

Filling-in help for the income tax return (E 7) for 2023 (with limited liability to pay taxes)

Quotations from the law without further description refer to the Income Tax Act 1988 (EStG 1988) in the version applicable for 2023. Natural persons who have neither a place of residence nor their habitual abode in Austria (= Austria) are generally subject to limited income tax liability on their domestic income within the meaning of Section 98.

Upon application, nationals of EU (EEA) states who have neither a place of residence nor their habitual residence in Austria will be treated as having unlimited tax liability if they have domestic income within the meaning of Section 98. This only applies if at least 90% of your income in the calendar year is subject to Austrian income tax or if the income that is not subject to Austrian income tax does not exceed EUR 11,693 (Section 1 para. 4). For such an application, use form L 1i instead of form E 7 in conjunction with form E 1 (income tax return for persons with unlimited tax liability) or - if you have only received income from employment - the form L 1i in connection with form L 1 (employee tax assessment).

Earnings are the operating income (revenue) minus operating expenses (income-related expenses). When determining income, operating expenses or income-related expenses may only be deducted to the extent that they are economically related to domestic income. Operating expenses are expenses that are caused by the operation, income-related expenses are expenses for the acquisition, security and maintenance of income. 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 authorities.

In the case of the following income within the meaning of Section 98, income tax is levied by way of tax deduction (Section 99):

- income from employment from which income tax was to be withheld (income tax deduction in accordance with Section 70);
- income subject to capital gains tax as defined by Section 93; this includes, in particular, profit shares (dividends), interest and other benefits from domestic shares, profit participation rights, participation capital, shares in limited liability companies and in commercial and business cooperatives as well as donations from a domestic private foundation.
- income from self-employed activity carried out or exploited in Austria (writer, lecturer, artist, architect, sports person, performer or collaborator in entertainment performances), whereby it is immaterial, to whom the remuneration for the activities mentioned is paid (withholding tax according to Section 99);
- income from participation in a domestic company as a silent partner;
- profit shares of partners (co-entrepreneurs) of a foreign company that holds shares in a domestic partnership (in certain cases);
- income from the transfer of rights for a specific or indefinite period or from the permission to exploit rights in particular from the granting of the use of the work (permission to use the work, right to use the work) within the meaning of the Copyright Act and from the transfer of industrial property rights, commercial experience and authorizations or from the permission of the exploitation of such rights;
- Supervisory Board remuneration;
- income from domestic commercial or technical advice and income from the provision of workers for domestic work;
- income from domestic real estate of a foreign real estate fund that is not offered to an indefinite group of people.

Income of a person with limited tax liability is subject to assessment, from which no tax is to be deducted from wages, from capital gains or according to Sections 99 to 101. In the following cases, tax-deductible income must be assessed (Section 102):

1. Income that belongs to the operating income of a domestic company, to the income from the participation in a company as a silent partner or to the profit shares according to Section 99 Para. 1 item 2.
2. Income subject to collective wage tax pursuant to Section 70 Para. 2 item 1 if other income subject to assessment was obtained, the total amount of which exceeds 730 euros or if in the calendar year at least temporarily two or more income subject to wage tax, which were taxed separately when wage tax was deducted.
3. Income from private property sales within the meaning of Section 30 for which no real estate income tax has been paid in accordance with Section 30c Paragraph 2, or if no compensation has been paid in accordance with Section 30b Paragraph 2.

For certain incomes, the assessment is only made upon application (Section 102 Para. 1 item 3).

Note: In the case of the assessment, an amount of **9,567 euros is added to the income for income subject to limited tax liability**, i.e. the income is increased by this amount and the tax is calculated from this. This results in a reduction in the first tariff level (0%) because securing the tax subsistence minimum is the primary task of the country of residence; for the possibility of an application according to Section 1 paragraph 4 see above.

1 Taxpayers who are no longer required to provide accounts because they have fallen below the sales limits of Section 189 of the Austrian Commercial Code (UGB) and Income from commercial operations (Section 23) can apply to **continue** determining profits according to Section 5 Para. 1 Austrian Income Tax Act 1988. The application is to be made for the year in which the financial year ends for which there is no accounting obligation for the first time. The application binds the taxpayer until revoked; in this case, the relevant box must be ticked. The application expires automatically if you re-enter the accounting obligation according to Section 189 of the Austrian Commercial Code (UGB).

