

INSTRUCTIONS ON COMPLETING THE TAX RETURN FORM FOR THE ASSESSMENT OF PERSONAL INCOME TAX ON CAPITAL GAINS FROM THE DISPOSAL OF REAL PROPERTY

1. INTRODUCTION

The tax return form for the assessment of personal income tax on capital gains from the disposal of real property must be filed at the financial office where the real property is located, i.e. by the taxable person within 15 days of the disposal of the real property.

Taxable persons must file the tax return upon the disposal of real property regardless of whether the real property was disposed in a modified or non-modified condition. They do not have to file the tax return form if the real property was acquired prior to 1 January 2002.

The taxable disposal of real property shall be any disposal of real property, especially the sale of real property, transferring real property as a gift or exchanging real property.

2. ENTERING INFORMATION UNDER POINT 1 – CODE NUMBER OF TAX RETURN STATUS

By entering a corresponding number, the status of the submitted tax return is marked according to its content or purpose and in accordance with the provisions of Articles 62 to 64 of the Tax Procedure Act (Official Gazette of the Republic of Slovenia, no. 13/11 – official consolidated text, 32/12, 94/12, 101/13 – ZDavNep, 111/13, 22/14 – Decision US, 25/14 – ZFU, 40/14 – ZIN-B, 90/14 and 91/15; hereinafter referred to as the "ZDavP-2"). The field should not be completed when the first tax return is being submitted for the period, or **if it is submitted only when the tax return is submitted by claiming the provisions under ZDavP-2 that regulate the subsequent submission or correction of tax returns.**

Code 1

The taxable person, having missed the deadline to file their tax return for justified reasons, may submit a proposal to the competent tax authority to retrospectively file the tax return, in accordance with Article 62 of the ZDavP-2. In this proposal, they must state the reasons for their delay and present evidence for their claims. Justified reasons are circumstances which the taxable person could not foresee or prevent and which made it impossible for him/her to complete or file their tax return within the prescribed time. The proposal for retrospective filing must be submitted by the taxable person within eight days after the reasons for the delay no longer obtain, but within a maximum of three months after the missed deadline. The taxable person should enclose their tax return with the submission for a subsequent submission of the tax return. If the reasons preventing the completion or submission of a tax return still obtain, the taxable person may submit their proposal for a subsequent submission of the tax return without enclosing their tax return, but they must indicate the deadline by which their tax return will be submitted. If in this case the tax authority allows them to submit the tax return after the prescribed deadline, it shall define a new deadline by issuing a decision. A taxable person submitting their tax return after the prescribed deadline on the basis of Article 62 of the ZDavP-2 should indicate the number 1 (filed after the deadline) under the heading "Code Number of Tax Return Status".

Code 2

If a taxable person has missed the deadline to submit their tax return but does not fulfil the conditions for submitting the tax return after this prescribed deadline or if they have stated false, incorrect or incomplete information in their return on the basis of which the tax authority has already issued a tax assessment notice, they may, according to Article 63 of the ZDavP-2, submit their tax return as a self-declaration no later than until the delivery of the assessment notice or until the beginning of the tax audit or respectively until offence proceedings or criminal proceedings are initiated. According to Article 396 of the ZDavP-2, a taxable person who submits their tax return as a self-declaration shall not be charged with an offence if they pay the tax assessed on the basis of their self-declaration. A taxable person may not submit a new self-declaration for liabilities for which they have already filed a previous self-declaration. A taxable person submitting their tax return based on self-declaration in accordance with Article 63 of the ZDavP-2 should indicate the number 2 (self-declaration) under the heading "Code Number of Tax Return Status".

Code 3

A taxable person may, in accordance with Article 64 of the ZDavP-2, correct a tax return which they have submitted to the tax authority. The tax return may be corrected no later than until the tax assessment notice is issued. A taxable person correcting their tax return before the issue of an

assessment notice should indicate the number 3 (correction prior to issue of assessment notice) under the heading "Code Number of Tax Return Status".

3. ENTERING INFORMATION UNDER POINT 2 – INFORMATION ABOUT THE TAXABLE PERSON

Basic identification data (name and surname, tax identification number, residential address, electronic address, telephone number and the country of residence) is to be entered.

4. ENTERING INFORMATION UNDER POINT 3 – INFORMATION ABOUT REAL PROPERTY SUBJECT TO DISPOSAL

The taxable person should enter identification information about the real property subject to disposal.

If a plot of land is subject to disposal, the following information should be provided:

- type of real property (enter the type of real property with appropriate number from Code Table 1 which is part of the tax return
- municipality where real property is located,
- code of cadastral municipality,
- plot number.

If a building or part of a building is subject to disposal, the following information should be provided:

- type of real property (enter the type of real property with appropriate number from Code Table 1 which is part of the tax return
- municipality where real property is located,
- code of cadastral municipality,
- building number,
- building part number (only if the part of the building is subject to disposal),
- address.

If one contract has been concluded to dispose of several units of real property, each unit of real property should be entered on an additional numbered sheet (e.g. if three units of real property are being disposed of, the basic tax return form should have two additional sheets attached).

