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Übersetzungshilfe für LfF-Vorlage VNA421# Stand: 06/2022

Notes and Explanations on the Exemption from Statutory Insurance as Part of the Supplemental Benefits in Public Service (Section 2 (2) of the *Tarifvertrag Altersversorgung* (Collective Agreement on Retirement Pensions – ATV))

Version
June 2022

1. The provision of Section 2 (2) of the ATV reads as follows:

(2) ¹Employees in an academic position at colleges, universities or research institutions who are employed on a temporary basis which due to its duration does not allow them to observe the waiting period stipulated in Section 6 (1) and who have not accumulated any previous statutory insurance periods in a supplemental benefits scheme shall be exempted from statutory insurance by the employer upon written request. ²The application shall be submitted within two months of the date of commencement of employment. ³Employers shall establish pension claims for voluntary insurance (in accordance with Section 26 (3) sentence 1) for employees exempt from statutory insurance according to Sentence 1; the contributions shall be equivalent to the expenditure resulting from statutory insurance, including a possible employee's contribution according to Section 37 a (2), but shall not exceed a maximum of four percent of the remuneration subject to supplemental insurance contributions. ⁴If the employment relationship as stipulated in Sentence 1 is extended or continued, the statutory insurance period begins on the first day of the month in which an agreement was made to extend or continue the employment relationship beyond five years. ⁵Backdating statutory insurance to the date of commencement of employment shall be excluded.

Please note:

With effect from January 1, 2018, changes regarding non-lapsable claims for statutory insurance in the German Occupational Pensions Act (*Betriebsrentengesetz*) mean that there is a non-lapsable pension claim if the employment relationship lasts at least three years. The provision in Section 2 (2) ATV has not yet been adjusted to take the new limits for the non-lapsable claims into account.

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In view of the new statutory regulations governing non-lapsable claims, new employment contracts entered into after January 1, 2018 can only be considered for voluntary insurance if the temporary employment contract has a duration of less than three years. If the employment relationship is limited to exactly three years, a non-lapsable pension claim already exists pursuant to the Occupational Pensions Act (*BetrAVG*). Exemption from compulsory insurance with the *VBL* to allow voluntary insurance is therefore not possible.

2. Exemption from statutory insurance is possible if the following conditions are fulfilled:

- a) Non-lapsable pension claims pursuant to the Occupational Pensions Act (*BetrAVG*) cannot be acquired due to the duration of the temporary employment contract.
- b) You must submit your request for exemption within two months of the date of commencement of employment. The date of receipt by the employer or the payroll office responsible for you at the *Landesamt für Finanzen* (state finance office) is decisive. If the application is received after this period, an exemption may no longer be granted.
- c) You must be employed in an academic position. Academic positions are those that involve academic or artistic services rendered by scientific or academic personnel at colleges or universities in accordance with Section 42 of the Framework Act for Higher Education (*HRG*). This refers in particular to professors, research associates, and *Lehrkräfte für besondere Aufgaben* (specialized instructors). A completed university degree is usually a prerequisite for an academic position.
- d) The academic position must be held at a university (*Hochschule*) or research institution.
- e) You may not have accumulated any insurance periods in a supplemental pension scheme from previous employment in the public sector.
- f) The requirements for statutory insurance must be met (this is checked by the payroll office).

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3. During the exempted period of employment, claims to pension benefits are secured through voluntary insurance.

Employers are obligated to make contributions amounting to 4% of the remuneration subject to supplemental insurance contributions to a voluntary capital-funded insurance policy for employees with the *VBL*. (It is not possible to use the contributions for an alternative pension scheme). This results in a claim to a *VBL* pension when the age of retirement is reached, regardless of whether a waiting period was observed or not.

In addition you have the option of entering into a voluntary insurance contract with the *VBL* and supplementing the employer's contributions with contributions of your own. Information on this is available upon request from the *VBL* in Karlsruhe (e-mail: kundenservice@vbl.de, website: www.vbl.de).

4. The pension benefits received through the voluntary insurance are currently considerably lower than those received through the statutory insurance.

For new contracts concluded from June 1, 2016, the guaranteed interest for the voluntary insurance is only 0.25 percent, while the interest for the statutory insurance is 3.25 percent during the accumulation phase and 5.25 percent during retirement. This means that the guaranteed benefits for the voluntary insurance are considerably lower than for the statutory insurance.

5. Other disadvantages in supplemental pension benefits may arise through an exemption from statutory insurance. Specifically:

Voluntary insurance does not result in a claim to any social component as stipulated by Section 9 of the *ATV*. This means that no additional pension points according to Section 9 (1) of the *ATV* may be taken into account for periods of parental leave. Furthermore, no additional pension points according to Section 9 (2) of the *ATV* may be taken into account in case of a reduction in earning capacity or in case of the employee's death during the period of employment.

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In cases in which statutory insurance is entered into at a later point and the employee's contract ends before retirement, the statutory insurance benefit claims are only incorporated into the calculation of bonus points according to Section 19 of the ATV (dynamic pension claims) if at least 120 contribution months for statutory insurance have been completed.

