

# Completion instructions for the income tax return (E 7) for 2020 (in case of limited tax liability)

Legal quotations without further designation refer to the Austrian Income Tax Act 1988 (EStG 1988) in the version applicable for 2020. Natural persons who have neither a residence nor their habitual abode in Austria are as a rule subject to limited income tax with their domestic income as defined in § 98. Upon application, citizens of EU (EEA) states who have neither a domicile nor their habitual abode in Austria are treated as subject to unlimited tax liability, if and insofar as they have domestic income within the meaning of § 98. This applies only if your income in the calendar year is to at least 90% subject to the Austrian income tax, or the income not subject to Austrian income tax amounts to no more than € 11,000 (§ 1 IV). For such an application, please use Form L 1i in conjunction with Form E 1 (income tax return for persons subject to unlimited tax liability) instead of Form E 7 or – if you have received only income from employment – Form L 1i in conjunction with Form L 1 (employee tax assessment).

Income is the operating revenue (income revenue) less operating expenses (income-related expenses). In the determination of the income, operating expenses or income-related expenses may be deducted only if and insofar as they are economically related to domestic income. Operating expenses are expenses that are caused by the operation, while income-related expenses are expenses to acquire, secure and maintain the revenue. A prerequisite for the deductibility of operating expenses and income-related expenses is, among other things, that the recipients or creditors are precisely identified at the request of the tax authority.

Pursuant to § 102, income tax on income subject to tax deduction is as a rule satisfied by the tax deduction. Income subject to withholding tax which forms part of the operating revenue of a domestic operation, of the income from the participation in a business as a silent partner, or of the profit shares pursuant to § 99 I 2, is subject to mandatory assessment; all other income subject to withholding tax can be assessed upon application. In the case of the following income as defined in § 98, domestic income tax is collected by way of tax deduction:

- Income from employment from which wage tax was to be withheld (wage tax deduction pursuant to § 70);
- Income subject to capital gains tax as defined in § 93; this includes in particular profit shares (dividends), interest and other remunerations from domestic shares, profit participation rights, participation capital, shares in limited liability companies and in acquisition and business cooperatives as well as contributions from a domestic private foundation.
- Income from self-employment exercised or exploited domestically (writer, lecturer, artist, architect, athlete, performer or participant in entertainment performances), irrespective of to whom the remuneration for the above activities is paid (withholding tax pursuant to § 99);
- income from participation in a domestic company as a silent partner;
- profit shares held by shareholders (co-entrepreneurs) of a foreign company that holds an interest in a domestic partnership (in certain cases);
- income from the granting of rights for a definite or indefinite period of time or from allowing the exploitation of rights, in particular from the granting of work use (work use permit, work use right) within the meaning of the Austrian Copyright Act (*Urheberrechtsgesetz*) and from the granting of industrial property rights, from commercial experience and from authorisations or from allowing the exploitation of such rights;
- supervisory board remuneration;
- income from commercial or technical advice provided domestically and income from the provision of manpower for the purpose of domestic work practice;
- income from domestic real estate of a foreign real estate fund not offered to an unspecified group of persons.

**Please note:** In the case of assessment, an amount of **€ 9,000 is added** to the income revenue for income subject to limited tax liability, i.e. the income revenue is increased by this amount, and the tax is calculated from this amount. The additional amount of € 9,000 means that only the first € 2,000 are taxed at 0% according to the tariff rate (§ 33), because securing the fiscal minimum subsistence level is the primary task of the country of residence; for the possibility of an application pursuant to § 1 IV, see above.

**1** Taxpayers who are no longer under accounting obligation due to falling below the turnover limits of § 189 UGB and receive income from commercial operations (§ 23) may apply for **continuation** of the profit determination in accordance with § 5 I of the Austrian Income Tax Act 1988. The application must be made for the year in which the business year ends for which for the first time no accounting obligation exists. The application is binding on the taxpayer until revoked; in this case, the appropriate box must be ticked. The application expires automatically upon re-entry into the accounting obligation pursuant to § 189 of the Austrian Commercial Code.

**2** The **income** (profit or loss) from domestic **agriculture and forestry** is to be reported here. If you use flat-rate taxation, please attach Form E 1c provided as a supplement to Form E 1 and transfer the result to Item a. Non-lump-sum taxpayers must present the income-expenditure account or the balance sheet and the profit and loss statement.

