

OVERVIEW

on royalties and cost-of-living allowances from the VdFS SKE Fund from the perspective of tax and social security law

1. Royalty payment

1.1. Income tax

The inflow of royalties from the exploitation of rights (in particular rights to use works) is subject to income tax and must be declared under one of the following types of income, depending on the type of work creation or also on the scope:

- **Income from self-employment** (artist himself/herself)
- **Income from employment**
- **Income from renting and leasing** (legal successor, heir)

Income tax is payable on income more than **EUR 12.816 per annum**. Income below this amount is tax-free for persons with unlimited tax liability in Austria. (Income = sum of all income = > income less expenses).

The annual income must be determined by means of records and reported to the tax office by 30.4. of the following year, or by 30.06 of the following year in the case of electronic submission. Depending on the type and scope of activity there are different methods of determining taxable income. For smaller companies, the income-expenditure account or the flat-rate calculation of expenses is usually used.

In the income statement, taxable income is calculated as the difference between the income received in the calendar year (royalties, fees, other income in the calendar year) less operating expenses paid (see below for examples) in a year (inflow-outflow principle).

Income tax is calculated based on the determined annual income (total income, see above). All salaries from employment relationships as well as unemployment benefits and emergency benefits are also relevant for the calculation of income tax.

ATTENTION: If you receive other benefits in addition to unemployment benefits and unemployment assistance within a calendar year, you are required to register with the AMS! If, for example, you have received unemployment benefits from the AMS and/or unemployment assistance in a calendar year, other additional benefits in the same calendar year could lead to you



losing your entitlement to the above-mentioned benefits. This can lead to repayment obligations and back income tax payments.

In particular, in the following cases, an assessment (filing of a tax return) is required at the Tax office mandatory to make:

- Receipt of several remunerations subject to wage tax in the calendar year
- Receipt of other income above € 730,- p.a. in addition to income subject to wage tax

Examples of business expenses:

- Assets: e.g. computers or other assets that are to be used for more than one year are to be depreciated over their normal useful life, usually 3-10 years, and only this amount is to be included in the expenses each year. An asset register must be kept. Assets with a value of up to € 1.000,- can be taken into account in their entirety as low-value assets immediately in the year of acquisition.
- Study: now more difficult, must in any case be a room that is not used privately, even just to pass through. Allocation of expenses then takes place proportionately according to square meters.
- Education and training costs: e.g. seminars.
- Car: if the car is only used up to 50% for business purposes (kilometers driven are decisive), a kilometer allowance of currently € 0.42 can be applied (logbook!). Business use over 50%: the actual costs must be recognized proportionately, e.g. insurance, gasoline, repairs. The acquisition value or the value at the beginning of the activity must be depreciated proportionately over 8 years.
- Bank charges: if a separate business account is set up.
- Entertainment costs: e.g. business meal at 50% with reference to the business partner, one-time only if business is actually concluded.
- Office supplies: e.g. pads, notebooks, etc.
- Per diems: see per diem expenses.
- IT: PC, laptop, software (see attachments), ongoing costs for service, Internet, training.
- Professional literature: relevant books and journals that are not of interest to the general public.
- Travel expenses: e.g. cab, train, bus, plane.
- Homepage
- Daily and overnight expenses: These are to be assessed at the actual hotel costs or at the flat rate for overnight stays if an expense was actually incurred. Diets are deductible as additional expenses for meals. In principle, at € 2.20 per hour or part thereof, up to a maximum of € 26.40 per day if the business trip lasts longer than 3 hours and exceeds at least 25 km as the crow flies. For business trips abroad, separate flat rates apply. Problem of the new center of activity.
- Porto
- Legal and consulting fees: e.g. tax advisor or lawyer, notary.
- Social security contributions
- Stamps, fees.
- Phone: a business share of the cell phone and the phone at home (idR business premises)
- Insurance: e.g. business interruption or legal protection insurance
- Advertising: e.g. business cards.



Income tax due dates:

The income tax return must be submitted (in paper form) **by April 30 of the following year**. If submitted in electronic form, the deadline is extended to June 30; in the case of tax representation by a tax advisor, the deadlines may be further extended.

1.2. Sales tax

Sales in Austria are subject to VAT, i.e. all income in Austria (but not salaries from employment or payments from unemployment insurance, unemployment assistance, etc.). In return, the sales tax shown on the invoice can be deducted as input tax from the invoices paid. The difference must be transferred to the tax office or will be credited by the tax office.

Exception small business limit § 6 (1) Z 27:

If the turnover without VAT does not exceed € 35,000 per year (plus VAT, the limit is therefore € 39,550 for 13% VAT and € 42,000 for 20% VAT), there is no VAT liability. It is important to note that when using the small business regulation, no VAT may be shown on the outgoing invoices!

A one-time exceeding of up to 15% of the above-mentioned turnover limit within 5 years is possible (limit thus one-time € 40,250 or gross at 13% VAT € 45,482.50 or at 20% VAT € 48,300).

If the above-mentioned turnover limits are not exceeded, it is possible to opt for VAT liability (standard taxation application). This option is binding for 5 years and will only make sense if the deductible sales taxes (input taxes) amount to a significant amount.