2 Enter here the **income** (profit or loss) from a domestically run **agricultural and forestry business**. If you are using a flat rate, include form E 1c provided as an attachment to form E 1 and copy the result into point a. Non-flat rate taxpayers must submit the income-expenditure statement or the balance statement (balance sheet) and the profit and loss statement.

Note: The **profit allowance** must be taken into account when determining taxable income, so that the profit reduced by the profit allowance is included in the code **310**. A claimed investment related profit allowance must be entered under codes **779** and **789**.

The statements in Note 4 apply accordingly to the treatment of capital yields and capital gains relating to business premises.

3 Enter here the **income from self-employment work**, carried out in the country. The income is taxable even if it is only a temporary activity. Submit the income and expenditure account or the statement of assets (balance sheet) and profit and loss account. For the possibility of the lump sum deduction, see Note 4.

Note: The **profit allowance** must be taken into account when determining taxable income, so that the profit reduced by the profit allowance is included in the code **320**. A claimed investment related profit allowance must be entered under codes **779** and **789**.

The statements in Note 4 apply accordingly to the treatment of capital yields and capital gains relating to business premises.

4 Enter here the **income from a trade or business** for which a branch is maintained domestically, a permanent representative is appointed, or in which there is immovable property in the country. Submit the income and expenditure account or the statement of assets (balance sheet) and profit and loss account.

If your turnover in the previous year was not more than 220,000 euros, you have the option of determining the operating expenses as a flat rate of 12% of the turnover (**lump sum deduction**, Section 17 paragraph 1 to 3). For certain - mainly freelance - income, the flat rate is only 6%. In addition to the lump sum, only certain expenses may be deducted (in particular goods, wages and social security contributions).

Note: The **profit allowance** must be taken into account when determining taxable income, so that the profit reduced by the profit allowance is included in the code **330**. A claimed investment related profit allowance must be entered under codes **779** and **789**.

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

Capital yields (usufruct and capital) that can be taxed at a special tax rate or are subject to final taxation may not be included in point 3a or point 3b. When exercising the standard taxation option according to Section 27a paragraph 5, this income must be entered under code **784** or **919**. If you choose taxation with the special tax rate, enter the income under code **785, 951** or **922**.

Capital yields relating to business premises that can be taxed at the special tax rate may not be included in point 3a or point 3b. When exercising the standard taxation option according to Section 30a paragraph 2, this income must be entered under code **502**. If you choose taxation with the special tax rate, enter the income under code **963** (30%) or **553** (25%) . The special tax rate is 25% if the sale took place before 01.01.2016.

Please note that the standard taxation option can only be exercised for all (business and private) capital yields. The same applies to exercising 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 enterprise also include:

Profit (loss) shares of the partners from the company, where the partners must be regarded as co-entrepreneurs, as well as the remuneration received by the partners from the company for their activity in the service of the company or for the granting of loans or for the transfer of assets. Use Form E 11 for income from participation in a partnership. Please note the information on this form. Note 4 applies accordingly to the treatment of operating capital yields and capital yields relating to business premises included in the investment income.

6 In certain cases, income is paid via application for taxed spread over three or five years:

A **three-year distribution** is possible for capital gains and certain compensation (Section 37 Para. 2 item 2).

Capital gains are profits from the sale (the abandonment) of the entire business, a part of the business or a share of a co-entrepreneur. Upon application, it may be distributed over **three** years if the business was either founded or acquired for consideration more than seven years ago and is not sold for an annuity. In this case, you separate 2/3 of the capital gain (to be recorded in full) by entering under the code **311/321/327**.

A **five-year distribution** is intended for hidden reserves that are revealed when assets are withdrawn as a result of official intervention or to avoid such an intervention. In this case, you exclude 4/5 of the (to be recorded in full) preferential income by entering under the code **312/322/328** .

7 Positive income from self-employed artistic and/or literary activity in the year 2023 can be distributed evenly over the years 2023, 2022 and 2021 on the basis of an irrevocable application. In this case, the assessments for the years 2022 and 2021 will be resumed to take the respective thirds into account. Distribution is only possible if the balance of all income from artistic and/or literary activity is positive.

The income to be distributed must initially be recorded in full. 2/3 of it must be entered under code **325** and it is thus eliminated.

