



SOZIALVERSICHERUNGSANSTALT DER GEWERBLICHEN WIRTSCHAFT

# SOCIAL INSURANCE FOR FREELANCERS AN INITIAL GUIDE



OUR SERVICE 2009

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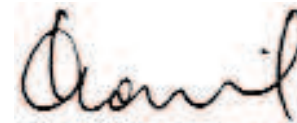
An asset for business people

## INTRODUCTION

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*Dear Ladies and Gentlemen!*

*All self-employed persons (with the exception of those in forestry and agriculture) in Austria belong as a general rule to the group of insurers of the Social Insurance Authority for Business (SVA). Different social insurance provisions apply to different employee groups. For this reason, we have chosen to deal with them separately. This guide contains important information for insured persons who perform a freelance job. Since this initial guide cannot examine all the individual regulations in detail, we recommend you clarify any outstanding questions you have face to face. In fact, we cordially invite you to do so. The staff at the Social Insurance Authority for Business are at hand to provide you with individual information.*



*President  
Mag. Stefan Vlasich*

## 1. GENERAL INFORMATION ON SOCIAL INSURANCE FOR FREELANCERS

Since 1988, all persons who generate “income from a commercial enterprise” or “income from a self-employed work” on the basis of their employment- henceforth called “freelancers”- belong to the statutory health-, pension- and work-accident insurance scheme, providing they do not already have compulsory insurance on the basis of this employment. Furthermore, these individuals are principally subject to self-employment provisions since 1 Jan 2008.

The Social Insurance Authority for Business (SVA) has been entrusted with the management of health- and pension insurance. It levies the contributions and provides the services set out by law. Work-accident insurance for freelancers falls under the responsibility of the General Work-Accident Insurance Authority (AUVA). Nevertheless, the work-accident contribution is also set and levied by the SVA as well. Portions of freelancers' provision contributions shall be levied by the SVA and transferred to the provision fund.

### INFORMATION

#### Observe the Registration Obligation

All freelancers who carry out a business activity must register with the SVA within one month- irrespective of the size of their income. Their social insurance policy cannot be processed correctly without the information you provide in the “insurance declaration” (*Versicherungserklärung*). This declaration also ensures that insurance coverage begins immediately upon commencement of the employment.

If this registration obligation is not observed, the following shall apply in the event that the applicable “insurance limit” (Page 7) is exceeded: Compulsory insurance and obligation to contribute in pension and health insurance are assessed retrospectively, work-accident insurance, however, only begins the day after (late) registration.

The employee group to which one belongs has no bearing on the entry in the health-, pension- and work-accident insurance schemes; The following are sufficient:

1. that income from commercial activities and/or from self-employment are generated from a self-employed (company) employment.
2. a compulsory insurance has not already been taken up on the basis of this employment - e.g. through a “freelance” contract of services (*freier Dienstvertrag*) under the terms of the General Social Insurance Act (ASVG). (This regulation does not apply for professional accountants and tax advisors and veterinary surgeons).

**Note:** A “freelance” contract of services (*freier Dienstvertrag*) exists when an individual enters into an agreement with a customer to provide services against payment, which one must for the most part perform oneself, where one does not possess the resources/equipment necessary for the performance of this activity. The responsible local health fund (*Gebietskrankenkasse*) shall assess whether or not a freelance contract of services exists or not.

The SVA insurance declaration mentioned above includes some questions which make the above assessment possible/easier. If the answers to these questions suggest that there are grounds for a “freelance” contract of services in the above sense, the insurance declaration will be passed on to the local health fund for inspection.

3. the pensionable earnings derived from the commercial income exceeds the applicable insurance limit and/or income is claimed in the insurance declaration which exceeds the insurance limit (see Page 6).

## INSURED GROUPS

The aforementioned necessary conditions can apply to any freelancer. Having said that, the actual insurance protection also depends on whether the insured is a member of a Chamber or not. In detail, the following applies to freelancers who belong to a Chamber:

### 1. Professional accountants and tax advisors, veterinary surgeons

Professional accounts, tax advisors and veterinary surgeons have pension insurance under the terms of the Trade and Industry Insurance Act (*GSVG*). For health insurance, see Page 11 (Opting out). These professionals may accede to self-employment provisions; contributions shall be levied by the SVA.

### 2. Notaries public

Notaries public have compulsory insurance in the pension insurance scheme under the terms of the Notary Public Insurance Act (*NVG*). For health insurance, see Page 11 (Opting out). These professionals may accede to self-employment provision; contributions shall be levied by the Versicherungsanstalt des Österreichischen Notariats (Insurance Authority for Austrian Notaries).

