



Pocket Tax Book
Czech Republic 2008 edition

PRICEWATERHOUSECOOPERS 

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A summary of the Czech tax legislation

The information in this book is based on taxation law, legislative proposals and current practice, up to and including measures passed into law as of 1 January 2008.

Tax amendments currently in Parliament will be introduced in the future.

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Personal Income Tax

GENERAL PRINCIPLES

- The tax year is the calendar year.
- The flat income tax rate is 15%.
- Czech tax residents are taxable on their worldwide income, subject to restrictions by the applicable double-taxation treaty (if any).
- Czech tax non-residents are generally taxable only on their Czech-source income.

TAX RESIDENCY

Czech tax residents

An individual is a Czech tax resident if he:

- Has a permanent home in the Czech Republic, or
- Is present in the Czech Republic for 183 or more days in a calendar year.

An individual's permanent home is the place where he has a permanent residence and circumstances indicate his intention to dwell there permanently.

Tax non-residents

A tax non-resident is only subject to Czech income tax on his Czech-source income, i.e.,

- Income for work performed in the Czech Republic.
- Dividends, interest, licence fees, rental payments, service fees and other income received from an entity resident or domiciled in the Czech Republic.

EMPLOYMENT INCOME

Salary

- Taxable income includes all monetary and non-monetary remuneration and certain in-kind benefits. Statutory

health insurance and social security contributions paid by the employer are part of the employee's taxable income.

- Salary payments to an employee of a Czech company or a Czech branch of a foreign company are generally taxed by monthly payroll withholding.

Directors' fees

Remuneration paid to an individual in his capacity as a member of the Board of Directors or Supervisory Board of a Czech joint-stock company is taxed as follows:

- Payroll tax must be withheld.
- Where the fee is paid to a tax non-resident, a 15% final tax must be withheld.
- The fees are tax non-deductible for the company.
- The fees are subject to Czech health insurance contributions.
- The fees are not subject to Czech social security contributions.

Travel expenses

- The reimbursement of documented travel expenses (e.g., hotels and fuel) and reimbursement for the use of a personal car for business trips are not included in the individual's tax base as long as the expenses do not exceed the actual costs. Any amount in excess of the actual costs is subject to income tax.
- The minimum statutory rate for reimbursement for the use of a personal car on business trips is CZK 4.10⁽¹⁾ per kilometre travelled.
- Meal allowances are non-taxable for employees provided they are within the Czech statutory limits. The minimum statutory limits for meal allowances for business trips in the Czech Republic depend on the duration of the business trip:
 - 5-12 hours – CZK 58
 - 12-18 hours – CZK 88
 - Over 18 hours – CZK 138

⁽¹⁾ limits may change during the year

- The basic daily meal allowance for business trips outside the Czech Republic varies according to the country visited and is updated on a regular basis. The employer is authorised to determine the amount of the provided daily meal allowance, which has to be at least 75% of the basic rate stated for the relevant state by a ministerial decree.
- Travel expenses in excess of the statutory limits for the public sector are taxable income for employees.

Non-monetary benefits

Generally, non-monetary benefits received in the form of recreation and nursery facilities, and school fees paid by the employer, can be non-taxable for the individual provided they are:

- Paid for from the employer's tax non-deductible social fund or post-tax profits.
- Truly non-monetary, i.e., paid directly to the third party provider.

Otherwise, the value of the benefit is included in the employee's tax base.

Company cars and fuel

- The personal use of a company car is a taxable benefit. The taxable benefit is equal to 1% of the car's purchase price for each month of provision of the car. The minimum monthly taxable benefit is CZK 1,000.
- Fuel costs paid by the employer for an employee's personal use are a taxable benefit for the employee.

Share option schemes

- In general, an individual pays tax on the exercise of share options.
- A positive difference between the acquisition price and the market price of a share is treated as employment income.
- Tax is either withheld by the employer via its payroll procedure or the employee must declare the income in his annual tax return (according to individual plan conditions).

