

Self-employment in Germany

A Counselhouse Whitepaper

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Being self-employed in Germany is necessarily tied to residence. Without some sort of residence permit it will be difficult, if not impossible, for an individual to establish their own business. It is strongly advised to consult with experts in the field of residence permits and experts schooled in labor, business and tax laws before becoming self-employed.

Residence permits are usually easily granted for highly specialized professionals, e.g.: scientists, professional experts or specified senior managers etc. But other qualified professionals can also be granted residence permits. If you want to move to Germany and be self-employed then you most likely will be automatically issued a residence permit (for both you and your family).

If you can show that your business will have a positive effect on the German economy. German law considers the intended business will have a positive effect if your company can finance its business activities through equity capital or through a loan commitment, The assessment of the conditions depends in particular on the viability of the underlying business idea, the business experience of the foreigner, the amount of invested capital, the impact on employment and training situation and the contribution to innovation and research. During examination, the expert for the location of the proposed activity bodies, the competent trade authorities, the public bodies responsible for professional licensing have to be involved.

The local Foreigners Office would most likely ask for certain documentation and then may well check with the local Chamber of Commerce or other organizations to see whether or not your business is specialized enough, economically viable and could not be done by a German or other qualified resident. If your business is deemed acceptable you will most likely be issued a residence permit with limitations as to what you can do and where you can do it. In other words, your permit may restrict you to a certain type of self-employment in a certain geographical area.

There are additional steps that must be taken if you are the spouse or family member of an expatriate or otherwise considering working or setting up your own business in

Germany. Once again, the residence permit enters into the equation. If you have a residence permit that restricts your work options, you must somehow have those restrictions lifted. It would be advisable get legal assistance to see whether or not the restrictions can be lifted or changed to allow you to start a business. Something else you must be aware of if you are considering setting up your own business or working in Germany is the recognition of foreign qualifications in various professions. The best contact for information in this area is the German Federal government.

Once all the residence permit questions are sorted out, there are a number of steps that have to be taken to establish and register a business. A determination must be made as to the exact classification of your work. Rules and regulations may vary depending on what sort of business you plan to engage in. Like the residence permits, this can be complicated. Again, it is be advisable to get expert, professional help in finding out just exactly where your profession fits in.

Free-professionals (Freiberufler) are those who have academic training - lawyers, doctors, pharmacists etc. Other professions may be considered to be "trades". Then there are the "crafts" - such as butchers, barbers, florists etc. And then there are the "freelancers" - writers, artists, performers, independent consultants etc. Your work classification is important because it may very well have an effect on your tax liability, the various certificates and licenses you may need to acquire and whether or not you may be required to be a member of a professional association or other "chamber". For example, if you intend to engage in what may be classified as a "trade", you should check with the local Trades Office (Gewerbeamt).

You will most likely be required to register your business and get a certificate of registration (Gewerbeschein). To get this certificate you will have to demonstrate that you are of reliable character and qualified to run your business. Having a Gewerbeschein obligates you to pay local trade tax (Gewerbsteuer) and requires that you become a member of the local Chamber of Commerce (Industrieund Handelskammer - IHK) and to pay a yearly membership fee to them.

Free professionals may be exempt from certain registration procedures at the Gewerbeamt as may persons engaged in agriculture or forestry. But there may be other regulations and procedures that are required to be followed. To engage in "Crafts" you may need the approval of a trade association and establish the fact that you meet German standards relating to specific qualifications for your chosen craft.

"Freelancers" fall into a category all their own and have yet a somewhat different set of regulations, laws and procedures that must be followed. The importance of getting expert advice about being self-employed in Germany cannot be stressed enough. Laws, rules, regulations and procedures are always undergoing change.

To avoid misunderstandings that may result in heartache and trouble with the authorities you should get professional assistance. Should your business flourish and reach a certain level of turnover or profitability you may want to consider incorporating in Germany.



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