

Bayerische Rechtsanwalts- und
Steuerberaterversorgung



Bayerische
Versorgungskammer

**Information on the
„Bayerische Rechtsanwalts- und
Steuerberaterversorgung“
(Bavarian Attorneys' and Tax Advisers'
Pension Scheme)**

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1. GENERAL INFORMATION

In 1984, the possibility – and at the same time the obligation – was created for members of the Bavarian Bar Associations to participate in the professional pension scheme (old-age, occupational incapacity and survivors' pensions).

The professional pension scheme for members of the Chambers of Attorneys in Bavaria, initially created by the profession as the "Bayerische Rechtsanwaltsversorgung" (Bavarian Attorneys' Pension Scheme), was also opened for members of the Bavarian Chambers of Tax Advisers with effect from 1 January 2000; since then, it has been a joint pension scheme for the members of the Chambers of these two professions in Bavaria and bears the name "Bayerische Rechtsanwalts- und Steuerberaterversorgung" (Bavarian Attorneys' and Tax Advisers' Pension Scheme).

Since 1 January 2006, members of the Chamber of Patent Attorneys have also belonged to the pension fund if they establish a practice in Bavaria; members of the Chamber of Patent Attorneys with a practice in North Rhine-Westphalia have belonged to the pension fund since the State Treaty came into force in 2013. The members of the Chamber of Patent Attorneys with offices in the Free and Hanseatic City of Hamburg have been members of the pension fund since 1 November 2015. Since 1 May 2019, the Bavarian Attorneys' and Tax Advisers' Pension Scheme has also been responsible for patent attorneys with their place of practice in Rhineland-Palatinate.

The "Bayerische Rechtsanwalts- und Steuerberaterversorgung" (Bavarian Attorneys' and Tax Advisers' Pension Scheme) is a public law institution with its registered office in Munich.

The executive bodies of the pension fund are the Board of Directors ("Verwaltungsrat"), which is composed of 25 professionals insured in the pension fund and which exercises the primary decision-making and control functions, and the "Bayerische Versorgungskammer" or "BVK", which operates as the management and legal representative body.

The "Bayerische Rechtsanwalts- und Steuerberaterversorgung" (Bavarian Attorneys' and Tax Advisers' Pension Scheme) is one of almost 100 professional pension schemes for the freelance professions in the Federal Republic of Germany, which provide for the respective profession (doctors, dentists and veterinarians, pharmacists, architects, attorneys, notaries, etc.).

Professional pension funds are based on State law. They are also structurally not part of the federal social security system, in particular, they are not a branch of the statutory pension insurance, but are "sui generis" pension systems within the framework of the compulsory pension systems of the so-called 1st pillar of old-age provision. A characteristic feature of occupational pension schemes is that, in contrast to the statutory pension insurance scheme, they are funded by capital.

The idea of a separate professional pension scheme for the chambered freelance professions as a solidarity community against the imponderables of daily life was born over 90 years ago: The first professional pension scheme – the "Bayerische Ärzteversorgung" (Bavarian Doctor's Pension Scheme) – was founded in 1923. The fact that the self-employed did not have access to the statutory pension insurance for a long time and, that even later, the specific concerns of the self-employed were hardly taken into account, called for the establishment of the professional pension funds to a considerable extent.

The legal basis of the pension fund is the "Gesetz über das öffentliche Versorgungswesen" / "VersoG" (Public Pensions Act), the implementing ordinances issued in this regard, the state treaties concluded, and the statutes, which are adopted by the Board of Directors in the respective version.

Below you will find a cursory overview of the currently applicable membership, contribution and benefit laws of the pension fund. Supplementary information is provided by leaflets on specific topics, which are available for download on the homepage of the pension fund (www.brastv.de), but which can also be requested to be sent by post.

2. MEMBERSHIP

1. Compulsory membership

Membership in the pension fund is compulsory by law ("VersoG"), i.e. without the need to conclude a contract, at the time when membership in one of the Bavarian Bar Associations or Chambers of Tax Advisers is established or – in the case of membership in the Chamber of Patent Attorneys – when a law firm seat is established in Bavaria, North Rhine-Westphalia, Hamburg or Rhineland-Palatinate. Corresponding notifications from the professional Chambers to the pension fund are made automatically.

2. Exceptions / exemptions

Those who have already reached the age limit for the compulsory old-age pension or who are occupationally incapacitated are excluded from membership if the other membership requirements are met.

Those who fulfil one of the exemption criteria of the statutes of the pension fund and submit a written application for exemption shall be exempted from membership. Exemption is possible, in particular, if there is already compulsory membership in another professional pension scheme (for attorneys, tax advisers and patent attorneys, but also for architects, engineers, doctors, etc.) and contributions are paid to this pension scheme from the entirety of a person's professional income. Furthermore, work as a civil servant or a professional activity abroad can be considered as a reason for exemption.

The grounds for exemption are listed in the statutes and represent an exception to the principle of compulsory membership of all members of the Chamber in the pension fund.

Membership in another pension scheme of the profession of attorneys, tax advisers or patent attorneys, which is voluntarily maintained after a change to the scope of responsibility of the Bavarian pension scheme, is **not a reason** for exemption. Conversely, membership in the Bavarian pension scheme must be relinquished if membership in another pension scheme of the professions of attorney, tax adviser or patent attorney arises due to a move to another federal state or affiliation to another professional chamber.

