

Explanations for filling out the K 2 corporate tax return for 2022

Statements about consolidation into a lump sum can only concern associations, but not private foundations.

1 This tax declaration form must be used by corporations that do not fall under Section 7 para. 3 and that are not subject to limited tax liability Pursuant to Section 1 para. 3. This includes, in particular, private foundations that fall under Section 13, associations and commercial entities of public law corporations that do not fall under Section 7 para. 3.

2 Enter income from agriculture and forestry here. Add Attachment K 2a and/or K 11 (for investment income) to the tax return.

3 Enter the income from commercial operations, from economic business operations or, in the case of investments in partnerships, the profit share here. Add Attachment K 2a and/or K 11 (for investment income) to the tax return.

4 Even for corporations with unlimited tax liability that do not fall under Section 7 Paragraph 3, the deduction of capital yields tax for income from the transfer of capital has a final taxation effect in the business sector. If all capital income subjected to final taxation (business and non-business) is to be assessed, the business income from the transfer of capital must be included under point c) (application for co-assessment); The capital yields tax due on them must be entered under code **869** or **870** for the purposes of imputation.

5 Income from the sale of real estate is always subject to assessment in the business sector, regardless of any deduction of real estate income tax. The real estate income tax to be taken into account must be entered under code **866** or **867**.

6 When exercising the standard taxation option, the income from rental and leasing necessary for the granting of **management rights** from an infrastructure operator in the areas of electricity, gas, oil and district heating (Section 107) must be entered here under code **547**. If the earnings are not set at 33% of the amount paid out (without VAT), the amount must be substantiated by an expert opinion. The withholding tax to be recorded must be entered under code **296**.

7 Income from (private) property sales must be entered under point 5 of the tax return. As a rule, real estate income tax constitutes final taxation even for corporations that do not fall under Section 7 para. 3. However, they can be assessed by exercising the assessment option (Section 30b para. 3 EStG 1988). For the determination of income regarding the codes **572**, **573** and **574**, see the corresponding comments in the explanations (Form E 2) for the income tax return (E 1).

If a negative balance of the codes **572**, **573** and **574** remains after any compensation of losses, this must be reduced to 60%. This reduced loss can only be offset against income from renting and leasing. Upon application, the entire reduced loss can be taken into account by entering it under code **974**. If no application is made in this regard, the reduced loss must be taken into account at a rate of one-fifteenth starting with the year of assessment. In this case, the fifteenth amount (4% of the total loss) must be entered under code **973**.

8 Enter "**other income**" here, in particular recurring income, income from speculative transactions and income from services, in particular those from occasional brokerages and from the rental of movable objects.

9 Non-compensable losses pursuant to Section 2 para. 2a EStG 1988 from previous years must be offset against positive income as early as possible. Non-compensable losses must be entered under code **638**. Losses to be offset from previous years must be entered under code **639**.

10 The other foreign income included in the income subject to domestic tax must be stated under code **840**. The entry of the corresponding foreign income is a prerequisite for the respective foreign taxes applicable on it. For example, foreign interest and licence income and income from permanent establishments abroad come into consideration as other foreign income when the "credit method" is provided for in the applicable DTC. For other foreign income, the total tax to be credited must be entered under code **841**. It is stated in the respective DTC.

11 The part of the income (foreign income) to be exempted from Austrian taxation under a DTC must always be determined in accordance with Austrian law.

12 Outside of a group of companies, the regulations regarding the interest barrier do not apply to corporations that are not fully included in a consolidated financial statement, do not have an affiliated company within the meaning of Section 10a para. 4 item 2 and do not have a permanent establishment abroad. In this case, the box must be checked and no further entries made in point 5; Attachment K 12a does not need to be filled out.

13 An interest surplus remains fully deductible in a business year if the corporation is fully included in consolidated financial statements in accordance with the UGB, IFRS or other comparable accounting standards and the ratio between its equity and its balance sheet total (equity ratio) on the balance sheet date of that business year is higher, the same or not more than two percentage points lower than the group's equity ratio (**equity ratio comparison**). The following applies:

4. The group's equity ratio must be determined on the group's reporting date for the business year in which the corporation's financial statements were received.
5. If the corporation's annual financial statements were not prepared in accordance with the same accounting standard as the consolidated financial statements, they must be reconciled to the accounting standard applicable to the consolidated financial statements. The accuracy of the offsetting and reconciliation must be confirmed by an auditor upon request.
6. The valuation in the corporation's annual financial statements must be carried out using the same method as in the consolidated financial statements.

