



MASARYK UNIVERSITY FACULTY OF LAW

Property Tax

Michal Radvan



Legal Basis for Taxation

Act no. 338/1992 Sb., Act on Tax on Immovable Property (Real Estate Tax Act), as amended

Civil code Act no. 89/2012 Sb. brought some changes also for taxation in legal act mentioned above

Main change - superficies solo cedit



Objects of Taxation

Even the Act on Tax on Immovable Property divides this tax de iure into two parts (land tax and building/flat tax), according to specifics of the structural items it is better to divide the tax into three, respectively four parts - land tax, building tax, flat tax and very similar to the last one non-residential premises tax.

It is necessary to count every tax for every real estate separately. The total sum of these taxes is the final real estate tax written down in one tax return.



Land Tax

- The object of land tax is created by the lands in the territory of the Czech Republic registered in the land register. But the **land tax is not imposed on some lands; they are although registered in cadastre:**
 - Lands within the area of the ground plan of building which is built on;
 - Woodlands, if they involve preventive forests and forests of special determination;
 - Water-covered areas, except ponds used for commercial fish-farming;
 - Lands used for defense of the state.
 - Lands under the residential buildings (this land is part of the flat tax)
- All the other lands are **liable to tax:**
 - Agricultural lands like arable land, hop-fields, vineyards, gardens, orchards and permanent grass growth;
 - Commercial forests;
 - Ponds used for fish-farming;
 - Built-up areas and courtyards;
 - Development lands;
 - Flat structures (new in 2012!!!);
 - Other areas (playing fields, bathing places, cemeteries, etc).



Building Tax

- The objects of taxation are the **buildings** and a **civil engineering structure** (listed in the Annex to the Act on Tax on Immovable Property) and **dwelling units** in the territory of the Czech Republic connected to the land with fixed foundations. These buildings must have an acceptance certificate. There is a group of several more buildings that are liable to tax:
 - Buildings that are used even if there is no acceptance certificate (but it should be);
 - Buildings that are used even if there is no acceptance certificate but the building owner has a permission to use them;
 - Buildings for which the acceptance permission was not necessary but now it is.
- Other buildings, especially small-sized buildings, are **not liable to buildings tax**, so that the land under them is liable to land tax. Some other buildings are not levied as buildings, as well as the land under them is not levied on lands. These are:
 - Buildings including flats or non-residential premises (they are liable to flats and non-residential premises tax);
 - Water dams and other structures used to regulate water flows, water conduits and sewerages, city waste water treatment plants;
 - Energy distribution structures;
 - Public transport structures (roads, highways, railways, airports, ports, etc);
 - Flat structures.



Flats and Non-Residential Premises Tax

Only flats and non-residential premises registered in the Real Estate Cadastre are **liable to tax**. Buildings, in which flats and non-residential premises are objects of taxation, are not liable to buildings tax.



Major Exemptions

- Public interest, ecological aspects and international treaties
- Real estate owned by state, municipalities, regions and diplomatic representatives
- Real estate owned by churches, schools and universities, museums and galleries, hospitals, etc.
- Agricultural lands for five years and woodlands for 25 years after recultivation
- Real estate affected by a natural disaster for a period up to five years (depends on opinion of municipality)
- Structures used in public passenger transport
- Agricultural lands except gardens, if the municipality decides so
- Newly-constructed residential buildings and flats in newly-constructed residential buildings owned by individuals for 15 years after the issue of an acceptance certificate; abolished in 2009
- Cultural monuments for eight years after the year following the year when a building permit was issued for alterations undertaken by the owner
- Structures where the heating system was converted from use of solid fuels to more ecological fuel for five years; abolished in 2009, but to be used in 2012 for the last time



Taxpayers

- In most cases the taxpayer of the land tax is the **owner of the land.**
- **Leaseholder**
- **User**
- **Builder (while taxing civil engineering structure)**

- **Problems of legal liability**
- **Problems of co-ownership was basically solved** - Newly tax administrator assess TAX ex officio in an amount corresponding to the proportion of the co-owners of real property without a prior call for filing tax returns.



