

Income Tax and Reform in Austria



Quale riforma tributaria?

Convegno annuale dell'Associazione Italiana dei Professori e degli Studiosi di Diritto Tributario

Bari, 29 October 2021

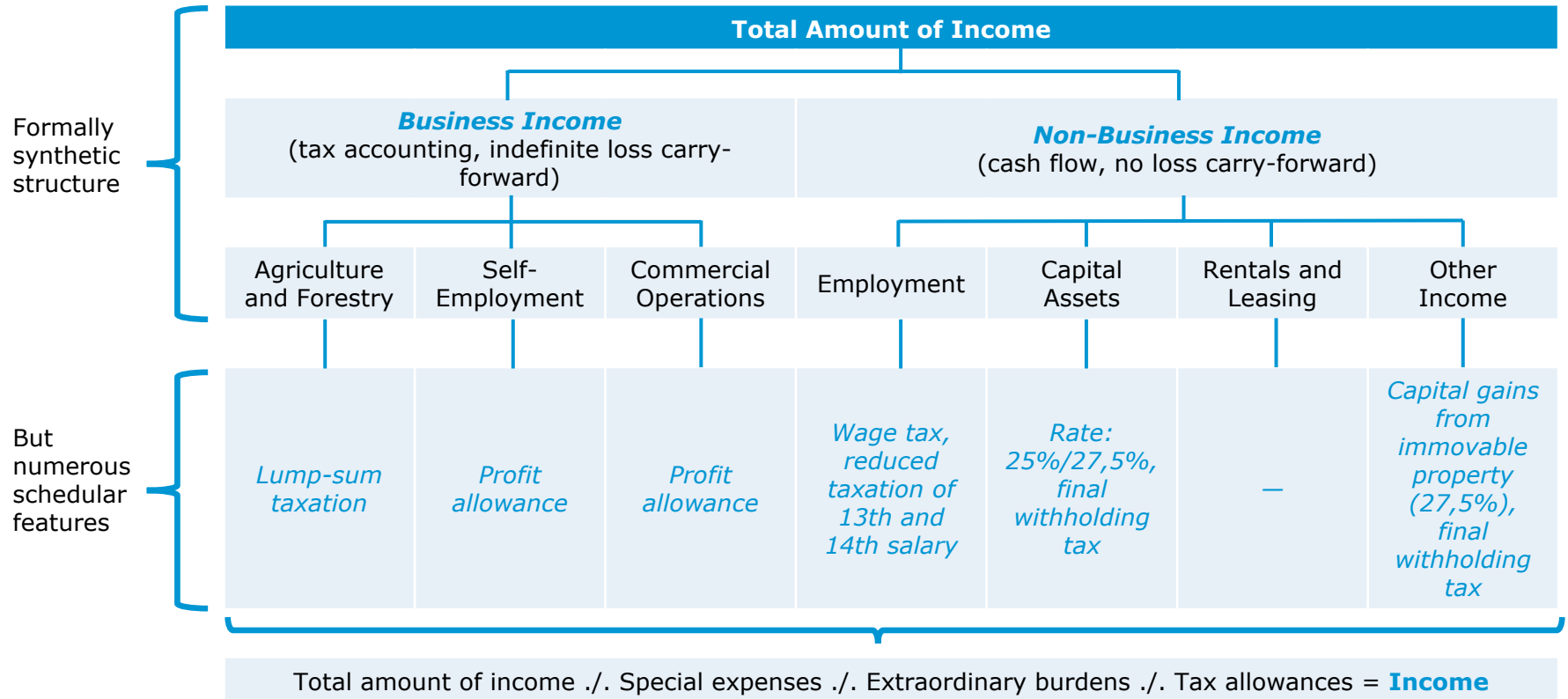
Univ.-Prof. DDr. Georg Kofler, LL.M.