- There are no specific legal provisions governing the taxation of share schemes, so each must be considered based on its own facts.

ENTREPRENEURIAL INCOME

- An entrepreneur registered in the Trade Licence Office and/or Commercial Register must pay income tax on his business profits.
- Taxable profits are calculated in a similar way as for corporate income tax.
- An entrepreneur can:
 - Calculate his tax-deductible expenses as a lump-sum percentage deduction from revenues (between 40 – 80% depending on the type of activity), or
 - Use the same rules applicable for business entities (i.e., based on accounting profit adjusted for tax purposes).
- An entrepreneur must file annual income tax returns and meet the filing and payment deadlines. He is also subject to tax advances, depending on the amount of the previous year's tax liability.
- An entrepreneur is generally subject to Czech social security and health insurance contributions.

RENTAL INCOME FROM MOVABLE AND IMMOVABLE PROPERTY

- Taxable income is the difference between rental income and related tax-deductible expenses or a flat 30% deduction from rental income.
- Rental income is declared in the annual income tax return.

DIVIDEND INCOME

- Dividend income from Czech companies is subject to a final withholding tax of 15% and is excluded from the personal

income tax base.

- Dividend income from abroad is taxed in its gross amount in the general tax base. Credit relief is available under double-taxation treaties.

INTEREST INCOME

- An individual is generally taxed on interest income on a received, rather than accrual, basis.
- Interest is typically subject to a final withholding tax of 15% (e.g., bonds issued after 1 January 1998, bank promissory notes, and certificates of deposits and similar deposits).
- Interest income from abroad is taxed (in its gross amount) in the general tax base.
- Other interest income is included in the general tax base (e.g., interest income from loans).
- Interest and interest-like income is subject to the Savings Directive provisions.

CAPITAL GAINS

- There is no separate capital gains tax in the Czech Republic.
- Gains on sale of property are exempt if the conditions for a specific type of property are met and if the individual has owned the property for longer than the specified time limit.

The main time limits are as follows:

- Shares in a joint-stock company or fund (acquired before 1 January 2008) – six months.
- Investment securities and Collective investment securities - six months, provided the seller did not own more than a 5% stake in equity or voting rights of the company within 24 months before the sale (securities acquired after 1 January 2008).
- Other securities - five years.

- Real estate - two years (your residence), five years (other cases).
- Cars, ships and planes - one year.

Note: *The above applies to gains on property that do not form part of the individual's business property. Gains on business property are taxed based on principles similar to those that apply to companies; other forms of relief are available for own residential premises.*

INDIVIDUAL TAX BASE, TAX LOSSES

- Individual income from different sources, e.g., employment income, entrepreneurial income, rental income, etc., is combined to form an individual's overall tax base.
- Other income not mentioned above is also generally subject to personal income tax (unless expressly exempted) and there are restrictions on transferring losses across different categories of income.
- Generally, with the exception of employment income, necessary expenses incurred to generate, ensure and maintain taxable income are deductible from that income.
- Losses arising from a business or rental property are offset against other sources of income, except employment income. If an overall loss is realised, it can be carried forward and offset against taxable income (except employment income) arising in the following five years.

PERSONAL TAX DEDUCTIONS

- Donations to Czech individuals and entities for the purpose of financing certain activities, including science, education, culture, charity, and for the relief of natural disasters, are deductible up to 10% of the individual's tax base. The minimum value of a tax-deductible donation is CZK 1,000 or 2% of the individual's tax base.
- Under specific conditions an individual's tax base can be

reduced by the annual amount of paid mortgage interest, private life insurance and supplementary pension insurance premiums.

TAX CREDITS

General personal tax credit: CZK 24,840 (for all individuals).

- Dependent spouse tax credit: CZK 24,840⁽¹⁾.
- Disability tax credit: amount depends on level of disability⁽¹⁾.
- Student tax credit: CZK 4,020 (for regular students up to 26 years old and university-level doctoral students up to 28 years old).