The exemption is granted retroactively to the time when the reason for exemption arose – e.g. the start of civil service employment – if the application for exemption is submitted within six months of this time. If the application is submitted later, the exemption is granted with effect from the date the application is received by the pension fund.

The exemption is effective as long as the reason for exemption – e.g. civil servant status – exists. A waiver of the exemption, i.e. a voluntary "return" to the pension fund is not possible if the reason for exemption continues to exist. Only when the reason for exemption ceases to exist – i.e. the civil servant employment relationship ends – does compulsory membership in the pension fund re-emerge.

Attorneys and tax advisers who are or become auditors, certified public accountants or legal representatives of a firm of auditors or certified public accountants at the same time, please note the information on the auditors' pension scheme in Chapter 7.

3. End of membership / voluntary membership

The compulsory membership in the pension fund ends, aside from the previously stated exemptions, in principle, with the termination of the membership in the professional chamber, and for patent attorneys with the termination of the office in Bavaria, North Rhine-Westphalia, Hamburg or Rhineland-Palatinate.

Membership can be continued on application (only) as voluntary membership with the same rights and obligations if no membership in another professional pension scheme exists / succeeds or can be established. The application must be submitted within three months after termination of the compulsory membership.

If the compulsory membership is not followed by voluntary membership, the pension entitlements acquired from the compulsory membership shall be maintained free of charge. Pension benefits are then derived from these entitlements in the event of a pension claim. The vested rights also participate in any dynamisation.

3. PENSION FUND AND STATUTORY PENSION INSURANCE

Members of the pension fund who are exclusively self-employed in their profession (attorney, tax adviser, patent attorney) are generally not subject to compulsory insurance in the statutory pension insurance scheme; for them, membership in the pension fund serves as the main pillar of old-age and survivors' benefits, as well as cover in the event of occupational incapacity.

Members who exercise their profession in an employment relationship are (initially) also subject to compulsory insurance in the statutory pension insurance scheme.

However, this group of individuals has the option of being exempted from compulsory insurance in the statutory pension insurance scheme on the basis of membership in the pension fund, if the requirements of Section 6 (1) Sentence 1 no. 1 German Social Code Vol. 6 ("Sozialgesetzbuch VI" / "SGB VI") are met. In particular, there must be compulsory membership in the professional Chamber and the pension fund due to the activity for which the exemption is requested.

Attorneys:

The exemption is possible for attorneys who are employed as an attorney by the attorney's employer and, since 1 January 2016, again for attorneys employed by a non-attorney employer if their role is that of an in-house attorney.

Tax advisers:

Tax advisers and syndic tax advisers are exempt. Syndic tax advisers enclose with their application for exemption a confirmation from the competent Chamber of Tax Advisers stating that the employment is a form of employment as a syndic tax adviser permitted under professional law; in the case of newly appointed syndic tax advisers, a copy of the certificate of appointment is sufficient.

Patent attorneys:

The exemption is possible for those patent attorneys who maintain their office in Bavaria, North Rhine-Westphalia, Hamburg or Rhineland-Palatinate and also exercise the employment or activity for which the exemption is requested in

the federal states of Bavaria, North Rhine-Westphalia, Hamburg or Rhineland-Palatinate. Since 1 January 2016, exemption has also been possible again for in-house attorneys if they are appointed as in-house attorneys.

Details are provided in a separate "Hinweisblatt zur Befreiung von der gesetzlichen Rentenversicherung für Angestellte" (Information sheet on exemption from the statutory pension insurance scheme for salaried employees), as well as the "Hinweisblatt zur gesetzlichen Neuregelung für Syndikusrechtsanwälte und Syndikuspatenanwälte" (Information sheet on the new statutory regulation for syndic attorneys and syndic patent attorneys); both information sheets are available at www.brastv.de under „Downloadcenter“.

The basic prerequisite for an exemption from the statutory pension insurance scheme is that the applicant who is subject to compulsory insurance is a compulsory member of the professional chamber and the pension fund of the federal state in which the place of professional practice is located.

If there is no pension fund for the respective profession in this federal state, then exemption is not possible – voluntary membership in a regional pension fund without the requisite competence is not sufficient.

While pension funds for attorneys and tax advisers have been set up throughout Germany, there are currently only a few federal states with pension funds that provide for compulsory membership for patent attorneys. Patent attorneys, in particular, must, therefore, take into account that the receipt or continuation of an exemption from compulsory insurance in the statutory pension insurance scheme depends on the existence of a pension scheme for patent attorneys in the federal state in which the place of professional practice is located, and that compulsory membership must exist there.

The exemption procedure:

The exemption must be applied for in relation to the specific activity being conducted. In the event of a change of activity, in particular, a change of

employer, an exemption granted for a previously exercised activity is, therefore, no longer valid. Instead, a new application for exemption must be submitted for the new activity.

The application for exemption (application form available under "Downloadcenter" at www.brastv.de) must be submitted to the pension fund. In addition to the date of receipt of the application, the pension fund confirms the existence and the date of commencement of compulsory membership and forwards the application to the "Deutsche Rentenversicherung Bund" (German Pension Insurance Association), which is responsible for the decision.

The German Pension Insurance Association decides on the application. If an exemption notice is issued in accordance with the application, it is sent directly to the applicant. The pension fund receives a copy. Experience has shown that the procedure takes about two to three months. Contributions to the statutory pension insurance scheme must continue to be paid until a decision is made.

If the application for exemption is submitted within three months of the start of membership in the pension fund, the exemption can be retroactive to the start of membership. It is not possible to apply for exemption before the start of membership.