### 3. Lawyers, surveyors

There is no statutory compulsory insurance for lawyers or surveyors. For health insurance, see Page 11 (Opting out). Lawyers may accede to self-employment provision, the contributions shall be paid directly to the provision fund. Surveyors may not yet accede to self-employment provision.

### 4. Medical doctors, pharmacists and patent agents

These employee groups are subject to compulsory pension insurance under the terms of the Social Insurance Act for Freelancers (*FSVG*). The compulsory insurance alone comes into effect on the account of the freelance employment associated with membership of a Chamber and does not depend on the size of income. For this reason, the information provided in this guide does not apply to the pension insurance schemes for doctors, pharmacists and patent agents. Members of these professions may accede to self-employment provision; contributions shall be levied by the SVA.

For all of these groups of freelance employees, the SVA has drawn up special information folders, to which reference will be made in each case (see SVA INFO 10 - 16).

Freelancers who do not belong to a statutory representative body are generally speaking subject to pension and health insurance under the terms of the *GSVG*. Examples here include artists, psychologists, psychotherapists, physiotherapists, speech therapists, also sole traders without a commercial licence (*Gewerbeberechtigung*) (e.g. lecturers and experts), and employed partners providing that they are not already insured on the basis of this employment under the terms of the *GSVG/FSVG/ASVG*.

A personally liable partner of a general partnership or trading partnership who does not have a business is also regarded as employed (if this is not the case, a *GSVG* compulsory insurance scheme applies for the partner based on the commercial authorisation of the company). With other partners, an employment shall be assumed if e.g. unlimited liability exists, a management authority (*Geschäftsführungsbefugnis*) exists or any other collaboration in the company exists.

Under these conditions, as of January 1<sup>st</sup> 2000, limited partners (*Kommanditisten*) also became subject to compulsory insurance providing that the partner agreement came into effect after 20th June 1998.

Non-employed partners (e.g. limited partners whose liability is contractually limited and who are otherwise not active, or non-active GmbH partners) (remain) exempt from compulsory insurance under the terms of the *GSVG*.

## 2. BASIC PRINCIPLES OF COMPULSORY INSURANCE

The following section outlines the basic principles for GSVG compulsory insurance for freelancers. Any special conditions applicable to individual employee groups can be taken from the individual information folders drawn up especially for the particular group in question. These will be referred to as appropriate.

### INSURANCE LIMITS

The State works on the basis of ensuring that compulsory insurance shall only apply for freelancers when income from their employment is above a set minimum. For this reason, the assessment as to whether compulsory insurance applies or not in a specific year is always made in retrospect (after submission of the income tax assessment result, *Einkommensteuerbescheid*). Given the associated uncertainty regarding the law for the insured with regards to the status of his compulsory insurance, the insurance policy can also be substantiated by the insured by submitting a declaration to the effect that the insurance limits are likely to be exceeded.

Two insurance limits apply depending on whether or not the freelance employment is performed alone.

#### **Insurance limit I: EUR 6,453.36**

This contribution applies if an additional employment is not performed within the contribution year and none of the cash benefits mentioned in the following section are claimed.

#### **Insurance limit II: EUR 4,292.88**

This amount corresponds to 12 times the monthly ASVG marginal earnings threshold (*Geringfügigkeitsgrenze*) (In 2009 this came to EUR 357.74). This shall apply if an additional employment is performed

alongside the self-employed employment- one that is not subject to GSVG insurance. The receipt of a pension, a career civil servant's pension, a survivor's pension, sickness benefit or maternity benefit, parental leave benefit, child allowance, special financial support or a cash benefit from unemployment insurance is considered as commercial income (*Erwerbseinkommen*). This is not the case for work-accident- or welfare pensions, or similar.

An employment which is not subject to insurance (benefit claim), even if only carried out for a short time within the contribution year is sufficient to give rise to the application of the lower insurance limit II. No insurance limit is foreseen for business persons insured under GSVG who also carry out a freelance employment at the same time. The income from all employments is used to calculate the GSVG pensionable earnings level. The ceiling is the maximum level of pensionable earnings; this must not be exceeded.

Nevertheless, if a freelance employment is not carried out at the same time as, but rather before or after another employment subject to GSVG insurance within a particular calendar year (e.g. as a business person), the insurance limit II shall apply when assessing compulsory insurance for freelancers. Income from all activities is added together here.