8 The 1/3 or 1/5 amounts of the prof is distributed over 3 or 5 years (see also note 6) in the previous year (in previous years) attributable to 2023 must be entered here. Furthermore, the 1/3 amount due for 2022 must also be entered here if use is made of the distribution privilege for artistic and/or literary income (see note 7) in 2024 or 2025.

9 When exercising the standard taxation option, enter here the income that is necessary for the granting of **management rights** from an infrastructure operator in the areas of electricity, gas, oil and district heating (Section 107). If the income is not set at 33% of the amount paid out, its amount must be verified by an expert opinion.

10 Certain income from agriculture and forestry can be **one third each** in the assessment year and the two following years are taken into account for tax purposes. Exceptions to this are, in particular, income that was determined using a full flat-rate, income from hunting, a sideline or a sideline activity, preferential income from special forest uses, income from the sale of land or income from the sale or abandonment of a business. If not all income must be distributed, the records must clearly show which income was included in the distribution and how it was determined.

If you wish to claim the distribution, check the box provided for the request (first time claim only). The application applies to all distributable income, is binding for the following years and therefore does not have to be submitted again.

The distribution ends, among other things, with the announcement of the termination. In this case, the relevant box must be ticked. If the assessment year is at least the second following the first distribution, you can apply for third-party amounts that have not yet been taken into account

- this year and the three following years must be recorded evenly distributed to one quarter each (item 12.3.1) or that
- the third amounts not yet taken into account in the assessment year must be recorded in full (item 12.3.2).

If you do not submit such an application, half of the third amounts that have not yet been taken into account will be recognised from the second year after the first distribution in the year of termination and half in the following year. If the year of termination is the year after the start of the distribution, the total amount from the two-thirds amounts still to be taken into account must always be recorded in the year of termination.

The positive balance of the business income to be distributed is to be distributed, but no more than the total positive income generated by the business. The income to be distributed must be entered in code 151. The income from agriculture and forestry in the assessment year is reduced by 2/3 of the value from this indicator. The eliminated two thirds are then **automatically included in the assessments of the following years**.

11 Non-compensable losses from **companies** whose main business is the management of intangible assets or the commercial leasing of assets must be entered under code **341**. Current year losses must always be reported in full under the corresponding code (**310, 320** or **330**) and in addition under code **341** with the non-compensable share attributable to them.

Non-compensable operating losses from **participations**, where the focus is achieving tax advantages, or non-compensable losses contained in business participation income from companies whose business focus is the management of intangible assets or commercial rental of economic goods (Section 2 Para. 2a), must be indicated under code **342**. Losses from investments in the current year must always be stated in full and additionally listed under code **342** with the non-compensable shares attributable to them.

If a profit is made in the current year from the same business (the same permanent establishment), non-compensable losses from **previous years** are identified by entering them under code **332**. The profit must be fully entered under the corresponding codes (**310, 320, 330**).

The same applies to code **346** for the offsetting of non-compensable losses from **previous years** from operating investment income if a profit from the same investment in the current year is achieved. The profit share must be recorded in full under the corresponding code (**310, 320, 330**).

Enter under code **509**, a restricted investment loss carryforward from participation in a partnership as a capitalist shareholder (Section 23a), which can be offset against income other than the respective participation income as a result of a contribution or assumption of liability. Offsetting takes place up to the amount of the total amount of income.

Any non-compensable losses from participations included in **non-business income**, where the aim is to achieve tax advantages (Section 2 Para. 2a) must be entered under code **371**. Losses of the current year must always be stated in full under the corresponding code and additionally listed under code **371** with the non-compensable portion attributable to them.

Non-compensable losses from **previous years** included in non-business income from participations for which the main purpose is to achieve tax advantages (Section 2 Para. 2a) must be entered for loss offsetting under code **372** at most in the amount in which a surplus share is drawn from the same participation in the current year; this surplus share must be stated in full under the relevant code.

12 This income from which a wage tax deduction of 20% of the income was already made, must only be taken into account on the basis of an express application and is then taxed at the tariff rate. **Note:** The application assessment is only carried out if the corresponding box in the declaration is **ticked**. This also applies if an assessment is requested for other dependent income or a mandatory assessment must be carried out because, for example, business income was also generated.

13 Enter the number of salary and pension-paying offices (employers, pension offices) that paid you emoluments (wages, salaries or pensions) in 2023. It is not necessary to enclose a pay slip. If you have received several pensions that have already been jointly taxed, a single pension-paying office must be specified for these jointly taxed pensions.

