modified at least four times since the original agreement.⁴³ Likewise, the U.S. and South Korea entered into a SOFA

originally in 1966, which was concluded as part of their mutual defense treaty, "Agreement under Article IV of the Mutual Defense Treaty regarding facilities and areas and the status of U.S. armed forces in Korea."⁴⁴ While Japan and South Korea both have comprehensive agreements with the U.S., there is very little information available with respect to military spouse employment and SOFAs within these countries.

Given the limited information on SOFAs in Japan and South Korea, we reached out to legal experts in these two countries to gather information pertaining to military spouse employment. According to the subject-matter experts we consulted, it was unanimously reported that only a very small percent of employment occurs off the military installation, and in those cases, most spouses in Japan or South Korea are employed teaching English. Outside of teaching English, military spouses will often seek a job on the economy - mainly with tech companies - and while they might be able to engage in remote work, they may also be required to pay taxes wherever their company is located. In other words, if a military spouse is not paying taxes in South Korea, then they are paying taxes to the U.S. government. While military spouses are not barred from working in other positions, securing a job commensurate with one's level of experience and/or training could be difficult.

In Japan, members of the U.S. forces and their dependents are exempt from Japanese passport, visa laws, and regulations, and dependents who receive their income as a result of service with or employment by the U.S. armed forces are also exempt from Japanese taxation, according to the Japanese agreement.⁴⁵ However, military spouses working in Japan are not exempt from paying Japanese taxes on income derived from Japanese sources, and they need to remember to report their foreign-earned income when filing U.S. taxes. Similarly, Article XIV of the Korean Mutual Defense Treaty (TIAS 6127) outlines tax exemptions that apply to SOFA card holders and cases of non-exemption from Korean taxes (i.e., income derived from Korean sources, U.S. citizens who claim residence in the Republic of Korea).

^{xiv} The definition of 'ordinarily resident' differs across locations, and spouses residing overseas are advised to seek guidance about whether or not they are considered an ordinary resident. Generally speaking, a person is considered an ordinary resident in a country if it is your ordinary home. Ordinary is defined by where a person spends the majority of their time, every year without taking major trips abroad. A person, might be an 'ordinarily resident' but not 'resident' because they travel overseas for a period of time (include a full tax year).



With respect to maintaining one's employment with a U.S. company, "SOFA members do not require a work visa to work for American and Japanese companies in Japan. You can work on or off the installation for an American company, such as in a telework position."⁴⁶ However, military spouses who intend to continue working remotely for their current U.S. employer once they are overseas may be (1) required to pay a foreign wage tax on their income, and (2) will need to report their foreign-earned income when filing their U.S. taxes abroad. Military spouses can sometimes seek guidance from their installation commander's website if available and JAG/legal office if planning to work remotely for a U.S. company.

Questions employers may have about U.S. employment in Japan

- ✓ Does the American company have to follow Japanese labor laws?
- ✓ Under what circumstances are American companies subject to Japanese taxes?
- ✓ What does an American company have to do in order to provide information to the Japanese government about their employees?
- ✓ If hiring a telecommuter that is living overseas to work for a U.S.-based company, under what jurisdiction (i.e. which states'/country's laws) does the employer need to abide by for that particular employee? Labor laws, tax laws, etc.

Questions military spouses may have about U.S. employment in Japan

- ✓ Do spouses have to pay Japanese income taxes for money earned from a U.S. company while working from a home office in Japan? Or, does the spouse simply file state taxes under their home of record?
- ✓ What resources are available for military spouses who plan to telecommute in Japan?⁴⁷

In both Japan and South Korea, English teaching jobs are in high demand for military spouses who would like to continue their employment while abroad. According to a paralegal specialist at the Atsugi Kanagawa Legal/JAG Office "there are a lot of military spouses in Japan that teach English...only a few (one or two military spouses) we see working for an American company conducting business in Japan."⁴⁶ Likewise, "military spouses can work for an American company under SOFA in South Korea. However, very few are working on the economy and are more likely to work in GS [general schedule] positions⁴⁸...It's more of an issue if the military spouse intends to work on the Korean economy."⁴⁸ To "lawfully work on the Korean economy, SOFA holders must have a Republic of Korea (ROK) permit obtained through a legitimate Korean employer."⁴⁹ To work in an English teaching capacity in Korea, there are certain qualifications (e.g., specific nationality, native English speaker, and Bachelor's degree requirements) according to the Korean Immigration Office.⁵⁰ One may also be required to provide documentation such as a valid passport, notarized diploma, transcripts, resume, a teaching certificate, and more.⁵¹

Within both Japan and Korea, SOFA restrictions can add a layer of difficulty for those who would like to work on the economy because jobs on the installation may not be as plentiful. For example, working for a local company on the economy may complicate tax and payroll issues for employers, especially if they are unfamiliar with SOFA terms and regulations. To avoid these complications, some military spouses opt for English teaching jobs already mentioned. However, a distinction should be made between teaching in approved employment positions (with a lawful visa and permit issued by the country) versus teaching in a capacity not allowed by the foreign government which violates the law (e.g., private tutoring in Korea). It is important that military spouses check with the country where they will be stationed to be sure they are adhering to regulations and requirements for teaching abroad.

⁴⁷ We'd like to acknowledge the assistance of Jennifer Maffeo-Morrissey, member of the Yokota Air Base Hiring Our Heroes Military Spouse Professional Network Board. Ms. Maffeo-Morrissey compiled these questions related to barriers to employment SOFA status and concerns around legal/tax requirements for international telecommuters.

For those interested in employment on the Korean economy, the Korean Memorandum of Understanding (MOU)^{xvi} addresses preferential hiring of family members and states that the Republic of Korea (ROK) “will positively consider giving employment permission to dependents of the U.S. armed forces members and dependents of members of the civilian component while they are retaining their A-3 status (SOFA visa status) after they enter Korea with an A-3 status.”⁵²

Military spouses with SOFA and a Republic of Korea (ROK) employment permit are lawfully eligible to be employed on the Korean economy. Overall, there is limited information available on working for a U.S. company in Japan and South Korea.⁵³ As one spouse residing in Japan noted “spouses who wish to continue their career in their designated field find their options can expand significantly if they’re able to stay with their current U.S. employer and work remotely, however due to the lack of resources addressing tax requirements and employment laws (for both employer and employee) - to include obtaining answers from the installation commander and JAG office - few are able to pursue this option....these answers are not available through base legal services or command.”

The Foreign Earned Income Exclusion (FEIE) is relevant to taxation while working overseas because the (FEIE) allows a U.S. citizen working abroad to exclude up to a certain amount of taxable income. The FEIE is often based on certain residency requirements defined by length of time in host nation.

THE FOLLOWING QUOTES, COMPILED FROM LOCATION-SPECIFIC SUBJECT-MATTER EXPERTS, ARE SPECIFIC TO THE FEIE IN JAPAN AND KOREA.

In Japan, “There is a tax agreement between the U.S. and Japan. However, military spouses will have to follow Japan employment tax rules and must report their foreign-earned income with their U.S. tax filing” (J. Simon, Paralegal, Atsugi Kanagawa).

In Korea, “Tax issues depend on the nature of employment – If subject to Korean tax and eligible for FEIE, you can use this tax liability to offset the U.S. tax liability” (Capt. S. Cortes, JA, USAG Camp Humphreys).

^{xvi} MOU is understood as “quid pro quo” which means the U.S. Forces Korea will employ Korean nationals in certain designated positions in exchange for preferential hiring of military dependents.