Tax Base

■ Land Tax:

- **Agricultural lands** (arable land, hop-fields, vineyards, gardens, orchards and permanent grass growth) - the price of land determined as a multiple of the actual area of the land in square meters and the average price per square meter of the land laid down in a decree.
- **Commercial forests and ponds used for fish-farming** - the taxpayer can choose, what is better for him: whether to use the price of the land as determined pursuant to the price regulations valid on 1 January of the taxable period or the actual area in square meters multiplied by 3,80 CZK.
- **Other lands (built-up areas and courtyards, development lands, flat structures and other areas)** - the actual area of the land in square meters, as ascertained on 1 January of the taxable period.

■ Building Tax:

- Built-up area in square meters as on 1 January of the taxable period.

■ Flats and Non-Residential Premises Tax:

- So called adjusted floor area - the floor area of the flat or non residential premise in square meters as on 1 January of the taxable period, multiplied by a coefficient of 1,20 (non-residential premises) or 1,22 (flats).



Tax Rates - Land Tax

- **Agricultural lands** such as arable land, hop-fields, vineyards, gardens, orchards and permanent grass growth - lower (0,25 %) for permanent grass growth (they have lower productivity), higher (0,75 %) for the other agricultural lands.
- **Commercial forests and ponds used for fish-farming** - 0,25 %.
- **Other lands (built-up areas and courtyards, development lands and other areas)** - different for built-up areas and courtyards and other areas (0,20 CZK per square meter) and for development lands (2 CZK per square meter, regulated (multiplied) by a coefficient called location rent (1,0 - 4,5) according to the number of inhabitants; municipality can increase or reduce a basic coefficient by a generally binding ordinance). In case of flat structures it depends for what kind of business are they used: for forestry, agriculture or water management - 1,00 CZK per square meter, for industrial production, civil engineering, transport, power and other agricultural production, and for other business activities - 5,00 CZK per square meter.
- The final tax (excl. arable land, hop-fields, vineyards, orchards and permanent grass growth) can be multiplied by the local coefficient at 2, 3, 4 or 5 assessed by a generally binding ordinance. This resolution depends on the municipality.



Tax Rates - Building Tax

- **Residential buildings** - 2 CZK per square meter of a built-up area; increased by 0,75 CZK per each additional above-ground floor (so called increased tax rate); multiplied by a location rent - a coefficient according to the number of inhabitants (the municipality can increase or reduce a basic coefficient by a generally binding ordinance).
- **Other structures that provide facilities for residential buildings** - 2 CZK per square meter of a built-up area, only for the area which is in excess of 16 square meters; increased by an increased tax rate; multiplied by a location rent.
- **Houses and family houses used for individual recreation** - 6 CZK per square meter of a built-up area; increased by an increased tax rate and by so called municipal coefficient (1,5 - assessed by a generally binding ordinance); if such houses are located in national parks or first-category protected countryside zones, there is another coefficient of 2,0 that shall be used.
- **Other structures that provide facilities for houses and family houses used for individual recreation** - 2 CZK per square meter of a built-up area; increased by an increased tax rate, by a municipal coefficient and if such structures are located in national parks or first-category protected countryside zones, the coefficient at 2,0 shall be used.
- **Garages** constructed separately from residential buildings - 8 CZK per square meter of a built-up area; multiplied by a municipal coefficient.
- **Structures for business activities** - depends on the type of business activities:
 - 2 CZK per square meter of a built-up area for structures used for primary agricultural production, forestry and water management,
 - 10 CZK per square meter of a built-up area for structures used for industrial production, civil engineering, transport, power and other agricultural production,
 - 10 CZK per square meter of a built-up area for structures used for other business activities.
 - The standard tax rate shall be increased by an increased tax rate and by a municipal coefficient.
- **Other structures** - 6 CZK per square meter of a built-up area; increased by an increased tax rate.
- The final tax can be multiplied by the local coefficient at 2, 3, 4 or 5 assessed by a generally binding ordinance. This resolution depends on the municipality.