If the application is submitted at a later date, the exemption will only be effective as of the date of receipt of the application. In the meantime, the basic or minimum contribution is due to the pension fund.

From the time of exemption, pension insurance contributions are no longer payable to the statutory pension insurance scheme but to the pension fund. Usually, the employer and employee contributions are paid directly to the pension fund by the employer (Section 172 a SGB VI); in exceptional cases, however, payment may be made to the member, who forwards the contributions to the pension fund without delay.

Employers must submit electronic remuneration reports to the pension fund (Section 28 a [10 and 11] SGB IV).

Important note:

Before applying for exemption, especially if you have already completed years of insurance in the statutory pension insurance scheme, you should

carefully consider whether (or what) disadvantages result from ceasing to pay contributions to the German Pension Insurance Association or due to insufficient insurance periods. We recommend seeking advice from the German Pension Insurance Association or one of its advice centres.

Employed professionals who are not exempt from compulsory insurance in the statutory pension insurance scheme must pay the pension insurance contribution to the statutory pension insurance scheme for the occupation-specific activity they perform that is subject to compulsory insurance. They then build up an independent supplementary pension through the additional compulsory contributions to the pension fund, which can be expanded through voluntary supplementary payments. It is not possible to be exempted from the pension fund on the basis of compulsory insurance in the statutory pension insurance scheme.

Consequences of exemption:

In the case of an activity-dependent "transfer" from the statutory pension insurance scheme to the pension fund (taking up a profession-specific activity), it must be taken into account that benefits granted by the statutory pension insurance scheme are not credited by the pension fund. Likewise, the transfer to the pension fund of contributions paid to the statutory pension insurance scheme or vested rights acquired in the statutory pension insurance scheme is excluded. Conversely, neither claims/expectancies nor contributions can be transferred from the pension fund to the statutory pension insurance scheme.

Child-raising periods are also credited to the statutory pension insurance scheme for those insured in the occupational pension scheme (Sections 3, 56 SGB VI). Whether (and under which conditions) a claim for benefits against the statutory pension insurance scheme arises from this crediting process is solely determined by SGB VI.

Information – especially with regard to the question of whether voluntary contributions can be paid to complete the waiting period required by the statutory pension insurance scheme – can be obtained from the advice centres of the statutory pension insurance scheme. The pension fund does not recognise child-raising periods as an additional pension-increasing period.

4. BENEFITS

1. Financing procedure

Until 31 December 2014, the benefits of the pension fund were financed within the framework of the “Anwartschaftsdeckungsverfahren” – a vested rights cover procedure. As of 1 January 2015, the classic vested rights cover procedure was supplemented by elements of the open cover plan procedure. The new financing method combines elements of the pay-as-you-go method and the capital cover method. The pension fund thus avoids a one-sided dependence on both the economic situation of the professions (as in the strictly pay-as-you-go system) and the capital market development (as in the strictly funded system).

The contributions are invested in a secure, stable and profitable manner in accordance with insurance supervisory regulations, in order to build up a capital stock for the claims of the members. However, in contrast to the vested rights cover procedure, this does not have to be fully funded at all times, as the calculation bases can include, in addition to the actuarial interest rate, a certain number of smoothing elements across generations in the calculation. The open cover plan procedure is the most common financing method in professional pension provision in Germany and has been used for a long time – including in the oldest professional pension scheme, the “Bayrische Ärzteversorgung”.

The pension benefit corresponds to the product of the individually achieved pension points of each member and the relevant pension assessment factor in the year of retirement. The pension points and pension assessment factor, as well as their interaction, are briefly described below.

2. Pension points

The member acquires entitlements in the form of pension points for each contribution paid in (compulsory contributions and voluntary additional payments). The number of pension points is calculated by multiplying the contributions paid in by an age- and year-dependent valuation percentage. The amount of pension points can, therefore, be derived from the following formula:

Paid-in contributions x valuation percentage = pension points.

The valuation percentage table, which is part of the statutes, takes into account actuarial assumptions – such as the actuarial interest rate, mortality (from which key figures such as life expectancy and pension term can be determined) and other biometric factors. Assumptions of this kind inevitably entail periodic changes. It is, therefore, likely that the conditions will change during an insured life. However, the pension fund will release information about this in due time.

The valuation percentage table for the cohorts from 1969 onwards is shown below. The transitional regulations for older birth cohorts are printed in Table 1 of the statutes.

Valuation percentage table for birth cohorts from 1969 onwards

Age in the year of contribution payment	Valuation percentage	Age in the year of contributions payment	Valuation percentage
24	12.3 %	46	7.3 %
25	12.0 %	47	7.2 %
26	11.8 %	48	7.0 %
27	11.5 %	49	6.8 %
28	11.2 %	50	6.7 %
29	11.0 %	51	6.5 %
30	10.7 %	52	6.4 %
31	10.4 %	53	6.3 %
32	10.2 %	54	6.1 %
33	10.0 %	55	6.0 %
34	9.7 %	56	5.9 %
35	9.5 %	57	5.7 %
36	9.3 %	58	5.6 %
37	9.1 %	59	5.5 %
38	8.8 %	60	5.4 %
39	8.6 %	61	5.3 %
40	8.4 %	62	5.3 %
41	8.2 %	63	5.2 %
42	8.1 %	64	5.1 %
43	7.9 %	65	5.0 %
44	7.7 %	66	4.9 %
45	7.5 %	67	4.8 %

Due to the compound interest effect, the contributions paid in the individual calendar years are valued differently depending on age, i.e. contributions paid earlier are valued higher than contributions paid later.