#### *Example*

*Between January and June, a woman is insured as a business person; her income from this business comes to EUR 4,400. Starting in July, she performs a freelance activity, which generates an income from self-employed employment of EUR 1,500. Since the sum of the income from employment (EUR 5,900) exceeds insurance limit II, the compulsory insurance shall apply for the entire year.*

#### **Provisional assessment of the insurance requirement**

In the current year, one cannot foresee with any certainty whether the GSVG pensionable earnings will exceed the applicable insurance limit or not; this can also be said for the following year, since a final assessment of the insurance requirement can only be made on the basis of the tax

result for the contribution year. For this reason, the SVA has to rely on the estimate provided by the insured. Two options are available:

**1. The insured person declares that the pensionable earnings derived from income is likely to exceed the relevant insurance limit.**

In this case, compulsory insurance comes into effect immediately. This means that health-, pension- and work-accident insurance contributions are both prescribed and levied; at the same time, social protection begins in the health- and work-accident insurance schemes. If this prediction is later found to be inaccurate, i.e. that less income was actually generated, this does not change the compulsory insurance status in any manner. The insurance protection remains valid for all insurance types.

Compulsory insurance also remains valid until the insured person revises his income prediction and declares that the income will not exceed the insurance limit. In this case, the compulsory insurance will provisionally end on the last day of the month after the declaration was submitted.

**2. The insured person declares that the pensionable earnings derived from income is likely to fall short of the relevant insurance limit.**

This declaration can be submitted without a need for any further comment, even if the income tax assessment results from previous years showed incomes which exceeded the insurance limit. This choice must be taken into careful consideration: While it is true that provisionally you will not be required to pay any social insurance contributions, at the same time no health- and work-accident insurance protection is provided (free-of-charge co-insurance under the spouse's health insurance policy is possible where required).

The income actually generated shall subsequently determine whether the exemption from insurance remains valid, or - if the insurance limit is exceeded - whether social insurance contributions shall be levied retroactively.

**Please note that the retroactive determination of compulsory insurance (after submission of tax assessment) means that insurance contributions and provision contributions must be paid retroactively.**

### INFORMATION

Given the different consequences associated with the above, the predicted income declarations should be as realistic as possible. Any changes to the predicted income during the course of the contribution year should be reported to the SVA without delay.

**“Opting in”:** When registering with the insurance authority, a person can declare that he would still like to take out health- and work-accident insurance even if the insurance limit is not exceeded. The health insurance contributions must be made on the basis of insurance limit I.

Work-accident insurance cost EUR 7.84 in 2009.

In such cases, self-employment provision need not (or cannot) be paid.

### COMMENCEMENT OF COMPULSORY INSURANCE

The compulsory insurance begins on the day the business employment begins, or on the day professional authorization was obtained necessary for the performance of this business employment. The earliest possible start is January 1<sup>st</sup> 1998, even if the employment was already started before this date.

If a freelancer fails to register for the insurance scheme, his compulsory insurance begins in retrospect starting from the beginning of year in which the higher income appeared in the tax assessment result for the contribution year. A different start date can only come into effect if the insured person can show convincingly that he did not take on the employment until a later point in time.

The health insurance scheme on the basis of “opting in” begins with the day of registration.

## END OF COMPULSORY INSURANCE

Compulsory insurance ends on the last day of the calendar month in which the employment is stopped, or the authorization under employment law no longer applies or in which it is declared that the insurance limit is not (no longer) exceeded (Option 1, Page 9).

If the obligation to register is violated, compulsory insurance ends on the last day of the calendar year in which the employment is renounced. The insured person is entitled to provide evidence demonstrating an earlier termination.

In the event of "opting in", the health insurance scheme ends on the last day of the calendar month in which the insured person unregisters, or - if the contributions are not paid within three months of being due- upon the end of the third month.

**Please note** that in assessing whether an insurance obligation exists, the SVA makes the assumption that the employment is performed on a continuous basis. Interruptions in the performance of the employment within any calendar year can only be taken into account if a statutory representative body (Chamber) exists which permits registration of a temporary suspension of a freelance employment.

## INTERIM REGULATION

The Austrian state has passed an interim regulation for pension insurance:

- **Exemption due to attainment of age limit**

Freelancers who had reached the age of 55 by 1 January 1998 shall be exempt from compulsory insurance within the pension insurance scheme. This exemption was assessed on 1 January 2000 for individual freelancer groups (e.g. limited partners [Kommanditist]).

## **Please note the following**

- This age-related exemption only applies to the pension insurance scheme. One is required to continue paying the health- and work-accident insurance contributions.
- Freelancers who are included in the GSVG health insurance can terminate a private health insurance policy within six months of entering into a compulsory insurance, which shall take effect in the following month.

## **Exemption from pension- and/or health insurance (opting out)**

The Austrian state has granted all freelance groups organised within a statutory representative body (Chamber) the opportunity of exempting themselves from pension- and/or health insurance, providing that a similar cover, or one of approximately the same value, is provided to Chamber members for the respective insurance type. In this sense, the following professional groups have applied for exemption from GSVG health insurance: accountants, tax advisors, veterinary surgeons, doctors, pharmacists, patent agents, notaries public, lawyers and civil engineers. The last two occupational groups have also won this exemption for the area of pension insurance.

