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Pension equalisation

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Modul	Sachverhalt
Leistungsschlüssel	99046038000000
Leistungsbezeichnung I	Pension equalisation
Leistungsbezeichnung II	Pension equalisation
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Sachsen
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	
Einheitlicher Ansprechpartner	
Fachlich freigegeben am	

Modul
Sachverhalt
Fachlich freigegeben durch
Handlungsgrundlage

- § 2 Gesetz über den Versorgungsausgleich (VersAusglG) – auszugleichende Anrechte
- §§ 217 ff. Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit (FamFG) – Verfahren in Versorgungsausgleichssachen

Teaser

On the occasion of a divorce, German law provides for an ex officio equalisation of pension rights/pension entitlements acquired during the marriage. Pension equalisation therefore means the equal distribution of pension entitlements acquired by the spouses during the marriage.

Volltext

Equalisation of pension entitlements or prospects of a pension

On the occasion of a divorce, German law provides for an ex officio equalisation of pension rights/pension entitlements acquired during the marriage. Pension equalisation therefore means the equal distribution of pension entitlements acquired by the spouses during the marriage.

The spouses are responsible for each other's pensions. In particular, marriage-related disadvantages are equalised through the division of household, child-rearing and employment. For this reason, the person in a marriage who has worked less due to running the household and bringing up children and has therefore acquired fewer pension entitlements is usually entitled to pension equalisation.

Example: One of the people in the marriage worked less in order to look after the children. In line with her income, she paid significantly fewer pension insurance contributions than the other person in the marriage. As a result of the pension equalisation, when she reaches retirement age, she receives a pension in the same amount as if both had earned the same amount during the marriage.

In particular, entitlements from statutory pension

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insurance, civil servants' pensions or professional pensions (e.g. doctors or lawyers), from company pension schemes or from private old-age or disability provision are to be equalised. Endowment insurance policies (with the exception of lump-sum benefits under the Pension Certification Act - e.g. Riester pensions) and accident pensions are not included in pension equalisation.

Equalisation of entitlements

The respective entitlements acquired by both persons during the marriage are divided equally. If the spouses already receive pensions or annuities that are subject to equalisation, the offsetting is carried out according to a slightly different method (more on this topic under "Further information").

Exclusion of pension equalisation

The spouses can exclude pension equalisation in whole or in part by means of a notarised marriage contract or a court-recorded settlement.

It is also possible to exclude pension equalisation during the divorce proceedings.

Alternative agreement

Spouses may also conclude an agreement on equalisation that deviates from the statutory regulation.

Note: The agreement must be notarised or made in a court-recorded settlement.

The family court at the local court has jurisdiction in this order of precedence:

- during the pendency of a matrimonial matter, the court before which the matrimonial matter is or was pending at first instance
- in whose district the spouses have or last had their

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common habitual residence, if one of them continues to have his or her habitual residence there

- in whose district a respondent has his or her habitual residence or registered office
- in whose district a petitioner has his or her habitual residence or domicile
- the Local Court of Schöneberg in Berlin

Erforderliche Unterlagen

- Forms for pension equalisation
- further documents and evidence on request

Voraussetzungen

- Entitlements can only be transferred or established by agreement if the relevant regulations permit this and the pension providers concerned agree.
- The exclusion of pension equalisation must not unreasonably disadvantage one of the persons in the marriage. The agreement must stand up to scrutiny by the family court with regard to its content and implementation.

Kosten

none

Verfahrensablauf

The court settles the pension equalisation ex officio as a so-called subsequent matter together with the divorce proceedings (joint proceedings). A separate application for this is generally not necessary. However, if the marriage only lasted up to three years, the pension equalisation will only take place at the request of one of the persons in the marriage. Firstly, after the completed pension equalisation forms have been sent to the family court, pension information is obtained from the pension insurance providers.

The marriage can only be divorced once the information from the pension providers on pension equalisation is complete and the pension equalisation is therefore ready for a decision. Only under strict conditions can the family court separate the pension equalisation and pronounce the divorce in advance. This can be considered, for example, if a decision on pension equalisation is not possible before the marriage is dissolved or if the divorce decree would be so extraordinarily delayed that the postponement would be an unreasonable hardship.

Procedure

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- Both spouses will receive the pension equalisation forms when the divorce petition is served.
- The form should be completed carefully. If you have any questions about the required information or need help filling in the form, please contact the staff at the German Pension Insurance.
- Send the complete documents to the local court (family court) where the divorce proceedings are taking place.
- The court will ask the pension insurance institution to provide information about your pension entitlements.
- If there are gaps in your insurance account, the pension insurance provider will contact you to clarify the previous insurance periods with you.
- The family court decides who is obliged to equalise and who is entitled to equalisation and determines how the pension equalisation is to be carried out.

Note: The pension insurer can only provide information to the family court from a fully clarified account; the spouses are obliged to co-operate.

Bearbeitungsdauer

Frist

The pensions acquired during the marriage are to be equalised. The marriage period begins at the start of the month of the marriage and lasts until the end of the month before the divorce petition is served.

weiterführende Informationen

Hinweise

Rechtsbehelf

As a rule, no separate application is required. The court settles the pension equalisation ex officio as a so-called subsequent matter together with the divorce proceedings (joint proceedings).

Kurztext

Ansprechpunkt

Zuständige Stelle

Formulare

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Ursprungsportal