The valuation percentage rate table is currently based on an actuarial interest rate of 2.5%. The actuarial interest rate does not represent a guaranteed interest rate, but is merely an expected value that is very likely to be achieved. If income is generated in excess of the actuarial interest rate, it flows into the corresponding reserves, which can also be used to finance dynamisation (adjustments to pensions and vested rights).

The current valuation percentage rate table for birth cohorts from 1969 onwards is used as an example to illustrate the conversion process:

A member born in 1990 makes compulsory contributions of € 10,000 in 2020.

The age in the year of contribution payment is determined from the calendar year of payment minus the year of birth: $2020 - 1990 = 30$.

The valuation percentage is derived from the table printed above. For the year of birth 1990 and the corresponding age 30, the valuation percentage is 10.7%.

The contribution of € 10,000.00 is, therefore, multiplied by the valuation percentage of 10.7%. The member has acquired 1,070 pension points / year as a result of his or her contribution in 2020.

If the member pays contributions of € 10,000.00 in 2021, the valuation rate changes, as age 31 is now to be taken as the basis. For the year of birth 1990 and age 31, a valuation percentage of 10.4% was set. By paying contributions in 2021, the member acquires 1,040 pension points ($€ 10,000.00 \times 10.4 \% = 1,040$ pension points / year).

The sum of all pension points acquired in the individual years results in the total entitlement in pension points.

Note:

For members who were already members of the pension fund before 1 January 2015, the pension benefit is made up of the pension entitlements acquired under the vested rights cover procedure and the pension entitlements acquired from 1 January 2015 under the new financing procedure. The vested rights acquired up to 31 December 2014 will not be included in the new financing procedure, but will be continued in the vested rights cover procedure.

For members who only became members of the pension fund after 31 December 2014, the pension benefits of the pension fund are determined solely on the basis of the entitlements acquired under the new financing procedure.

3. Pension assessment factor

The individual pension entitlement under the new financing procedure is determined, on the one hand, by the number of pension points acquired in the course of the professional life and, on the other hand, by the so-called pension assessment factor, which is used to convert the pension points acquired into pension entitlements (vested rights) in Euro. The value of the pension point is thus determined by the pension assessment factor applicable in the year of retirement. To calculate the amount of a vested right, the total number of pension points must be multiplied by the pension assessment factor.

The formula is:

Total number of pension points x pension assessment factor = entitlement (vested right) in Euro

Example:

A member has acquired a total number of 10,000 pension points during his membership period as an active member.

Variant 1 (pension assessment factor = 1.0000):

In the year of the pension referral, the value of the pension assessment factor is 1.0000. Then the member receives an annual pension of € 10,000.00 (10,000 pension points x pension assessment factor 1.0000 = € 10,000.00) or € 833.33 / month.

Variant 2 (pension assessment factor = 0.9800):

In the year of retirement, the value of the pension assessment factor is 0.9800. Then the member receives an annual pension of € 9,800.00 (10,000 pension points x pension assessment factor 0.9800 = € 9,800.00) or € 816.67 / month.

The pension assessment factor is determined annually for the following year by the Board of Directors on the proposal of management. The decision of the Board of Directors is made in the form of an amendment statute, which requires the approval of the supervisory authority – here the “Bayerisches Staatsministerium des Innern, für Sport und Integration” (Bavarian State Ministry of the Interior, for Sport and Integration).

The pension assessment factor must be set in such a way that a balancing is achieved. Thus, if the financial situation of the pension fund re-

quires it, a reduction of the pension assessment factor is possible. When determining the pension assessment factor, particular attention must be paid to ensuring that the obligations can be fulfilled on a permanent basis and to ensuring fair and equal treatment of the different age groups. In addition, the change in life expectancy – biometrics – must be taken into account. The pension assessment factor may not exceed the value “1.0000”.

4. The pension benefits

The pension fund provides the following pension benefits:

- Old-age pension
- Deferred old-age pension
- Early retirement pension
- Pension due to occupational incapacity
- Widow’s pension
- Orphan’s pension
- Death benefit
- Voluntary benefits

Pension benefits are paid exclusively in the form of a pension. A lump-sum settlement or a lump-sum option (payment of the amount instead of a pension) is not possible.

a) Old-age pension

Upon reaching the standard retirement age, members are entitled to an old-age pension. For members born in 1969 or later, the standard retirement age is 67; for members born before 1969, there are transitional arrangements (cf. table in Section 48 b [1] of the statutes).

The amount of the old-age pension is determined by the entitlements acquired through the payment of contributions (compulsory contributions, voluntary additional payments) and the pension points acquired as of 1 January 2015, which are assessed with the pension assessment factor applicable in the year in which the pension is paid. Professional activity does not have to be discontinued when receiving the old-age pension. There are also no “supplementary earnings limits”.

b) Deferred retirement pension

In order to increase the pension entitlement, the retirement pension may be drawn at a later date instead of at the standard retirement age. It can be deferred for full years, at the most until the age of 70. During the deferment period, there is no obligation to pay contributions, but voluntary additional payments can be made. The pension fund will provide information on the resulting entitlements on request.

c) Early retirement pension

Early retirement pension can be claimed even before reaching the standard retirement age. However, the pension entitlement is reduced by an actuarial deduction for each month brought forward (compared to the amount received from the standard retirement age), the amount of which is shown in Table 3.

