

Tax and Investment Facts

A Glimpse at Taxation and
Investment in the Czech Republic
2017



WTS Alfery s.r.o.

Czech Republic

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1 Ways of Doing Business / Legal Forms of Companies

There are a number of legal forms of business in the Czech Republic: the basic forms are business by **natural persons (individuals) and legal entities**, both offering various options. The difference between the two forms lies, among other things, in the degree of risk associated with doing business, the number of participants in the business, the manner of exposure, capital adequacy, initial capital required, distribution of profits, management, accounting procedures, administrative complexity of establishment and governance.

1.1 Natural Persons – Entrepreneurs

Natural persons wishing to do business other than through a legal entity are personally liable for their business activities to the full extent of their assets; provided they meet all statutory conditions, they can do business on their own behalf and on their own responsibility based on

- **a trade licence** (under the Trade Licensing Act), or as a
- **natural person engaged in agricultural production** (under the Agriculture Act), or a
- **self-employed person doing business not under a trade licence** (under special legislation – e.g. lawyers, notaries, executors, auditors, architects, court experts, interpreters, doctors) or a
- **natural person engaged in activities utilising, among other things, intellectual property** (e.g. on the basis of the Copyright Act, Act on Inventions and Industrial Designs, Act on Utility Models, etc.).

The law always stipulates which natural persons, and in which cases, must/may be registered in the Czech Commercial Register or a similar register (e.g. kept by the competent local municipal authority).

1.1.1 More Details on Small Businesses

The most common form of business conducted by natural persons is trade (small business), i.e. a self-employed person doing business based on a trade licence. Natural persons doing business based on the Trade Licensing Act must always first obtain a permit to conduct their selected business activity – i.e. a trade licence (trade licensing legislation lays down the basic conditions for doing business, but also applies to the majority of business activities by natural persons and legal entities). Conditions for acquiring different types of trade licences are laid down by law, though there are two basic types of trade: “**notifiable trades**” and “**licensed trades**”.

Notifiable trades do not require approval or a decision by the Trade Licensing Office, and assuming compliance with all conditions, the entrepreneur can commence business right away. These trades are divided into 3 basic categories:

- **unqualified trades** (no specific qualifications or expertise required, just an extract from the Criminal Register; there is only one unqualified trade, which includes all fields that do not fall under other groups of trades – when notifying the Trade Licensing Office, the entrepreneur also notifies the field/s in which it intends to do business);
- **craft trades** (these require vocational or other defined educational qualifications in the specific field or professional experience, and
- **professional trades** (in addition to the necessary qualifications and expertise, entrepreneurs must also meet the requirements laid down by various regulations and laws).

In the case of **licensed** trades, different requirements are laid down for different trades based on applicable laws and regulations, including required qualifications. Unlike notifiable trades, the application is subject to approval by the competent public

administration authority. Licensed trades include fields considered in some way unique, challenging or with a degree of responsibility by the state.

1.2 Legal Entities

1.2.1 Business Corporations

The Act on Business Corporations defines five types of business corporation established for the purpose of business, which include 4 **commercial companies** and a **cooperative** that are registered in the Commercial Register.

In the Czech legal system there are two types of commercial company, these are

- **capital companies** (limited liability companies, joint stock companies), in which registered capital is compulsory, the minimum amount is prescribed by law and consists of all contributions by members (the only obligation of the founders of a capital company in relation to the company is the payment of registered capital, all other matters may be entrusted to other parties) and
- **partnerships** (general partnerships), in which registered capital is not compulsory and only arises when the partners undertake to make contributions to the company in the partnership agreement. On the borderline between capital companies and general partnerships are limited partnerships (sometimes referred to as quasi-partnerships).

Commercial companies are **registered in the Commercial Register**.

1.2.1.1 Capital Companies

Limited Liability Company (abbreviated as "spol. s r.o." or just "s.r.o.")

This is the most common form of business via a commercial company. The company can be established by **one or more natural persons or legal entities**. The company is **liable to the full extent of its assets**; members are **jointly and severally liable to the extent of their unpaid contributions**. The **minimum contribution** for a limited liability company is **CZK 1**; the maximum contribution is not limited. The member's **ownership interest** in the limited liability company is determined by the **ratio of the member's contribution to the company's registered capital**.

The company's corporate bodies are the **general meeting** as the highest authority, the **statutory body** (executive director/s), and the **supervisory board** or other body if stipulated in the Articles of Association.

Joint Stock Company (abbreviated as "akc. spol." or "a.s.")

This is a more elaborate form of capital company. The company can be established by **one legal entity or natural person**; the maximum number of shareholders is not limited. The company is **liable to the full extent of its assets**; **shareholders are not liable** for the company's obligations. **Registered capital** is divided into a certain number of **shares** with a specific **nominal value**; the **lowest possible registered capital is CZK 2 million or EUR 80 thousand** (if accounting is kept in EUR). A shareholder's minimum or maximum contribution is not limited. Shareholders' votes are always linked to shares; the same number of votes is allocated to shares with the same nominal value.