Actual taxation:

If there is no exemption as a small entrepreneur, the sales tax to be paid by artists is usually calculated from the actual income (sales) and not from invoices (actual taxation).

Applies to: Freelancers without limit,
 Landlord up to an annual turnover of € 110,000.

If the sales in one of the two previous calendar years exceed the above-mentioned limits, the so-called debit taxation is to be applied. This means that not the payment, but the respective invoice date is decisive for the VAT.

Maturities:

- monthly, always on the 15th of the second following month,
 e.g. sales tax January: due on 15.03.
- quarterly, always on the 15th of the second following month after the end of the quarter, up to previous year's sales of € 100,000
 e.g. sales tax January to March: due on 15.05.



The payment is made to the tax office with the identifier "U" indicating tax number and period (month or quarter).

Obligation to submit an advance VAT return:

In addition to the payment of the tax payable, an advance VAT return must be submitted electronically if the previous year's turnover exceeds € 35,000.

1.3. Social security (SVS)

Social Insurance Institution for the Self-Employed
1051 Vienna, Wiedner Hauptstrasse 84-86, Tel. 050 808 808
www.svs.at

In principle, all self-employed artists are compulsorily insured as new self-employed persons if their income or contribution base exceeds a certain insurance limit. As of 2016, there is no longer a distinction between full-time and part-time work.

The insurance limit in 2024 is: EUR 6.221,28 (2023: EUR 6.010,92)

Income below this limit is not subject to insurance; exceeding this limit results in full insurance, which means that the artist is covered by pension, health and accident insurance, as well as being included in the self-employment pension scheme. If these limits are not exceeded, voluntary insurance is possible in order to obtain insurance coverage.

In case of exceeding the insurance limit, an excess declaration must be submitted within 8 weeks from the date of issuance of the income tax assessment, otherwise an amount surcharge (9.3%) will be charged.

Maturities:

SV is prescribed for 3 months by the SVA with a payment form

January till March 28.02.
April - June 31.05.
July till September 31.08.
October - December 30.11.

Quarterly payments can be changed to monthly payments upon request starting in 2016, but only with a collection order.

The insurance obligation begins on the day of commencement of the activity and ends on the last day of the calendar month in which the business activity is terminated. The respective notifications of the insured person to the SVS must be made within a period of one month.

It can be deduced from this that, if the artistic activity is carried out, the royalty payments are subject to social insurance.



If, on the other hand, an artist ends his/her active employment and continues to receive royalties in addition to a pension, for example, this passive income is not subject to social insurance.

The same applies to legal successors who receive royalties based on works created by the deceased. The prerequisite for this is that the company is not continued (if necessary, proof must be provided to the social insurance institution).

Old royalties: The Administrative Court ruling 2008/08/0269 of January 21, 2009 clarified that old royalties (for works created before January 1, 2001) are also subject to social security contributions if the artist is still gainfully employed.

Repeat fees: Actors' royalties (income from recurring fees) must be declared as income from self-employment in the income tax return. For this reason, the Social Insurance Institution for the Self-Employed (SVS) assesses social insurance contributions for this.

Artists' Social Insurance Fund

The task of the fund is to provide subsidies for pension, health and accident insurance contributions for artists insured under the SVA pension scheme (university studies or assessment by artists' commission). The maximum annual contribution subsidy as of 2024 is EUR 1,896.00 (2023: EUR 1,896).

Prerequisites:

- Application (form) of the artist
- Artistic activity over a period of at least 1 month
- Statutory pension insurance as a new self-employed person (according to §2 Abs.1 Z 4 GSVG)
- Revenue or income at least: 2024 EUR 6,221.28 or 2023 EUR 6,010.92
- Total income maximum limit: 2024 EUR 33,698.60 or 2023 EUR 32,559,15

The contribution subsidies are paid out directly to the social insurance and the artist is only required to pay the social insurance amounts reduced by the contribution subsidy.

The regulation grants bonus years in the first 5 calendar years of self-employed artistic activity in which the minimum income is not reached, in which the amount subsidy is nevertheless due, even if the eligibility requirements are not met. Applications can be submitted retrospectively for four calendar years, i.e. until 2020.

The Artists' Social Insurance Fund also provides support in the event of emergencies that are particularly worthy of consideration with a maximum grant of EUR 5,000.00. Please refer to the homepage of the Artists' Social Insurance Fund for the necessary requirements for an application: www.ksvf.at/ein-notfall-was-nun-tun.html



2. Income tax

Grants made by VdFS for living expenses of artists in need of support, which are made from the resources of the SKE Fund, are to be treated as tax-free under the following condition:

It must be a **one-time grant** of this subsidy.

If such benefits are repeated in several consecutive years, this allowance may lead to income tax liability within the meaning of Section 29 of the Austrian Income Tax Act (EStG) (other income: recurring remuneration).

3. Social security

Both one-time grants and income from other recurring payments within the meaning of Section 29 EStG are not subject to social security contributions.

Information on all tax topics:

If you have any further questions, please do not hesitate to contact our team:

Lehner & Partner
Steuerberatungsgesellschaft mbH
2500 Baden, Wiener Straße 89, 02252/43335
1010 Wien, Himmelfortgasse 20/2, 01/8905735
www.lehner.org