Nevertheless, the aforementioned freelancers must continue to have health insurance. They can choose between GSVG self- or compulsory insurance, ASVG compulsory insurance or a collective agreement under private law.

In certain respects, the different health insurance systems demonstrate enormous differences in terms of costs and benefits. You should therefore consider your choice carefully. Also refer to SVA INFO 18 and 30.

### 3. COSTS OF COMPULSORY INSURANCE

The contributions for statutory social insurance are set out by law. The contributions for health- and pension insurance are calculated according to the following formula:

**Pensionable earnings x increment= contribution**

#### PROVISIONAL CONTRIBUTION AMOUNT

The income generated in the contribution year can only be determined by the financial authorities in retrospect. For this reason, the contributions in the contribution year must initially be calculated and charged using a provisional pensionable earnings. A post-assessment is made once the income tax assessment return (*Einkommensteuerbescheid*) for the contribution year has been submitted.

For the first three years, the applicable insurance limit is taken as the provisional pensionable earnings, i.e. EUR 537.78 / EUR 357.74 per month. At an increment of 16.00 percent, this results in provisional pension contributions of EUR 86.04 / EUR 57.24 per month, and health insurance contributions (at an increment of 7.65 %) of EUR 41.14 / EUR 27.37, and provision contributions (at an increment of 1.53 %) of EUR 8.23 / EUR 5.47.

#### FINAL CONTRIBUTION AMOUNT

The size of the pensionable earnings depends on the income generated in the contribution year. The income generated from a business/self-employment stated in the tax return shall apply. The health- and pension insurance contributions required by the statutory social insurance scheme for the contribution year are also included within this income.

The result is the individual pensionable earnings. However, this can only vary within a certain range - between the minimum- and maximum pensionable earnings.

#### Example

*The tax return shows an income from self-employment of EUR 16,000. In the contribution year, provisional health- and pension insurance contributions of EUR 3,200 (rounded) are envisaged. The result of this is an annual pensionable earnings amount of EUR 19,200, or EUR 1,600 per month.*

For persons who expressly applied for health insurance (who “opted in”) who do not exceed the insurance limit, a monthly pensionable earnings of EUR 537.78 shall apply.

#### Minimum pensionable earnings

The minimum pensionable earnings is based on the insurance limits related to the calendar month (EUR 537.78/EUR 357.74). In practice, it is to be applied when the insurance limit is not exceeded in the original declaration (page 6).

#### Maximum pensionable earnings

In 2009, the monthly GSVG maximum pensionable earnings comes to EUR 4,690 across the board. Any income in excess of this maximum is exempt from social insurance.

#### Contribution prepayment

The SVA stipulates that (provisional) insurance contributions are paid quarterly. They are due before the end of the second month of each quarter, and must be paid within 15+3 days of the due date. If payment is delayed, interest will be added as of the 16th day after payments were due, afterwards a warning will be issued (via a warning letter or payment mandate delivered by post), and where applicable, enforced collection will ensue.

## Post-assessment

The post-assessment of health- and pension insurance contributions begins once the legally valid income tax assessment result (*Einkommensteuerbescheid*) is submitted. The insured person will be liable to make a subsequent payment if the final pensionable earnings resulting from the income that was actually generated is higher than the provisional pensionable earnings. The self-employment provisions contributions are not reassessed.

## Please note that

this post-assessment may give rise to a very high contribution backpayment. While it is true that the back-payment amount is payable in four instalments, the insured person must continue to pay the provisional contributions for the current year along side these back-payments. To avoid potential difficulties in making payments, the insured person should put aside enough funds if the course of the business indicates higher incomes.

## INFORMATION

Please note that the final pensionable earnings in the pension insurance scheme can be raised upon application to the maximum pensionable earnings during the first three years of compulsory insurance on account of business start-up investments. The purpose of this is to improve the pension entitlement.

The application can be made any time up to the pension qualifying date (*Pensionsstichtag*). The pension contributions must be paid back, and may be re-valued.

## Increment

Certain percentages of the pensionable earnings must be paid as a contribution to health- and pension insurance. In the GSVG health insurance scheme, the increment is 7.65 per cent.

In the pension insurance scheme, the increment is 16.00 per cent. A increment of 20 per cent applies to doctors, pharmacists and patent agents. Contributions amounting to 1.53 % of the provisional pensionable earnings must be paid to self-employment provisions.

## Contribution supplement

Insured persons who have not registered for the social insurance scheme and are not to be included in the compulsory insurance scheme until submission of the tax return, incur a contribution supplement of 9.3 per cent on the health insurance- and pension insurance contributions to be paid in retrospect. The same applies if income under the insurance limit is stated in the insurance declaration, and higher income is stated on the tax return.