Tax Rates - Flats and Non-Residential Premises Tax

- **Flats** - 2 CZK per square meter of the adjusted floor area; multiplied by a location rent.
- **Non-residential premises for business activities:**
 - 2 CZK per square meter of the adjusted floor area for non-residential premises used for primary agricultural production, forestry and water management,
 - 10 CZK per square meter of the adjusted floor area for non-residential premises used for industrial production, civil engineering, transport, power and other agricultural production,
 - 10 CZK per square meter of the adjusted floor area for non-residential premises used for other business activity.
- These standard rates shall be multiplied by the municipal coefficient of 1,5.
- **Non-residential premise is used as a garage** - 8 CZK per square meter of the adjusted floor area; multiplied by the municipal coefficient of 1,5.
- **Non-residential premise is used for anything else** - 2 CZK per square meter of the adjusted floor area; multiplied by a location rent.
- The final tax can be multiplied by the local coefficient at 2, 3, 4 or 5 assessed by a generally binding ordinance. This resolution depends on the municipality.
- *In general the amounts are minimal and depend on the location and the size of the property. For example an apartment of the size 100 m² in the centre of Prague will be taxed at approx. 1 000 CZK / € 40 a year*



Budget Revenue

The revenue from the real estate tax is the income of the municipality in whose district is the real estate situated.

- Real Estate Tax revenue aprox. 400 mil. EUR
- Real Estate Tax revenue as percentage of local tax revenue aprox. 5 %
- Real Estate Tax revenue as percentage of total tax revenue to central and local government aprox. 1,5 %



Tax Administration

- So-called autoapplication is used.
- It means that taxpayer calculates the tax using correct tax base and tax rate, he must file the tax return by 31 January of the taxable period and write there all the information about the taxpayer and about the real estate (kind of real estate, its location, legal relationship, area of real estate, way of its use, possible exemption etc.). In fact, the tax return is not necessary to be filed every year; usually if the tax return was filed in any of the previous taxable period and there are no changes, the taxpayer does not have this duty. Even if there are changes in the tax rate, in the average price of land, in the coefficients, etc., there is no duty to file the tax return.
- The real estate tax is assessed according to the situation as on 1 January of the calendar year of which it is assessed (no matter if there was a duty to file the tax return or not in that calendar year).



Control

- In case of disposing with the real property, the contract must be sent to the cadastre office and real estate transfer tax must be paid to the financial office. It means that the cadastre office knows all the details about the real estate and the taxpayer and both the cadastre office and the financial office know the price of the property.



Tax Payments

After assessing the tax, the financial sends a post money order with the amount of tax to every taxpayer - natural person.

If the annual real estate tax does not exceed 5 000 CZK, it shall be payable in one payment no later than 31 May of the current taxable period. If the tax exceeds 5 000 CZK, it shall be payable in two equal installments no later than 31 May and 30 November. The taxpayers engaged in farming and fish-farming have to pay the tax in two installments no later than 31 August and 30 November.



Conclusion?

- Legal regulation of real estate taxation in the Czech Republic is not perfect. The most discussed thing is whether to change the tax base - to replace existing unit taxation to ad valorem taxation. The tax base should correspond with the market value of the real estate. The value should be set by municipalities that have the best knowledge about the prices in their territory without any experts or assessors. The value can be used for transfer taxes or inheritance proceedings, too. The municipalities can create the map of value zones for the purpose of the real estate tax base. If anybody is not satisfied with the price of his real estate set by the municipality, he should have the possibility to appeal to the local financial office.
- The municipalities should have the right to set the tax rate but in the act there should be some interval (for example 0,05 - 0,5 %). The other (usually higher) tax rate should be applied on development lands and the real estates serving for running business. Lower tax rates can be used for the real estates like family houses and flats for living.
- The municipalities should be the only real estate tax administrators.
- The taxpayer should in his tax return complete just identification data necessary to set the tax base. The tax administrator's task should be to control the information through the real estate cadastre, set the tax base, calculate the tax and assess it.

Everything mentioned above would fill one of the most important principles of the tax law - principle of effectiveness: the tax administration would not trouble the taxpayers too much but it should reach the aim of the proceedings, it means assess and collect the taxes not to cut the tax incomes.

→ fiscal autonomy and information to taxpayers



Thank you for your attention