Table 3

For early retirement from	on the	Deduction per month
67th year of life	66th year of life	0.51 %
66th year of life	65th year of life	0.46 %
65th year of life	64th year of life	0.42 %
64th year of life	63rd year of life	0.39 %
63rd year of life	62nd year of life	0.36 %
62nd year of life	61st year of life	0.33 %
61st year of life	60th year of life	0.30 %

The total reduction of the pension results from the addition of the deduction percentages applicable for each month of the early retirement period.

Example: For early retirement from the age of 67 to the age of 62, there is a reduction of 25.68% ($12 \times 0.51\% + 12 \times 0.46\% + 12 \times 0.42\% + 12 \times 0.39\% + 12 \times 0.36\%$) for the 60 months brought forward. The reduction applies to the entire pension reference period.

Persons who became members of the pension fund on or after 1 January 2012 and all members born in or after 1960 can only claim the early retirement pension from the age of 62. For the other members, the age limit for the early retirement pension is determined by the transitional regulation in Section 49 (2) of the statutes (table).

Professional activity does not have to be discontinued even if the early retirement pension is claimed, but no payments of any kind – i.e. neither compulsory contributions¹ nor voluntary additional payments – can be made after the start of the pension. If the old-age pension is brought forward, e.g. to the age of 62, five years of contributions are missing compared to the regular old-age pension at the age of 67. Given that the total entitlement is calculated from the total contributions paid during the active period, the total entitlement – in the absence of five years of contributions – is correspondingly lower.

In addition, the total entitlement (vested right) is reduced by the actuarial deduction according to Table 3.

d) Occupational incapacity pension

Benefits in the event of occupational incapacity are generally granted without any waiting period; unlike private insurers, the pension fund does not carry out any health checks at the start of membership. This is because the pension fund does not have to fear any negative risk selection due to the legally stipulated compulsory membership for all members of the profession.

A member shall be deemed occupationally incapacitated if, as a result of illness or other infirmity or of weakness of his physical or mental powers, he is unable to pursue gainful employment as an attorney, tax adviser or patent attorney. Benefits are thus only paid in the event of total occupational incapacity. It is self-evident that the occupation-specific activity cannot be exercised when receiving an occupational incapacity pension and may, therefore, not be exercised (even marginally) according to the statutes.

¹ This is important if there is an exemption from the statutory pension insurance scheme and employment is also exercised while drawing the early retirement pension.

In the case of temporary occupational incapacity, the occupational incapacity pension is only paid temporarily, i.e. for the corresponding period of occupational incapacity. During this period, self-employed members may have their official role deputised by a substitute for a maximum of four years.

The pension, in the event of occupational incapacity, is calculated on the basis of the entitlements acquired up to 31 December 2014 and the pension points achieved from 1 January 2015 until the occurrence of the insured event and the pension assessment factor applicable at the time of the occurrence of the insured event – this results in the so-called **basic right** (in German: “Stammrecht”) – and a **supplement** borne by the member community as a solidarity benefit. It is subject to an actuarial **deduction**.

The more contributions the individual member has paid until the onset of occupational incapacity, the greater the **basic right**. If the occupational incapacity occurs early, i.e. at a young age, the basic right is usually still relatively low; as a rule, it increases with the duration of membership and the associated payments.

The amount of the solidarity benefit of the member community – the **supplement** – essentially depends on the duration of membership in the pension scheme measured against the entire insurance biography.

The age at the start of membership in the pension fund is, therefore, decisive on the one hand: If membership of the pension fund begins after the age of 30, the solidarity benefit of the member community is reduced; and the supplement is lower than if membership begins before the age of 30. The later the entry into the pension fund, the lower the supplement. This is because it is assumed that, in these cases, other insurance against the risk of occupational incapacity has already been taken out and the person concerned is not solely dependent on the benefits of the pension fund in the event of occupational incapacity.

On the other hand, an early termination of membership in the pension scheme also has a reducing effect on the supplement. This is because – as shown – it depends on the duration of membership in the pension scheme measured against the entire insurance biography.

Since the amount of the occupational incapacity pension is basically to be adjusted to the amount of the early retirement pension, it is – like the early retirement pension – subject to an actuarial **deduction**. The actuarial deduction is calculated analogously to the deduction for the early retirement pension from the number of months that lie between the completion of the 62nd year of life and the respective standard retirement age.

The following calculation examples show the effects of the age at the start of membership and the age at the onset of occupational incapacity on the total amount of the occupational incapacity pension.

The examples show which occupational incapacity pension entitlement is achieved if a constant monthly contribution of **€ 100** is paid from the start of membership (entry into the pension fund at the age of 30, 35 or 40) until the onset of occupational incapacity (at the age of 40 or 50). Assuming contributions after 1 January 2019 (no payment before this date, also no subsequent insurance) and a pension assessment factor of 1.0000.

Example 1:

Entry into the pension fund upon reaching the age of 30,

Payment of a monthly contribution (constant) of € 100 until the age of 40,

Onset of occupational incapacity on reaching the age of 40,

Monthly occupational incapacity pension € 181.19.

Example 2:

Entry into the pension fund upon reaching the age of 35,

Payment of a monthly contribution (constant) of € 100 until the age of 40,

Onset of occupational incapacity on reaching the age of 40,

Monthly occupational incapacity pension € 88.48.

