

Czech Republic

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1. Types of tax

As of 1 January 2014, the Czech Republic's tax system recognizes only immovable property acquisition tax, immovable property tax and income tax. Gift tax and inheritance tax have both been incorporated into the income tax. The former real estate transfer tax has been substituted by immovable property acquisition tax. Under certain circumstances, transition of property can also be subject to personal income tax.

1.1 Inheritance tax

Inheritance tax as it appeared until December 2013 no longer exists in the Czech Republic. Instead, it has been incorporated into the income tax.

Income from inheritance is fully tax-exempt for both legal and private persons as of 1 January 2014.

1.2 Gift tax

Gift tax as it appeared until December 2013 no longer exists in the Czech Republic. Instead, it has been incorporated into the income tax.

Income tax is imposed on any transfer of property for no consideration.

1.3 Real estate transfer tax

Real estate transfer tax as it appeared until December 2013 no longer exists in the Czech Republic. Instead, it has been replaced with immovable property acquisition tax. Real estate tax has been significantly amended and renamed as immovable property tax.



Immovable property acquisition tax

The immovable property acquisition tax is imposed on any transfer of immovable property located in the Czech Republic for a consideration.

Immovable property tax

Generally, all immovable property situated in the Czech Republic is subject to immovable property tax. Currently, the tax rates depend on the type of property and its location. Therefore, this tax is commented on limited basis only.

1.4 Selected personal income tax implications

Income from the sale of immovable property is subject to personal income tax.

If the transferor used a house or a flat as a permanent residence for a period exceeding two years just prior to the sale, the income from the sale is exempt from Czech personal income tax (PIT). Otherwise, the income is exempt if the period between the acquisition and the sale of immovable property exceeds five years, or if the income from the sale of property used as permanent residence for a period not exceeding two years prior to the sale is used subsequently to acquire a new primary residence. Such exemption does not apply if the property was part of a business assets.

Income from the sale of securities is usually subject to Czech PIT. However, this income can be tax-exempt under the following conditions:

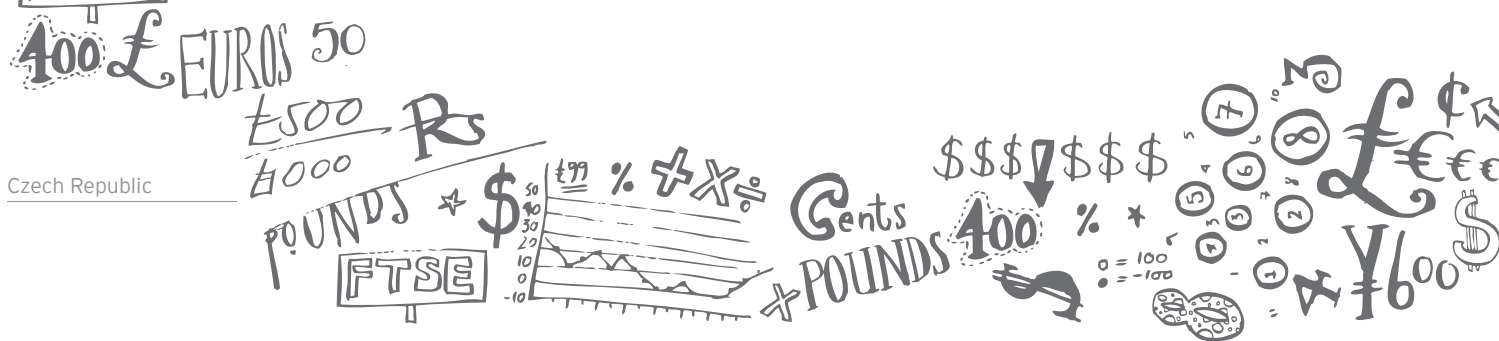
- ▶ Sale of securities acquired after 1 January 2014
 - ▶ Income from the sale of securities is tax-exempt if the total annual income of a taxpayer from the sale of securities (before deducting related expenses) does not exceed CZK100,000. Otherwise, the income from the sale of securities can be tax-exempt if the period between the acquisition and the sale exceeds three years. Income from the sale of other shares in a company shall be exempt if the period between the acquisition and the sale exceeds five years.
- ▶ Sale of securities acquired before 1 January 2014
 - ▶ For sales of securities acquired prior to 1 January 2014, exemption of annual income not exceeding CZK100,000 is applicable similarly as above. Otherwise, specific temporary provisions apply. Income from the sale of securities is tax-exempt if the period between the purchase and sale of securities exceeds six months, and the direct share of a party in the registered capital or voting rights of a company does not exceed 5% in the 24 months prior to sale. The tax treatment is not specified in the legislation regarding the sale of securities representing more than 5% in the registered capital or voting rights of a company. Nevertheless, based on current interpretation confirmed also by the General Finance Directorate, the income from the sale of such securities should be tax-exempt if the period between the acquisition and the sale exceeds three years. Income from the sale of other shares in a company is exempt provided the period between the acquisition and the sale exceeds five years.

