

Information sheet for lecturers at CAMPUS 02 Fachhochschule der Wirtschaft GmbH

(June 2022)

The present information sheet aims to provide you with an overview of the current legal situation, whilst clarifying your job as a university of applied sciences lecturer concerning your position with regards to labour law, income tax and social security. It should be noted that the information provided applies to lectureships accorded to a natural person.

As a matter of principle, you are only able to work as a part-time lecturer at CAMPUS 02 if you fulfil the prerequisites as stipulated in § 7 of the University of Applied Sciences Law (*Fachhochschulgesetz*).

Paragraph 2 of the aforementioned article states that:

“Individuals working part-time are people who:

1. solely work in teaching, and
2. do not teach for more than six credit hours per week, and
3. can prove that they have other gainful employment subject to full social insurance contributions or are retired at the time the teaching assignment for the semester is granted”

The number of credit hours per week is to be seen as the total number of such periods taught at CAMPUS 02 as a whole and is not to be considered per degree programme department. The fulfilment of the abovementioned criteria is verified by CAMPUS 02 each semester by checking them in the CO2online computer system.

It should be noted that CAMPUS 02 is not an adult education institution and, as such, possible expense allowances not subject to social insurance can no longer be taken into consideration.

1. Labour law

From a labour law standpoint, employment as a university of applied sciences lecturer at CAMPUS 02 is regarded as **self-employment** (no employment contract, no employee status). As such, you are not bound by any directives. You can be represented by a person of your choice who has the same qualifications as you and have the right enlist the services of assistants at your own cost and risk.

2. Income tax law

Lecturers who begin to work within the framework of a study plan or teaching timetable predetermined by an educational institution are to be qualified **from a tax law standpoint as an employee** and are subject to **income tax liability**, by virtue of **legal fiction**, in the same manner as real employees as per the interpretation in labour law (“**deemed as real employees**”). This regulation encompasses all lecturers who regularly work on average a minimum of one credit hour per week.

It is important to note that this regulation also applies to lecturers with a business licence as soon as they reach one credit hour per week.

In the event that this number of credit hours is not reached, income taxation fiction is not applied. In such cases, either you will be considered as a “**freelancer**” (no pay-as-you-earn deductions, since your income comes from self-employment) or you will have a **business licence**.

Income taxation fiction means that within the framework of the current accounting year – after the deduction of any possible social security contributions – income tax is withheld and passed on to the tax office. At the end of the year the tax office will be notified of your income – just as in the case of a real employee relationship – by way of a payslip. Freelancers are required to make a declaration of the total amount of fees invoiced in accordance with § 109a of the Income Tax Law (*EStG*).

From a taxation law standpoint, it should be noted that upon the presentation of a legally fictitious service relationship subject to income tax, you should be able to justify your occupational expenditure with relevant receipts (“**income-related expenses**”). In the case of freelance activity, you are the sole person responsible for the payment of tax on your income and can include **operating expenses** within the framework of the income tax declaration.

Naturally, the income tax burden of legally fictitious lecturers subject to income tax can be reduced during the fiscal year if a **personal allowance assessment** in accordance with § 63 of the Income Tax Law after the first tax assessment pertaining to the salaried position is presented. The presentation of an **obligatory worker’s tax assessment** or **obligatory income tax declaration** must still be fulfilled, regardless of whether from time to time there are two or more sources of income subject to income tax or if, in addition to taxable income, a level further income above 730 Euros per year is reached.

3. Social security law

With regards to social security, it should be noted that by virtue of income taxation fiction, you are also considered in the same way as a real employee in terms of social security legislation. This means that you can have recourse to **comprehensive social security benefits** (e.g.: higher weekly wage, unemployment insurance).

Currently, **social security contributions of 17.12%** are deducted from all net income (= employee contribution of 3.87% for health insurance, pension insurance at 10.25% and 3% for unemployment insurance¹) and passed on to the *Österreichische Gesundheitskasse* (ÖGK Austrian State Health Insurance Fund). In the event that the maximum contribution threshold is exceeded in accordance with the Social Security Law, no contributions are necessary. CAMPUS 02 is also required to make social security contributions as an employer of 20.53% (= health insurance at 3.78%, accident insurance at 1,2%, 12.55% for pension insurance and 3% for unemployment insurance). The following rates are applicable to freelancers: 17.62% (employee’s contribution¹) and 20.73% (employer’s contribution). In addition, in both instances CAMPUS 02 is required to contribute 1.53% to the business provision fund.

¹ For lower income unemployment insurance is from 0 – 3 %

Given possible existing multiple insurances (already existing service relationship as employee (*ÖGK*) [Austrian State Health Insurance Fund – local compulsory health insurance], or public employees (*Versicherungsanstalt öffentlich Bediensteter, Eisenbahnen und Bergbau BVAEB*) [Social Security Institution for Public Employees, Railways and Mining.] and *Sozialversicherungsanstalt der Selbständigen und der Bauern (SVS)* [Social Security Institution of Self-employed and Farmers]), we recommend that you apply for a **contribution rebate from ÖGK, BVAEB or SVS** once the respective calendar year comes to an end (free-form application) in the event that the maximum contribution threshold is exceeded.

If you already have statutory insurance vis-à-vis *GSVG* (Industrial Social Security Law) or *BSVG* (Farmers' Social Security Law), we recommend the possibility of submitting a **differential assessment notice** claim prior to the end of the calendar year. Such a (form-free) claim can solely be brought before *SVS* or *BVAEB* and leads to a (temporarily) reduced tax liability in the field of *GSVG* or *BSVG* respectively. Naturally, *ASVG* income is also taken into account when calculating the ultimate contribution amount.

We hope that the above information has provided you with an overview of labour law, income tax law and social security law regulations pertaining to your employment as a lecturer at CAMPUS 02.