Table 2: Summary of SOFA-related employment requirements by country

SUMMARY OF SOFA-RELATED EMPLOYMENT REQUIREMENTS BY COUNTRY				
COUNTRY	DOCUMENTS	VISAS	PERMITS	TAXES
GERMANY	SOFA certificate in No-Fee/Official Passport Dependent ID card	SOFA serves as a visa; For those not under SOFA, stay in Germany is permitted up to 90 days without having to apply for a Schengen visa (if applicable); Schengen visa does not grant permission to work ^{xvii}	SOFA serves as a labor permit; No work or residence permits required for SOFA holders; Staying in Germany for more than 90 days may require a work and residence permit for non-SOFA holders.	Must obtain a German tax ID number to work in Germany; All income generated in Germany is taxable under German law. SOFA holders are subject to limited taxation. See German Tax Compliance Matrix in Appendix for more information.
BELGIUM	SOFA certificate in No-Fee/Official Passport Dependent ID card	Off-post employment that results in loss of SOFA status may require a visa under Belgian law	Due to SOFA, working on the Belgian economy may require a work permit; Off-post employment resulting in loss of SOFA status may require a work permit under Belgian law	Wages and income from employment on local economy, self-employment, or employment with a U.S. company are subject to Belgian taxation; If considered ordinary resident, wages may be subject to all taxation, visa, and work permit requirements in accordance with Belgian law
ITALY	SOFA certificate in No-Fee/Official Passport Dependent ID card	On Installation Must have a Missione Visa to be eligible for employment with the U.S. Forces on the installation U.S. Company in Italy Required to have an Italian Visa to work for a U.S. company in Italy (obtained from the Italian Consular authorities before arriving in Italy). ⁵⁴ For telework with a U.S. company in Italy, an Italian work visa is required	For employees on a military installation: must have a Missione Soggiorno “permission to stay” permit to be eligible for employment with the U.S. Forces on the installation For employees on a military installation: required to have an Italian work permit to work for a U.S. company in Italy; To apply for a residence permit, must submit a valid Italian visa and work permit ⁵⁵ For telework with a U.S. company in Italy, an Italian work permit is required	By choosing to obtain an Italian visa and Italian work permit, one has ‘ordinary resident status’ and is required to pay Italian income tax; one is further responsible for all other expenses incurred, similar to Italian residents Ordinary resident status (non-SOFA) holders pay Italian taxes and make contributions to the Italian social security system
JAPAN	SOFA certificate in No-Fee/Official Passport Dependent ID card	SOFA holders exempt from visa and passport laws	May need a work permit to lawfully work on the Japanese economy; SOFA holders may not need a residence permit (check with legal and tax specialists to determine requirements based on employment situation)	Not exempt from paying Japanese taxes on income derived from Japanese sources; Japanese local tax (if applicable) is assessed based on where you live ⁵⁶
S. Korea	SOFA certificate in No-Fee/Official Passport Dependent ID card	Working on the Korean economy can require a work visa	SOFA members with a ROK permit can lawfully work on the Korean economy	SOFA holder employed in Korea is exempt from Korean taxation (if job is allowed under SOFA); Not exempt from paying Korean taxes on income derived from Korean sources

^{xvii} For more information on Schengen visas in EU countries, visit <https://www.schengenvisainfo.com/working-schengen-visa/>

Step 2: Determine Type of Overseas Employment

SPOUSES

Spouses need to assess themselves when considering their need, willingness, and desire to work overseas. Such an assessment is complicated by the fact that is often extremely difficult for spouses to find reliable or accurate answers to their employment questions.

For more information on types of employment and information on working overseas, visit [Military Spouse Employment Guide](#).

Since the focus of this paper is on spouses working remotely for U.S.-based companies, we have limited our discussion to a specific subgroup of military spouses, but the reality is that many spouses will find there is limited information about remote employment overseas. Thus, the assessment below is provided as a process that is more aspirational than realistic for most spouses. The Appendix (SOFA and Common Employment Options for Military Spouses Overseas) includes an overview of additional types of employment available to spouses when they relocate overseas.

When possible, spouses who are considering remote work or ongoing work with a U.S.-based employer should:

- ▶ Consult with their employer to determine if there are company policies and resources in place to support them while overseas.
 - Ensure your employer has the technology that will enable you to succeed in your job overseas.
 - Understand your employer's security and confidentiality requirements.
 - Identify the procedures, laws, and paperwork you must comply with including the local jurisdiction, the country, installation, and relevant tax requirements.
- ▶ Research the country where employment will take place (including both the physical and geographic location) to see how SOFA status may impact your employment.
 - Ask whether your work situation will allow you to retain your SOFA status.
 - Ask whether you will be responsible for paying taxes in the foreign country where you are working.
- ▶ Identify and utilize resources such as tax advisors, attorneys, legal officers, and HR specialists who have knowledge of the location where you will be residing to answer your specific questions.
- ▶ Utilize peer support and mentorship from military spouses and employees either working within your company or who have transitioned to the location where you will be residing to better understand the local regulations and labor laws that may affect you; verify information with local experts.

EMPLOYERS

For U.S. companies working to retain existing employees who are relocating overseas, the following document link below is provided as guidance. This document is unique in that it compiles specific guidance that may be of value to employers wishing to hire remote employees in an overseas location. This paper covers a variety of complex topics relevant to employers including: assessing the reasons for telecommuting overseas, employer 'presence' within a host country, a checklist of important definitions, and issues pertaining to an international telecommuting agreement (e.g., complying with applicable host country laws). **For more information visit: [How to Employ- and Payroll-a Telecommuter Working from Overseas](#).**⁵⁷

Table 3 summarizes some of the employment activities abroad and how they might be impacted by SOFAs. It is not meant to reflect every type of employment situation across all countries. International treaties, SOFAs, employment procedures, and installation guidance can change, and thus, it is best to consult with a legal specialist for the most accurate and current information.

Table 3: Summary of work-related requirements by type of employment activity

SUMMARY OF WORK-RELATED REQUIREMENTS BY TYPE OF EMPLOYMENT ACTIVITY						
EMPLOYMENT ACTIVITY	PROS AND CONS	COVERED UNDER SOFA?	NEED VISA?	NEED WORK OR RESIDENCE PERMIT?	TAX REGULATIONS	BARRIERS
Working for a U.S.-based company in a foreign country	Job retention and better income; tax requirements could be complex	Could be - need to check with legal and tax specialists	(e.g., one does not have SOFA status or job not allowed under SOFA)	Work or residence permits could be required	Need to check individual requirements for SOFA or non-SOFA depending on one's status; Will most likely be required to pay a foreign wage tax; required to file an annual tax return with the IRS	Advisable to seek legal guidance and tax assistance to ensure compliance with host nation laws and regulations
Working on foreign economy	Could increase employment options that align with one's skills/experience; May lose SOFA protections and be treated as an ordinary resident	Could be, but in some cases no - restrictions may apply	Could be required (e.g., Italian visa)	Could be required (e.g., Italian work permit)	Host nation tax laws usually apply; Income from non-DoD sources generally not exempt from taxation	Advisable to seek counsel from legal advisors and tax specialists due to complex laws and regulations; finding jobs in certain locations may be more difficult
Home-based-business (HBB) or small business owner overseas	Greater autonomy and flexibility; May be difficult to find information on types of businesses allowed under SOFA	Sometimes - depends on the country, type of business activity, location where you are running your business, and income generated	Possibly - visas could be required (depends on host country law and duration of stay)	Possibly - residence or work permits could be required (depends on host country, duration of stay, and business activity)	Business activities can be subject to both U.S. law and host country income tax regulations	Advisable to seek counsel from legal advisors and tax specialists due to complex laws and regulations; for-profit activities often require business registration
Non-Appropriated Funds (NAF) and Appropriated Funds (AF) positions	NAF and AF positions on the Installation may be more accessible and less complicated for employment purposes; jobs may not be as plentiful on certain installations	YES	NO	NO	NAF and AF jobs fall under SOFA; Must adhere to SOFA terms	SOFA designates the number of positions on base to be filled by local civilians, which can restrict employment options for military spouses
Contracting	Some contractors granted SOFA status and may qualify for certain exemptions (e.g., defense contractors) regarding taxation of salary, visa, and permit requirements	Not all contractors covered under SOFA; Some contractors designated as 'technical experts' may be; provisions may not be uniform	Could be required	Could be required	Foreign Tax Credit to alleviate double taxation; See FAR, DFARS Guidelines, and U.S. International Tax Sourcing Rules; Check Foreign Earned Income Exclusion (FEIE)	Some RFP's and contracting documents may be classified and thus, inaccessible; civilian contractors may find it difficult to secure work in certain overseas locations

Step 3: Identify general and location-specific resources

SOFAs are complicated and the application of each SOFA is location-specific, therefore it is essential that spouses and employers utilize existing resources specific to their location to answer questions and seek guidance about their individual employment circumstances. Below is a listing of installation-specific contacts in the five target countries (Germany, Belgium, Italy, Japan, and South Korean). While these resources are available for spouses to consult, the level of expertise and knowledge of SOFA-related employment issues will vary by individual and by location.