The following references are not included here: Payments from statutory health insurance (sickness benefit), payments based on a service cheque, unemployment benefits, emergency assistance, bridging assistance for federal employees, compensation for troop, cadre or weapon exercises, reimbursed compulsory contributions to social security, payments from the insolvency remuneration fund, maternity allowance, remuneration from a company pension scheme or remuneration from the construction workers' leave fund.

14 If no wage statement is available (Form L 17), enter under code **359** income from employment in 2023 that is not subject to wage tax and does not include income for which the preferential taxation of other payments must be made (e.g. 13th and 14th monthly payment, see the „Tax Book“, bmf.gv.at - Publications).

15 Form **L 17** should always be sent by the employer. If this is not the case, send the completed form L 17 to your tax office. Note the fill-in aids L 17a and L 17b.

16 Enter here rent and lease income if the immovable property, the material components or rights are located in Austria or are entered in a domestic book or register or are sold in a domestic permanent establishment. If you are involved in one or more associations, break down the income shares used for code **370** in an attachment for participation shares (E 11) and transfer the value to point 6b.

17 If you exercise the standard taxation option, the income from renting and leasing that has been received for the granting of **management rights** from an infrastructure operator in the fields of electricity, gas, petroleum and district heating must be entered here (section 107). If the earnings are not set at 33% of the amount paid out, the amount must be verified by an expert opinion.

18 Income from **private domestic property sales** is generally subject to taxation under application of a special tax rate. The special tax rate for profits from the sale of real estate is **30%**, if the sale took place from the 2016 calendar year. It is **25%**, if the sale took place before 31.12.2015 but the income must only be recorded in the calendar year 2023 due to cash flow considerations.

If real estate income tax was paid on the earnings, the income tax is thus settled, unless the information on which the self-calculation of the real estate income tax by the party representative is based does not correspond to the actual circumstances. If no real estate income tax was paid, the information under the codes **985/572**, **986/573** or **987/574** must be assessed (declaration obligation).

If real estate income tax has been paid correctly, such earnings no longer have to be recorded in the tax return. However, you can voluntarily be included in the assessment based on a standard taxation option (first page of the form) or an assessment option.

By exercising the assessment option, income from private property sales for which real estate income tax has been paid (entry in code **988/576** required) can be included in the assessment and taxed at the special tax rate. This makes sense, for example, if a loss from a property sale is offset against a surplus from another property sale for which real estate income tax was paid, and taxation at the special tax rate must be maintained. In this way, excess real estate income tax can be reimbursed (in whole or in part) or offset against the income tax on other income.

Example: Property A was sold for EUR 20,000, real estate income tax of EUR 840 (4.2% of the proceeds from the sale) was paid. A loss of EUR 1,000 was made on the sale of property B; real estate income tax was not incurred here. By exercising the investment option, a loss compensation can be made:

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

In contrast to the standard taxation option, the assessment option can be limited to individual sales transactions, so not all income from real estate sales to which the special tax rate is applicable must be included. In such a case, however, only that real estate income tax may be entered under code **988/576** that is attributable to actually assessed income. Loss compensation can also take place within the framework of tariff taxation, taking into account real estate income tax; in this case, the standard taxation option must be exercised on the first page of the form.

19 If the sold property was no longer subject to taxation as at 31.3.2012 (acquisition before 31.3.2002 based on a ten-year speculation period, so-called "old assets"), the income can be determined on a flat-rate basis: 86% of the proceeds from the sale must be considered as acquisition costs. The income is therefore 14% of the proceeds of sale, resulting in an effective tax of 4.2%/3.5% of the proceeds of sale assuming a tax rate of 30%/25%. Under code **985/572**, the income of 14% of the proceeds from the sale should be included in this case (proceeds from the sale less flat-rate acquisition costs of 86% of the proceeds from the sale). Income-related expenses may not be taken into account. The income is subject to the special tax rate unless the standard taxation option on the first page of the form is exercised.