**Please note:** A **tax-free profit allowance** (§ 10) is not considered by entry into Form E 7. If the agricultural and forestry flat rate is used, the basic tax allowance must be considered in Supplement E 1c (code **9221**). In the case of balance sheet accounting or income-expenditure accounting, the tax-free profit allowance must be considered in the determination of the taxable income, so that the profit already reduced by the tax-free profit allowance must be transferred to code **310**. A claimed investment-related tax-free profit allowance is to be stated in codes **779** and **789**.

The information in Note 4 applies mutatis mutandis to the treatment of capital yields and capital gains relating to business premises.

**3** The **income from self-employed work** carried out or exploited in Austria is to be entered here. The income is taxable even if the activity is only temporary. Please present the income-expenditure accounting or the balance sheet and profit and loss statement. See Note 4 for the possibility of basic flat rates.

**Please note:** A **tax-free profit allowance** (§ 10) is not considered by entry into Form E 7. Rather, the tax-free profit allowance is to be considered in the determination of the taxable income, so that the profit already reduced by the tax-free profit allowance is to be transferred to the code **320**. A claimed investment-related tax-free profit allowance is to be stated in codes **779** and **789**.

The information in Note 4 applies mutatis mutandis to the treatment of capital yields and capital gains relating to business premises.

**4** The **income from commercial operations** for which a permanent establishment is maintained in Austria, a permanent representative has been appointed, or immovable property exists in Austria, is to be entered here. Please present the income-expenditure accounting or the balance sheet and profit and loss statement.

If your turnover in the previous year does not exceed € 220,000, you have the option of calculating your operating expenses at a flat rate of 12% of the turnover (basic flat rate) within the framework of the income-expenditure accounting. For certain forms of income, especially from professional activities, the flat rate is only 6%. In addition to the lump sum, only expenditure for the receipt of goods, raw materials, semi-finished products, auxiliary materials and ingredients as well as expenditure for wages (including non-wage labour costs) and for

third-party wages, if and insofar as these are directly included into services which form the business object of the company (e.g. contract manufacturing of goods), and social-insurance contributions may be deducted.

**Please note: A tax-free profit allowance** (§ 10) is not considered by entry into Form E 7. Rather, the tax-free profit allowance is to be considered in the determination of the taxable income, so that the profit already reduced by the tax-free profit allowance is to be transferred to the code **330**. A claimed investment-related tax-free profit allowance is to be stated in codes **779** and **789**.

The following applies to operating income from **capital assets** and capital gains relating to **business premises**:

Capital yields (fructus and capital) that can be taxed at a special tax rate or are eligible for final taxation may not be included in Item 3a or Item 3b. If the standard taxation option pursuant to § 27a V is exercised, this income is to be entered in code **784** and **919**, respectively. If you opt for taxation at the special tax rate, enter the income in code **785**, **951** or **922**, respectively.

Capital gains relating to business premises that can be taxed at the special tax rate may not be included in Item 3a or Item 3b. If the standard taxation option pursuant to § 30a II is exercised, this income is to be entered in code **502**. If you opt for taxation at the special tax rate, enter the income in code **963** (30%) or **553** (25%). The special tax rate is 25% if the sale took place before 01-JAN-2016.

Please note that the standard taxation option can be exercised only for all capital yields (corporate and private). The same applies to the exercise of the standard taxation option for real estate. The standard taxation option for capital income can be exercised independently of the standard taxation option for real estate.

**5** Income from agriculture and forestry, self-employment and commercial operation also includes:

The profit (loss) shares of the shareholders in the company in which the shareholders are to be regarded as co-entrepreneurs, and the remuneration received by the shareholders from the company for their activities in the service of the company or for the granting of a loan or for the transfer of capital assets. For income from a participation in a partnership, please use Form E 11. Please note the information on this form. Note 4 applies mutatis mutandis to the treatment of operating capital yields and capital gains relating to business premises included in the participation income.

**6** In certain cases, upon application the taxation of income is distributed over three or five years:

A **three-year apportionment** is provided for gains on disposal and certain compensations (§ 37 II 2).