Table 4: Location-specific resources and contact information

GERMANY INSTALLATIONS & GUIDANCE	PHONE NUMBERS	DAYS & TIMES	LEGAL SERVICES/JAG INFORMATION	MISCELLANEOUS
Geilenkirchen NATO Air Base, Career Focus/ Spouse Employment Program Neuteverer, Germany 52511	tel:011-49-2451-63-7291	Mon - Fri 8:00 a.m. - 4:00 p.m. Closed for training 12:00 p.m. - 5:00 p.m. on the first Thursday of the month. Sat, Sun and NATO Holidays - Closed	tel:011-49-2451-63-2235 Mon - Thurs 8:00 a.m. - 4:00 p.m. Fri 8:00 a.m. - 2:00 p.m. Closed for training 12:00 p.m. - 5:00 p.m. on the first Thursday of the month. Sat, Sun and NATO Holidays - Closed	Walk-in Power of Attorney/ Notaries: Mon-Wed 8:00 a.m. - 4:30 p.m. Thursday 8:00 a.m. - 12:00 p.m. Closed from 1:00 p.m.- 4:00 p.m. for Training and Fri 8:00 a.m. - 4:30 p.m. Sat and Sun - closed Holidays, Goal Days & Family Days - closed
Ramstein Air Force Base, Airman and Family Readiness Center Ramstein, Germany 66877	tel:011-49-6371-47-5100	Mon - Fri 7:30 a.m. - 4:30 p.m. Sat and Sun - closed Holidays - closed	tel:011-49-6371-47-5911 tel:011-49-6371-47-5912 tel:011-49-6371-47-2552 (Germany Attorney/International Law) By appointment only.	
Spangdahlem Air Force Base, Career Focus Program Spangdahlem, Germany 54529	tel:011-49-6565-61-6422	Mon - Fri 8:00 a.m. - 4:00 p.m. Sat and Sun - Closed Holidays - Closed	Legal Assistance Claims Office tel:011-49-6565-61-6796 Mon - Fri 7:30 a.m. - 4:00 p.m. Thurs - 9:00 a.m. - 4:30 p.m. Sat and Sun - closed Holidays - closed	
USAG Ansbach, Employment Readiness Program Ansbach, Germany 91522	tel:011-49-9802-832-883 tel:011-49-9802-833-272	Mon-Thurs 8:00 a.m. - 5:00 p.m. Fri 11:30 a.m. - 5:00 p.m. Closed US Federal Holidays	tel:011-49-9802-832-103 Mon - Thurs 9:00 a.m. - 12:00 p.m. & 1:00 - 5:00 p.m. Fri 1:00 p.m. - 4:00 p.m. Sat and Sun - closed Closed US Holidays	ILLESHEIM Legal Assistance tel:011-49-9841-834-576 Mon-Thurs 9:00 a.m. - 12:00 p.m. Fri 1:00 - 4:00 p.m. Sat and Sun - closed
USAG Bavaria, Employment Readiness Program Vilseck, Germany 92249	tel:011-49-9662-83-2650	Mon - Fri 8:00 a.m. - 5:00 p.m. Sat, Sun - closed	Legal Office - Rose Barracks tel:011-49-9662-83-2289 Mon - Fri 8:00 a.m. - 4:00 p.m. Sat, Sun - closed	
USAG Bavaria Garmisch, Army Community Service Spouse Garmisch-Partenkirchen, Germany 82467	tel:011-49-8821-750-3376	Mon - Fri 8:00 AM - 5:00 PM Sat and Sun - closed		

GERMANY INSTALLATIONS & GUIDANCE	PHONE NUMBERS	DAYS & TIMES	LEGAL SERVICES/JAG INFORMATION	MISCELLANEOUS
USAG Bavaria Hohenfels, Employment Readiness Program Hohenfels, Germany 92366	tel:011-49-9472-83-4860	Mon - Fri 8:00 a.m. - 5:00 p.m. Sat and Sun - closed Holidays - closed	Hohenfels Legal Assistance Center tel:011-49-9472-83-2401 Mon - Fri 8:30 a.m. - 4:30 p.m. Sat and Sun - closed	Legal Services/JAG Claims Office/JMRC Legal Center tel:011-49-09472-83-5565
USAG Rheinland-Pfalz Kaiserslautern Military Community ACS Employment Readiness Program Kaiserslautern Germany	tel:0631-143-541-9000 (In Country)	Mon - Wed, Fri 8:00 a.m. - 5:00 p.m. Thurs 8:00 a.m. - 1:00 p.m. Sat and Sun - closed Holidays - closed	tel:011-49-631-411-8848 Mon - Wed & Fri: 9:00 a.m. - 4:00 p.m. Thurs 12:00 p.m. - 4:00 p.m. Sat and Sun - closed Holidays - closed	
USAG Rheinland-Pfalz Baumholder Employment Education, Training, and Careers Employment Readiness Program Baumholder, Germany 55774	tel:011-49-611-143-531-2850 (From U.S.) tel:0611-143-531-2850 (From Germany)	Mon - Fri 8:00 a.m. - 5:00 p.m. Thurs 08:00 a.m. - 1:00 p.m.	tel:011-49-6783-66506 (from U.S.) tel:06783-66506 (from Germany) Mon - Fri 9:00 a.m. - 12:00 p.m. and 1:00 p.m. - 4:00 p.m. Training Holidays - Close at 3:30 p.m. Federal Holidays - Closed	
USAG Stuttgart, Employment Readiness Program Army Community Service Panser Kaserne Stuttgart, Germany	tel:011-49-7031-15-3362	Mon - Fri 8:00 a.m. - 5:00 p.m. Sat - Sun - closed Holidays - closed	tel:011-49-711-729-4152 tel:011-49-711-729-2609 Mon Fri 9:00 a.m. - 4:30 p.m. Training Thursdays 1:00 p.m.-4:30 p.m. USAREUR Training Holidays and Federal Holidays - Closed	U.S. Army Garrison Stuttgart Legal Services/ JAG and Law Center for legal assistance and understanding administrative law and tax-free privileges that may apply at https://www.military.com/base-guide/us-army-garrison-stuttgart/contact/legal-servicesjag/13603
USAG Wiesbaden, Employment Readiness Program Wiesbaden, Germany 65189	tel:011-49-611-143-548-9201	Mon - Wed, Fri 8:00 a.m. - 5:00 p.m. Thurs 1:00 p.m. - 5:00 p.m. Sat, Sun & Holidays - closed		For IRS related questions, you can also contact the U.S. Embassy and Consulates in Germany https://de.usembassy.gov/u-s-citizen-services/internal-revenue-service-u-s-taxes/

BELGIUM INSTALLATIONS & GUIDANCE	PHONE NUMBERS	DAYS & TIMES	LEGAL SERVICES/ JAG INFORMATION	MISCELLANEOUS
USAG Benelux-Brussels-Schinnen Army Community Service - Employment Readiness St-Stevens-Woluwe, Belgium 1932	tel:011-32-65-32-6815	1st and 3rd Wednesday of the month 10:00a.m. - 3:00p.m.	Northern Law Center (Installation Legal Office) tel:011-32-65-44-4868 (SHAPE) tel:011-32-2-717-9780 (Brussels) Tue 10:00 a.m. - 3:00 p.m. By appointment only	
USAG Benelux/SHAPE ACS Employment Readiness Program SHAPE, Belgium 7010	tel:011-32-65-32-6815	Mon - Thurs 8:30 a.m. - 5:30 p.m. Fri 11:00 a.m. -5:00 p.m. Sat and Sun - closed	Legal Services/JAG tel:011-32-65-44-4868 Mon, Tue, Thu, Fri 9:00 a.m. - 12:00 p.m. & 1:30 p.m. - 4:00 p.m. Wed 9:00 a.m. - 12:00 p.m. Sat and Sun - closed	

ITALY INSTALLATIONS & GUIDANCE	PHONE NUMBERS	DAYS & TIMES	LEGAL SERVICES/ JAG INFORMATION	MISCELLANEOUS
Aviano Air Base Employment Assistance Program (A&FRC), via Capt. A. Barbarisi Aviano, Italy 33081	tel:011-39-0434-305407	Mon - Fri: 7:30 a.m. - 4:30 p.m. Sat, Sun, Holidays, most Family Days: closed	tel:011-39-0434-307843 Mon-Fri: 7:30 a.m. - 4:30 p.m. Sat, Sun, Holidays, Family days: closed	For legal services, visit Aviano Air Base https://www.31fss.com/legal-services , which also provides links to GS, NAF jobs, and professional opportunities for family members abroad.
Naval Air Station Sigonella Family Employment Readiness Program (FERP) Hoffpaur Administrative Center	tel:011-39-095-56-4291	Mon - Fri 7:30 a.m. - 4:00 p.m. Sat and Sun - closed Holidays - closed		
Naval Support Activity, Spouse Education, Training, and Careers Naples, Italy	tel:011-39-081-811-6372	Mon - Fri 7:30a.m - 4:00 p.m. Sat - closed Sun - closed	Naval Legal Service Office, Europe and Southwest Asia (NLSO EURSWA) tel:011-39-081-568-4576 Mon - Fri 8:00 a.m. - 4:00 p.m. Sat and Sun - closed	
USAG Italy, Employment Readiness Program Army Community Service Vicenza, Italy 36100	tel:011-39-0444-71-6884 tel:011-39-0444-71-7500 (from U.S.) tel:0444-71-6884 ; tel:0444-71-7500 (from Italy)	Mon - Fri 8:00 a.m. - 5:00 p.m. Thurs 1:00 p.m. - 5:00 p.m. Sat and Sun - closed Holidays - closed	USARAF/SETAF Office of the Staff Judge Advocate (OSJA) tel:011-39-0444-61-8834 (Client Services) tel:011-39-0444-61-8831 (Claims from U.S.) tel:0444-61-8834 (within Italy) Mon, Tues, Wed, Fri 8:30 a.m. - 12:00 p.m. and 1:00 p.m. - 4:00 p.m. Thu 8:30 a.m. - 12:00 p.m. and 1:00 p.m.- 3:00 p.m. Sat and Sun - closed Holidays - closed	
USAG Italy-Darby Military Community Employment Readiness Program (Army Community Service), via Vecchia Livornese Tirrenia, Italy 56018	tel:011-39-050-54-7084 (from U.S.) tel:0039-050-54-7084 (from Europe) tel:050-54-7084 (within Italy)	Mon - Fri 8 :00 a.m. - 5:00 p.m. Thu 11:00 a.m. - 5:00 p.m. Sat - Sun - Closed	Legal Services/Command Judge Advocate, via Vecchia Livornese tel:011-39-050-54-7686/7227 (from U.S.) tel:0039-050-54-7686/7227 (from Europe) tel:050-54-7686/7227 (within Italy) Mon - Wed and Fri 8:30 a.m. - 12:00 p.m. and 1:00 p.m. - 4:30 p.m. Thurs - 8:30 a.m. - 12:00 p.m. and 1:00 p.m. -3:00 p.m. Sat and Sun - closed Holidays - closed	