14 The interest surplus for the business year that is non-deductible pursuant to Section 12a, and which remains deductible in later business years based on the application submitted, must be entered under code **168**. The amount must correspond to the value for the non-deductible interest surplus, which is stated in Attachment K 12a. The non-deductible interest surplus is added to the total amount of income.

15 The unused taxable EBITDA for the business year, which, based on the application submitted, is carried forward into the five subsequent business years and can be offset against a non-deductible interest surplus, must be entered under code **170**. The amount must correspond to the value stated in Attachment K 12a.

16 To the extent that the positive income includes reorganisation, sales, abandonment and liquidation profits, profits in insolvency proceedings or subsequent tax amounts, there is no carry-forward limitation pursuant to Section 8 para. 4 item 2 litera b KStG 1988. The amount of this profit must be entered under code **624** and is automatically included in the calculation of the limit amount.

17 Pursuant to Section 6 item 6 litera c to d, in the event of the transfer of assets or the relocation of establishments or permanent establishments as defined in litera a or the restriction of Austria's taxation right as defined in litera b, the tax liability shall be paid in **instalments** on the basis of an application submitted in the tax return if the transfer/relocation takes place in an EU Member State or an EEA State or the restriction of the right of taxation vis-à-vis such a State takes place.

The tax liability for the **fixed assets** must be paid evenly over a period of **five years**, with the first instalment at the end of a month after disclosure of the tax assessment notice and the other instalments are due on 30 June of the following years. Deviating from this, open instalments are due insofar as

1. Economic goods, businesses or business premises are sold, withdrawn in some other way or are combined in states outside the EU/EEA area or relocated,
2. the place of management of a corporation is relocated to a country outside the EU/EEA area,
3. the taxpayer files for bankruptcy or is wound up or
4. the taxpayer fails to pay an instalment within twelve months of the due date or pays an insufficient amount.

The occurrence of these circumstances must be reported to the competent tax authority within three months of occurrence. The tax liability on the **current assets** must be paid evenly over a period of **two years**, with the first instalment being paid at the end of one month after disclosure of the tax assessment notice and the second instalment is due on 30 June of the following year. Since this is a flat-rate distribution, early withdrawal does not have to be reported and does not lead to outstanding instalments falling due prematurely.

The total amount for which the tax must be paid in instalments must be entered under code **978**. With regard to this amount, a corresponding entry under code **559** (990) and/or **991** distributes the resulting tax liability over five (seven) years or two years and the first instalment is prescribed as part of the assessment notice that is issued.

Should one of the circumstances mentioned under points 1, 2 or 3 occur in the current assessment year, no entry needs to be made under code **978**.

18 pursuant to Section 27 para. 6 item 1, circumstances that lead to a restriction of Austria's taxation rights with regard to economic goods, within the meaning of Section 27 para. 3 and 4 of the Income Tax Act, are deemed to be sales. Pursuant to Section 27 Paragraph 6 item 1 litera d in conjunction with Section 6 item 6 lit c and d of the Income Tax Act, in all cases not covered by litera a (no withdrawal and no free transfer) the tax liability must be paid in **instalments** on the basis of an application submitted in the tax return if the restriction of the right of taxation is vis-à-vis an EU/EEA state. If such an application is made (by checking the

appropriate box), the instalments shall be payable over a period of **five years**, with the first instalment falling due at the end of one month after disclosure of the levy notice and the further instalments falling due on 30 June of each of the following years. Deviating from this, open instalments are due insofar as capital shares

1. are sold,
2. transferred to a country not covered by the regulation, or
3. an instalment is not paid within twelve months of the due date or the amount is too low.

The occurrence of these circumstances must be reported to the competent tax authority within three months of occurrence.

The total amount for which the tax must be paid in instalments must be entered under code **980**. With regard to this amount, the tax due on it is spread over five years and the first instalment is prescribed as part of the assessment notice that is issued.