1.5 Endowment tax

There is no endowment tax in the Czech Republic.

1.6 Transfer duty

There is no transfer duty tax in the Czech Republic.



1.7 Net wealth tax

There is no net wealth tax in the Czech Republic.

2. Who is liable?

Persons liable to tax, as well as the transactions subject to tax, are determined separately for each of the aforementioned taxes.

2.1 Inheritance tax

Inheritance tax as it appeared until December 2013 no longer exists in the Czech Republic. Instead, it has been incorporated into the income tax.

The income from inheritance is fully tax-exempt for both legal and private persons as of 1 January 2014.

2.2 Gift tax

Gift tax as it appeared until December 2013 no longer exists in the Czech Republic. Instead, it has been incorporated into the income tax.

Generally, any person (private or legal) who acquires income of any kind other than by a transferor's death is liable to income tax.

2.3 Real estate transfer tax

Real estate transfer tax as it appeared until December 2013 no longer exists in the Czech Republic. Instead, it has been replaced with the new immovable property acquisition tax, which is generally payable on the acquisition of immovable property ownership located in the Czech Republic.

For purchase of property or exchange of properties, the tax is payable by the transferee. Alternately, the person acquiring immovable property is liable for the tax.

2.4 Immovable property tax

In general, the owner of the real estate property is liable to immovable property tax (special provisions may apply in some cases).

2.5 Residency

Czech tax residents must declare their worldwide income in the Czech Republic irrespective of its source. Potential double taxation can be avoided based on the Czech tax law and respective double tax treaty, if in place. Czech tax nonresidents are liable only for their Czech-source income.

The tax residency of a person liable to immovable property tax and immovable property acquisition tax is generally not relevant. The important factors are mainly the type and location of the property.

Special rules would apply if a particular double tax treaty included different provisions on this subject, which is rather unlikely.

3. Rates

3.1 Tax classes

As of 1 January 2014, this is not applicable in the Czech Republic.



3.2 Gift tax and inheritance tax rates

Gift tax and inheritance tax as of 1 January 2014 ceased to exist in the Czech Republic and have been combined with income tax.

The income from inheritance is fully tax-exempt for both legal and private persons as of 1 January 2014.

For gift tax, the tax base is determined by the gift value that is decreased by expenses incurred to obtain this income. The PIT flat rate is 15%, while the corporate income tax (CIT) flat rate is 19%.

Gifts received in connection with employment or business activities are taxed within the framework of the tax base from employment and business activities. As such, the standard employment and self-employment income tax and social security and health insurance rates apply.

3.3 Real estate transfer tax rate

The tax base for immovable property acquisition tax (former real estate acquisition tax) refers to the taxable value of the property less deductible expense.

The taxable value of the property is determined based on a comparison of the contractually agreed-upon price and the tax reference value (if the Czech tax law does not specifically stipulate a different taxable value). Between the contractually agreed-upon price and the tax reference value, the higher is used as the taxable value of the property.

The tax reference value is equal to 75% of the “guiding” value or 75% of the official value of an asset according to the Czech Evaluation Act. The “guiding” value is the fair market value (FMV) of immovable property that is similar in kind at the given place and time. The exact “guiding” value calculation is stipulated by a statement of the Czech Ministry of Finance.

Deductible expenses include only costs incurred in connection with official evaluation, if expertise required by law for the taxable value determination.

The immovable property acquisition tax rate amounts to 4%.