JAPAN INSTALLATIONS & GUIDANCE	PHONE NUMBERS	DAYS & TIMES	LEGAL SERVICES/ JAG INFORMATION	MISCELLANEOUS
Camp SD Butler (Camp Foster, Kinser, Courtney, Hansen, Schwab, and MCAS Futenma) Transition Assistance Management Program/ Family Member Employment Assistance, MCCS, Camp Foster; MCCS Marine & Family Program-Resources	tel:011-81-98-970-3151	Mon - Fri 7:30 a.m. - 4:30 p. m. Sat and Sun - closed Holidays - closed	tel:011-81-98-970-1037 Mon - Fri 7:30 a.m. - 4:30 p. m. Sat and Sun - closed Holidays - closed	
Commander Fleet Activities Sasebo, Family Employment Readiness Program Sasebo City, Japan 857-0056	tel:011-81-956-50-3604 (from U.S.) tel:0956-50-3604 (In Japan)	Mon - Fri 7:30 a.m. - 4:30 p.m. Sat - Closed Sun - Closed Holidays - Closed	tel:011-81-956-50-3347 Mon - Fri 7:30 a.m. - 4:00 p.m. Sat - Closed Sun - Closed Holidays - Closed	
Commander Fleet Activities Yokosuka, Family Employment Readiness Program	tel:011-81-46-816-3372	Mon Tue Wed and Fri 8:00 a.m. - 4:30 p.m. Thu 8:00 a.m. - 3:00 p.m. Sat - Sun - closed Holidays - closed	tel:011-81-46-816-8903 Walk-ins Tues & Thurs 1 p.m. - 3 p.m. Sat and Sun - closed Holidays - closed	
Kadena AB, Airman and Family Readiness Center Okinawa City, Japan 96368-5134	TTN: Career Assistance Program Manager tel:011-81-98-961-3366	Mon-Fri 8:00 a.m. - 5:00 p.m. Sat and Sun - closed Holidays - closed	tel:011-81-611-734-3300 To meet with an attorney: Mon, Wed, and Thurs 9:00 - 10:00 a.m. For notary: Mon-Fri 10:00 a.m. - 3:00 p.m.	
Misawa AB, Airman and Family Readiness Center Aomori-ken, Japan 033-0012	tel:011-81-3117-77-4735	Mon - Fri 8:00 a.m. - 4:00 p.m. Sat and Sun - closed Holidays - closed Loan Locker- Mon - Fri 8:00 a.m. - 4:00 p.m. PACAF Family Days - CLOSED	tel:011-81-176-77-4022 Mon - Fri 9:00 a.m. - 4:00 p.m. Legal Assistance- Mon, Tues, and Thurs 9:00 a.m. - 10:00 a.m. Sat and Sun - Closed Holidays - Closed Other times available via appointments.	
Naval Air Facility Atsugi, Family Employment Readiness Program (FERP); Fleet and Family Support Center (FFSC) Atsugi, Japan 252-1101	tel:011-81-467-63-3372 tel:011-81-467-63-3628 tel:011-81-467-63-3372 tel:011-81-467-63-3628	Mon, Tue, Thurs, and Fri - 7:30 a.m. - 4:30 p.m. Wed - 7:30 a.m. - 1:00 p.m. Sat, Sun and Holidays - Closed	Navy Legal Service Office (NLSO) tel:011-81-467-63-3692 Mon - Fri 7:30 a.m. - 4:00 p.m. Sat, Sun and Holidays - Closed tel:011-81-46-407-HELP (4357)	
USAG Japan Zama, ACS Family Member Employment Assistance Program Zama-shi, Kanagawa Ken, Japan 228-8920	tel:011-81-46-407-HELP (4357)		Atsugi, Kanagawa Legal Services/JAG tel:011-81-46-407-4698	
USAG Okinawa Torii Station Family Member Employment Assistance Okinawa, Japan 904-0304	011-81-98-970-5555 then dial DSN number	Mon - Wed & Fri 7:30 a.m. - 4:30 p.m. Thurs 1:00 p.m. - 4:30 p.m. Sat, Sun & Federal Holidays - closed		

REPUBLIC OF KOREA INSTALLATIONS	PHONE NUMBERS	DAYS & TIMES	LEGAL SERVICES/ JAG INFORMATION	MISCELLANEOUS
Camp Humphreys/USAG Humphreys Family Member Employment Assistance Program	tel:011-82-50-3357-2369 or 2372	M,T,W, F 8:00 a.m.- 5:00 p.m. Thurs 12:00 p.m. - 5:00 p.m. Sat, Sun, Holidays - Closed	tel:011-82-50-3357-2617 Mon - Fri 9:00 a.m. - 5:00 p.m. Thu 1:00 p.m. - 4:00 p.m. Sat - Sun - Closed Holidays - Closed	For more information on U.S. contractors in the Republic of Korea, visit: https://www.usfk.mil/Portals/105/Documents/411%20CSB/7%20Guidance%20for%20Contractor%20Sofa%20Designation.pdf
Commander Fleet Activities Chinhae Fleet & Family Support Office Chinhae-Si, Republic of Korea 645-016	tel:011-82-55-540-5385	Mon - Fri 8:00 am - 5:00 pm Sat, Sun & Holidays - closed	tel:011-82-55-540-5310 Mon - Fri 7:30 am - 4:30 pm Sat, Sun & Holidays - closed	
Kunsan AB, Family Member Employment Assistance Program Kunsan, Korea, Republic Of 96264-2102	tel:011-82-63-470-5644 tel:011-82-63-470-5627 tel:011-82-63-470-5627	Mon - Fri 8:00 a.m. - 5:00 p.m. Sat, Sun & Holidays - closed	tel:011-82-63-470-4283 Mon - Fri 8:00 a.m. - 5:00 p.m. Sat, Sun & Holidays - Closed	
Osan AB, Airman and Family Readiness Center Pyeongtaek City, Korea, Republic Of 459-122	tel:011-82-505-784-5440	Mon - Fri 8:00 a.m. - 5:00 p.m. Sat and Sun - closed All U.S. Holidays - closed		
USAG Daegu, Army Community Service (ACS) Camp Henry	315-768-8127 (DSN) 315-768-7112 (DSN)	Mon - Fri 8:00 a.m. - 5:00 p.m. Sat and Sun - closed	Legal Services/JAG tel:315-768-6631 (Claims) Camp Henry: Mon-Wed 9:00 a.m. - 4:30 p.m. Thurs 1:00 pm - 4:00 pm Fri 9:00 a.m.- 4:30 p.m. Camp Carroll: Mon-Wed 9:00 a.m. - 5:30 p.m. Fri 9:00 a.m.- 5:30 p.m. Claims: Mon-Wed 8:00 a.m. 0 4:30 p.m. Thurs 1:00 -4:30 p.m. Fri 8:00 a.m. - 4:30 p.m.	
USAG Yongsan-Casey, ACS Employment Readiness Program Seoul, Korea, Republic of 110-700	tel:011-822-7918-8977	Mon - Fri 8:00 a.m. - 5:00 p.m. Sat, Sun & Holidays - closed	Legal Services/JAG tel:011-822-738-6841 tel:011-822-738-4361 tel:011-822-7918-6841 tel:011-822-7918-4361 Mon, Tue, Wed & Fri 8:00 a.m. - 4:00 p.m. Thurs 1:00 p.m. - 4:00 p.m. Sat, Sun & Holidays - closed	

Information for this table was obtained via MilitaryInstallations. Installation information is subject to change periodically. For the most accurate information on installations see DOD Military Installations at <https://installations.militaryonesource.mil/>.