**Gains on disposal** are profits from the sale (discontinuation) of the whole operation, a part of the business or a partner's share and can be apportioned upon application over **three** years, if the operation was either established more than seven years ago or acquired for consideration and is not sold against pension. In this case, please exclude  $\frac{2}{3}$  of the gains on disposal (to be reported without deductions) by entry into code **311/321/327**.

A **five-year apportionment** is provided for hidden reserves, which are uncovered in the event of the retirement of capital assets as a result of intervention by an authority or in order to avoid such intervention. In this case, please exclude  $\frac{4}{5}$  of the preferentially treated income (to be reported without deductions) by entry into code **312/322/328**.

**7** Positive income from independent artistic and/or literary activity in 2020 can be apportioned evenly over the years 2020, 2019 and 2018 on the basis of an irrevocable application. In this case, the assessments for the years 2019 and 2018 will be resumed for consideration of the respective thirds. Apportionment is possible only if the balance from all income from artistic and/or literary activity is positive.

The income to be apportioned must first be entered without deductions.  $\frac{2}{3}$  of this is to be entered in code **325** and is thereby excluded.

**8** Here, the  $\frac{1}{3}$  and  $\frac{1}{5}$  amounts attributable to 2020 of the profits apportioned over 3 or 5 years, respectively, in the previous year(s) (see also Note 6) are to be entered. Furthermore, the  $\frac{1}{3}$  amount attributable to 2019 is to be entered here also if the distribution privilege for artistic and/or literary income (see Note 7) is claimed in the years 2021 or 2022.

**9** Here in case of exercise of the standard taxation option income is to be entered that has been received from an infrastructure operator in the electricity, gas, oil and district heating sectors for the granting of a **line right-of-way** (§ 107). If the income is not recognised at 33% of the amount paid out, its amount must be proven by an expert opinion.

**10** Certain earnings from agriculture and forestry can, upon application, be fiscally considered at **one third each** in the assessment year and the two following years. Excluded from this are, in particular, income determined by full flat-rate taxation, income from hunting, from a sideline or secondary activity, benefited income from special forest uses, income from the sale of real estate, or income from the sale or abandonment of a business. Where not all income is to be apportioned, records must clearly show which income was included in the apportionment and how it was determined.

If you wish to apply for the apportionment, tick the box provided for the application. The application concerns all distributable income and is binding for the subsequent years. The apportionment ends, among other things, if the apportionment application is revoked; in this case, a new application can be submitted only after five assessment years.

The positive balance from the income of the holding to be apportioned must be distributed, but at most the total positive income generated by the business. The income to be apportioned is to be entered in code **151**. The income from agriculture and forestry in the assessment year is thus reduced by  $\frac{2}{3}$  of the value from this code. The  $\frac{2}{3}$  excluded are then **automatically included** into the assessments of the following years.

**11** Non-compensable losses from **companies** whose main business is the management of intangible capital assets or the commercial letting of capital assets are to be entered in code **341**. Losses from the current year must always be recognised without deductions in the corresponding code (**310**, **320** or **330**) and additionally in code **341** with the non-compensable portion attributable to them.

Non-compensable operating losses from **participations** that are primarily aimed at the attainment of fiscal advantages, or non-compensable losses included in participation income from operations whose main business is the management of intangible capital assets or the commercial letting of capital assets (§ 2 IIa) are to be entered in code **342**. Participation losses of the current year must always be recognised without deductions within the framework of the corresponding code and, in addition, in code **342** with the non-compensable portion attributable to them.

If a profit is received in the current year from the same operation (the same permanent establishment), non-compensable losses from **previous years** that are offset by entry in code **332**. The profit must be recorded without deductions in the appropriate code (**310**, **320**, **330**).

The same applies mutatis mutandis to code **346** for offsetting non-compensable losses from **previous years** from operating participation income if a profit is achieved from the same participation in the current year. The profit share is to be reported without deductions in the appropriate code (**310**, **320**, **330**).

In code **509**, enter an on-hold loss from a participation in a partnership as a capitalist shareholder (§ 23a) which, as a result of a contribution or liability assumption, can be offset against income other than the respective participation income. The offsetting is made up to the total amount of the income.