Shareholders' rights can be divided into three groups, **property rights, non-property rights** and the rights of **qualified shareholders**. **Property rights** primarily include the right to a share of

the company's profits (this share is usually determined by the ratio of the shareholder's share to the company's registered capital), as well as the right to a share of the liquidation balance (if the company is wound up, followed by liquidation). In the case of **non-property rights**, this relates to the right to manage and control the company (i.e. the right to participate and vote at the general meeting, the right to require the explanation of matters relating to the company, if such explanation is required to exercise shareholders' rights at the general meeting, or the right to submit proposals). A **qualified shareholder** is a shareholder or shareholders who own shares whose total nominal value or number of shares equals at least 1%, 3% or 5% depending on the amount of registered capital, where these qualified shareholders enjoy greater rights.

The company's corporate bodies are the **general meeting** as the highest authority, the **statutory body** and the **supervisory board** or other body if stipulated in the Articles of Association. There may be two models of corporate governance, the **dualistic model**, where both a managing body (Board of Directors) and supervisory body (Supervisory Board) exist side-by-side at the company, or a **monistic model**, where the company is managed by one body (Administrative Board), together with a statutory director (who may also be the Chairman of the Administrative Board or even its sole member).

Shares can be divided **according to their form**: shares may be issued as **registered shares** (showing the name of the owner in public records) or as **bearer shares** (the shareholder is the person who physically holds the shares and can prove ownership; however, such shares can only be issued, based on the registration of shareholders, as registered or immobilised securities). Shares may be further subdivided **by type**. Commonly issued shares, which represent the shareholders' share of the joint stock company's registered capital, are **ordinary shares**. In practice, one may also encounter other types such as **priority shares**, which guarantee

preferential dividend payments, other shares guaranteeing a greater share of **voting rights** at the general meeting, or **employee shares**, for instance.

1.2.1.2 Partnerships

General Partnership (abbreviated as "veř. obch. spol." or "v.o.s.")

The only purely commercial partnership in the Czech Republic is a general partnership. The company may be established by at least **two persons**, either **natural persons or legal entities, or a combination of both**; the highest number of partners is not limited. As a rule, each partner has one vote. In general partnerships, all partners are **severally liable for the company's obligations to the full extent of their assets**. A general partnership **need not create registered capital**, if this is not required by the company's partnership agreement. Unless the partnership agreement specifies otherwise, each partner has one vote.

The statutory body is all partners, however, they may agree otherwise with regard to the company's external representation.

Limited Partnership (abbreviated as "kom. spol." or "k.s.")

As previously mentioned, a limited partnership is on the borderline between a capital company and general partnership, despite the fact it bears certain elements of both (sometimes also referred to as a quasi-partnership). There must be at least **two partners**, either **natural persons or legal entities** to establish the company; the highest number of partners is not limited. Each partner is liable for the company's obligations differently – **the general partner has unlimited liability to the full extent of its assets**, while the limited partner is only liable to the extent of its unpaid contribution (specified in the partnership agreement). While **the limited partner does not take part in the business, the company's management is entrusted to the general partner** or partners, if there is more than one. As a rule, each partner has one vote.

1.2.1.3 Cooperative

A cooperative is another legal entity that can do business under the Act on Business Corporations. Its essence is the fact that its owners (coop members) do not invest money, but usually other property values (in agricultural coops this is land, animals, or later, so-called transformational shares; in housing coops, the work of members in the construction of residential buildings). This is an association of a certain group of people established for the purposes of business or to meet the economic, social or other needs of its members.

A cooperative may be established by **at least 3 people, both natural persons and legal entities**; the highest number of members is not limited. A cooperative **is liable to the full extent of its assets**; **coop members** are not liable for the cooperative's obligations. Each member participates in the cooperative's registered capital with a basic **membership contribution** (the basic membership contribution is the same for all members); if permitted by the statutes, a member may participate with more than one membership contribution. As a rule, each member has 1 vote, however, the statutes may specify otherwise. The cooperative's corporate bodies are the **members' meeting, statutory body – management board, audit committee** (in small cooperatives, just the members' meeting and Chairman).

1.2.2 Agricultural Entrepreneurs

As previously mentioned, special legislation also lays down the conditions for **business in agriculture** by agricultural entrepreneurs, where such entrepreneurs can be both **natural persons and legal entities** who intend to engage in **agricultural production** as a permanent and independent activity on their own behalf

and on their own responsibility for the purposes of achieving profit, and who meet other conditions prescribed by law. A natural person or legal entity that intends to do business in agriculture must **register** with the competent local **municipal authority with extended powers**, in whose territorial jurisdiction the entrepreneur's place of business or registered office lies.