Step 4: Compile a List of Questions

The implications related to SOFA as they pertain to employment can be complicated because they are not clearly defined, they are location-specific, and they are often specific to each individual situation. Therefore, military spouses and employers should clarify any SOFA guidance with the appropriate legal and tax advisors to ensure they are fully compliant. As we note throughout this roadmap, the ability to answer SOFA-specific questions can vary significantly and often requires location-specific subject-matter expertise.

To assist with this process, we have identified some common questions and answers for both spouses and employers below. In addition, we provide a worksheet for employers and spouses to use as a guide to create a list of their own questions. Where specific answers do not exist for a given location, these questions can serve as a starting point for stakeholders to develop guidance where none exists.

FOR EMPLOYERS

Q: What information should I gather before a military spouse employee relocates overseas?

A: Pinpoint the country and time frame when the employee intends to move as early on as possible. Use the list included in this document to compile a list of location-specific contacts and resources that will help navigate SOFA and applicable tax laws overseas. This might include:

- ▶ Legal and tax specialists within the country of origin
- ▶ Installation's commercial affairs office
- ▶ Employment specialists on or off the installation
- ▶ Your internal HR professionals
- ▶ Tax, payroll, or immigration attorneys
- ▶ Installation JAG

It is a good idea to develop a plan of action and consult with legal and other experts as early as possible to identify any barriers to ongoing employment and to help smooth the employee's transition and minimize relocation issues overseas. Know what SOFA restrictions are in place, the international tax treaties that apply, and how your employees will be taxed. It will be helpful for your employees to understand in advance what is required of them in order to comply with the domestic laws as well.

Q: What are the advantages of ensuring that my employee is covered under an existing SOFA while they are working overseas?

A: For a military spouse to maintain their SOFA protections, they must be compliant with SOFAs in effect. Compliance with existing SOFAs can be beneficial for the employer as well as the employee if it reduces the burden of taxation on an employee (e.g., limited taxation under SOFA).

The choice to work overseas in any capacity not covered by SOFA may result in an employee losing their SOFA status protections. Due to SOFAs, countries have a say in whether one can work and earn foreign wages and income, which may require adherence to their terms and may include paying host nation taxes, obtaining visas, permits, a Tax ID, and/or reporting foreign-earned income on an annual tax return. For this reason, companies need to know applicable laws before sending potential employees overseas and be sure their business practices are compliant with any agreements in place.

Q: I am a U.S.-based employer, and I have employees who are covered under SOFA and who will relocate overseas due to military orders. Is there any guidance on assisting my employee in working remotely from overseas?

A: There is very little guidance for U.S.-based employers about how to work with remote employees overseas, especially as it pertains to SOFA.

For more information, see: [How to Employ- and Payroll—a Telecommuter Working from Home Overseas](#).

Employers should consider:

- ▶ Foreign taxes owed.
- ▶ If the employee is suited to working remotely. This also may include whether their job responsibilities are appropriate for remote work.
- ▶ If the costs of retaining the employee outweigh the costs of replacing them (i.e., is the employee a high performer; do they perform a job that would be difficult to replace; would their absence impact the reputation or morale of the workplace; is there a benefit to having an employee with an overseas presence; how does their presence or absence impact the organizational brand).
- ▶ Whether there is a physical/technological infrastructure to support remote overseas work.
- ▶ Any risks that may be involved (e.g., financial, legal, etc.).

Q: As an employer, what tax management policies are best to alleviate the tax burden for military spouses planning to relocate and work with our company abroad?

Tax Questions for Employers

- ✔ What aspects of the tax laws (U.S. and foreign) must employers comply with?
- ✔ How do employers identify their tax obligations and requirements when employing remote employees covered under SOFA?
- ✔ Do SOFAs exempt employees or companies from certain foreign rules?
- ✔ Can SOFA or legislation better incentivize employers who employ military spouses?
- ✔ How can the company or employer ensure compliance with an existing agreement?

A: Two tax management systems that companies utilize are tax equalization and tax protection, both have advantages and disadvantages. The majority of companies (80 percent) utilize tax equalization as the most common method for dealing with tax management overseas in which the employer pays the difference between the actual and hypothetical tax.⁵⁸ This can be a good choice for larger companies that have many employees working abroad as well as for employers who need to ensure tax compliance. For those companies that prefer more flexible policies (i.e., consideration on a case-by-case basis), tax protection may be more appropriate; however, the employee will be responsible for paying the local and international taxes and must wait for the annual assessment at the end of the tax year to determine if they will receive remittance.⁵⁹ It may be helpful for companies to discuss which option is best among their HR staff and ensure their tax management policies are transparent and aligned with the goals of the employees.

**FOR MILITARY SPOUSES^{xviii}**

Q: I am currently employed with an American company and planning to relocate overseas to Germany. What are my tax liabilities there?

A: As an employee of an American company in Germany, you will be required to obtain a German Tax ID number and pay a German wage tax. The German tax rate can be fairly high compared to the U.S.⁶⁰ With respect to German taxes, residency and the location where you are working as well as the sources from where your income is derived matters. See the German Compliance Matrix in the Appendix section for more information.

Q: What if my job overseas requires a license? (e.g., teacher, mental health counselor, legal assistant)?

A: You should check with your licensing board and let them know the country where you intend to relocate. Holding a license in your profession does not necessarily guarantee employment in a similar position or profession overseas. Again, it depends on what the host nation laws allow as well as the availability of those types of jobs overseas.

Q: Is there any single point of contact (e.g. an office or person) to seek guidance from regarding taxes and employment?

A: Unfortunately no, but there are points of contact to consult with regarding your employment and tax liabilities overseas. Contacting your local Installation Commercial Affairs Office is a good place to start. An installation employment readiness expert or judge advocate general (JAG) or legal officer can help determine the possible impact of SOFA and taxes abroad. Also available at local military installations are family support and tax specialists who can assist with understanding regulations and labor laws that impact employment. See below for additional resources.

^{xviii} Answers in this section are based on Germany because it is the location where the guidance is most clear.



Step 5: Consult with Legal and Tax Advisors and Determine Tax and Legal Implications

CONSULT WITH LEGAL AND TAX ADVISORS

A variety of professionals across several areas of expertise may be needed to answer questions regarding tax obligations and compliance issues. Those professionals might include HR specialists, tax attorneys, immigration attorneys, or legal officers, or employment specialists. Check the requirements including necessary paperwork requirements for visas and work permits and know if they are required under SOFA. For spouses working overseas, SOFA may provide some relief from taxes through limited taxation. Spouses should consult with their employer to understand company policies and what tax liabilities will working abroad.

DETERMINE TAX AND LEGAL IMPLICATIONS

Understanding the tax implications of overseas employment is both complicated and essential for military spouses and their employers. The tax implications are dependent on a variety of factors including the type of employment, location, and the unique employment situation each spouse faces, to name just a few. Company policies may not account for the various legal and tax regulations in a foreign jurisdiction, which may lead to uncertainty about how to ensure compliance with SOFAs, tax treaties, and other international agreements. Unforeseeable consequences can also arise for U.S. companies that lack awareness of the laws regarding permanent establishment and other tax issues, which can impact the organization in the long-term. Existing agreements can also be revised and periodically updated, which may necessitate a review of company policy around their overseas business practices. Knowing the applicable terminology related to tax issues can help inform some of the questions spouses and employers can ask when consulting advisors.

