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Notes and explanations
on the application for exemption from statutory insurance
as part of the supplementary benefits for public servants
(Section 2 (2) Collective Agreement on Retirement
Pensions – ATV –)

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

(2)1) Employees 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 para. 1 and who have not had any previous statutory insurance periods as part of the supplementary benefits for public servants are to be exempted from statutory insurance by the employer upon written request. 2) The application shall be submitted within two months of the date of commencement of employment. 3) Employers shall establish pension expectancies for voluntary insurance (in accordance with Section 26 para. 3 Sentence 1) for employees exempt from statutory insurance according to Sentence 1; the premiums shall be equivalent to the expenditure resulting from statutory insurance, including a possible employee's contribution according to Section 37 para. 2, but shall not exceed a maximum of four percent of the remuneration subject to an additional pension premium. 4) If the employment relationship is extended or continued within the meaning of Sentence 1, the first month in which the employment relationship was agreed upon to extend or continue beyond five years shall mark the start of the statutory insurance period. 5) Backdating statutory insurance to the date of commencement of employment shall be excluded.

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

- a) The waiting period of 60 contribution months cannot be observed 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 by your payroll office with the State Office of Finance shall be 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 academic or artistic services rendered by academic or artistic personnel at colleges or universities in accordance with Section 42 of the Framework Act for Higher Education (Hochschulrahmengesetz, HRG). This refers in particular to professors, academic staff and full-time lecturers/instructors (Lehrkräfte für besondere Aufgaben). A completed university degree is usually a prerequisite for an academic position.
- d) The academic position must be with a university, college or research institution.
- e) You may not have had any previous periods of statutory insurance as part of a supplementary benefits system for public servants.
- f) The conditions for statutory insurance must be given on the merits of the case (to be verified by the payroll office).

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 an additional pension premium to a voluntary capital-covered insurance for employees as part of the occupational pension scheme of the Federal and State Government Pension Fund, VBL (it is not possible to use the contributions for an alternative pension scheme for the employee). This results in a claim to a VBL occupational 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. More information is available directly from

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4. Disadvantages may result from an exemption from statutory insurance if statutory insurance is entered into at a later point.

In cases in which the employee's contract ends prematurely, the statutory insurance benefit claims are only incorporated into the calculation of bonus points according to Section 19 ATV if at least 120 contribution months for statutory insurance have been observed.

Example:

An employee is initially voluntarily insured for four years instead of having statutory insurance. After four years the employment contract is extended by another seven years. As the statutory insurance only takes into account contribution months for seven years, the conditions for the subsequent non-contributory insurance are not met; the claim to benefits from the statutory insurance thus remains static from the beginning of the employment contract until the insured event occurs or statutory insurance is entered into again.

5. Voluntary insurance pension entitlements differ from the pension entitlements within the VBL statutory insurance.

Specifically:

- The voluntary insurance does not result in a claim to any social component within the meaning of Section 9 ATV. This means that no additional pension points according to Section 9 (1) ATV may be taken into account for periods of parental leave. Furthermore, no additional pension points according to Section 9 (2) ATV (Additional points) 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.
- The maximum technical interest rate of the voluntary insurance and thus the guaranteed benefits are lower than those of statutory insurance. This can lead to differences in pension benefits.

However, a claim to pension benefits from statutory insurance only exists if the waiting period of 60 contribution months is observed or counts as having been observed before the age of retirement is reached. Further information on the differences between voluntary insurance and statutory insurances is available from VBL.

6. Statutory insurance may be entered into at a later point despite successful exemption.

If the employment contract is extended or continued within the meaning of Sentence 1, the first month in which the employment relationship was agreed upon to extend or continue beyond five years shall mark the start of the statutory insurance period. This marks the end of the employer's obligation to pay voluntary insurance premiums; the voluntary insurance shall otherwise remain unaffected.

Backdating statutory insurance to the date of commencement of employment shall be excluded according to Section 2 (2)(5) ATV.

In order to receive benefits from statutory insurance, the waiting period of 60 contribution months must be observed. Fixed-term employees in a scientific position who have chosen voluntary insurance instead of statutory insurance according to Section 2 (2) ATV must be signed up for statutory insurance after the fixed-term employment is extended beyond five years, even if the stipulated waiting period of 60 contribution months cannot be observed. The statutory insurance can still be entered into in such cases even without the waiting period of 60 contribution months having been observed, insofar as the optional insurants fulfil the conditions for non-lapsable claims according to the Employers' Pension Benefits Law [Be-triebsrentengesetz; cf. Section 1 b (1) BetrAVG]. Example for employment with inception of insurance cover after 1 Jan, 2009:

Claims are non-lapsable according to Section 1 b (3) and (1) BetrAVG if:

- the employment ends before the insured event sets in, but after the insurant turns 25 and
- the pension promise has existed for a minimum of five years at the time of termination of employment.

An academic employee enters into a temporary employment contract starting 1 March, 2009. The employee is exempted from statutory insurance and is signed up with VBLextra for two years. After two years the employment contract is extended beyond five years. As soon as this extension has occurred, an application for statutory insurance must be submitted. After three years with statutory insurance, the employment is terminated.

In case of inception of insurance coverage, the employee is entitled to an occupational pension from the two years of VBLextra insurance.

The waiting period for the statutory insurance was not fulfilled, as only 36 contribution months were put back. There is, however, a non-lapsable claim according to Section 1 b (3) and (1) BetrAVG as the pension promise from the employer's side has existed for a total of five years and the employee was 25 or older when the employment was terminated. The waiting period is thus considered as having been observed when the age of pension is reached. The size of the occupational pension from statutory insurance is determined by the amount of pension points acquired under statutory insurance.

Further information is available from the VBL.

I have received and acknowledged this information sheet. I have been advised of the two-month deadline for applications for exemption from statutory insurance.

Place, date

Signature