



# HOME-BASED BUSINESSES HANDOUT



**Please note this Information Paper only provides basic information and is not intended to serve as a substitute for personal consultations with a Legal Assistance Attorney.**

## **GENERAL INFORMATION**

This handout only provides general guidance on the administrative requirements to operate a home-based business. Army Regulation (AR) 27-3 paragraph 3-8(a)(2) prohibits the Legal Assistance Office from providing legal counseling on private business activities, which includes home-based businesses.

## **WHAT IS A HOME-BASED BUSINESS?**

Individuals residing in Government-owned or -leased quarters who create and sell goods or perform services on a frequent and recurring basis for profit are operating a Home-Based Business (HBB) which is governed by Army in Europe Regulation (AER) 210-70, On-Post Commercial Solicitation. They must receive approval from the Installation Commander (IC) before conducting business and comply with all applicable regulatory restrictions and host nation (HN) laws.

Individuals operating an HBB in non Government-leased private quarters are not subject to AER 210-70 but must comply with the terms of their lease and all HN laws. If they want to solicit business on an Army installation, they must apply for commercial solicitation privileges and comply with AER 210-70. Servicemembers and DOD, DA, and Non-Appropriated Funds Instrumentality (NAFI) employees must comply with other applicable regulations.

USAG Stuttgart created an Installation Commercial Affairs Office (ICAO) to assist Stuttgart community members with the HBB approval process. This office is located on Kelley Barracks and can be reached at DSN 421-2622, CIV 0711-729-2622.

## **APPLICATIONS TO OPERATE**

Individuals may not operate an HBB in Government-owned or -leased quarters until they have received written approval from the IC. The ICAO will provide you with the documents that need to be provided and forms that need to be filled out in order to obtain the necessary approval. An individual who wishes to operate an HBB must submit the required documentation to the local ICAO at least 30 days before beginning operations.

Failure to properly register your HBB violates U.S. Army in Europe regulations and leaves you susceptible to military administrative or civilian misconduct action, as well as fines and prosecution from German authorities. Additionally, *see* AER 210-70 ¶ 19.

## **PERMISSIBLE GOODS AND SERVICES**

Normally, only the sale of goods and services *not* available from the Army and Air Force Exchange Service (AAFES), Morale Welfare, and Recreation (MWR), or NAFI activities will be authorized. However, exceptions may be made. The IMCOM-Europe or local Commercial Affairs Officer will review, at a minimum, the following AAFES, MWR, or NAFI facilities' considerations: (1) availability of the goods or services; (2) any delays before they can provide the goods or services in question; and (3) comments received from their respective managers concerning the goods or services offered for commercial solicitation or provided by an HBB. *See* AER 210-70 ¶ 6.

## **WHO MAY OPERATE AN HBB?**

Servicemembers, DOD civilians, and their families may operate an HBB. However, U.S. military personnel and DOD civilians may *not* directly or indirectly represent, be employed by, or act as an agent for any company or individual engaged in commercial solicitation or HBB on a USAG Stuttgart installation, including Government-owned or -leased housing. Additionally, *see* AER 210-70 ¶ 7.

## **PROHIBITED ACTIVITIES**

Individuals operating an HBB may not:

- 1) solicit door-to-door in housing or other areas;
- 2) make unsolicited contact;
- 3) solicit personnel on duty;
- 4) use quasi-official titles;
- 5) participate in unit-sponsored programs;
- 6) solicit a "mass" or "captive" audience;
- 7) use roster listings of U.S. Forces personnel;
- 8) offer unfair, improper, or deceptive inducements or rebates to promote transactions or eliminate competition;
- 9) make any representation suggesting that a DOD agency sponsors or endorses the business;
- 10) compensate promoters;
- 11) use coercive, threatening, misleading, manipulative, deceptive, or fraudulent conduct;
- 12) sell unapproved goods or services;
- 13) advertise at bazaars sponsored by AAFES, MWR, or a Private Organization without a signed contract with the bazaar organizer and written approval from the installation commander;
- 14) use military personnel or DOD civilian employees;
- 15) employ individuals under the age of 18;
- 16) participate in any educational or orientation program that is sponsored by an Army unit or organization, discussing budgeting, estate planning, Government benefits, insurance, real estate or savings; or
- 17) violate the Truth in Lending Act Standards of Fairness in AR 210-7 Appendix B.

In addition, if an HBB owner expands services or products beyond those detailed in the original HBB application, the HBB owner must update the application and receive new authorization for those additional goods and services. For additional restrictions and details, *see* AER 210-70 ¶ 8.

## **USE OF GOVERNMENT RESOURCES**

An HBB cannot use any Government-provided, -subsidized or tax-free products or services, such as Government -owned or -leased quarters, U.S. Forces-plated privately owned vehicles, tax- and duty-

free gasoline, and the military postal system. An HBB also cannot purchase goods for its use (ledger books, computers) from AAFES, a commissary, or any other tax- or duty-free sales facility, and cannot use VAT deduction forms. Individuals operating an HBB also may not use MWR facilities, (craft shops, recreation centers) in support of the HBB.

Individuals operating an HBB are liable for all applicable HN individual and business taxes and fees. They may also be liable for U.S. income, social security, and corporate taxes. Individuals operating an HBB must obtain an HN tax number and may be required to obtain a U.S. taxpayer identification number. Individuals operating an HBB are not authorized to receive legal or tax assistance regarding their HBB from military legal offices, with the exception that family members who are registered family child care (FCC) providers may receive tax assistance.

### **GERMAN (HOST NATION) REQUIREMENTS**

Operating a home-based business in Germany may require the operator to register with the German authorities, as well.

Operators should contact the Gewerbeamt and Finanzamt to find out if any Host Nation laws require them to register. The Finanzamt may require operators to fill out and submit the Taxation Questionnaire (Fragebogen zur Steuerlichen Erfassung). That form is only available in German and can be obtained from the Commercial Affairs Office or the Stuttgart Law Center. Neither the Commercial Affairs Office nor the Stuttgart Law Center are able to assist operators in filling out registration forms or advising on German regulatory law as it relates to home-based businesses.

For more information see AER 210-70 or seek assistance from a private attorney. Legal assistance on home-based businesses falls outside the scope of the Legal Assistance Program.

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REVIEWED BY: CPT Austen Swaim, Chief, Client Services

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#### **References:**

AR 27-3

AER 210-70