20 If the sold property was no longer taxable as of 31.03.2012 (acquisition before 31.03.2002, based on a ten-year speculation period, so-called "old assets") and after 31.12.1987 there was a **reclassification** (usually) to building land, the income can be determined as a lump sum: 40% of the proceeds from the sale must be considered as acquisition costs. The income is therefore 60% of the proceeds of sale, so assuming a tax rate of 30%/25%, the effective tax is 18%/15% of the proceeds of sale. Under code **986/573**, income of 60% of the proceeds from the sale should be included in this case (proceeds from the sale less flat-rate acquisition costs of 40% of the proceeds from the sale). Income-related expenses may not be taken into account. The income is subject to the special tax rate unless the standard taxation option on the first page of the form is exercised.

21 Enter under code **987/574**, income from property sales, which

- may not be determined on a flat-rate basis (see Notes 17 and 18, applies to so-called "new assets", essentially for acquisitions made after 31.03.2002) or which
- concerns "old assets" and for which the flat-rate taxation (codes **986/573** or **987/574**) is not used.

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

22 The balance from the codes **985/986/987** or from the codes **572/573/574** (point 7.1.3) represent the income from private property sales to which the special tax rate of 30% or 25% is applicable. If the standard taxation option is not exercised, a positive balance of 30% (25%) of the income – if necessary after compensation for losses with a negative balance of the income at 25% (30%) – is taxed at the special tax rate. If a negative balance remains after any loss compensation, this must be reduced to 60% (even if the standard taxation option is exercised). This reduced loss can only be offset against income from renting and leasing. Upon request, 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**.

23 Enter here the income from property sales against **rent**. These are always taxed according to the general tariff and are not subject to real estate income tax.

24 A **foreign loss**, which has been offset against domestic income pursuant to Section 2 para. 8 must be subsequently taxed to the extent that the loss was (also) offset or could have been offset abroad.

25 In cases of debt relief within the meaning of Section 36 (fulfilment of a reorganisation plan, fulfilment of a payment plan or granting a residual debt exemption after carrying out a levy procedure), the income tax due on the debt reduction must not be determined in part (see margin no. 7269 et seq. of the Austrian Income Tax Guidelines 2000).

26 According 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 item (a) or the restriction of Austria's right of taxation as defined in litera b, the tax liability shall be paid in **instalments** 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 notification 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. assets, businesses or permanent establishments are sold, otherwise cease to exist or are transferred or relocated to a country outside the EU/EEA area,
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 notification of the tax assessment 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 being due prematurely. Enter under code **978** the total amount for which the tax must be

paid in instalments. With regard to this amount, a corresponding entry in code **235** or **990** and/or in code **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.

If one of the above circumstances has already occurred in the year of assessment, no entry in code number **978** is necessary.

27 If Austria's taxation law is restricted due to reorganisations within the meaning of the Austrian Reorganisation Tax Act, the assessed tax liability may be paid in instalments upon request. The instalment payment concept of Section 6 item 6 lit c to d of the Income Tax Act must be applied accordingly (payment in 5 or 2 annual instalments as well as circumstances that lead to an early due date); see Note 25 for details. In the case of contributions, the instalments are due early in accordance with Section 16 para. 1 sentence 3 of the Austrian Reorganisation Tax Act even if the consideration is subsequently sold by the contributor. Due to the analogous application of Section 6 item 6 Income Tax Act, this must be reported to the tax authority within 3 months. In the event of a partial restriction of the taxation right due to contributions within the meaning of Art. III Austrian Reorganisation Tax Act, according to Section 16 para. 1 fourth sentence, the special tax rate pursuant to Section 27a Section 1 item 2 Income Tax Act (27.5%) applies. Payments that are still outstanding are only due early if the consideration is sold; due to the analogous application of Section 6 item 6 Income Tax Act, this must be reported to the tax authority within 3 months.

28 According 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. According 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 notification of the levy notice and the further instalments falling due on 30 June of each of the following years. Notwithstanding the foregoing, outstanding instalments shall fall due to the extent that capital shares are sold, transferred to a state not covered by the scheme or an instalment is not paid or is paid in an insufficient amount within twelve months of the due date. The occurrence of these circumstances must be reported to the competent tax authority within three months of occurrence.

Enter under code **980** the total amount for which the tax must be paid in instalments. 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 occur in the year of assessment, no entry in code number **980** is necessary.

29 Here you can also enter a minimum corporate income tax to be credited after a conversion (Section 9 para. 8 of the Reorganisation Tax Act).

30 The total amount of open loss deductions (including loss deductions taken over from other taxpayers, if applicable) must always be reported under code **462**.