

At a glance – Seasonal employment in Germany¹

Minimum Wage

The Minimum Wage Commission decides about updating the statutory minimum wage. The statutory minimum wage is € 9,35 (gross) per hour from 1 January 2020 (https://www.mindestlohn-kommission.de/EN/Home/home_node.html, Minimum Wage Act).

Seasonal worker and employer may agree piece rates in their working contract. The piece rates shall be level with the minimum wage per hour (average per month).

Working hours

The working hours for employees are limited (section 3 Working Time Act, Arbeitszeitgesetz). When the seasonal worker works 8 hours a day he/she shall have 30 minutes break. The working hours are paid, not the breaks.

The maximum is in general 60 hours in a week, which has to be offset within 6 months to bring the average down to 48 hours per week. This means the seasonal worker works 10 hours a day (plus 45 minutes break).

Information about the statutory breaks are ruled in section 4 Working Time Act:

- When the seasonal worker works 6-9 hours he/she has 30 minutes break.
- When the seasonal worker works over 9 hours he/she has 45 minutes break (additional 15 minutes plus 30 minutes).

German Social security law for seasonal workers

Employment inside the scope of social security protection

Generally employments are inside the scope of social security protection (section 2, section 3 of the 4th book of the Social Code, 4. Buch Sozialgesetzbuch, SGB IV).

¹ The German law is applicable for the seasonal workers in its official actual German text version. This information sheet is not translated by a professional translator.

An employment (for example seasonal work) is inside the scope of social security protection, if

- the employment is longer than 3 month ***or***
- the seasonal worker is unemployed or looking for a job ***or***
- the seasonal worker takes unpaid holidays, because he/she wants to work in Germany.

There are social security contributions for the employer and for the seasonal worker. The employer cuts off around 20% of the wage (for the contributions of the seasonal worker). The employer pays another 20% contributions, too.

The seasonal worker is inside the scope of the

- public health insurance (section 5 of the 5th book of the Social Code, SGB V)
- public accident insurance (section 2 of the 7th book of the Social Code, SGB VII)
- public unemployment insurance (section 25 of the 3th book of the Social Code, SGB III) and
- public pension insurance (section 1 of the 6th book of the Social Code, SGB VI)

Marginal employment

Marginal employment is codified in section 8 of the 4th book of the Social Code (geringfügige Beschäftigung, § 8 SGB IV) It is an exception for short-time employment.

There is a marginal employment, if

- the employment is shorter than 3 month or 70 days **and**
- the seasonal worker is normally a student, a housewife/househusband², a retired person or a self-employed person who is not a farmer or gardener and
- the seasonal worker does not pay his/her subsistence mainly from the seasonal employment.

There are no cut offs of the wage for the social security contributions. The seasonal worker receives (at least) the full minimum wage (Minimum Wage Act, http://www.gesetze-im-internet.de/englisch_milog/englisch_milog.html#p0015, Mindestlohngesetz).

Never the less, the seasonal worker is inside the scope of the public accident insurance (section 2 of the 7th book of the Social Code, SGB VII). The employer pays for the public accident insurance on his/her own (section 150 of the 7th book of the Social Code, SGB VII).

² A housewife/househusband keeps the house for herself/himself and for at least another person (normally her husband / his wife). He/she is cooking, washing and cleaning the house. The other person is financing the housewife/househusband.

There shall be a health insurance for the seasonal worker coming from third countries (section 15a Beschäftigungsverordnung, https://www.gesetze-im-internet.de/beschv_2013/BeschV.pdf). The employer (the farmer) takes the private health insurance out for the seasonal worker. The employer pays the contributions – not the seasonal worker.

Wage tax

Generally, the wage of seasonal workers is taxable in Germany (Income Tax Act, Lohnsteuergesetz).

There are two possibilities for taxation:

- **Individual taxation** (section 1 (4), section 49 (1) point 4 Income Tax Act)
The wage is subject to **limited taxation** within the meaning of section 49 Income Tax Act. The individual taxation may be attractive for the seasonal worker because he/she normally has advertising costs (for the trip to Germany and back home, for board and lodging in Germany).
- **Flat-rate income tax** (section 40 (3), (4), (5) Income Tax Act)
The flat-rate income tax is 5% of the wage of a seasonal worker. It is only applicable under certain conditions. For example, the seasonal worker shall be an unskilled seasonal worker (not a foreman/forewoman) and is doing a temporary job in the agriculture sector. He/she earns at maximum € 12 per hour. The seasonal worker is doing mainly seasonal work like harvesting.