Should one of the circumstances mentioned under point 1 or 2 occur in the current assessment year, no entry needs to be made under code 980.

19 If private foundations receive investment income, the following regulations apply:

- As before, Section 10 para. 1 items 1 through 4 KStG 1988 provide for tax exemption for various forms of investment income from domestic sources (in particular for profit shares from domestic corporations and commercial and industrial cooperative societies). These must be recorded under code **830**. If capital yields tax has been withheld for this domestic investment income, it can be credited by way of assessment by entering the capital yields tax to be credited under code **845**.
- Section 13 in conjunction with Section 10 para. 1 item 7 KStG contains an exemption for investment income that comes from international inter-company participations. These must be recorded under code **831**.
- Foreign investment income that does not come from an international inter-company participation is exempt pursuant to Section 10 para. 1 item 5 and 6 if the foreign corporation either meets the requirements of Annex 2 to the EStG 1988 or is comparable to the domestic corporations covered by Section 7 para. 3 and there is comprehensive administrative assistance with their country of domicile for tax purposes. These must be recorded under code **831**.
- Foreign investment income that is taxable pursuant to Section 10a Paragraph 7 (change of method with regard to international inter-company participations and qualified portfolio investments of low-taxed corporations that primarily generate passive income) must be entered under code **293**.

20 Enter all donations to beneficiaries from whom capital yields tax was withheld here. In the case of donations to foreign beneficiaries, there must also be no relief from capital yields tax.

21 Donations that are not taken into account when determining income pursuant to Section 13 Paragraph 1 Item 4 must be entered here.

22 Pursuant to Section 10 para. 6 and Section 10a para. 9, any foreign corporate income tax that exceeds the tax liability can be credited in subsequent years upon application. The credit must be applied for by entering the amount to be credited under code **850**.

Explanations for filling out the K 2a corporate tax return for 2022

Please note: All explanatory figures that do not relate to Section 4.1 or 4.2 of Attachment K 2a can be found in Part B of the E 2 completion guide for the 2022 income tax return. The following explanations only concern **sections 4.1 and 4.2**.

1 Domestic capital yields subject to final taxation with capital yields tax are to be excluded from the taxable result of Attachment K 2a under code **9299**, provided that these are included in the result of the profit determination pursuant to point 3. If this income is to be included in the assessment, it must be included in points 1c or 2c of form K 2; otherwise they are not to be included in the K 2 tax return.

2 Income from increases in the value of capital assets and derivatives realised during operations is always subject to assessment, even if capital yields tax is deducted. Section 6 item 2 litera c EStG 1988 provides for offsetting if capital yields and losses coincide. Codes **9305** (see note 3) and **9301** (see note 4) are used to implement this taxation sequence.

3 Any corrections that result from the correct determination of capital yields/losses regarding operational capital assets must be made under code **9305**. This may be necessary, for example, if the capital yields under corporate law recorded in point 3 differ from the tax due to differences in the contribution valuation (fair value on the one hand or limitation with the acquisition costs according to Section 6 item 5 on the other). The result regarding capital yields/losses, which may have to be adapted here, is subsequently decisive (see note 4).

4 Code **9301** serves to correct the corporate law result from point 3 with regard to the offsetting provision of Section 6 item 2 litera c EStG 1988. In accordance with this, losses from the sale, redemption and other separation of assets and derivatives are primarily to be offset against positive income from realised increases in the value of such assets and derivatives and against write-ups of such assets. A remaining negative overhang may only be offset up to 55%. The capital yields and capital losses are to be recorded in the pre-columns and the balance is to be formed from them. If this is negative, only 55% of this may be offset against the other earnings of the business. In this case, 45% of the negative balance must be entered under code **9301** with a

positive sign. This means that the result from point 3 is corrected pursuant to Section 6 item 2 litera c EStG 1988. If the balance of the capital yields and capital losses is positive, it remains in the result of Attachment K 2a.

5 Realised capital yields/losses in relation to business property are always subject to assessment, even if any real estate income tax is deducted. Section 6 paragraph 2 EStG 1988 letter d prescribes offsetting if capital yields and losses coincide. Codes **9285** (see note 6) and **9309** (see note 7) are used to implement this taxation sequence.