**Non-compensable losses** from participations that are included into non-operating income and for which the attainment of tax advantages is

the primary objective (§ 2 IIa) are to be entered under code **371**. Losses of the current year must always be recognised without deductions within the framework of the corresponding code and, in addition, in code **371** with the non-compensable portion attributable to them.

Non-compensable losses of **previous years** from participations that are included in non-operating income and for which the attainment of tax advantages is a priority (§ 2 IIa) are to be listed for loss offsetting in code **372** only if and insofar as a surplus share is received from the same participation in the current year; this surplus share is to be stated without deductions in the corresponding code.

**12** This income, from which a wage tax deduction totalling 20% of the revenue already had to be made, is considered in the assessment only on the basis of an express application and then taxed at the tariff rate. **Please note:** The assessment upon application is carried out only if the appropriate box is **ticked** in the declaration. This also applies if a tax assessment is requested for other non-independent income, or a compulsory tax assessment is to be carried out because, for example, operating income has also been generated.

**13** Enter the number of bodies (employers, pension offices) paying remunerations to you in 2020 (wage, salary or pension). Enclosing pay slips is not required. If you have received several pensions that have already been jointly taxed, you must specify a single agency paying out the pension for these jointly taxed pensions.

The following remunerations are not included here:

Benefits from a statutory health insurance scheme (sickness benefit), payments based on a service voucher, unemployment benefits, poverty relief support, bridging assistance for federal employees, compensations for military, cadre or weapon exercises, reimbursed compulsory contributions to social insurance, remuneration from the insolvency remuneration fund, maternity allowance, payments from a company pension scheme or remuneration from the construction workers' leave fund.

**14** If there is no wage statement/pay slip (Form L 17), income from employment in 2020 that is not subject to wage tax and does not contain income for which a privileged taxation of other income is to be made (e.g. 13<sup>th</sup> and 14<sup>th</sup> monthly salary, see the "Tax Book", bmf.gv.at – Publications) is to be entered in code **359**.

**15** As a rule, Form **L 17** must be forwarded by your employer. If this is not the case, then please send the completed Form L 17 to your tax office. Please observe the completion instructions L 17a and L 17b.

**16 Income from rentals and leasing** is to be entered here if the immovable assets, the aggregates or rights are located in Austria or entered in a domestic book or register or exploited in a domestic permanent establishment. If you participate in one or more partnerships, please break down the income shares recognised in code **370** into an supplement for income from participations (E 11) and transfer the value to Item 6b.

**17** If you exercise the standard taxation option, here income from rentals and leasing is to be entered that has been received from an infrastructure operator in the electricity, gas, oil and district heating sectors for the granting of a **line right-of-way** (§ 107). If the income is not recognised at 33% of the amount paid out, its amount must be proven by an expert opinion.

**18** Income from **private domestic real estate sales** is as a rule subject to taxation at a special tax rate. The special tax rate for profits from the real estate sales is **30%** if the sale took place in the calendar year 2016. It amounts to **25%** if the sale took place after 31-DEC-2015, but the income is not to be recognised until the 2019 calendar year as a result of the inflow.

If real estate income tax has been paid on the income, the income tax is satisfied thereby, unless the information underlying the self-calculation of the real estate income tax by the party representative does not correspond to the actual circumstances. If no real estate income tax has been paid, the income to be reported in codes **985/572**, **986/573** or **987/574** must at any rate be assessed (obligation to declare).

If real estate income tax has been paid correctly, such income no longer needs to be reported in the tax return. However, they may be included in the assessment on a voluntary basis on the basis of a standard taxation option (first page of the form) or an assessment option.

By exercising the assessment option, income from private real estate sales for which real estate income tax has been paid (entry in code **988/576** required) can be included into the assessment and be taxed at the special tax rate. This is expedient e.g. if a loss from one real estate sale is to be offset against a surplus from another real estate sale for which real estate income tax has been paid, and taxation at the special tax rate is to be maintained. Excess real estate income tax can thus be refunded (in whole or in tax part) or offset against income tax on other income.