## COSTS OF WORK-ACCIDENT INSURANCE

The contribution for the ASVG work-accident insurance scheme for self-employed persons is not means-tested, but is the same amount for all persons. The work-accident insurance contribution comes to EUR 7.84 per month in 2009. The SVA stipulates that these contributions are to be paid quarterly. They are to be sent to the General Accident Insurance Authority (*AUVA*) by electronic bank transfer. The above amount corresponds (for WAI cash benefits) to an annual assessment basis of EUR 17,148.45.

## Additional insurance in the work-accident insurance scheme

On account of their "compulsory contribution", insured persons are entitled to cash benefits and benefits in kind in the event of a work-place accident or occupational illness. The assessment basis for cash benefits-above all for pensions- is rather low for the above amount. We therefore recommend you take out an additional work-accident insurance policy. This brings about an increase in the assessment basis.

## INFORMATION

Additional insurance can be applied at the relevant AUVA provincial office. The additional insurance contribution is determined and levied by the AUVA

There are two levels for this additional insurance. The following annual contributions and assessment bases are possible:

	Additional insurance I	Additional insurance II
additional annual contribution	<b>EUR 94.07</b>	<b>EUR 141.31</b>
annual pensionable earnings	<b>EUR 28,042.71</b>	<b>EUR 33,570.24</b>

## 4. SPECIAL REQUIREMENTS FOR ARTISTS

### COMMENCEMENT OF INSURANCE AND TEMPORARY PROVISIONS

On January 1<sup>st</sup> 2001, a separate legal solution for social insurance came into effect for all artists, as well as a special financing solution for the compulsory insurance of freelance artists.

Accordingly, the “age-related exemption” from the pension insurance scheme (see Page 11) has been specially formulated for artists. The age limit for both men and women is 55 years, the qualifying date is 1<sup>st</sup> January 2001. However, this exemption shall not apply if, on December 31<sup>st</sup> 2000, the insured person had a compulsory insurance on the basis of his employment as a musician, artist or revue performer under the terms of the ASVG, or plastic artists under the terms of the GSVG.

### NO FREELANCE EMPLOYMENT RELATIONSHIP FOR ARTISTS

Taking into account the restrictions concerning the freelance contract of services (*freier Dienstvertrag*) described on Page 4, the situation for artists has become somewhat simpler. This is because an ASVG compulsory insurance has been expressly exempted on the basis of a freelance contract of services for artists under the ASVG. Therefore, artists can only be insured as real service providers under the terms of the ASVG (e.g. as an actor), or as a self-employed person under the terms of the GSVG.

### FINANCIAL SUPPORT FROM THE SOCIAL INSURANCE FUND FOR ARTISTS

Irrespective of the above, the following shall apply to allowances for pension contributions which artists can apply for if they meet certain requirements. The SVA is not responsible for assessing such applications. Responsibility for this lies with the Social Insurance Fund for Artists (K-SVFG) which was set up for this purpose.

Only artists who are self-employed are subject to the K-SVFG. Whether a person is self-employed or not only depends on the content, and not on the type of the contract. For this reason, for example, actors and dancers who are involved on an artistic basis in theatre productions are not included since these activities may only be performed under one employment relationship according to the corpus of case law.

### Contribution allowances through the fund

The purpose of this fund is to pay out contribution allowances to artists having pension insurance under the terms of the GSVG, and to raise the necessary finance to do so.

Under the terms of the K-SVFG, an artist is “*an individual who creates works of art in the areas of the plastic arts, performing arts, music, literature - or in contemporary forms thereof - through their artistic ability within the scope of an artistic activity.*”

The Artist Commission (Künstlerkommission) shall determine the "Artist Community" (Künstlereigenschaft). The stated commission comprises several committees, one for each artistic genre, i.e. literature, music, the visual arts, plastic arts, performance arts and contemporary forms thereof; there is also an appeals committee who is able to appoint an expert opinion in contentious cases upon request. Successful completion of an artistic education at university level is taken as evidence for relevant artistic ability. The respective committees shall be responsible for the assessment of additional criteria (e.g. works of art).

### **Necessary conditions and size of pension allowance**

Before the allowance can be made, the following must apply:

- the artist having GSVG-pension insurance must submit an appropriate application to the SVA or the Fund,
- the annual income from the artistic activity must come to at least EUR 4,292.88 (as of 2009), and that
- the sum of all income shall not exceed EUR 21,464.40 (as of 2009), annually.

The forms provided by the Fund must be used when applying. These provide information about expected income and the artistic activity. The Fund will decide upon the basic entitlement, and the SVA will already take this into account in the provisional contribution pre-payment. The Fund is obliged to carry out regular spot checks ensuring that the necessary conditions for entitlement have been met.