3.4 Immovable property tax rate

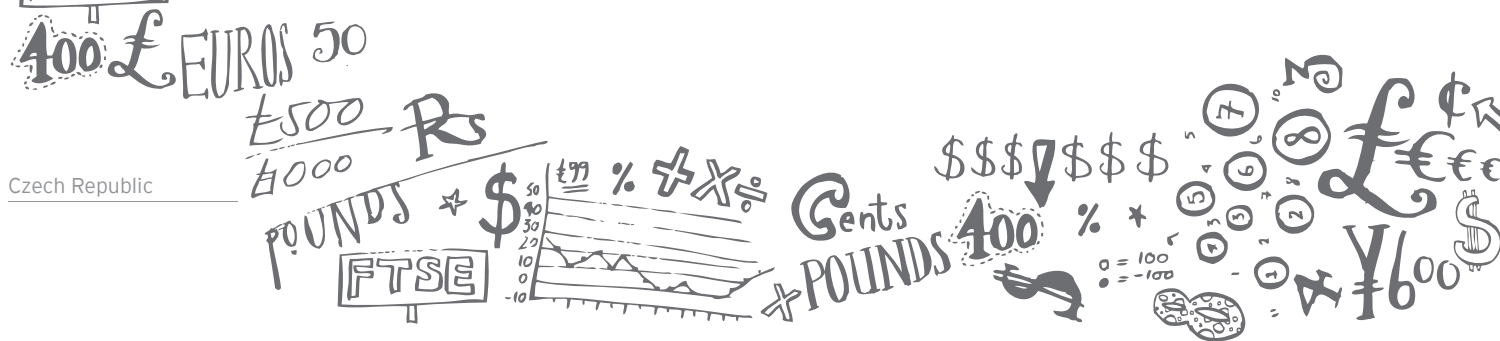
The tax rates for immovable property tax depend on the type of immovable property and its location.

4. Exemptions and reliefs

Because the number and extent of exemptions and reliefs is broad, we recommend that the possibility of exemption be checked individually for the purpose of each transaction. Significant tax savings may be achieved by proper planning of certain transactions.

We summarize below the most important types of exemptions:

- ▶ Income from the **inheritance** or legacy is fully exempt from personal as well as corporate taxation.
- ▶ Income related to **gifts** and other income obtained for no consideration is exempt from **personal income tax** if:
 1. The income is obtained from a first-degree or second-degree relative (e.g., sibling, uncle, aunt, nephew or niece, spouse, child's spouse, spouse's child, spouse's parents or parents' spouse)
 2. The income is obtained from a person with whom the taxpayer lived for at least one year prior to receiving the income in common household and for that reason, looked after the household or was supported by this person
 3. Income of value not exceeding CZK15,000 in total per year obtained from one individual is acquired on a casual basis





5.4 Immovable property tax return

The immovable property tax return is due until 31 January unless the tax return was filed by the taxpayer in any previous year and, simultaneously, the situation affecting the tax determination remained unchanged.

The tax authorities assess the immovable property tax based on the immovable property tax return (considering the changes of tax rates). The immovable property tax is generally payable by 31 May. Tax higher than CZK5,000 can be settled in two equal installments, one by 31 May, the second one by 30 November).

6. Assessments and valuations

This is not applicable in the Czech Republic.

7. Trusts, foundations and private purpose funds

The New Civil Code has introduced a trust fund (*svěřenský fond*) as of 1 January 2014. A trust fund can now be created to manage the property of its founder(s).

Trust funds are considered to be corporate income taxpayers. Assets transferred into the trust fund from its founder are not subject to CIT; the gain generated by the trust fund is subject to 19% CIT. The payment from the trust fund is generally subject to withholding tax (at 15%) unless exempted from taxation as mentioned in Section 4. above, where the exemptions for defined family relationships apply also in the case that the founder of the trust can be qualified as a defined person.

8. Grants

This is not applicable in the Czech Republic.

9. Life insurance

This is not applicable in the Czech Republic.

10. Civil law on succession

This is not applicable in the Czech Republic.

11. Estate tax treaties

The Czech Republic concluded few estate tax treaties in the past (e.g. with Austria or Slovakia) covering the inheritance and gift tax. However, the inheritance and gift tax ceased to exist as of 1 January 2014 and the standard income tax applies unless the income is exempted from tax. Therefore, standard double-taxation treaties concluded by the Czech Republic should be applicable. In those specific cases like Austria and Slovakia also the original treaties could be considered, even though the principles are similar to standard double taxation treaties. As the local tax regimes of individual countries are often not compatible in this area, the application of particular double-taxation treaty should be reviewed on individual bases.