*Example: Property A was sold for € 20,000, and real estate income tax of € 840 (4.2% of the sale proceeds) was paid. A loss of € 1,000 was incurred by the sale of property B; no real estate income tax accrued here. By exercising the assessment option, a compensation of losses can be made:*

Income from real estate sales determined at a flat rate (14% of the sales proceeds)	985	2,800
Income from real estate sales not determined at a flat rate	987	- 1,000
<b>Balance</b>		<b>1,800</b>
<i>of which 25% income tax</i>		<i>540</i>
Creditable real estate income tax	988	840
<b>Refund of real estate income tax</b>		<b>300</b>

In contrast to the standard taxation option, the assessment option can remain limited to individual sales transactions, so that not all income from real estate sales to which the special tax rate is applicable needs to be included. In such a case, however, only the real estate income tax that is attributable to actually assessed income is to be entered in code **988/576**. Compensation of losses can also be performed by crediting real estate income tax within the scope of tariff taxation; in this case, the standard taxation option must be exercised on the first page of the form.

**19** If the property sold was no longer under fiscal reservation ("steuerverfungen") as of 31-MAR-2012 (acquisition before 31-MAR-2002 on the basis of a ten-year speculation period, so-called "legacy asset"), the income can be determined at a flat rate: As acquisition cost, 86% of the proceeds from the sale is to be recognised. The income therefore amounts to 14% of the proceeds from the sale, so that on the basis of a tax rate of 30%/25% an effective tax of 4.2%/3.5% of the proceeds from the sale results. In this case, income totalling 14% of the sale proceeds is to be recognised in code **985/572**, respectively (proceeds from the sale less lump-sum acquisition costs totalling 86% of the proceeds from the sale). Income-related expenses must not be considered. The income is subject to the special tax rate unless the standard taxation option is exercised on the first page of the form.

**20** If the property sold was no longer under fiscal reservation ("steuerverfungen") as of 31-MAR-2012 (acquisition before 31-MAR-2002 on the basis of a ten-year speculation period, so-called "legacy asset"), and the property was (generally) **reclassified** as building land after 31-DEC-1987, the income can be determined at a flat rate: As acquisition cost, 40% of the proceeds from the sale is to be recognised. The income therefore amounts to 60% of the proceeds from the sale, so that on the basis of a tax rate of 30%/25% an effective tax of 18%/15% of the proceeds from the sale results. In this case, income totalling 60% of the sale proceeds is to be recognised in code **986/573**, respectively (proceeds from the sale less lump-sum acquisition costs totalling 40% of the proceeds from the sale). Income-related expenses must not be considered. The income is subject to the special tax rate unless the standard taxation option is exercised on the first page of the form.

**21** In code **987/574**, income from the real estate sales is to be entered that

- may not be determined at a flat rate (see Notes 17 and 18 on the flat-rate determination; this concerns so-called “new assets”, essentially in the case of acquisitions after 31-MAR-2002), or that
- relates to “legacy assets”, for which the taxation at a flat rate (codes **986/573** or **987/574**, respectively) is not used.

The income is subject to the special tax rate unless the standard taxation option is exercised.

**22** The balance from codes **985/986/987** or **572/573/574** (Item 7.1.3), respectively, represents income from private real estate sales to which the special tax rate of 30% and 25%, respectively, is applicable. Without exercising the standard taxation option, a positive income balance of 30% (25%) – possibly after compensation of losses with a negative income balance of 25% (30%) – will be taxed at the special tax rate. If a negative balance remains after any compensation of losses, this must be reduced to 60% (even if the standard taxation option is exercised). This reduced loss is eligible for compensation only with income from rentals and leasing. Upon application, the total reduced loss can be considered by entry in code **974**. If no such application is made, the reduced loss is to be considered to the extent of one-fifteenth each, starting with the assessment year. In this case, the one-fifteenth amount (4% of the total loss) is to be entered in code **973**.

**23** Income from real estate sales against **pension** is to be entered here. These are always taxable at the general rate and are not subject to real estate income tax.

**24** A **foreign loss** that has been offset against domestic income in accordance with § 2 VIII must be taxed retroactively if and insofar as the loss was (also) offset or could have been offset abroad.

**25** In cases of debt relief within the meaning of § 36 (fulfilment of a restructuring plan, fulfilment of a payment plan or granting residual debt discharge after completion of an absorption procedure), the income tax attributable to the debt relief is partially not to be determined (see Rz 7269 et seq of the Austrian Income Tax Guidelines 2000).