The allowance amounts to a maximum of EUR 102.50 per month (EUR 1,230 per year); however, it must not exceed the respective monthly pension, health and accident insurance contributions.

### **Subsequent check**

After tax return submission, the allowance entitlement will be assessed once again. Allowances falsely granted must be paid back within one month after request for payment.

Under certain circumstances, the Fund may upon request grant more time for the repayment, or may permit repayment to be made in instalments. In cases worthy of special attention it may even drop the demand for repayment either fully or in part. If one has yet to receive financial support - despite applying for it (because the income was predicted to lie outside this range), the allowances for the pension contributions will be paid out in retrospect when the income that is actually generated does meet the necessary conditions.

## **5. WHAT YOU SHOULD ALSO KNOW**

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### **CONTRIBUTION FOR MULTIPLE INSURANCE**

Freelancers who at the same time also perform an employment subject to ASVG insurance, are insured under the terms of the GSVG and the ASVG- in other words, they have "multiple" insurance. The same also applies where a freelancer has an agricultural/forestry business; in this case, a GSVG/BSVG multiple insurance scheme comes into effect.

Where multiple insurance applies, health- and pension contributions must be made into each of the systems in question. The individual contribution bases are aggregated; they are restricted to a maximum limit in accordance with the maximum pensionable earnings which is applies in equal measure in all social insurance legislation. The maximum pensionable earnings per contribution year is calculated by multiplying the number of compulsory insurance months of an employment by the monthly maximum pensionable earnings. To avoid contribution payments which would in total exceed the maximum pensionable earnings in the current year, we recommend that you apply for a "differential pre-payment" by submitting a remuneration confirmation (*Entgeltbestätigung*).

The differential pre-payment is provisionally calculated on a monthly basis. This is because the differential prepayment in the current year cannot be made taking into account the **annual** maximum pensionable earnings (in the current year it remains unclear how many months of compulsory insurance are to apply overall in the health insurance scheme, and thus how high the maximum pensionable earnings for the year is to be). In other words, it is taken from the difference between the monthly ASVG/B-KUVG- pensionable earnings and the **monthly** maximum pensionable earnings.

Should a self-employment and an employment relationship that has attained permanent tenure of employment (*pragmatisiert*), the restriction on contributions shall only apply in the health insurance scheme, providing that compulsory insurance exists for health insurance under the terms of the B-KUVG on the basis of this employment that has attained permanent tenure of employment. Being a member of a health care institution service provider under public law (e.g. the KFA of the city of Vienna) does not give rise to the restriction on contributions via the maximum pensionable earnings. In these circumstances, the insured person is required to pay the GSVG contributions in full. In these circumstances, multiple insurance generally does not apply within pension insurance. The GSVG contributions must also be paid in full if the maximum pensionable earnings was already supposed to have been exceeded on account of the employment attaining permanent tenure of employment.

## OPTIONS WITHIN GSVG HEALTH INSURANCE

Persons entitled to cash benefits and payments in kind can adapt their insurance protection to suit their individual needs. The following options are available:

- For persons entitled to payments in kind
  - either "full entitlement to cash payments", or
  - "Entitlement to cash benefits- special class"
- For persons entitled to payments in kind:
  - "Entitlement to cash benefits- special class"

## The options in detail

### *"Full entitlement to cash benefits"*

This option is the same as the previous Höherreihung scheme<sup>1</sup>. The insured person is regarded as a private patient when going to his doctor, claiming pharmaceutical products, and in the hospital special class. He is required to pay for the benefits himself upfront. The SVA then reimburses him according to the set list of charges, up to a maximum 80 per cent of the costs.

This option costs EUR 85.92 per month on top of the normal health insurance contributions.

### *The "Entitlement to cash benefits- Special class"*

This option only provides an entitlement to cash payment with respect to the hospital special class. All other benefits are considered as payments in kind (especially doctor's assistance).

For persons entitled to payments in kind, this option costs EUR 68.75 per month. For persons entitled to cash benefits, it costs EUR 2 per month, in both cases this is on top of the normal health insurance contributions.

## Beginning and end of the options

As a general rule, the option begins on the first of the month following application. However, it can also come into effect upon commencement of compulsory insurance if a explicit application is made to do so within four weeks of notification of the commencement of compulsory insurance.

This option ends when the compulsory insurance ends. However, it can also be ended upon termination. However, a termination is only possible after the end of the calendar year following commencement at the earliest, and after this point, only at the end of the respective calendar year. Exclusion from this option is also possible through the non-payment of these supplemental contributions.

<sup>1</sup> Translator's note: Earlier scheme where higher contributions which were the result of a higher income meant that the insured was placed in a superior benefit category.