6 Any corrections that may be necessary to ensure correct balancing pursuant to Section 6 item 2 litera d EStG 1988 must be made under code **9285**. This may be necessary, for example, because operational real estate using Section 30 para. 4 EStG 1988 must be taxed at a flat rate, or there are differences between the company law and tax assessment of the contribution and these circumstances have not been reflected in the profit determination pursuant to point 3, because the company law result has been recorded there. If the real estate income tax was taken into account to reduce profits, this must also be corrected here. The result regarding capital yields/losses, which may have to be adapted here, is subsequently decisive (see note 7).

7 Code **9309** serves to correct the corporate law result from point 3 with regard to the offsetting regulation of Section 6 item 2 litera c EStG 1988. In accordance with this, current-value depreciation and losses from the sale of company properties, on whose value increases the special tax rate is applicable, must be offset with priority against positive income from the sale or write-up of such properties of the same company. Any remaining negative surplus may only be compensated for half.

The capital yields and capital losses are to be recorded in the pre-columns and the balance is to be formed from them. If this is negative, only 60% of this may be offset against the other earnings of the business. In this case, 40% of the negative balance must be entered under code **9309** with a positive sign. This means that the result from point 3 is corrected pursuant to Section 6 item 2 litera c EStG 1988. If the balance of the capital yields and capital losses is positive, it remains in the result of Attachment K 2a.

Explanations for filling out the K 3 corporate tax return for 2022

1 This form is to be used by foreign corporations and, if applicable, corporations under public law (outside of commercial operations) and corporations that are personally exempt from unlimited (including comprehensive) tax liability. When determining income, operating expenses or income-related expenses are only to be taken into account to the extent that they are economically related to the corresponding income. All income pursuant to Section 21 of a corporation subject to limited tax liability, from which no tax is to be deducted from capital yields or pursuant to Section 99 EStG 1988, must be assessed. For income from the sale of domestic real estate that is not already part of a business, the income tax regulations (Sections 30b and 30c EStG 1988) apply mutatis mutandis with regard to the payment of tax (see the explanations for E 1). In the case of self-calculation of the real estate income tax, the final withholding tax effect arises accordingly; if a self-calculation is not carried out or if the final withholding tax effect is not applied, the income from the sale of real estate must be assessed.

2 Enter the income (profit) from domestically operated agriculture and forestry here.

3 Enter the income from a trade or business for which a permanent establishment is maintained in Austria, a **permanent representative** is appointed or **immovable property exists in Austria** here. In the case of investments in **partnerships** the result must be stated in Attachment K 11.

4 If the standard taxation option is exercised, enter operating income under code **568** or **569** and income from rental and leasing which was received for the granting of **management rights** by an infrastructure operator in the areas of electricity, gas, oil and district heating (Section 107 EStG 1988) under code **547**. If the earnings are not set at 33% of the amount paid out (without VAT), the amount must be substantiated by an expert opinion. The allowable withholding tax pursuant to Section 107 EStG 1988 must be entered under code **286** or **288** for business income and under code **296** for income from rental and leasing.

5 If a negative balance of the codes **572**, **573** and **574** remains after any compensation of losses, this must be reduced to 60%. This reduced loss can only be offset against income from renting and leasing pursuant to points a), b) and c). Upon application, the entire reduced loss can be taken into account by entering it under code **974**. If no application is made in this regard, the reduced loss must be taken into account at a rate of one-fifteenth starting with the year of assessment. In this case, the fifteenth amount (4% of the total loss) must be entered under code **973**.

6 Income from private real estate sales must be entered here. See the explanations for Form E 1.

7 Non-compensable losses pursuant to Section 2 para. 2a EStG 1988 from previous years must be offset against positive income as early as possible. Non-compensable losses must be entered under code **638**. Losses to be offset from previous years must be entered under code **639**.