Figure 6: Tax Terminology and Issues Related to Overseas Employment

Tax Terminology and Issues Related to Overseas Employment

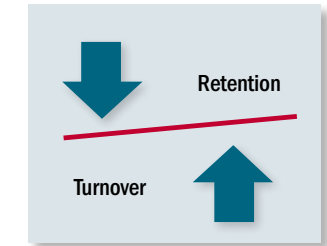
<p>Foreign Earned Income (FEIE) Exclusion Allows a U.S. citizen working abroad to exclude up to a certain amount of taxable income; Must meet certain residency requirements (defined by length of time in host nation; impacts tax requirements).</p> <p>Foreign Tax Credit Allows for reduction in U.S. taxes based on taxes paid to a foreign government; decreases your U.S. tax obligations.</p> <p>Tax Equalization Tax neutral situation for employee where the employer pays the difference if the actual tax is more than the hypothetical tax.</p>	<p>Tax Protection Employee pays home and host country taxes; annual tax review may grant remittance if actual tax is more than hypothetical.</p> <p>Permanent Establishment (PE) Fixed place of business which can lead to an income or value added tax (VAT) liability in a particular jurisdiction. International relocation can become a permanent establishment risk due to an "unintended taxable presence" As mentioned, PE is the business or company's "taxable presence," which may be established due to having more than six months of continuous activity in a host country. PE is very nuanced and often requires clarification by legal authorities where one is stationed.</p>
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DETERMINE THE COST OF RETENTION

Why employers should consider retention costs in relation to military spouse relocation

Relocation can present a retention challenge for employers, especially those who are high performers or those who have skills that might be difficult to replace. In addition, employers must consider the costs of turnover. The cost of turnover includes the following:

- ▶ For jobs paying \$75,000 or less, typical turnover costs are approximately 20% of the employee's annual salary.⁶¹ The following data points offer a snapshot of average employee turnover costs, based on the skill level of the employee:
 - Entry-level employees = 30-50% of Annual Salary
 - Mid-level employees = 150% of Annual Salary
 - Highly-skilled employees = 400% of Annual Salary⁶²
- ▶ Direct replacement costs can be as high as 50-60% of an employee's annual salary.⁶³
- ▶ Training costs can be high: 10% to 20% of an employee's salary or more will be invested in training over a period of 2 to 3 years.⁶⁴



According to Bill Conerly, economist and contributor to Forbes Magazine, "The key to improving retention is knowing the turnover costs."⁶⁵

Retention of high-performing employees is an important concern for companies and corporations. Military spouses often have sought after skills that employers value.⁶⁶ Knowing that military spouses often relocate, sometimes overseas, employers should consider how, when or if they intend to retain their military spouse employees when they relocate. To fully understand how to achieve improved retention, we must first consider the costs associated with turnover. Turnover has hard-costs as well as soft-costs because it can impact the quality and performance of an organization in the long-term. For example, a high turnover rate may translate to financial losses, decreased workforce morale, or lost customer loyalty.⁶⁷

CASE EXAMPLE

Using a Decision Tree to Determine the Costs and Benefits of Retention

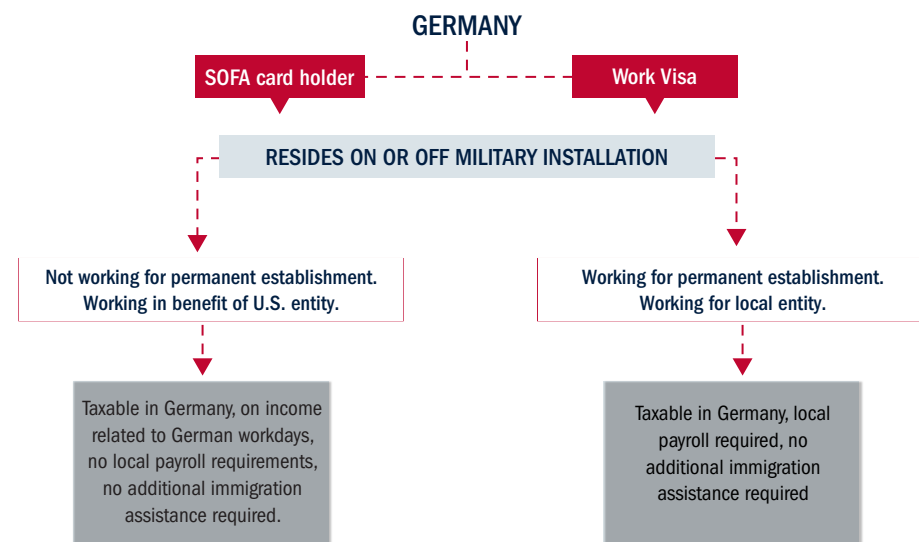
Organizations must balance the costs of retaining employees against the cost of replacing them. But when employees relocate overseas there is a lack of explicit guidance with regard to taxes, payroll, and SOFA. Each organization's unique situation determines how much and to whom taxes are owed. The decision process used by Prudential Financial Inc. is shown below. Using a set of assumptions, and developing a formula in consultation with their internal advisors, they estimated the costs of retaining an overseas employee in Germany by determining the cost of tax equalization. Organizations can develop their own decision process by consulting with a variety of experts including tax advisors, immigration attorneys, military spouse employees, and human resource experts.

"It would be helpful to consider changes to tax laws to ease the overseas employment tax burden to the military spouse and the employer. Bottom line: employers might have more incentive to retain or solve for overseas military move job portability issues if their tax burden was reduced."

- Employer Interview

When military spouses relocate overseas, employers must balance the cost of replacing an employee against the cost of retaining them. Consider the example scenario below using the following assumptions:

- ▶ Total compensation (including salary and benefits) for employee is approx. \$200k.
- ▶ Employee is doing work in the U.S. and relocates to Germany for a permanent change of station (PCS) move.
- ▶ Employee continues work role but remotely from Germany.
- ▶ Employee is a military dependent covered under a SOFA
- ▶ Employee is considered a resident in both the U.S. and Germany (because the employee has worked in Germany for more than 183 days)
- ▶ Employee remains a resident of NJ (employee is assessed a state income tax)
- ▶ 100% of the work day will occur in the host country
- ▶ Work does NOT generate revenue within host country (Germany)



Tax Impact Findings:^{xix}

- ▶ Cost to company to tax equalize is approximately \$144,000*
- ▶ Additional tax burden to the employee, if NOT tax equalized is approximately \$58,000

*The information provided is for informational purposes only. This example does not constitute legal, tax, or consultation advice. For legal and tax assistance with employment in Germany or any other jurisdiction, please consult with qualified legal and tax consultants specific to the location of interest. The tax implications to the employer and the employee were based on unique assumptions. The actual scenario for a given employer/employee will be unique to their circumstances and location.

^{xix} For more information on tax equalization see: Figure 6: Tax Terminology and Issues Related to Overseas Employment

Table 5: Balancing the cost of retention for employers and military spouses

Balancing the Cost of Retention for Employers and Military Spouses	
Employers	Spouses
<input type="checkbox"/> Consider total compensation	<input type="checkbox"/> Ask if total compensation increases or decreases?
<input type="checkbox"/> Residency (state and physical – is state income tax assessed)?	<input type="checkbox"/> What taxes are owed based on state residency and country of residence?
<input type="checkbox"/> Where are taxes owed (e.g., are taxes owed in the country where the work is performed in addition to U.S. taxes)?	<input type="checkbox"/> Will I be able to offset any taxes owed either through my company or otherwise?
<input type="checkbox"/> Are there ways of offsetting the cost of any taxes owed (e.g., tax equalization)?	<input type="checkbox"/> Are there any advantages or disadvantages to working as a salaried employer versus working as a contract employee?
<input type="checkbox"/> Is the employee a full-time salaried employee or working on a contract basis?	<input type="checkbox"/> Does it matter where I perform my work?
<input type="checkbox"/> Where is work performed and does permanent establishment apply?	<input type="checkbox"/> What are the situations that would impact my SOFA status?
<input type="checkbox"/> Is revenue generated in the country of interest?	<input type="checkbox"/> What paperwork do I need to complete?
<input type="checkbox"/> Is the employee a military dependent under SOFA status and considered a resident of the U.S. or of the foreign country?	<input type="checkbox"/> Are there any time sensitive issues that I should be aware of?
<input type="checkbox"/> What resources and expertise are available to ensure compliance with relevant laws, policies, and agreements?	<input type="checkbox"/> Who are the people I can contact in my location who can answer specific questions about my individual employment situation?
<input type="checkbox"/> Does the company or corporation have a mobility policy in place to help spouses transferring overseas - i.e., type of visas or permits the company will pay for, mobile device and internet use?	
<input type="checkbox"/> Is the company aware of any revisions/amendments to tax treaties and international agreements that may affect their employees abroad?	
<input type="checkbox"/> Is the company aware of location and duration and how these factors impact residency and permanent establishment?	
<input type="checkbox"/> Are there any unfamiliar issues that need further review (e.g., tax liabilities within each country or business registration requirements)?	

Step 6: Complete required paperwork

Employers and employees may be required to complete a variety of paperwork to comply with various employment related laws and regulations. The type of paperwork required varies depending on each unique situation but might include location, type of work, where revenue is generated, and tax-specific requirements. The following is a checklist that can be used by military spouses as well as employers. The checklist can help to identify paperwork and documents needed and/or required for your particular employment situation and location. The notes section can be used to keep track of whether something has been completed and/or whether something is required.