1.2.3 State Enterprise

A state enterprise established under special legislation is a legal entity sui generis. A state enterprise is **established by the state** based on a government resolution, where the role of founder is performed by the relevant ministry into whose sphere of activity the subject of the enterprise's business falls. A state enterprise is a legal entity conducting **business with state property** in its own name and on its own responsibility. **The enterprise is not liable for the state's obligations and the state is not liable for the enterprise's obligations.**

1.2.4 Other Legal Forms Enabling Business or Other Gainful Activity

To complete the list of business forms, it is also necessary to mention **other entities** who can, under certain conditions, conduct gainful activity and generate **profit for redistribution among their owners, managers or founders**, but who must invest this back into the development of the organisation and fulfilment of its mission (non-profit organisations). Generating profit is **not** therefore **the primary objective**. These entities often focus on performing certain community activities including club activities of a membership nature, or they may be a group of assets to be used for a specifically designated purpose. These entities include:

- registered associations,
- foundations,
- endowment funds,
- institutions and
- social cooperatives.

In addition to these entities, there are also other registered legal entities (**religious non-profit organisations**) governed by special legislation.

Similarly, we can mention "**owners' associations**" here, which are legal entities registered in the **register of owners' associations**. These may be established **voluntarily or compulsorily** (in a building with **at least five units owned by at least three different owners**). Such an association is established by the **owners of units** in a building for the purpose of ensuring **building and land management**. **The owners of units** in the building **are liable for the debts of the owners' association** in the ratio of the **size of their share** in the common parts of the building.

1.2.5 Multinational Forms of Business in the Czech Republic

In addition to the forms of business regulated by Czech law, it is also possible to do business in the Czech Republic in one of the multinational forms of business according to European Community law, which are the **European Economic Interest Grouping (EEIG)**, **European Public Limited-Liability Company (SE)** and **European Cooperative Society (SCE)**.

1.2.6 Business by Foreign Entities

Branch Office in the Czech Republic

One form of business by foreign entities in the Czech Republic is business through a **branch office**. All foreign entities with a commercial enterprise in a foreign state can establish a branch office in the Czech Republic. A branch office is an organisational unit of the parent company with **economic and operational autonomy**, which the entrepreneur has **decided** will be a branch. For a foreign entity to be able to start business in the Czech Republic through a branch office, the branch office must be **registered in the Commercial Register**, including its name, registered office, line of business or activity and identification of its manager. The branch office is then authorised to do business **to the extent of the business activity registered in the Commercial Register** from the date of registration. **The branch manager** is authorised to represent the entrepreneur in all matters relating to the branch office, from the day they are registered as the branch manager in the Commercial Register. Branch offices **cannot**, however, **acquire rights and obligations** independently.

Relocation of a Foreign Entity to the Czech Republic

Another business option for foreign entities is to **relocate their registered office to the Czech Republic**. However, this is only possible under Czech law if it is simultaneously **permitted** under the law of the state in which the **legal entity has its registered office**, or provided this does not concern a legal entity whose purpose is to **violate the law** or that wishes to achieve its objective in an **unlawful manner** (prohibited company). A legal entity that intends to relocate its registered office to the Czech Republic must, **together with a proposal for registration in the Commercial Register**, also enclose a decision on **what legal form** of Czech legal entity it has **chosen**, and the legal foundation proceedings required by Czech law for this form of legal entity (i.e. Articles of Association or a Memorandum of Association in the given case).

Foreign Ownership Interests in Czech Legal Entities

Foreign entities may both **establish** a Czech legal entity in the Czech Republic or **participate** in its establishment (however, a foreign entity can only establish a legal entity in the Czech Republic in accordance with Czech law). In the same way, they may also participate in an established Czech legal entity as a **partner or member** (by purchasing an ownership interest or acquiring membership). **Foreign ownership interests** in Czech legal entities **are not limited in any way** under Czech law, and a foreign entity can therefore acquire a 100% share in a Czech legal entity – for example, in the case of a single member company, typically a limited liability or joint stock company.

2.1 Applicable Taxes / Tax Rates

- Corporate tax rate: 19 %
- Tax rate for separate tax base (for non-exempt revenue from capital from abroad): 15%
- Tax rate for basic investment fund: 5 %

2.2 Resident Companies

The taxpayer is a Czech tax resident if it has its registered office or place of management (i.e. the place from which the taxpayer is managed) in the Czech Republic. Czech tax residents have their worldwide tax liability in the Czech Republic with regard to revenues from resources within the territory of the Czech Republic.

2.2.1 Computation of Taxable Income

The assessment of the tax base is based on the net income shown in accounting (without the influence of the International Accounting Standards). Then it is adjusted (increased) by non tax deductible expenses (i.e. expenses not incurred to generate, assure and maintain taxable income according to the Income Tax Act – typically representation expenses, excess travel costs, book reserves and adjusting entries, etc.). However, it can also be decreased, e.g. by exempt income or income already taxed.

If the final tax base is negative, the tax loss can be deducted from the tax base in the following 5 tax periods subject to conditions laid down by law. If the tax base is positive, income tax amounting to 19% shall be calculated and paid.

2.2.2 Taxation of Dividends

Under the **domestic** participation exemption regime, any income from profit distributions derived by a resident corporation (s.r.o. or a.s.) or a cooperative from a participation in another Czech corporation or cooperative is exempt from corporate tax, provided that it has held a share of **at least 10%** (in share capital) for a minimum holding period of **12 months**. The 12-month period may be fulfilled subsequently. However, the domestic participation exemption does not apply to income from profit distributions where a Czech subsidiary is in liquidation.