8 Notes 12 to 15 on Form K 2 apply accordingly.

9 The deduction of losses is possible only to a limited extent pursuant to Section 21 para. 1 item 1 in conjunction with Section 8 para. 4 item 2 and in particular in conjunction with Section 102 para. 2 item 2 EStG 1988. The domestic provision of Section 102 para. 2 item 2 EStG 1988 can only be deviated from to the extent that the DTC provisions stipulate otherwise. With reference to the increased obligation to cooperate in matters abroad, proof that a loss deduction is permissible or that there is no double utilisation of losses must be provided by the person subject to limited tax liability (expediently by submitting the tax returns and tax assessment notices from the country of domicile for tax purposes as an attachment to the Austrian corporate income tax return).

10 To the extent that the positive income includes re-organisation, sales, abandonment and liquidation profits, profits in insolvency proceedings or subsequent tax amounts, there is no carryforward limitation pursuant to Section 8 para. 4 item 2 litera b KStG 1988. The amount of this profit must be entered under code **624** and is automatically included in the calculation of the limit amount.

11 In cases of debt relief within the meaning of Section 23a (fulfilment of the reorganisation plan quota), the corporate income tax arising from recapitalisation gains is not to be assessed to an extent that exceeds the quota.

12 Pursuant to Section 6 item 6 litera c to d EStG 1988, in the event of the transfer of assets or the relocation of businesses or establishments as defined in litera a or the restriction of Austria's taxation right as defined in litera b, the tax liability shall be paid in **instalments** on the grounds of an application submitted in the tax return if the transfer/relocation takes place to an EU Member State or an EEA State or the restriction of the right of taxation vis-à-vis such a State takes place.

The tax liability for the **fixed assets** must be paid evenly over a period of **five years**, with the first instalment at the end of one month after disclosure of the tax assessment notice and the other instalments due on 30 June of the following years. Deviating from this, open instalments are due insofar as

1. Economic goods, businesses or business premises are sold, withdrawn in some other way or are combined in states outside the EU/EEA area or relocated,
2. the place of management of a corporation is relocated to a country outside the EU/EEA area,
3. the taxpayer files for bankruptcy or is wound up or
4. the taxpayer fails to pay an instalment within twelve months of the due date or pays an insufficient amount.

The occurrence of these circumstances must be reported to the competent tax authority within three months of occurrence. The tax liability on the **current assets** must be paid evenly over a period of **two years**, with the first instalment being paid at the end of one month after disclosure of the tax assessment notice and the second instalment is due on 30 June of the following year.

The total amount for which the tax must be paid in instalments must be entered under code **978**. With regard to this amount, a corresponding entry under code **559** (990) and/or **991** distributes the resulting tax liability over five (seven) years or two years and the first instalment is prescribed as part of the assessment notice that is issued. Should one of the circumstances mentioned under points 1, 2 or 3 occur in the current assessment year, no entry needs to be made under code **978**.

13 Pursuant to Section 27 para. 6 item 1, circumstances that lead to a restriction of Austria's taxation rights with regard to economic goods, within the meaning of Section 27 para. 3 and 4 of the Income Tax Act, are deemed to be sales. Pursuant to Section 27 Paragraph 6 item 1 litera d in conjunction with Section 6 item 6 lit c and d of the Income Tax Act, in all cases not covered by litera a (no withdrawal and no free transfer) the tax liability must be paid in **instalments** on the basis of an application submitted in the tax return if the restriction of the right of taxation is vis-à-vis an EU/EEA state. If such an application is made (by ticking the appropriate box), the instalments shall be payable over a period of **five years**, with the first instalment falling due at the end of one month after disclosure of the levy notice and the further instalments falling due on 30 June of each of the following years. Deviating from this, open instalments are due insofar as capital shares

1. are sold,
2. transferred to a country not covered by the regulation, or
3. an instalment is not paid within twelve months of the due date or the amount is too low.

The occurrence of these circumstances must be reported to the competent tax authority within three months of occurrence. The total amount for which the tax must be paid in instalments must be entered under code **980**. With regard to this amount, the tax due on it is spread over five years and the first instalment is prescribed as part of the assessment notice that is issued.

Should one of the circumstances mentioned under point 1 or 2 occur in the current assessment year, no entry needs to be made under code **980**.

14 Pursuant to Section 10 para. 6 and Section 10a para. 9, any foreign corporate income tax that exceeds the tax liability within the scope of the credit can be credited as early as possible in subsequent years upon application. The credit must be applied for by entering the amount to be credited under code **850**.