Example:

An employee is initially voluntarily insured for two years instead of having statutory insurance. After two years the employment contract is extended by another nine years. As the statutory insurance only takes into account contribution months for nine years, the conditions for the calculation of bonus points are not met. The claim to benefits from the statutory insurance thus remains static from the beginning of the employment contract until retirement or until statutory insurance is entered into again.

6. Statutory insurance may become mandatory at a later point despite successful exemption.

If the employment contract is extended or continued beyond a total duration of three years, the first day of the month in which an extension or continuation of the employment relationship over three years was agreed upon marks the start of the statutory insurance period. This marks the end of the employer's obligation to pay voluntary insurance contributions; the voluntary insurance otherwise remains unaffected.

Backdating statutory insurance to the date of commencement of employment is excluded pursuant to Section 2 (2) sentence (5) of the ATV.

7. Before requesting exemption, please contact the VBL for further information on the differences between voluntary and statutory insurance (email:

kundenservice@vbl.de, website: www.vbl.de).

I have received this information sheet and familiarized myself with its content. I have been advised of the two-month deadline for applications for exemption from statutory insurance.

Surname	Given name	Payroll office reference no.
Place, date (DD.MM.YYYY)		Signature

Print

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Übersetzungshilfe für LfF-Vorlage VNA420# Stand: 06/2022

Surname, given name	Postal code, town/city
Date of birth (DD.MM.YYYY)	Street
Birth name (if applicable)	Phone number
Personnel number (if known)	

Landesamt für Finanzen (state finance office)

Office Bayreuth _____

payroll office employee

-Working group: _____

Application for Exemption from Statutory Insurance as Part of the Supplemental Benefits in Public Service (Section 2 (2) of the *Tarifvertrag Altersversorgung* (Collective Agreement on Retirement Pensions) – ATV)

1 Employee's application

For my employment contract starting on _____, (date – DD.MM.YYYY), I request to be exempted from statutory insurance as part of the supplemental benefits in public service provided by the *Versorgungsanstalt des Bundes und der Länder* (federal and state government pension fund, VBL).

I have read and understood the Notes and Explanations on the Exemption from Statutory Insurance as Part of the Supplemental Benefits in Public Service. In particular, I am aware that

- the pension benefits received through voluntary insurance are currently considerably lower than those received through the statutory insurance;
- the exemption also results in other disadvantages with regard to supplemental pension benefits;
- the application for exemption from statutory insurance cannot be withdrawn;
- after exemption from statutory insurance, a change from voluntary to statutory insurance cannot be effected retroactively and is only possible on the first of the following month;
- the exemption ends as soon as the temporary employment is extended to exactly three years or longer (exemption is not possible for temporary contracts for exactly three years);
- my employer will make contributions in my favor to a voluntary funded pension insurance with the VBL instead of the statutory insurance and that I furthermore have the possibility of taking out voluntary insurance with the VBL and supplementing the employer's contributions with my own financial means.

I confirm that I have **not** accumulated any periods of statutory insurance with a supplemental pension provider during previous employment in the public sector.

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Information on data protection pursuant to Articles 13 and 14 of the General Data Protection Regulation (GDPR)

The office responsible for processing these data (controller) is the state finance office. Address: *Landesamt für Finanzen*, Rosenbachpalais, Residenzplatz 3, 97070 Würzburg (telephone: 0931-4504-6770, email: servicedesk@lff.bayern.de).

Data are collected in order to be able to determine the remuneration you are due, arrange for payment and settle accounts in accordance with contractual and statutory provisions.

It is also necessary in order for the Free State of Bavaria to be able to meet its obligations as an employer in view of legal provisions governing income tax, social insurance contributions and contributions to supplemental pension schemes.

The legal basis for the processing of data is Article 6 (1) sentence 1 points b) and c) of the GDPR, Article 9 (2) point b) of the GDPR, Article 88 (1) of the GDPR, and Section 611 of the German Civil Code (*BGB*).

Further information on the processing of your data within the context of your salary payments and your rights concerning the processing of your data are available online at

http://www.lff.bayern.de/formularcenter/allgemein/index.aspx#info_datenschutz. [Translators' note: This website and the documents that can be found there are only available in German. Your personnel department or welcome center may have an English version.]

Alternatively, you can also request information from the contact details given above. Our official Data Protection Officer can be reached at: *Landesamt für Finanzen – Datenschutzbeauftragter – Rosenbachpalais*, Residenzplatz 3, 97070 Würzburg, (telephone: 0931-4504-6767, email: datenschutzbeauftragter@lff.bayern.de).

Place, date (DD.MM.YYYY)

Signature

2 Employer's confirmation

The employee is employed in an academic position as specified in Section 2 (2) of the ATV.

The place of employment is a college, university or research institution as specified in Section 2 (2) of the ATV.

Place, date (DD.MM.YYYY)

Signature/stamp

Print