The **international** participation exemption applies to income from profit distribution derived from a participation in a foreign company. The requirements differ depending on whether a foreign subsidiary is located in the EU or in a third country.

Requirements in the case of EU subsidiaries are:

- Equity participation of at least 10 % in the EU subsidiary for a minimum holding period of 12 months
- Listing of the legal form of the EU subsidiary in the Annex to the EC Parent-Subsidiary Directive
- Czech parent company is a beneficial owner of the income

As regards EU subsidiaries, the participation exemption applies to dividends received by Czech parent companies and Czech permanent establishments of companies resident in another EU Member State. However, the participation exemption does not apply to income from dividends, where the EU subsidiary is in liquidation.

Additional requirements (to the above-mentioned) in the case of third-country subsidiaries are:

- The Czech Republic has concluded a tax treaty with the third country
- Legal form's comparability of the third-country subsidiary to Czech corporations (s.r.o. and a.s.) or cooperatives
- The subsidiary is subject to corporate tax of at least 12 % in its residence country and is neither tax-exempt nor eligible to opt for tax exemption

The participation exemption does not apply to income from dividends where the third-country subsidiary is in liquidation.

2.2.3 Capital Gains and Losses (including Capital Gains and Losses from Sales of Shares)

Capital gains, such as gains or losses from transfer of shares, interest or royalties income, should be included in the general tax base and are taxed by the standard tax rate amounting to 19% unless the gain is exempt from taxation.

Capital gains from transfer of shares between parent companies and their subsidiaries as defined by the EU Parent-Subsidiary Directive are exempt from corporate tax, if the exemption conditions stated above in Clause 2.2.2 are met (prescribed legal form, minimum share, holding period, beneficiary owner of the income, etc.).

The same exemption from corporate tax applies also to transfers of shares in subsidiaries resident in non EU-member states – for the conditions for third-country subsidiaries, also see Clause 2.2.2 above.

2.2.4 Depreciation / Capital Allowances

Tangible assets

The periods of depreciation for tangible assets are stated in the table below:

Depreciation group	Years	Examples
1	3	Computers and office equipment
2	5	Cars, buses, furniture, most machinery
3	10	Heavy machinery, air conditioning
4	20	Pipelines, fences
5	30	Manufacturing buildings
6	50	Administrative buildings, shopping centers, hotels

All immovables (regardless of the valuation amount) and individual movable property exceeding CZK 40,000 are depreciated. Each asset must be classified in the respective depreciation group. They are listed in detail in the schedule to the Income Tax Act. Land is not depreciated at all.

Tangible assets are depreciated using the straight-line method (in the first year, the depreciation is half of that in the following years) or using the declining balance method (in the second year, the depreciation is at its highest and decreases gradually). In the case of new assets falling into the depreciation groups 1 to 3, the depreciation may be increased by 10 to 20% of the entry price in the first year.

Moulds, dies and blocks are depreciated using the straight-line method over their useful life. Fixed assets used for the production of solar energy are depreciated using the straight-line method over 240 months.

Intangible assets

The periods of amortisation for intangible assets are stated in the table below:

Intangible asset	Months
Audiovisual work	18
Software and R&D results	36
Other intangible assets (such as valuable rights)	72
Goodwill	180

Intangible assets exceeding CZK 60,000 are amortised. Intangible assets with a specially agreed useful life are amortised over this period, not according to the table above. Intangible assets are only amortised using the straight-line method.

2.2.5 Loss Carry Over (including Potential Loss of Tax Loss Carry Forward in case of Restructuring)

A tax loss is deductible from the positive tax base in the following five tax periods.

The deductibility of the tax loss is limited in the case of a significant change in the shareholding structure and in the case of company transformations.

Limitation in the case of a change in the shareholding

If a substantial change in the company's shareholding structure (generally a change affecting more than 25% of the capital or voting rights) occurs, the company can deduct tax losses only if 80% of its revenues for its own supplies are generated from the same activities as the company conducted in the year in which it incurred the loss.

Limitation in the case of company transformations

If the Target has tax losses, the Acquirer is not able to claim the losses after the merger: a tax loss taken over may be deducted from the tax base up to the maximum amount of the part of the tax base that pertains to the same activities carried out by the Target in the period for which the tax loss was assessed.

If the Acquirer has tax losses, the Acquirer is not able to claim the losses without limitation after the merger: the Acquirer may deduct a tax loss incurred before the merger to the maximum amount of the part of the tax base that pertains to the same activities it carried out before the merger.

2.2.6 Group Taxation

There is no group taxation in the Czech Republic. Each company belonging to a group of companies is taxed separately. Thus it is not possible to set off a loss of one company against the profit of another company within the group.

2.2.7 Relief from Double Taxation (Tax Credit / Tax Exemption)

In principle, local legislation enables the elimination of double taxation in three ways – by credit, exemption or deduction of tax paid abroad from the tax base. Based on Czech domestic tax legislation, when eliminating the double taxation of income from abroad, the provisions of double taxation agreements concluded by the Czech Republic are to be followed. The treaty specifies the method of income double taxation elimination. Thus the taxpayer is not free to choose the method of eliminating double taxation.