Table 6: Overseas employment and SOFA paperwork checklist for military spouses and employers

OVERSEAS EMPLOYMENT AND SOFA PAPERWORK CHECKLIST				
DOCUMENT	DESCRIPTION	MILITARY SPOUSES	EMPLOYERS	NOTES
SOFA certificate	Passport stamp - functions like a visa; provides benefits, privileges, exemptions, and legal status under SOFA	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Social Security ID	Issued to citizens and residents, used for tax filing and employment purposes	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Tax ID Number	Identifying number used for tax purposes in U.S. and countries abroad	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Work Permit	Provides ability to accept a foreign job overseas	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
No-fee Passport for Official Travel (DD Form 1056 to Apply)	Government-issued passport, free of charge to command-sponsored military family members	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Registration & Licenses	State-issued license or registration may be valid in some overseas locations, government employment, and contracting	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Current Resume	Keep updated and current to send to prospective employers	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	

OVERSEAS EMPLOYMENT AND SOFA PAPERWORK CHECKLIST				
DOCUMENT	DESCRIPTION	MILITARY SPOUSES	EMPLOYERS	NOTES
Letters of Recommendation	References who can provide an evaluation of your work skills and accomplishments	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
College Transcripts	May be helpful to provide for certain types of employment (e.g., English teaching jobs overseas)	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Work/Employment Contract & Leave Permission	Documents the rights and responsibilities of employer and employee	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
IRS Income Tax Return, Certificate of Income Tax, and/or Foreign Tax Forms	W-2, 1099 Form for Contractors, copy of last year's tax return with Foreign Tax Credit, etc.	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
SF-50 Federal Employment Certificate	Standard Form 50, Notification of Personnel Action "Federal Employment Birth Certificate" to verify Federal service	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Telecommuting Proposal	Remote work proposal; may include flexible schedule, costs savings, and benefits to the business	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Copy of Business License	Important for those who are self-employed	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Statements from Financial Institution	Current bank statement (last 6 months), year-end interest statement	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Record of Sales and Purchases (for business or personal use) and any miscellaneous income	Important for those who are self-employed	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Proof of Health Insurance		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	

PART III

RECOMMENDATIONS FOR EMPLOYERS, MILITARY SPOUSES, AND KEY STAKEHOLDERS

For many military spouses, living overseas is an inevitable part of military life. Multiple stakeholders are needed to ensure that military spouses can more easily pursue and maintain employment while residing overseas. Remote employment is increasingly common, but there is limited information to guide military spouses or employers in how to implement a remote employment arrangement for spouses covered under a SOFA. For military spouses who want or need to work, stakeholders can collaborate to develop specific guidance to assist employers in retaining military spouses living or relocating overseas. Employers can help identify the specific guidance that is needed, which might include information about tax compliance, payroll law issues specific to various locations, and how employers can conduct a cost-benefit analysis consistent with their business case.

We offer the following recommendations:



FOR EMPLOYERS

- ✓ Consider appointing an individual within each company – (e.g., another military spouse within the organization) who has experience with SOFAs and who can familiarize themselves with the local laws, language, labor relations, and organizational practices of the foreign territory.
- ✓ Designate an organizational representative to assist military spouses when they relocate and to ensure regulatory compliance related to overseas business and payroll activities.
- ✓ Publish or develop policies related to overseas employment, when it is allowed, and under what conditions. Include guidance about security, technology, and tax compliance.
- ✓ Consult tax advisors, legal experts, and HR specialists to conduct a cost-benefit analysis to determine the feasibility of retaining military spouse employees relocating overseas.
- ✓ Help employees weigh the financial implications of working overseas with regard to taxes.
- ✓ Where possible, provide customized guidance (e.g., mentorship from another military spouse employee or HR representative) so spouses are better prepared to transition into an overseas employment position.
- ✓ Where possible, use existing expertise or past experience to translate SOFAs and company tax policies for employees in a way that makes information as accessible as possible.
- ✓ Where possible, provide information to spouses about how to pursue remote employment specific to physical and geographical locations.
- ✓ Share success stories within your organization and with partner organizations.
- ✓ Collaborate with partner organizations to remove barriers and avoid duplicating efforts, and work to disseminate guidance for collective impact.
- ✓ Consider inclusion of other impacted groups to include DoS spouses.
- ✓ Participate in convenings to share information, develop informed policies, and identify action items.
- ✓ Engage subject-matter experts to answer questions and ensure compliance. This can include tax and legal experts, HR advisors, and location-specific subject-matter expertise.

FOR MILITARY SPOUSES

- ✓ Seek guidance specific to individual circumstances including location, type of work, and SOFA protections.
- ✓ Seek location-specific guidance. Employment and taxation will need to be considered on a case-by-case basis. While information is frequently passed down from person to person, the laws and guidelines can change so it is crucial that spouses seek guidance for themselves and get help early on from legal and tax experts.
- ✓ Assess the pros and cons of overseas employment to assist in decision making.
- ✓ Clarify the consequences of physical and geographical location on various types of employment including remote employment.
- ✓ Use available resources such as installation legal office, your employer's Human Resources office, or installation employment office.
- ✓ Understand circumstances that involve a loss of SOFA protections and how to avoid losing SOFA protections (e.g., living or working on an installation, working remotely).
- ✓ Network with other spouses who have lived or who are living in the location you are going, as those spouses can offer guidance based on recent experiences.
- ✓ Get organized: For military spouses planning to pursue employment overseas, gather all important forms and documentation (i.e., resumes, Federal resume if seeking GS employment, copies of your licenses and certifications, birth certificate, transcripts, Social Security card, and any letters of reference).
- ✓ Consult experts such as legal officers and tax advisors. While military spouses are expected to comply with SOFAs and regulations, guidelines for these agreements may be difficult to acquire, understand, or interpret.
- ✓ When possible (preferably prior to relocating), utilize your HR representative if you are already employed to seek guidance about questions you have about your employment.
- ✓ Educate yourself to understand when you become responsible for foreign taxes, and when U.S. taxes can be offset.

FOR U.S. GOVERNMENT STAKEHOLDERS (E.G., DoD, DoS, CONGRESS)

- ✓ Work across services and installations to engage leadership and ensure that all military spouses regardless of military service or location have access to information on various types of overseas employment.
- ✓ Consider military spouse employment when renegotiating future SOFAs (e.g., outlining where dependents are or are not exempt from employment and tax laws; guidance on remote employment).
- ✓ Ensuring that accurate information is regularly updated in a location that is accessible to employers and military spouses (e.g., on a .gov or .mil website).
- ✓ Recognize that SOFAs impact employment but currently do not provide detailed guidance on employment. Work to provide detailed guidance to employers and spouses where it is lacking including information about tax liabilities.
- ✓ Engage decision makers in government who can champion this issue and ensure there is clear, accurate, and timely guidance on remote work overseas for persons covered under SOFAs.
- ✓ Engage leaders who can champion, prioritize, and reinforce the issues related to employment of military spouses overseas. Stakeholders should include spouses, employers, and representatives across the DoD, DoS as well as the IRS, Department of Commerce, and Department of Labor.
- ✓ Recognize the need for remote employment opportunities and provide guidance where possible to keep pace with current workforce trends.
- ✓ To the extent possible, clarify in writing how existing SOFAs impact employment of military dependents covered under the agreements and explain the consequences of employment that does not fall under SOFA.
- ✓ Participate in convenings and discussions to better understand how SOFA impacts employers and employment of overseas dependents.
- ✓ Discuss the feasibility of a designated point of contact where spouses and employers can seek information and guidance about how to comply with SOFA.
- ✓ Identify and develop solutions to minimize barriers to overseas employment wherever possible.
- ✓ Develop location-specific checklists and decision trees for spouses (and their employers) wishing to work overseas to ensure they are completing necessary paperwork, complying with tax laws, and maintaining their SOFA status.
- ✓ Work collaboratively to develop clearer SOFA-specific employment related guidance written in language that spouses and employers can easily understand (e.g., avoid complicated legalese).
- ✓ Convene stakeholders (e.g., Department of Defense, Department of State, Department of Labor, IRS, Members of Congress, and Employers) to develop recommendations to enable overseas employment for military spouses; consider remote employment and telecommuting arrangements not previously addressed by SOFA.

Conclusion

Job portability, the ability to maintain employment across locations is advantageous because it allows organizations to retain high performers and avoid costly and unnecessary expenses associated with replacing established and valued employees. For employers who have already invested in hiring military spouses, this is significant because job portability supports retention of employees despite relocation across state lines and overseas.⁶⁸ Conversely, lack of job portability is a problem for employers if they lose unique talent or skills that contribute to their business goals, especially if they have already invested time, money, and resources into those workers.

Obviously, military spouses are impacted by a lack of job portability because without it, the ability to remain employed is diminished.⁶⁹ Conversely, when spouses remain employed with their U.S. after they have relocated overseas, their career and economic opportunities are expanded. Lack of information about remote employment or expertise about tax requirements and employment laws is a significant barrier for both spouses and employers. Spouses often find themselves in the precarious situation of searching for multiple sources of guidance and expertise simply because rules vary depending on their location and nature of their employment.