Example 3:

Entry into the pension fund upon reaching the age of 30,

Payment of a monthly contribution (constant) of € 100 until the age of 50,

Onset of occupational incapacity on reaching the age of 50,

Monthly occupational incapacity pension € 181.19.

Example 4:

Entry into the pension fund upon reaching the age of 35,

Payment of a monthly contribution (constant) of € 100 until the age of 50,

Onset of occupational incapacity on reaching the age of 50,

Monthly occupational incapacity pension € 130.02.

Example 5:

Entry into the pension fund upon reaching the age of 40,

Payment of a monthly contribution (constant) of € 100 until the age of 50,

Onset of occupational incapacity on reaching the age of 50,

Monthly occupational incapacity pension € 83.09.

If x times € 100 per month is paid continuously, the occupational incapacity pension entitlement also increases x times.

If the member pays € 1,000 / month in the above example, the pension entitlement is (€ 181.19 x 10 =) € 1,811.90 / month.

d) Survivors' benefits

In addition to benefits for the member's own old-age pension, the pension fund also offers comprehensive cover for widows, widowers, half-orphans and orphans, as well as for surviving dependants who were partnered with the member until the member's death in accordance with the "Lebenspartnerschaftsgesetz" (Civil Partnership Act).

The basis for the calculation of the survivors' benefits is the last benefit actually paid to the deceased member. If the deceased was not yet a beneficiary, the calculation is based on the "fictitious" occupational incapacity benefit, i.e. the benefit that the member would have received if he/she had been occupationally incapacitated on the date of death.

Widows or civil partners receive 60 % of this calculation basis; in the event of re-marriage or re-partnering, a settlement is paid on application.

Orphans' benefits amount to 10 % of the calculation basis for half-orphans and 20 % for full orphans; they are paid until the age of 18. If vocational training has not been completed by this time, the orphan's benefit will be paid until the child reaches the age of 27 at the latest.

e) Death benefit

After the death of the member, the pension fund shall pay a one-off death benefit to the surviving spouse or civil partner under the “Lebenspartnerschaftsgesetz” (Civil Partnership Act) or – in equal shares – to the children of the deceased member.

The basis for the calculation of the death benefit is the last pension benefit actually paid to the deceased member. If the deceased member was not yet a beneficiary, the basis for calculation is the “fictitious” occupational incapacity benefit, i.e. the pension benefit that the member would have received if he/she had been occupationally incapacitated on the day of his/her death.

The death benefit shall be three times the monthly amount of this benefit, up to a maximum of € 1,600.

f) Voluntary benefits

In addition to the standard benefits described above, the pension fund shall provide maintenance contributions to orphans up to the age of 30 who are permanently incapable of working, as well as subsidies for rehabilitation measures in accordance with the “Richtlinien zur Förderung von Rehabilitationsmaßnahmen” (Guidelines for Claiming Rehabilitation Measures) adopted by the Board of Directors, as voluntary benefits.

5. Dynamisation

Insofar as earnings above the actuarial interest rate are achieved, the Board of Directors decides on the use of these surpluses. As a rule, they are distributed in the form of pension or vested right (entitlement) dynamisation and thus contribute to maintaining purchasing power.

6. Taxation

The pension benefits of the pension fund are taxed on a deferred basis on the basis of the “Alterseinkünftegesetz” (Retirement Income Act); (Section 22 No. 1 Sentence 3 Letter a Double Letter aa German Income Tax Act [“Einkommenssteuergesetz” / “EStG”]). Up to the year 2040, increasing portions of the pension are included in taxation. From 2040 onwards, the pension is fully subject to taxation.

The pension fund must notify the tax authorities of the amount of the pension benefits annually by submitting the pension withdrawal notification (Section 22 a EStG).

5. CONTRIBUTIONS

1. Compulsory contributions

The members of the pension fund pay pension contributions to finance their future pension benefits. The amount of the contributions depends on the type of employment and the amount of professional income. If the maximum contribution is not paid, the members must provide income information or proof of income (usually income tax or profit assessment notice or a remuneration certificate from the employer respectively). As long as the relevant information or proof is missing, the contributions shall be provisionally levied on the basis of the last authoritative or probable assessment basis.

Contributions are due monthly.

a) Self-employment

The profit from the profession-specific activity, i.e. the income from self-employed work (as an attorney, as a tax adviser or as a patent attorney) within the meaning of the "Einkommenssteuergesetz" (Income Tax Act), is decisive.

From this, a contribution amounting to the contribution rate that salaried employees also have to pay to the statutory pension insurance scheme is to be paid. This contribution is limited upwards by the maximum contribution and downwards by the basic contribution (1/5 of the maximum contribution) (exact values are communicated annually by circular letter).

For the year of commencement of self-employment and the following four calendar years, a reduced contribution equal to the basic contribution may be paid upon application, without the need to submit income details or proof of income.

The reduced contribution can also be paid for income subject to contributions from an executive body activity not subject to pension insurance.

b) Work as a salaried employee

Employees who have been exempted from compulsory insurance in the statutory pension insurance scheme in favour of the pension fund pay the contribution to the pension fund which would be payable to the statutory pension insurance scheme without this exemption (employer and employee contribution).

The remuneration subject to contributions according to the law of the statutory pension insurance scheme is decisive for the assessment of the contributions of employees. The contribution rate and the contribution assessment limit correspond to the values applicable in the statutory pension insurance.

Income from executive activities in associations of attorneys, tax advisers or patent attorneys that are not subject to pension insurance is also deemed to be "remuneration subject to contribution".