Full credit is applied in particular to the taxation of interests. The ordinary credit method is most frequently used in the Czech Republic; however, it can be used only if the taxpayer exhibits positive tax from which the tax paid abroad can be deducted.

The method of full exemption and the method of exemption with progression have the same effect on the part of the Czech Republic as no taxpayer is subject to progressive taxation.

The tax paid abroad can be included in the costs only if it concerns income that has not been exempt from taxation according to an international agreement. This procedure can, in particular, be applied if no double taxation agreement has been entered into with the respective state and if the taxpayer could not use the method of credit.

2.2.8 Incentives

The main incentives are:

- Income tax relief (tax holiday) for up to 10 years
- Job creation grants up to CZK 300,000
- Financial support for employee training of up to 50 % of the training costs
- Grant of up to 7 % of the cost of fixed assets relating to an approved investment in the manufacturing and the technology sectors
- Material support for the acquisition of property of up to 10 % of the eligible investment costs
- Exemption from real estate tax for 5 years

Supported areas:

- Manufacturing industry (launch or expansion of production in branches of manufacturing industry)
- Technology centres (construction or extension)
- Strategy services centres (launch or expansion of the activity of a shared centre, software creation centre, high-tech repair centre, data centre or call centre)

Other forms of incentives are:

- R&D deduction (the deduction may amount up to 110 % of the costs incurred),
- Education tax deduction (lump sum costs for a student or actual costs for the acquisition of property used for the purposes of professional training are deducted).

2.3 Non-Resident Companies

Czech tax non-residents are taxed only on their income from Czech sources. Non-resident companies are basically subject to Czech tax on:

- income of a permanent establishment in the Czech Republic
- employment income from duties performed in the Czech Republic
- income from services performed in the Czech Republic (generally after 6 months of rendering services in the Czech territory)
- income from the sale or use of real estate in the Czech Republic
- royalties, dividends and other profit distributions, interest, and lease rentals paid by Czech tax residents or permanent establishments

- capital gains on the sale of securities or sale of an interest in a private company or partnership where the buyer is a Czech resident or is a permanent establishment of a non-resident
- alimony and pensions arising in the Czech Republic paid by Czech tax residents or permanent establishment
- income arising from reductions in capital
- income from payment of a receivable acquired by assignment paid by Czech tax residents or permanent establishments

The taxation income of non-residents from sources in the territory of the Czech Republic may always be modified according to specific provisions of bilateral double taxation agreements.

2.3.1 Concept of Permanent Establishment / Doing Business

Permanent establishments in the Czech Republic have no legal personality (corporate). A legal entity is simply a direct foreign company. This company is also responsible for concluded contracts and agreements including employment contracts. Property acquired in Czech Republic is a direct asset of the foreign company. Permanent establishments thus do not have any equity capital.

The economic and business activities of permanent establishments directly enter the accounting records of the foreign company in its country of origin. Profit taxation of permanent establishments can be arranged in different ways, either on the basis of economic results (profit/loss account), relative to annual turnover or otherwise. Permanent establishments can also be subject to value-added tax (VAT).

A permanent establishment of a foreign company can be created when the company's employee(s) has (have) been rendering services in the Czech Republic for more than six months in any

12 consecutive calendar months. Each employee counts as a presence of the foreign company. Some double taxation agreements can modify the conditions for creating a permanent establishment.

A permanent establishment can also be created when a foreign entity sets up a fixed place of business (e.g. an office, workshop, production facility, sales outlet or other business facility) in the Czech Republic. The relevant double taxation agreement can modify the conditions for creating a permanent establishment of a foreign entity in the Czech Republic. Particularly it may eliminate the creation of permanent establishment when the activities performed through the fixed place of business located in the Czech Republic are of a preparatory or auxiliary nature.

A permanent establishment can also be created if a foreign entity operates its business in the Czech Republic via a dependent agent.

2.3.2 Withholding Taxes

Withholding tax is usually applied to gross income not reduced by related expenses, without taking into account any tax allowances or tax relief. Withholding tax is withheld and transferred to the Czech tax authorities by the payer of the respective income, and the receiver obtains the net income.

Generally, the withholding tax rate amounts 15% and can be reduced by double taxation agreements. The withholding tax rate of 35% is imposed on income paid to entities of jurisdictions that have not concluded a double taxation agreement with the Czech Republic or an agreement for the exchange of information on tax issues. Withholding tax normally becomes payable when the payer of the income accounts for the liability.

In particular, dividends, interests and royalties are subject to withholding tax (see 2.3.3).

Payments for other services and independent activities may be subject to withholding tax too if this is provided for in the double taxation agreement or if no permanent establishment arises.

Rental payments for the use of movable assets in the Czech Republic are subject to standard withholding tax (15%/35%/modification by DDT) unless we are talking about finance leases with purchase options, which are subject to withholding tax of 5%/35%.