**26** Pursuant to § 6 VI c to d, the tax liability is to be paid in **instalments** on the basis of an application made in the tax return when assets are transferred or operations or permanent establishments within the meaning of lit. a are relocated, or when Austria's taxation right within the meaning of lit. b is restricted if the transfer/relocation takes place to an EU member state or an EEA state, or if the taxation right is restricted in favour of such a state. The tax liability attributable to the **fixed assets** is to be paid evenly over a period of **five years**, with the first instalment due at the end of one month after notification of the tax assessment notice and the further instalments each due on 30 June of the following years. Deviating from this, pending instalments are to be declared due if and insofar as

1. assets, operations or permanent establishments are sold, otherwise withdrawn or transferred or relocated to a state outside the EU/EEA area,
2. the place of management of a corporate body is transferred to a state outside the EU/EEA area,
3. the taxpayer files for insolvency or is wound down, or
4. the taxpayer fails to fully pay an instalment within twelve months from the due date.

Occurrence of these circumstances must be notified to the competent tax authority within three months of their occurrence. The tax liability

attributable to the **current assets** is to be paid evenly over a period of **two years**, with the first instalment due at the end of one month after notification of the tax assessment notice and the second instalment each due on 30 June of the following year. As this is apportionment at a flat rate, premature retirement is not to be reported and does not lead to outstanding instalments becoming prematurely due either. In code **978**, please enter the total amount for which the tax is to be paid in instalments. With regard to this amount, the tax liability attributable to this amount is apportioned over five (seven) years or two years, respectively, and the first instalment is prescribed in the notice of assessment issued by the tax authority by means of a corresponding entry in code **235** or **990**, respectively, and/or in code **991**.

If any of the circumstances mentioned above has occurred already in 2019, no entry in code **978** is required in this respect.

**27** If Austria's taxation right is restricted as a result of reorganisations within the meaning of the Austrian Reorganisation Tax Act (*UmgrStG*), the assessed tax liability can be paid in instalments upon application. The instalment payment concept in § 6 VI c to d EStG is to be applied mutatis mutandis (payment in 5 or 2 annual instalments, respectively, and circumstances leading to the amount becoming prematurely due); see Note 25 for details. In the case of contributions, the instalments will be declared due prematurely in accordance with § 16 I 3 of the Austrian Reorganisation Tax Act even if the taxable consideration is subsequently sold by the contributor. Due to analogous application of § 6 VI EStG, this must be reported to the tax authority within 3 months. In the case of a partial restriction of the taxation right due to contributions as defined by Art. III of the Austrian Reorganisation Tax Act, the special tax rate pursuant to § 27a I 2 EStG (27.5%) is to be applied to the calculated profit pursuant to § 16 I 4. Any outstanding instalments will be declared prematurely due only if the taxable consideration is sold; due to analogous application of § 6 VI EStG, this must be reported to the tax authority within 3 months.

**28** Pursuant to § 27 VI 1 EStG, circumstances that lead to a restriction of Austria's right to tax assets as defined by § 27 III and IV EStG are deemed a sale. Pursuant to § 27 VI 1 d in conjunction with § 6 VI c and d EStG, in all cases not covered by lit. a (no relocation and no gratuitous transfer), the tax liability is to be paid in instalments on the basis of an application made in the tax return if the restriction of the taxation right takes place in favour of an EU/EEA state. If such an application is made (by ticking), the instalments are payable over a period of five years, with the first instalment due at the end of one month after notification of the tax assessment notice and the further instalments each due on 30 June of the following years. Deviating from this, pending instalments are to be declared due if and insofar as capital shares are sold or transferred to a country not covered by the regulation, or if an instalment is not paid fully within twelve months of the due date. Occurrence of these circumstances must be notified to the competent tax authority within three months of their occurrence.

In code **980**, please enter the total amount for which the tax is to be paid in instalments. With regard to this amount, the tax attributable to it is apportioned over five years, and the first instalment is prescribed in the notice of assessment issued.

If any of the circumstances mentioned has occurred already in 2019, no entry in code **980** is required in this respect.

**29** Here you can also enter a minimum corporation tax to be credited after a transformation (§ 9 VIII of the Austrian Reorganisation Tax Act).

**30** Code **462** must always show the total level of open loss deductions (possibly including the loss deductions taken over from other taxpayers).