5. ENTERING INFORMATION UNDER POINT 4 – INFORMATION ABOUT THE ACQUISITION OF REAL PROPERTY

Information as required in the tax return form should be entered for each acquired part of real property subject to disposal:

- date of acquisition on the form (dd.mm.YY);
- share in acquired real property with regard to ownership share upon disposal;
- method of acquisition: the taxable person should indicate the method of acquiring real property with the appropriate number from Code Table 2. If real property was not acquired by purchase, as a gift, inheritance or exchange, the taxable person should write the type of acquisition under "other" (prescription, denationalisation, court or administrative decision etc.);
- the purchase value of real property: write the amount of the purchase value of real property in euros;
- the amount of investments and costs of maintenance with regard to real property that increase the useful value of real property if they were paid for by the taxable person;
- the amount of inheritance and gift tax paid by the taxable person upon the acquisition of real property;
- the amount of real property transaction tax paid by the taxable person upon the acquisition of real property;
- the amount paid by the taxable person in connection with the appraisal of the acquired real property performed by an authorised appraiser in accordance with the methodology current when the appraisal was necessary because the real property could not be valued in another way. The costs of appraisal shall be granted in the amount of actual costs up to a maximum of 188 euros – this amount is cumulative for all parts of the real property subject to disposal;
- flat rate costs in relation to the acquisition of capital, i.e. in the amount of 1% of the purchase value of capital. The flat rate costs amount shall be granted automatically as a percentage of the purchase value of the real property.

The purchase value of real property and costs in foreign currency shall be converted into euros according to the Bank of Slovenia's published rate of exchange. The conversion shall be made according to the rate of exchange that applied on the date of the acquisition of capital or the occurrence of costs.

6. ENTERING INFORMATION UNDER POINT 5 – INFORMATION ABOUT THE DISPOSAL OF REAL PROPERTY

The following information must be entered for real property subject to disposal:

- date of disposal in the format (dd.mm.YY);
- method of disposal: the taxable person shall indicate the method of disposal of real property with the appropriate number from Code Table 2. If real property was not disposed of by sale, as a gift or exchange, the taxable person should write the type of disposal under "other";
- the amount of real property value upon disposal in euros;
- the amount of real property transaction tax paid by the taxable person at the time of the disposal of real property;
- the amount of costs paid by the taxable person arising from the appraisal of the disposed real property performed by an authorised appraiser in accordance with the methodology current when the appraisal was necessary due because the real property could not be valued in another way. The costs of appraisal shall be granted in the amount of actual costs up to a maximum of 188 euros;
- flat rate costs arising from the disposal of capital, i.e. in the amount of 1 % of the capital value upon disposal. The flat rate costs amount shall be granted automatically as a percentage of the value of real property.

The value of real property upon disposal and costs in a foreign currency shall be converted into euro at the Bank of Slovenia's rate of exchange. The conversion shall be made according to the rate of exchange that applied on the date of the disposal of capital or the occurrence of costs.

7. ENTERING INFORMATION UNDER POINT 6 – EXEMPTION FROM PAYMENT OF PERSONAL INCOME TAX ON CAPITAL GAINS FROM THE DISPOSAL OF AN APARTMENT OR RESIDENTIAL HOUSE BASED ON POINT 2 OF THE SECOND PARAGRAPH OF ARTICLE 96 OF THE PERSONAL INCOME TAX ACT (ZDoh-2)

In accordance with point 2 of the second paragraph of Article 96 of the Personal Income Tax Act (Official Gazette of the Republic of Slovenia, no. 13/11 – official consolidated text, 9/11 – ZUKD, 9/12 – Decision of the Constitutional Court, 24/12, 30/12, 40/12 – ZUJF, 75/12, 94/12, 96/13, 29/14 – Decision of the Constitutional Court and 50/14, hereinafter referred to as the ZDoh-2) personal income tax shall not be paid on capital gains from the disposal of an apartment or residential house – which has a maximum of two apartments and adjoining land – where the taxable person's permanent residence was registered and owned and where they actually resided for at least the three years prior to disposal; if the taxable person used the apartment or residential house in connection with the performance of an activity or let it, the disposal of capital under this point shall not encompass the disposal of the part of the apartment or residential house which was used by the taxable person in connection with the performance of activities (on condition that the apartment or residential house or part thereof is indicated in business records as an asset for the requirements of an activity) or if the unit was let for rent.

In the case of a citizen of an EU or EEA Member State other than the Republic of Slovenia, the period of registered permanent residence also includes the period of registered temporary residence in the apartment or residential house.

The taxable person should indicate if s/he wishes to claim this exemption. If the taxable person indicates "no", s/he does not complete other sections under this point of the form.

If the taxable person claims exemption, s/he should indicate "yes". In the latter case, the taxable person should appropriately indicate whether they are claiming exemption for the apartment or residential house "*in its entirety*" or "*in part*" (which was not used in connection with the performance of activities or was not let for rent), and should indicate in which part (type: floor, room, garage, cellar ... and surface area: in m²).

8. ENTERING DATA UNDER POINT 7 – CLAIMING FOREIGN TAX CREDIT

If the taxable person paid tax on the disposal of real property abroad, the foreign tax amount should be indicated in euros and rounded up to two decimal places. The foreign tax amount in foreign currency shall be converted to euro according to the Bank of Slovenia's published rate of exchange which applied on the date when real property was acquired. When a taxable person claims foreign tax credit, an integral part of the tax return should also be appropriate evidence of payment of the tax liability outside the Republic of Slovenia, particularly of the amount of tax paid abroad, the base for tax and whether the amount of tax paid abroad is final and actually paid.

9. ENTERING INFORMATION UNDER POINT 8 – ATTACHMENTS AND COMMENTS

The taxable person should attach documents that present the basis for the assessment of personal income tax on capital gains from real property disposal to the tax return form (invoices for investments, appraisal-related costs etc.).

ADDITIONAL SHEET no. to the Tax return form for the assessment of personal income tax on capital gains from the disposal of real property

An "Additional sheet" should be added to the tax return and completed if one contract was used to dispose of several units of real property simultaneously. Instructions on entering information under points 3 and 4 of the form should be followed when completing the additional form.