## Waiting period

If a person entitled to payments in kind opts for “full entitlement to cash benefits” or “entitlement to cash payments- special class”, reimbursement for hospital special class cannot be made until after a waiting period of six months, taken from when the option began. Periods of cash benefit entitlement immediately prior to the commencement of this option either reduce this waiting period, or replace it entirely.

## Private insurance

These options can be of interest to persons entitled to payments in kind who have additional private hospital insurance. The entitlement to cash benefits for the hospital special class under GSVG can lead to a reduction in private insurance premiums.

Additionally, when an entitlement for cash benefits exists for the special hospital class under GSVG, reimbursement by the SVA covers a maximum of 80 per cent of the actual costs (usually the reimbursed amount will be lower than this). We therefore recommend an additional private hospital insurance to cover the remaining costs.

## SUPPLEMENTAL INSURANCE IN THE HEALTH INSURANCE SCHEME

One means of protecting oneself against financial hardship should one get ill is offered by the voluntary GSCG supplemental insurance scheme. In the event of illness, it provides a sickness benefit/daily allowance, the amount of which is derived from the provisional assessment basis.

For freelancers, this supplemental insurance costs EUR 13.44 in the first years (based on: EUR 537.78)/ EUR 8.95 (based on EUR 357.74) per month.

The sickness benefit resulting from this supplemental insurance initially comes to EUR 10.76/EUR 7.15 per day respectively, in accordance with the (minimum) pensionable earnings. The contributions and benefits of this supplemental insurance are not changed by the post-assessment.

## FINANCIAL SUPPORT FOR START-UPS

The Promotion of Start-Ups Act (*NEUFÖG*) is applicable for all business start-ups made since May 1st 1999. This regulation aims to provide relief for entrepreneurs by exempting them from certain stamp duties and administrative expenses, and employer wage taxes upon application. Persons can be made exempt from certain taxes. With certain restrictions, the Promotion of Startups Act also applies for business transfers made after 31<sup>st</sup> December 2001.

As a general rule, this financial support can be claimed by all self-employed persons. Advice is available from their respective statutory representative body. Other insured persons (without recourse to a statutory representative body) can seek individual information and advice from staff at the SVA provisional offices.

A business start-up exists when a business organisation is created which did not exist before for the purpose of generating income from a business activity, from self-employed work or from agriculture/forestry. A business transfer exists where only one change in the person of the business owner of an existing business takes place either against payment or without payment. Simply changing the legal form of the business does not constitute a start-up in the sense of the statutory regulations.

## 6. SELF-EMPLOYMENT PROVISIONS

Since 1 Jan 2008, GSVG health-insured freelancers (except "opting-in" health insured persons and individuals who are either self insured or subject to compulsory insurance pursuant to §§ 14a, b GSVG) are committed to pay contributions towards self-employment provisions - pursuant to the Company Employee and Self-Employment Provisions Act (BMSVG).

GSVG- or FSVG-pension insured individuals who are exempt from GSVG health insurance pursuant to § 5 GSVG (Opting Out), or who are subject to compulsory insurance pursuant to the ASVG, may voluntarily accede

to self-employment provisions within 12 months of beginning their freelance activities.

The contributions amount to 1.53 % of the pensionable earnings within health insurance (compulsory model) or within pension insurance (voluntary model). They are not reassessed. The contributions are prescribed and levied by the SVA together with the social insurance contributions.

The SVA transfers the contributions to the provision fund selected by the insured person. There are 9 such provision funds to choose from (you will find a list on page 30). If, however, the insured person has already selected a provision fund for his/her employees, then the insured person shall also be bound to this fund. If the insured person fails to select a provision fund in due time, then he/she shall be allocated to one. The provision fund shall assess the insured person's contributions.

Insured persons become entitled to benefits from the self-employment provisions, after contributions have been paid for at least 3 years and business operations have ceased for at least 2 years (e.g. final termination of business operations). In any case - and independent of the above requirements, benefits shall ensue upon entrance into statutory retirement - or 5 years after the end of the last obligation to contribute. Upon demise of the insured person, the capital shall be paid to close relatives, or passed into the decedent estate.

The amount of the benefits depends on the amount of contributions paid, and on the assessment success achieved by the provision fund. There is a statutory capital guarantee, i.e. the benefits must at least amount to the contributions paid. The provision fund shall inform the insured person on the current account balance annually.

The benefits may be disposed of in various ways. In addition to single (lump sum) benefit payment, further options are: transferral of the amount to a new provision fund (e.g. in the event of the insured person entering into non-self-employment after a period of self employment) or to a pension fund or a private insurance company (for payment as pension).

## Tax treatment

The provision contributions are company expenses. Provision fund assessment is exempt from taxation. Single (lump sum) benefit payment is tax-advantaged at 6 percent, payment as pension is exempt from taxation.

