

## Documents which have to be presented by

### Employees:

- social insurance card (Section 18 h paragraph 6 Social Security Code IV) – must be carried at all times
- for foreigners: passport, replacement passport, replacement identification, residence permit, toleration, residence permission (Section 5 paragraph 1 of the Law to Prevent Clandestine Employment and Illegal Work)

### Hotel-keepers, restaurateurs (employers):

The agencies of the Customs Administration are authorised to inspect wages and registration records, books and other business records which indicate or give evidence of the extent, type or length of employment or activities (Section 4 paragraph 1 of the Law to Prevent Clandestine Employment and Illegal Work).

### These include for example:

- evidence of registration with social security in Germany and abroad
- payroll records
- evidence of wages paid (receipts, pay slips)
- employment contracts
- evidence of time worked (e.g. time cards, attendance sheets, leave books etc.)
- evidence of tax-exempt bonuses
- accounts, accounting vouchers
- any contracts with subcontractors

## Additional documents which help speed up the inspection

- identification card
- for foreigners: EU work permit
- when social benefits are received: certificate of incidental income issued by the employer

## Possible violations and legal consequences for the entrepreneur in the hotel and restaurant trade (Examples)

### Violations in connection with residence permits/ work permits

- employment of a foreigner without the required work permit (EU work permit/corresponding residence permit). **Fine of up to € 500,000**
- intentional employment of a foreigner without the necessary EU work permit/corresponding residence permit and on less favourable working conditions than comparable German employees. **Imprisonment of up to 3 years or a fine.** In especially serious cases **imprisonment of six months to five years**

### Violations in connection with registration requirements with social security agencies (e.g.; health insurance funds)

- Violations of registration requirements, **fine of up to € 25,000**
- Withholding of social security contributions (employee and employer share) by supplying incorrect, incomplete or no information to the agency responsible for collecting them. **Imprisonment of up to 5 years or a fine**

### Violations in connection with illegal receipt of benefits

- The employer fails to issue a certificate of employment or certificate of incidental income, or fails to issue it correctly, on time or completely. **Fine of up to € 2000**
- The employee receives social benefits (e.g. unemployment benefit II) while working at the same time without having reported this to the disbursement authority (benefit fraud). **Imprisonment of up to 5 years or a fine**

Besides the legal consequences already mentioned above, the restaurant license may be cancelled or, in the case of unlicensed operations, the entrepreneur concerned may be barred from engaging in the catering trade.

**Illegal ist unsozial.**

## Acting together against clandestine employment and illegal work



Leaflet on the inspections carried out by the  
Illegal Work Financial Investigation Units of the  
Customs Administration  
in the hotel and restaurant trade

## Illegal is antisocial.

Clandestine employment and illegal work is still much too widespread in the hotel business and in the catering trade.

This distorts competition :

- Law-abiding businesses lose orders to cut-rate suppliers and many workers lose their jobs.
- Social welfare funds and tax authorities suffer lost revenue going into the billions.
- There is inadequate support for the ill, the unemployed and old people.

In the last analysis it is all the citizens of the country who end up footing the bill.

**We can do something about this.**

**But controls alone are not enough.**

What we need is general public awareness of the negative consequences of clandestine employment and illegal work.

## What do the Customs check?

The officers of the Illegal Work Financial Investigation Units of the Customs check whether

- hotel-keepers and restaurateurs have properly registered their employees (waiters, cooks etc.) for social insurance,
- social benefits such as unemployment benefit I and II are being received illegally,
- certificates of employment or certificates of incidental income have been issued correctly,
- foreigners are not engaged in gainful employment without the necessary permit,
- foreign employees are not being employed on less favourable working conditions than comparable domestic employees,
- hotel-keepers and restaurateurs properly enter their taxable receipts in the accounts and fulfil their tax obligations (e.g. paying over wages tax and turnover tax)

The inspections may take place unannounced; this is in the interests of law-abiding entrepreneurs and employees. Periods in the past are also be examined.



## Support the Customs!

Employers and employees must co-operate with the Customs Officers who conduct the inspection; they must allow them to examine the records and must give them their support. In particular, they have to

- supply the information which is required,
- present records and documents and
- allow the Customs Officers to come onto the premises and to enter the rooms where the operations conducted with the business are carried on (kitchen, office etc.).

The officers of the Illegal Work Financial Investigation Units make every effort to conduct the inspections swiftly and without disrupting business operations any more than absolutely necessary. You can help them do this by co-operating with them and presenting the necessary documents.

If you have any questions concerning clandestine employment and illegal work, please contact your local Main Customs Office.

You can obtain additional information from the Federal Finance Office West, Wörthstraße 1-3, 50668 Cologne, or in the Internet at:

[www.zoll.de](http://www.zoll.de)  
[www.zoll-stoppt-schwarzarbeit.de](http://www.zoll-stoppt-schwarzarbeit.de)  
[www.ngg.net](http://www.ngg.net)  
[www.dehoga.de](http://www.dehoga.de)