2.3.3 Capital Gains

Thanks to the EU Parent-Subsidiary Directive, **dividends** paid by a Czech subsidiary to a parent company that is tax resident in an EU member state may be exempt from withholding tax. These provisions also apply to dividends paid between Czech companies and dividends paid to Swiss, Norwegian and Icelandic corporate shareholders.

WHT exemption for a parent-subsidiary relationship in the EU applies if the following conditions are cumulatively fulfilled:

- the parent company is located in another EU member state in the sense of the P/S Directive,
- it has held an ownership interest of at least 10% for an uninterrupted period of at least 12 months
- directly or indirectly for at least one year

The holding period to meet the conditions for the exemption of shares in profit can be fulfilled subsequently. If the conditions for the exemption of shares in profit are not fulfilled, withholding tax amounting to 15% (in the Czech Republic) or a lower withholding tax (usually 5 or 10%) under the relevant double taxation agreement shall apply.

The tax exemption for dividends does not apply if any of the following circumstances exists:

- The parent company or the subsidiary is exempt from corporate income tax or a similar tax applicable in its jurisdiction.
- The parent or subsidiary may opt for an exemption from corporate income tax or a similar tax applicable in its jurisdiction.
- The parent or subsidiary is subject to zero corporate income tax or a similar tax applicable in its jurisdiction.

The EU **Interest and Royalties** Directive has also been implemented in the Czech Republic. Interest and royalties paid to associated companies resident in the EU, Switzerland, Norway and Iceland are generally exempt from withholding tax.

WHT exemption of outbound interests and royalties applies if the foreign company from another member state:

- meets the general requirements concerning legal form, tax residency and subject-to-tax condition;
- directly holds at least 25% of the capital or voting rights of the Czech company for an uninterrupted period of at least 24 months;
- is a beneficial owner of the interest (and royalties); and
- obtains authorisation from the Czech financial authorities based on its request or a request filed by the Czech company. This document has to be provided within the term of payment of the interest / royalties and is valid for at least 1 year (max. 3 years) starting from the issue date.

If a foreign owner sells shares in a company based in the Czech Republic, any gains will be subject to tax as part of the aggregated tax base, regardless of the tax residence of the purchaser. The participation exemption applies when the seller is an EU resident company that has an eligible legal form that holds at least 10% of

the company sold for an uninterrupted period of 12 months. This participation exemption for EU non-resident companies is subject to the same regulation as for the participation exemption for dividends (see above).

2.4 Tax Compliance

The standard tax period is a calendar year, i.e. the period from 1 January to 31 December. Taxation periods can also be:

- fiscal year,
- period from the effective date of company transformation to the end of the respective calendar or fiscal year,
- an accounting period exceeding 12 months.

Every legal entity is obliged to submit a tax return, even if it showed a tax loss or if it did not perform any activity in the given period.

Income tax returns shall be submitted on the form issued by the Ministry of Finance, in electronic form only.

Income tax returns shall be submitted no later than within 3 months of the end of the tax year, i.e. by 1 April of the following calendar year by default. If taxpayers have the statutory obligation to have their annual accounts certified by an auditor or if a tax adviser prepares and submits their tax returns, the tax return shall be submitted no later than within 6 months of the end of the tax year, i.e. by 1 July of the following calendar year by default.

3 Double Taxation Agreements

At present, the Czech Republic is party to treaties on the avoidance of double taxation with 85 countries worldwide. The Czech Republic's double taxation agreements are listed below. The provisions of the international treaties take preference over local legislation.

The Czech Republic has its own template for new agreements based on the OECD Model Tax Convention but contains certain specifics which take account of the Czech Republic's reservations about the OECD Model Tax Convention.

Albania	Finland	Macedonia	Singapore
Armenia	France	Malaysia	Slovakia
Australia	Georgia	Malta	Slovenia
Austria	Germany	Mexico	South Africa
Azerbaijan	Greece	Moldova	South Korea
Bahrain	Hong Kong	Mongolia	Spain
Barbados	Hungary	Montenegro	Sri Lanka
Belarus	Iceland	Morocco	Sweden
Belgium	India	Netherlands	Switzerland
Bosnia and Herzegovina	Indonesia	New Zealand	Syria
Brazil	Ireland	Nigeria	Tajikistan
Bulgaria	Israel	North Korea	Thailand
Canada	Italy	Norway	Tunisia
Chile	Japan	Pakistan	Turkey
China	Jordan	Panama	Ukraine
Columbia	Kazakhstan	Philippines	United Arab Emirates
Croatia	Kuwait	Poland	United Kingdom
Cyprus	Latvia	Portugal	United States
Denmark	Lebanon	Romania	Uzbekistan
Egypt	Liechtenstein	Russia	Venezuela
Estonia	Lithuania	Saudi Arabia	Vietnam
Ethiopia	Luxembourg	Serbia	

A number of double taxation agreements concluded by the Czech Republic expressly limit their benefits to the beneficial owners of income.

Transactions between related parties must follow the arm's length principle. OECD rules are applied here.