## 7. UNEMPLOYMENT INSURANCE

Since 1 January 2009, self-employed business persons may **voluntarily** contract into unemployment insurance and thus improve their social security. This scheme constitutes a genuine unemployment insurance which grants insured persons an entitlement to all unemployment insurance benefits (unemployment benefits, social benefits etc.). The contributions to the unemployment insurance for self-employed business persons shall be levied by the SVA, the AMS (Arbeitsmarktservice [Employment Agency]) shall be responsible for the payment of benefits.

### Who may contract in?

All self-employed business persons who have pension insurance coverage pursuant to GSVG and/or FSVG (business people and business partners, 'new self-employed' persons, physicians, pharmacists and patent lawyers), and those freelance solicitors and civil engineers who are exempt from GSVG pension insurance pursuant to sec. 5 GSVG ("opting out") may contract into unemployment insurance.

### Application period and begin

Self-employed business persons who **started their business activities before January 2009** must declare accession before **31 December 2009**. If self-employed business activities commence **after this date** then declaration of accession must occur within **6 months of notification** of the beginning of GSVG-/FSVG pension insurance coverage or exemption therefrom pursuant to sec. 5 GSVG. Depending on the date of the declaration of accession, the unemployment insurance coverage may either begin simultaneously with the pension insurance or exemption

there from (accession within 3 months) or as of the month following the declaration of accession.

If accession is not declared within the stipulated period, then accession may only occur after 8, 16, 14 ... years (during the 6 months as of the end of the respective period).

### Costs

Insured persons must pay contributions for the duration of the pension insurance or exemption therefrom pursuant to sec. 5 GSVG. The insured person may select the pensionable earnings on which calculations shall be based. He/she may select one quarter, one half or three quarters of the GSVG maximum pensionable earnings. The increment is 6 %. **The respective monthly contributions thus amount to EUR 70.35, EUR 140.70 or EUR 211.05.**

The selected pensionable earnings shall apply during the entire unemployment insurance period. This selection shall not only determine the amount of the contributions to be paid, but also the amount/extent of financial benefits (e.g. unemployment benefits).

The contributions shall be prescribed and levied by the SVA together with the other contributions. The entitlement to periods of benefit payment from the voluntary unemployment insurance prerequisites payment of the prescribed contributions.

### Contracting out

Insured persons may contract out of the voluntary unemployment insurance no earlier than after 8, 16, 24 ... years (during the 6 months as of the end of the respective period).

### Coverage due to entitlement from previous unemployment insurance

Transition regulations shall ensure that the indefinitely extended **framework period** valid through 31 December 2008 (periods of self-employed business activities with health insurance coverage pursuant to GSVG or BSVG indefinitely extend the framework period in which entitlement to periods of unemployment benefit require a minimum period of unem-

ployment insurance coverage) as well as the **period for continued receipt of unemployment benefits and social benefits** shall continue to apply for many self-employed business persons in part or in full. In such a case the self-employed business person must consider whether the thus resulting protection is sufficient (making accession to the voluntary unemployment insurance unnecessary) or whether an accession would nevertheless be expedient (as perhaps, this would increase the amount of entitlement or the entitlement period).

Those covered by entitlements from a previous unemployment insurance encompass the following:

- **persons who were unemployment insured and self-employed before 1 January 2009** and thus health insured pursuant to GSVG or BSVG (in these cases, the indefinitely extended periods remain valid) or
- **those who commence self-employment after 31 December 2008 and were previously unemployment insured for at least 5 years through prior employment** (the indefinitely extended periods also remain valid for these persons) or
- **those who commence self-employment after 31 December 2008 and were unemployment insured for less than 5 years** (in this case, the extension of the period shall be valid for no longer than 5 years).

It must be noted that the extension of the periods only protects the insured persons if they are entitled to unemployment benefits or where continued receipt of unemployment benefits is possible. In all other cases the extension of the periods is of no avail, which means that, insofar as the respective self-employed person wishes to protect him/herself against the risk of unemployment, accession to voluntary unemployment insurance becomes a matter worth contemplating.

### Benefits

Detailed information regarding all benefits of unemployment insurance coverage, especially with regard to unemployment and social benefits

can be reviewed at [www.ams.at](http://www.ams.at) - Employment Services - Financial matters - Benefits.

If unemployment benefits are exclusively calculated on the basis of the applicable pensionable earnings for the voluntary unemployment insurance for self-employed business persons (2009 values), then, depending on the selected pensionable earnings (based on the net income assessment valid in 2008), this results in various **monthly unemployment benefit payments (30 days) amounting to approximately EUR 566** (monthly pensionable earnings of EUR 1,172.50), **EUR 886** (monthly pensionable earnings of EUR 2,345) or **EUR 1,221** (monthly pensionable earnings of EUR 3,517.50).

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