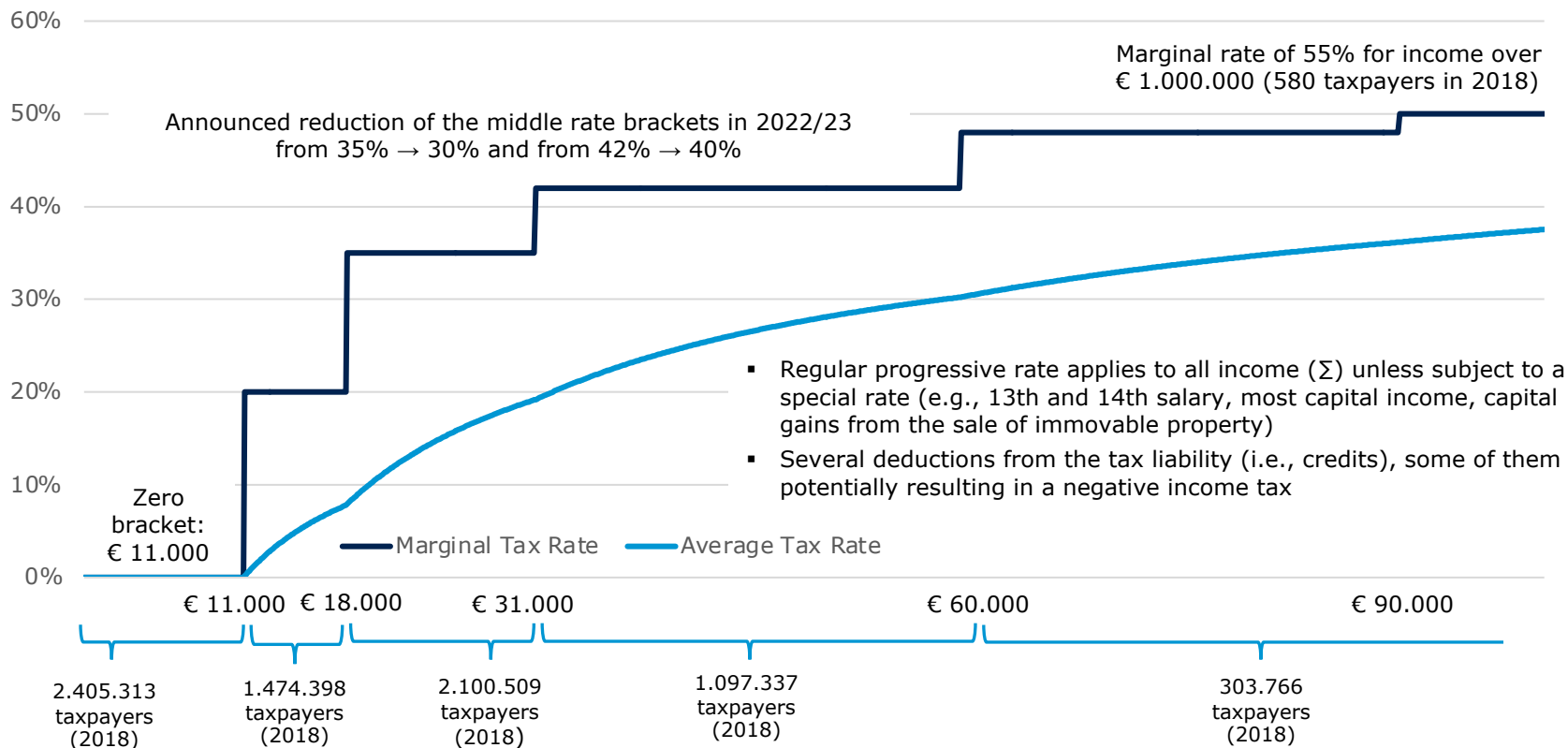
Institute for Austrian and International Tax Law - www.wu.ac.at/taxlaw



Income | Structure



Rates | Structure



- Switch from household taxation to **individual taxation** in the Income Tax Act of 1972 (though not mandated by the constitution: VfGH, 29 March 1958, G 1/58, VfSlg 3334 /1958) → No family/spousal splitting, no deduction for alimony/support for spouses (see, e.g., VfGH, 30 November 2000, B 1340/00, VfSlg 16.026/2000)
- But: At least 50% of **child alimony/support** must be taken into account (either as a deduction from the tax base or as a reduction of tax/transfer payment; VfGH 12 December 1991, G 188 / 91, VfSlg 12.940 / 1991) → *Political decision in the 1970s that every child "is of equal worth" to the State (expressed in Euros of taxes, not in deductions from the tax base)*
- Current **child-related transfers and tax benefits** include
 - **Family Allowance** (transfer payment, € 114, increasing with child's age and number of children) + **Child Deduction** (€ 58.40/month and child, tax credit that is paid out together with the family allowance)
 - **"Family Bonus Plus"** (tax credit of € 1.500 child/year, announced increase to € 2.000 child/year in 2022) → *Replaced the previous tax-base reduction for certain childcare costs.*
 - **Single-Earner Deduction** and **Single-Parent Deduction** (1 child: € 494/year, 2 children: € 669, and € 220/year for each additional child)
 - **Child Support Deduction** (€ 29.20/month for the first child, € 43.80 for the second child and € 58.40 for the third and each additional child receiving support)

Capital Income | *Yields and Gains*

- Austria's reforms (with a focus on non-business situations)*

Yields	Gains
Since 1993 (Constitutional dimension: Final Taxation Act 1993)	Since 2012 (previously: only speculative profits)
Dividends, profit distributions, interest etc	Capital gains (including exit tax)
25%/27,5%	27,5%
Taxation of gross amount (no deductions)	Taxation of gain (no further deductions)
Limitations of loss-utilization, no loss carry-forward	Limitations of loss-utilization, no loss carry-forward
Final withholding taxation	Final withholding taxation

Capital Income | *Yields and Gains*

No constitutional objection against gross taxation even outside the scope of the Final Taxation Act 1993, i.e., foreign capital income (VfGH, 17 June 2009, B 53/08, VfSlg 18.783/2009)

No cost deduction, even if taxpayer opts for "regular" taxation (VfGH, 2 November 2020, E 631/2020; VwGH 26 May 2021, Ra 2021/13/0036)

No constitutional objection against obligations of withholding agents (VfGH, 16 June 2011, G 18/11, VfSlg 19.412/2011)

No constitutional objection against inclusion of capital gains (VfGH, 16 June 2011, G 18/11, VfSlg 19.412/2011)

Constitutional mandate to disallow cost deduction in the Final Taxation Act 1993, as amended in 2015 (VfGH, 14 June 2017, G 336/2016, VfSlg 20.167/2017)

No constitutional objection against loss treatment (VfGH, 2 March 2021, E 1722/2020)

Yields	Gains
Since 1993 (Constitutional dimension: Final Taxation Act 1993)	Since 2012 (previously: only speculative profits)
Dividends, profit distributions, interest etc	Capital gains (including exit tax)
25%/27,5%	27,5%
Taxation of gross amount (no deductions)	Taxation of gain (no further deductions)
Limitations of loss-utilization, no loss carry-forward	Limitations of loss-utilization, no loss carry-forward
Final withholding taxation	Final withholding taxation

Thank you!