Companies are considered to be related parties if:

- there is direct or indirect ownership of more than 25 % of shareholding or voting rights, or
- if the management of one company is involved in the management of the other company.

No obligatory transfer pricing documentation is prescribed by Czech legislation. However, tax authorities may require the submission of transfer pricing documentation during tax inspections.

If prices between related parties differ from prices agreed between unrelated parties, with the difference not being satisfactorily documented, the tax authority may adjust the taxpayer's tax base.

In addition to the tax return, some companies are obliged to brief information on transactions made with related parties during the last tax period.

5 Anti-avoidance Measures

5.1 General Anti-avoidance Rule

The Tax Code provides for the substance-over-form principle. Moreover, the Supreme Administrative Court has essentially adopted the doctrine of the abuse of rights as defined by the Court of Justice of the European Union.

5.2 Thin Capitalisation Rules

The thin capitalisation rules are applied towards related parties and in cases of "back-to-back financing". The debt/equity ratio may not exceed 4:1 (6:1 if with a bank or insurance company). The financial costs of loans/credits exceeding the above-mentioned ratio are not tax deductible.

The financial costs of loans/credits with the amount of interest or maturity being derived from the debtor's profit are fully non-tax-deductible.

5.3 Controlled Foreign Company Provisions

The Czech Republic has not yet implemented any measures related to Controlled Foreign Company Regimes.

The liability to pay personal income tax is governed by the Income Tax Act as amended in the given year. Social Security Contributions are governed by the Social Insurance Act and the Public Health Insurance Act.

6.1 Residency Rules

Taxpayers are Czech tax residents provided that

- their domicile is located in the Czech Republic (domicile shall mean a place where the taxpayer has permanent housing under circumstances indicating the taxpayer's intent to stay there on a permanent basis), or
- they usually reside there (they stay there for at least 183 days in a calendar year, either continuously or in several periods; every commenced day of stay shall be included in this period).

Czech tax residents are subject to unlimited taxation, i.e. they are obliged to tax their income from a source in the territory of the Czech Republic and income from a source abroad.

6.2 Income Liable to Tax

The following incomes are subject to personal income tax:

Type of income	Tax base
Income from dependent activity	Super-gross salary
Income from self-employment	Profit
Income from capital	Gross income
Income from lease	Profit
Other income	Income / profit

Super-gross salary shall mean the sum of gross salary and social and health security contributions paid by employer. Income shall mean both monetary and non-monetary income achieved by means of an exchange. The moment money is received is decisive for the income. The income is taxed in the period in which the money is received (on the contrary, revenues are taxed in the period in which they were earned, regardless of whether the money has actually been received or not.)

6.3 Allowable Deductions

6.3.1 Non-taxable Part of the Tax Base

Allowable deductions are deducted from the tax base. The following taxpayers may claim them in their tax returns:

- a tax resident, or
- a tax non-resident whose income from sources in the territory of the Czech Republic is at least 90 % of the taxpayer's worldwide income.

Type

Donations for charitable purposes

Interest on loan taken to finance the taxpayer's housing demand

Supplementary pension contributions

Life assurance contributions

Trade union membership contributions

Examinations certifying the results of continuous training

6.3.2 Deductible Items

Taxpayers who tax their income from self-employment may claim items deductible from the tax base.

Type

Tax loss

Note

For the following 5 years

Support of research and development

Experimental or theoretical work, design and construction work etc.

Deduction for supporting professional education

Purchase of property for professional education

6.3.3 Tax Credits

Tax credits may be deducted from the tax.

Type of credit	Amount
Basic credit	CZK 24,840 per year
Spouse tax credit	CZK 24,840 per year*
Disability tax credit	CZK 2,520 / 5,040 per year*
Health disability credit	CZK 16,140 per year*
Student tax credit	CZK 4,020 per year*
Child placement tax credit	Up to no more than amount of minimum wage (CZK 11,000 in 2017)
Child tax credit	1 st child – CZK 13,404* 2 nd child – CZK 19,404* 3 rd and further child – CZK 24,204*

* the entitlement applies only for months in which the conditions were met

Tax non-residents should claim the basic credit. They can claim the other credits only if their income from sources in the Czech Republic amounts to at least 90% of their worldwide income.

If the total child credit exceeds the taxpayer's tax liability, the difference is deemed a tax bonus. If the taxpayer has gained income from dependent activity, self-employment or leasing amounting to at least six times the average salary in the given tax year, they can claim a refund of the tax bonus.

6.4 Tax Rates

The tax base is calculated separately for each type of income. The personal income tax rate amounts to 15% of the tax base.

If income from dependent activity and income from self-employment exceeds 48 times the average monthly salary as laid down by the social security act, the personal income tax shall be increased by the solidarity tax surcharge. The solidarity tax surcharge rate amounts to 7%, the assessment base being the difference between the sum of incomes from dependent activity and self-employment on the one hand, and 48 times the average salary on the other.

6.5 Tax Compliance

Each taxpayer whose yearly income subject to personal income tax has exceeded CZK 15,000 or who has made a loss from self-employment should submit a personal income tax return. Personal income tax returns shall be submitted on the form issued by the Ministry of Finance.