Accurately assessing the rules and regulations that apply to those seeking employment overseas requires a synthesized and comprehensive understanding of SOFAs, IRS, Tax Code, and local and foreign law. Because SOFAs are nuanced and can vary by the type of job assignment, where work is taking place, how long a person stays, and may include special arrangements made between the U.S. and the host government there is very little guidance for employers wishing to retain their military spouse employees who relocate overseas. This leaves both companies and military spouses vulnerable and at risk if they do not understand the laws or if they are unable to obtain accurate guidance beforehand. With so many complications, companies rarely have little incentive to support or retain qualified employees overseas.

SOFAs, as they pertain to employment are nuanced and complicated. Multiple stakeholders across a variety of disciplines will be needed to implement changes and to improve employment guidance. Stakeholders including military spouses, employers, the DoD, DoS, and perhaps members of Congress. Representatives from other federal agencies might include the IRS, The U.S. Departments of Labor and Commerce since these issues intersect with multiple issues that require expertise across several areas. Future discussions and collaborations should address specific issues that impact employers and military spouses around payment of taxes and remote employment overseas. Guidance on these topics is almost nonexistent. Specific changes to SOFAs are not necessarily feasible in the short-term, but additional guidance specific to employment overseas may be possible if multiple stakeholders can prioritize and identify the key issues impacting military spouses and employers. Two priorities might include clearer guidance around remote employment and identifying tax incentives that could encourage employers to retain military spouse employees overseas.

This roadmap provides some guidance on the issues related to SOFA and military spouse employment overseas including the substantial knowledge gaps that exist. This roadmap is aspirational in nature because the challenges to remote employment overseas are significant. Improvements are possible, but will require a sustained, proactive and collaborative effort over time.



PART IV

APPENDIX

SOFA and Common Employment Options for Military Spouses Overseas

Civil Service Appropriated Fund (AF) and Non-appropriated Fund (NAF) Jobs⁷⁰

AF positions are government positions funded by Congress and include a variety of career fields such as public affairs, office administration, contract procurement, skilled labor, engineering, and intelligence. The Office of Personnel Management posts AF jobs. NAF positions help to support Installation services through various programs. Morale, Welfare, and Recreation (MWR) posts openings for NAF jobs. Job posts on the Exchange (military department store) website also offer job openings in food service, retail, business operations, and other positions available on the installation. Both AF and NAF offer portable job positions. To search for or learn more about federal NAF and AF positions, visit USAJobs at www.usajobs.gov/help/working-in-government/unique-hiring-paths/military-spouses. The hiring process for military spouses may be different overseas. Although there is a federal hiring preference for military spouses, it is recommended that you contact your installation's human resource or civilian personnel office to determine how military spouse preference works at your location.⁷¹

- ▶ To apply for Military Spouse Preference, visit <https://publicaffairs-sme.com/applmyexchange/>
- ▶ Visit DoD Military Installations at <https://installations.militaryonesource.mil/> for installation-specific guidance, such as contact information for the Employment Readiness Programs. Select 'Program or Service' then 'Spouse Education, Training, and Careers,' and then select the appropriate installation.
- ▶ Visit NAF Jobs at <https://www.nafjobs.org/viewjobs.aspx> to search for NAF positions on Installations overseas. Or visit Civil Human Resources Agency at <https://portal.chra.army.mil/> for more employment-related information and resources for AF/NAF positions.

Self-Employment and SOFA (including small business owners)

SOFAs determine if and where you can work while stationed overseas and whether you need to obtain a visa and/or permit to work on the local economy. For small business owners, it is important to seek guidance from legal and tax specialists and the legal assistance offices on the installation.

- ▶ Be sure to check on the visa, permit, and residence requirements that may apply.

Defense and Civilian Contracting

Those working in Federal government contracting often conduct business operations on overseas installations. Contact your local installation employment readiness specialist via Military OneSource's website Military Installations at <https://installations.militaryonesource.mil>. Be sure to check with your installation's Employment Readiness Specialist as well.

- ▶ Visit Federal Government Jobs (www.federaljobs.net/overseas.htm) for a list of available jobs overseas in both government and private sectors. For civilian contracting jobs overseas, visit Professional Overseas Contractors (www.your-poc.com).
- ▶ IRS Forms 1099 Tax Information and Defense Contracting: Visit Defense Finance and Accounting Service (DFAS) at <https://www.dfas.mil/contractorsvendors/taxinfo.html>

German Compliance Matrix Tax Table: Filing Requirements for Different Workers in Germany

Of the four countries addressed in this paper, Germany had the clearest guidance with respect to tax laws and employment related requirements. For this reason, we provide a template that outlines those requirements. This template serves two purposes: (1) it indicates specific requirements for employment specific to Germany, and (2) it provides a template that could be used to develop similar guidance for other countries where SOFA-related guidance has not been aggregated.

The following table (and corresponding key), excerpted from the German Compliance Matrix created by BSU Business Set-Up Ltd and RFP Steuerberatung, covers some of the employment-related cases and likely requirements under German law. Accordingly, the provided information is for informational purposes only and does not constitute legal advice; nor is it guaranteed to be complete or indicative of future requirements. Those with SOFA status employed in Germany should first consult their installation Legal Office as well as qualified German tax and legal experts to determine individual requirements. For more information, please be sure to visit the German Tax Office for consultancy as tax laws and regulations can be complicated. You can also visit the following websites:

- ▶ BSU Business Set-Up UG
- ▶ RFP Steuerberatung GmbH
- ▶ The original version of the German Compliance Matrix may be found at the following link: https://www.howtogermany.com/files/German_Compliance_Matrix.pdf

Note: All U.S. citizens are required to file an annual tax return with the IRS, regardless of where they reside.



Table 7 German Compliance Matrix Tax Table

Possible Requirements	File Annual German Tax Return	Pay German Wage Tax	Business License from Local Business Registration Office (Gewerbeamt)	German Tax # from Local German Tax Office or German Tax ID # from Federal Tax Office (see #1)	Eligible for Certain German "Employee" Benefits (see # 2)
STATUS	Employees of American company paid by American civilian company (located in USA), with U.S. FICA deductions taken from salary and working in Germany or on U.S. military installation				
	Local National	(X)	(X)	(X)	
	Other nationalities with German residence permit	(X)	(X)	(X)	
	U.S. SOFA holder (spouse or family member)	optional	(X)	(X)	
STATUS	U.S. freelancers and self-employed (with SOFA) - may include small business owners				
	U.S. freelancers and independent contractors with SOFA – to include those paid from the U.S. and issued a 1099 IRS form (working on or off installation)	(X)		Depends on type of work or business (X) SEE #1	
	U.S. freelancers with SOFA paid from Germany in any currency (includes teachers in private U.S. or German schools)	(X)		Depends on type of work or business (X) SEE #1	
	U.S. self-employed with SOFA doing business in Germany on or off installation (includes online business run from U.S. government housing, physical therapists, photographers, etc.)	(X)		Depends on type of work or business (X) SEE #1	
STATUS	Employees of a German company - individuals working as an "employee" of a German-based company (e.g. GMBH) and paid by the company with withholding tax (Lohnsteuer) and social security and other deductions taken from the salary				
	U.S. citizen and other nationalities with residence permit or determined to be ordinarily resident	(X)	(X)	(X)	(X)
	U.S. SOFA holder (spouse or family member)		(X)	(X) SEE #1	(X)
Key for German Compliance Matrix					
<p>#1 A tax questionnaire is normally required to be completed and submitted to receive a German tax number. The tax number is normally issued by the local tax office (Finanzamt). This number is normally used with all correspondence from and to the local Finanzamt. A German tax identification number is normally issued by the federal tax office (Bundeszentralamt für Steuern) after registering of address with the local authorities (Einwohnermeldeamt). RFP Steuerberatung can process these papers for individuals and freelancers.</p> <p>#2 Employees of companies registered in Germany (e.g., GmbH) pay German taxes and contribute to the German "social security" programs. These include the German public retirement system and the unemployment fund. They may then be eligible to be paid a children's allowance (Kindergeld) and collect unemployment as long as certain conditions are met.</p>					



*Table prepared by BSU- Business Set-Up Ltd and RFP Steuerberatung - Kreuzhof 4, 66877 Ramstein-Miesenbach, Tel.: 06371-962316, slang@bsu-consulting.de, www.bsu-consulting.de; and How to Germany (www.howtogermany.com)

This table was excerpted with permission from the original German Compliance Matrix which can be found at https://www.howtogermany.com/files/German_Compliance_Matrix.pdf.

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Endnotes

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p 315.443.0141
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