All attorneys, tax advisers or patent attorneys working exclusively as salaried employees, who are not exempt from compulsory insurance in the statutory pension insurance scheme for their profession-specific activity in favour of membership in the pension fund, pay the "full" pension insurance contribution, i.e. employer and employee contributions, to the statutory pension insurance scheme.

In addition, they pay the reduced contribution of 1/8 of the maximum contribution to the pension fund upon application. They thus receive benefits from the pension fund in addition to the benefits from the statutory pension insurance scheme.

Members who are both self-employed and employed, but who have not received exemption from compulsory insurance in the statutory pension insurance scheme for their employment in favour of the pension fund, pay the "full" pension insurance contribution, i.e. employer and employee contribution, to the statutory pension insurance scheme for their employment. In addition, they pay the contribution due for self-employment (as an attorney, tax consultant or patent attorney) to the pension fund (cf. No. 1. a).

c) Reduction of contributions

For the period of maternity leave and restricted professional practice of up to three years after the birth of a child, the statutes provide for payment of the minimum contribution or half of the minimum contribution, or for exemption from contributions.

A reduction to the minimum contribution or half of the minimum contribution can be claimed by members who do not make use of a possible exemption from the pension fund (e.g. in case of employment as a civil servant, in case of employment abroad, in case of existing compulsory membership in another professional pension fund with a comprehensive obligation to pay contributions; cf. chapter 2. 2).

A reduction to the minimum contribution or half the minimum contribution can also be claimed by members who are exempt from the obligation to practise law or who do not practise their profession due to a legal or judicial prohibition to practise, and also by members who are incapacitated due to illness (but not occupationally incapacitated) – in this case, however, the reduction is only granted from the fifth month of incapacity for work.

Finally, a reduction to the minimum contribution or half the minimum contribution can also be claimed by those who are voluntary members of the pension fund and who do not carry out any gainful employment in Germany.

Self-employed attorneys, tax advisers or patent attorneys who are compulsorily insured in the statutory pension insurance scheme upon application may claim a reduction only on the minimum contribution, provided that compulsory insurance applied before membership commenced.

A reduction to the minimum contribution only may also be claimed by exclusively employed attorneys, tax advisers or patent attorneys who do not have exemption from compulsory insurance in the statutory pension insurance scheme in favour of the pension fund (cf. No. 1. B).

d) Other contribution regulations

Special contribution regulations exist for recipients of unemployment benefit, injury benefit or transitional allowance, as well as for honorary carers and persons insured under statutory health insurance who are exempt from the statutory pension insurance scheme and receive sickness benefit. Under certain conditions, contributions for this group of persons are paid by the employment agency, the federal government or the long-term care or health insurance fund.

2. Voluntary additional contributions

In addition to the compulsory contributions that accrue due to the type of activity, members of the pension fund can make voluntary additional payments to increase the pension, which are annuitised in the same way as compulsory contributions.

Voluntary additional payments can be made at any time, either by individual transfer or standing order or – at the member's request – by direct debit together with the monthly compulsory contributions.

Since, due to the digressive annuity rates, the valuation of both compulsory contributions and voluntary additional payments for pension purposes depends on the time of receipt of payment (cf. Chapter 4.2., in particular, annuity table and examples), voluntary additional payments should be made in good time so that they arrive on the member's account before the end of the year.

As soon as a payment is declared as a voluntary additional payment, booked and valued accordingly with the annuitisation rate at the time of payment, it is no longer at the member's dispo-

sal. In particular, repayment to the member is no longer possible. Furthermore, crediting against compulsory contributions for **future** periods is also excluded. The only exception to this is explicitly regulated in the statutes:

Voluntary additional payments can only be offset against compulsory contributions if an increase in the compulsory contribution **subsequently** results for the respective calendar year.

Compulsory contributions and voluntary additional payments together may not exceed the annual general maximum payment limit of the "Körperschaftsteuergesetzes" (Corporate Income Tax Act); (two and a half times the annual maximum compulsory contribution, i.e. the maximum contribution). This limit is also communicated in each annual circular.

3. Tax consideration

Contributions may be tax-deductible to a certain extent in the context of old-age pension expenses. The pension fund is an institution in accordance with Section 10 (1) No. 2 a EStG.

6. SUBSEQUENT INSURANCE

If, as a result of leaving an insurance-free employment relationship (e.g. as a civil servant or as a legal trainee), the subsequent insuring of this insurance-free period takes place, it can be carried out under certain conditions in accordance with Section 186 SGB VI to the pension fund.

An **application** to this effect must be submitted to the former employer.

This application **must be submitted within one year of leaving the insurance-exempt employment**. The application should be submitted as early as possible if subsequent insurance with the pension fund is sought, as this informs the employer and avoids subsequent insurance with the “Deutsche Rentenversicherung Bund” (German Pension Insurance Association) with subsequent reversal.

In addition, it is necessary that **membership in the pension fund is established within one year of leaving the employment that is not subject to insurance**. This means that the admission or appointment as an attorney, tax adviser or patent attorney must have been completed within this one-year period and membership in the professional chamber must exist.

For the individual years of the subsequent insurance period, the pension fund treats as a contribution paid on time the amount which results when the contribution rate relevant for the subsequent insurance is applied to the remuneration to be subsequently insured pursuant to Section 181 (2 and 3) SGB VI.