Personal income tax returns shall be submitted no later than within 3 months of the end of the tax year, i.e. by 1 April of the following calendar year. If taxpayers have the statutory obligation to have their annual accounts certified by an auditor or if a tax adviser prepares and submits their tax returns, the tax return shall be submitted no later than within 6 months of the end of the tax year, i.e. by 1 July of the following calendar year.

6.6 Social Security Contributions

Social security in the Czech Republic is divided into social insurance (in the narrower sense) and health insurance. Social insurance contributions and health insurance contributions are paid by employees, employers and self-employed persons. The assessment base for insurance premiums for employees and employers is the gross salary; the assessment base for self-employed persons is one half of the assessment base for the calculation of tax on the income from self-employment.

	Employee	Employer	Self-employed
Health insurance	4,5 %	9 %	13,5 %
Pension insurance	6,5 %	21,5 %	28 %
Sickness insurance	0 %	2,3 %	2,3 % (on a voluntary basis)
Unemployment insurance	0 %	1,2%	1,2 %

Minimum advance payments for health and social insurance premiums are set for self-employed persons and the amount varies on an annual basis. In 2016, the minimum advance payments to be paid by self-employed persons amount to CZK 1,972 in the case of social insurance, and CZK 1,823 in the case of health insurance.

There are several types of taxes on consumption which are included in the final prices of goods and services in the Czech Republic.

7.1 Value Added Tax / Goods and Services Tax

The VAT system is harmonised with European legislation. Supplies of goods and the provision of services with a place of performance in the Czech Republic as well as the import of goods from abroad and other EU Member States are subject to VAT. By contrast, the supply of goods and provision of services to other states are, in most cases, exempt from tax in the Czech Republic.

Generally, the supplier of the particular transaction is the person liable for tax.

The standard VAT rate on the supplied goods and services is 21%.

In addition, there are two reduced rates applicable for selected articles and services:

- 15 % – constructions for social housing, food, plants, medical supplies,
- 10% – books, infant food.

Some goods and services are fully exempt from VAT, such as financing activities, health and social services.

A relatively complex system applies to the taxation of real estate transfers. Depending on the nature of the real estate transferred, the transfer may be subject to the standard tax rate or may be exempt from tax. Real estate leasing is mostly exempt from tax; however, taxpayers may agree to apply VAT on a voluntary basis.

Another taxation option is reverse charging with the recipient paying VAT instead of the supplier. This method is generally applied to tax transactions where the supplier is not resident in the given state. However, the Czech Republic also uses this method to tax selected articles and construction works provided between any entities registered for VAT purposes in the Czech Republic in its territory.

Special procedures apply, for example, to the provision of travel services or second-hand shops.

The Czech Republic has adopted several measures to fight against fiscal fraud. Apart from the aforesaid taxation of domestic supplies using the reverse charging mechanism, these are the following:

- Guarantee of the recipient of the supply for the tax liability of the supplier under certain conditions
- Central public register of bank accounts of suppliers intended for payments of taxable supplies
- Central public register of unreliable taxpayers that have failed to fulfil their obligations towards the tax administration.

Since 2016, all registered VAT payers are obliged to submit to the tax office, in addition to tax returns, control statements containing relatively thorough details on the individual supplies.

7.2 Transfer Taxes

A real estate transfer tax has been introduced in the Czech Republic. Transfers of real estate against payment are subject to this tax. The tax rate is 4% of the tax base.

7.3 Others

Mineral oils, tobacco products and spirits are subject to excise duty. Selected products are subject to tax when putting the goods into free circulation, with the producer, operator of a tax warehouse or importer of these products to the Czech Republic being the tax-payers.

Electricity, natural gas and solid fuels are subject to environmental taxes. The obligation to pay these taxes arises, in particular, when electricity, gas or fuels are supplied to final consumers in the territory of the Czech Republic.

8 Inheritance and Gift Tax

Inheritance and gift tax were abolished with effect from 31 December 2013. Currently, the acquisition of a gift is taxed with income tax using the standard rate applicable to individuals and legal entities, i.e. 15% and 19% respectively. Granting gifts between relatives is exempt from tax.

9.1 Real Estate Tax

Land and buildings in the territory of the Czech Republic are subject to real estate tax. The tax is derived from the land area and built area with due consideration of the number of floors above ground.

The tax rate applicable to buildings ranges from CZK 2 to CZK 10/m². Real estate tax on agricultural land is 0.75 percent and on ponds and forests 0.25 percent of the deemed value. The tax rate applicable to other land ranges from CZK 0.20 to CZK 5/m².

The tax may be increased using coefficients determined by law according to the number of inhabitants in the municipality, or determined by the individual municipalities at their own discretion.

9.2 Road Tax

Road tax is paid on cars registered and used for business purposes in the Czech Republic.

The tax rate varies:

- from CZK 1,200 to CZK 4,200 in the case of passenger vehicles
- from CZK 1,800 to CZK 50,400 in the case of other vehicles.

In the case of newly-manufactured cars, the tax rate is lower in the initial years.

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