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Freelance trade: Information

Heruntergeladen am 08.07.2025

<https://fimportal.de/xzufi-services/9065001/L100012>

Modul	Sachverhalt
Leistungsschlüssel	99102038000000, 99102038000000
Leistungsbezeichnung I	Freelance trade: Information
Leistungsbezeichnung II	
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Schleswig-Holstein
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt
Leistungsgruppierung	Steuern (102)
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	Anmeldepflichten (2010100), Steuern und Abgaben für Betriebe (2040200)
Einheitlicher Ansprechpartner	Nein

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Fachlich freigegeben am

Fachlich freigegeben durch

Handlungsgrundlage

https://www.gesetze-im-internet.de/ao_1977/_138.html

Teaser

Information on the conditions under which a self-employed activity is a commercial activity and when it is a freelance activity.

Volltext

Anyone who becomes self-employed either runs a business or belongs to the liberal professions. The "liberal professions generally involve the personal, autonomous and professionally independent provision of services of a higher nature in the interests of clients and the general public on the basis of special professional qualifications or creative talent" (Partnerschaftsgesellschaftsgesetz - PartGG). The distinction between commercial and freelance activities is important, as some special features apply to the liberal professions, such as separate professional rights for some professional groups.

For example, no business registration is required for liberal professions. In addition to income tax and, under certain circumstances, VAT, freelancers do not have to pay trade tax.

Independent scientific, artistic, literary, teaching or educational activities are understood to be the exercise of a liberal profession. This primarily includes the so-called catalog professions, such as doctors, notaries, lawyers, tax consultants, architects, engineers and journalists, which are listed in Section 18 (1) no. 1 of the Income Tax Act (EStG). However, the exercise of a profession similar to the listed professions is also a freelance activity. The distinction must be made in each individual case according to the specific activity.

In cases of doubt, it can be helpful to consult an expert when assessing whether an artistic activity is carried out on a freelance basis and not commercially.

The main distinguishing features between freelance

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and commercial activities are personal qualifications and intellectual/ideal work performance. If freelancers work independently on the basis of their own specialist knowledge, the involvement of salaried employees or other freelancers does not lead to a commercial activity.

Mixed activities It is also possible to be both self-employed and commercially active. This means that income can be generated both from self-employment within the meaning of Section 18 (1) No. 1 EStG and within the meaning of Section 15 EStG.

In order to classify the nature of your income for tax purposes, the tax office distinguishes between separable and inseparable mixed activities in the case of a sole trader.

Separable mixed activities If a freelancer carries out both freelance and commercial activities, these must be treated separately for tax purposes. However, this is only the case if there is no connection between the two areas (so-called mixed-separable activity).

The following is recommended to separate the freelance and commercial activities:

- Separate bookkeeping,
- separate bank accounts,
- physical separation of the businesses or at least separation of inventories.

Operating expenses, on the other hand, can be split by estimation.

Inseparable mixed activities Activities are inseparably mixed if the income from different sources of income cannot be separated and the individual activities are mutually dependent as there is a factual and economic connection between them. If the activities are linked in this way, the overall picture of a sole trader's activities determines whether they are classified as freelance or commercial. The overall picture is not determined by the activities' shares of turnover or profit, but by the activity that characterizes the overall activity.

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A commercial activity is assumed if

- the business appears to the outside world as a single unit and the freelance activity is a by-product of the commercial activity or
- a uniform success or a uniform service is owed and the commercial activity also contains freelance elements.

Special features for partnerships In the case of partnerships (OHG, KG, GbR), the "carry-over theory" applies, according to which the activity of the partnership as a whole is regarded as commercial if it also carries out a commercial activity in addition to a freelance activity. However, in a ruling dated August 11, 1999 (case reference: XI R 12/98), the Federal Fiscal Court created an exception to the hitherto strictly adhered to "tax loss theory". Freelance income is not reclassified as commercial income if the commercial activity of the partnership is of "very minor importance". In the case in dispute, a joint practice for physiotherapy generated income from (freelance) physiotherapy activities and from the sale of neck pillows and ointments. The sales activity amounted to 1.25 percent of the total activity. The BFH is of the opinion that such a minimal commercial activity may not have any effect on the freelance activity.

Freelance work A freelance activity is not to be equated with freelance work.

Erforderliche Unterlagen

Voraussetzungen

Kosten

Verfahrensablauf

Bearbeitungsdauer

Frist

The planned freelance activity must be notified informally to the competent authority no later than four weeks after commencement of the activity.

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weiterführende Informationen

Hinweise

Further information on the distinction between freelance and commercial activities can be found in the brochure "Freier Beruf oder Gewerbe"; information on the differences between the two forms of activity "freelance activity" and "freelance work" can be found in the information sheet "Unterschiede: Freie Mitarbeit und Freier Beruf". You can download both brochures from the website of the Nuremberg Institute for Liberal Professions (IFB). Before you go to the tax office, you should use 8 questions to check for yourself whether you meet the requirements for freelance work. These are fulfilled if you can answer all of the following questions with "Yes".

1. Can you prove that you have sufficient professional qualifications for your work (similar to the "catalog professions")?
2. Do you provide intellectual and spiritual services (e.g. healing the sick, legal advice, structural calculations)?
3. Is there a mutual and long-term relationship of trust with the service recipients (as a prerequisite for your independence from instructions)?
4. Is this relationship of trust based on the free choice of the service recipient?
5. Do you provide the services personally (and do not have your activities carried out by your employees)?
6. Do you work independently?
7. Are you a manager in your company?
8. Do you make professional decisions freely and independently?

Further information can be found on the website of the Bundesverband Freier Berufe (BFB).

<https://ifb.uni-erlangen.de/gruendungsberatung/downloads-gruendungsinformationen/>

<https://www.freie-berufe.de/>

<https://ifb.uni-erlangen.de/gruendungsberatung/downloads-gruendungsinformationen/>

<https://www.freie-berufe.de/>

Rechtsbehelf

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Kurztext	
Ansprechpunkt	<p>To the responsible tax office.</p> <p>https://www.schleswig-holstein.de/DE/Fachinhalte/F/finanzen/finanzaemter.html</p> <p>https://www.schleswig-holstein.de/DE/Fachinhalte/F/finanzen/finanzaemter.html</p>
Zuständige Stelle	
Formulare	
Ursprungsportal	Gewerbe freiberuflich: Auskunft, Freelance trade: Information