7. NOTES FOR AUDITORS AND CERTIFIED PUBLIC ACCOUNTANTS

For auditors, certified public accountants and legal representatives of auditing firms and accounting firms, who are not themselves auditors or certified public accountants, there is a joint pension fund with its registered office in North Rhine-Westphalia. By virtue of the state treaty between the Free State of Bavaria and the State of North Rhine-Westphalia, the area of responsibility of this pension fund also includes the Federal State of Bavaria.

Members of the Bavarian Chambers of Tax Advisers who are compulsory members of the "Bayerische Rechtsanwalts- und Steuerberaterversorgung" (Bavarian Attorneys' and Tax Advisers' Pension Scheme) automatically become members of the Pension Scheme for Auditors and Accountants in North Rhine-Westphalia, as soon as they fulfil the membership criteria in the Pension Scheme for Auditors and Accountants.

An exemption from this pension fund in favour of a maintained membership in the Bavarian pension fund is not possible. Conversely, howe-

ver, an exemption from membership in the Bavarian Pension Scheme in favour of the Pension Scheme for Auditors and Accountants in North Rhine-Westphalia is possible.

Insofar as admission to the Bar still exists, the membership in the Bavarian pension fund thereby established is not affected, but the obligation to pay contributions is limited to the attorney's professional income.

The application must be submitted within six months of the start of membership if the exemption is to be effective from the start of membership in the Pension Scheme for Auditors and Accountants.

For questions in this context, your primary point of contact is:

Versorgungswerk der Wirtschaftsprüfer und vereidigten Buchprüfer im Lande Nordrhein-Westfalen, Lindenstr. 87, 40233 Düsseldorf,

Tel.: 02 11 / 45 46 60, Fax: 02 11 / 45 46 699.

8. STRUCTURE AND ORGANISATION OF THE PENSION FUND

1. Executive bodies of the pension fund

The **Board of Directors** of the pension fund is responsible for all essential aspects and specifications underpinning the statutory pension fund mandate – in particular, the enactment of the statutes, the conception of which is presented in this information. The Board of Directors is the decision-making and supervisory body of the pension fund, composed exclusively of members of the profession. The members of this body are appointed by the “Bayerisches Staatsministerium des Innern, für Sport und Integration” (Bavarian State Ministry of the Interior, for Sport and Integration) for four financial years at the suggestion of the professional Chambers of Attorneys, Tax Advisers and Patent Attorneys affiliated to the pension fund.

The tasks and powers of the Board of Directors are derived from Art. 4 VersoG.

The administration of the pension fund is the responsibility of the “**Bayerische Versorgungskammer**”, an authority of the Free State of Bavaria, which has been in charge of numerous special pension schemes for decades and is responsible for their management.

A general overview can be found on the homepage (www.versorgungskammer.de).

In some cases, members of the profession from other federal states are also affiliated to these pension schemes within the framework of state contracts.

The pension fund is subject to the supervision of the “Bayerisches Staatsministerium des Innern, für Sport und Integration” (Bavarian State Ministry of the Interior, for Sport and Integration).

2. Administrative costs and administrative procedures

In contrast to the private insurance industry, the pension fund does not maintain a sales force. This means that the usual acquisition costs and brokerage or acquisition commissions do not apply. The pension fund also exercises the greatest possible restraint with regard to advertising and marketing measures. The administrative costs are, therefore, comparatively very low. The savings achieved in this way benefit the insured members and pension recipients in full. As there are no other capital owners apart from the insured members themselves (e.g. shareholders), no investment income flows to third parties, e.g. in the form of dividends, but remains with the community of insured members.

The statutes of the pension fund are decisive for the membership relationship, for the contribution obligations and for the benefits. The adoption of the statutes and the amending statutes is the responsibility of the Board of Directors. Amendments to the statutes require the legal and insurance supervisory approval of the “Bayerisches Staatsministerium des Innern, für Sport und Integration” (Bavarian State Ministry of the Interior, for Sport and Integration). They shall be published in the “Bayerischer Staatsanzeiger” (Bavarian State Gazette). The legal basis for the statutes is the “Gesetz über das öffentliche Versorgungswesen” (Public Pensions Act).

No contract is concluded between the insured person and the pension fund; the insurance relationship is governed by public law. In the event of legal disputes, administrative proceedings shall be initiated.

The pension fund receives the data relevant to membership from the professional Chamber and then contacts the member by sending information material and the necessary forms.

Compulsory contributions are requested with a contribution notice.

The pension fund sends an annual notification of the payments made and the resulting entitlements in accordance with the applicable statutes. Information circulars are sent out at the beginning of the year and as required. Upon request, each member also receives a printed version of the annual report; furthermore, the annual report is also published on the internet at www.brastv.de under the heading "Über uns" / "Daten & Fakten" / "Geschäftsdaten".

Of course, the pension fund staff will be happy to answer any questions you may have about the occupational pension scheme.

Please also note our information on the Internet. Members can also subscribe to the e-mail newsletter, which provides information on current topics.

3. Other notes

As this information brochure is only intended to provide an overview of the applicable statute law, special questions have deliberately not been dealt with.

Please refer to the statutes or your pension fund for information on pension equalisation in the event of divorce and other questions.

This description of the pension fund makes no claim to completeness. The statutes of the pension fund, which are printed in the "Bayerischer Staatsanzeiger" (Bavarian State Gazette), are legally binding. We can send you the statutes booklet on request. The statutes are also available on the homepage (www.brastv.de) under the heading "Über uns" / "Rechtsgrundlagen" / "Satzung".

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