As of January 2005, a taxpayer may (under some conditions) reduce his or her tax liability by CZK 10,680 annually per dependent child. If the total tax is lower than the respective child credit, the taxpayer will receive a special tax bonus equal to the difference between the child allowances and his/her tax liability. However, the maximum tax bonus amount is CZK 52,200 per year.

⁽¹⁾ *certain conditions must be fulfilled*

TAX REGISTRATION OF FOREIGNERS

- All foreigners assigned to the Czech Republic by a foreign employer with a service permanent establishment in the Czech Republic must register for income tax purposes and file annual income tax returns.

TAX RETURN AND TAX LIABILITY

- The tax period is the calendar year.
- The filing and payment deadline is 31 March of the year following the tax period.
- An automatic extension to 30 June is granted if a Czech registered tax advisor prepares and files the return, as long

as a power of attorney authorising the registered tax advisor to prepare the return is filed by the 31 March deadline.

- The same deadlines also apply to the payment of any outstanding annual tax liability.

TAX ADVANCES

- An individual with a tax liability of CZK 30,000 or more must pay tax advances in respect of his future income tax liability. The amounts and frequency depend on the previous year's tax liability. If no previous liability exists, the Tax Office can still impose an advance payment scheme.
- Advance payments are due semi-annually or quarterly, depending on the amount of the previous year's tax liability:

Previous tax liability	Frequency	Amount
CZK		
30,000-150,000	semi-annually	40% of the previous tax
above 150,000	quarterly	25% of the previous tax

- If an individual's Czech income includes employment income that is subject to deduction by a Czech payroll, tax advances may be reduced or not required at all.

Health Insurance and Social Security

CONTRIBUTIONS

- Obligatory for an individual employed by the Czech company.
- A secondee working in the Czech Republic for a foreign employer is subject to social security and health insurance contributions in the Czech Republic if EU regulations or a social security treaty apply (unless the assignee is an E101 holder).
- If EU regulations do not apply and no social security treaty covers health insurance, the obligation to contribute to the Czech health insurance scheme has to be reviewed individually.
- Health insurance covers health and medical care.
- Health insurance is administered independent of the state budget.
- An individual can choose the licensed company to which he will pay health insurance contributions.
- Social security contributions provide funding for three separate funds: pensions, unemployment benefits and sickness (together with other benefits). Entrepreneurs can choose whether to contribute to the sickness fund.
- Mandatory contributions are calculated from the individual's remuneration, including almost all his benefits and allowances.
- There is a capped base for social security and health insurance payments of employees in the amount of 48 times the average monthly salary (i.e., CZK 1,034,880 for 2008, EUR 39,260) starting from 2008.

SOCIAL SECURITY CONTRIBUTION RATES

Employee:	Sickness and other benefits	1.1%
	Pension scheme	6.5%
	Unemployment insurance	<u>0.4%</u>
Total		8.0%

Employer:	Sickness and other benefits	3.3%
	Pension scheme	21.5%
	Unemployment insurance	<u>1.2%</u>
Total		26.0%
Private entrepreneur:	Sickness and other benefits	4.4%
	Pension scheme	28.0%
	Unemployment insurance	<u>1.6%</u>
Total		34.0%

HEALTH INSURANCE CONTRIBUTION RATES

Employee:	4.5%
Employer:	9.0%
Private entrepreneur:	13.5%

VOLUNTARY CONTRIBUTIONS TO STATE PENSION SCHEME

- Voluntary contributions can be made under certain conditions during periods in which the individual is not covered, in order to receive entitlement to a Czech pension.
- The individual must pay at least the minimum monthly contribution of CZK 2,800 for his contributions to be credited toward the pension.

MINIMUM HEALTH INSURANCE CONTRIBUTIONS

- Mandatory: 13.5% of the minimum monthly salary (CZK 8,000⁽¹⁾), i.e., CZK 1,080 per month.
- Under certain conditions, if an individual is not covered by the mandatory Czech health insurance scheme, he may contribute voluntarily on a commercial basis.

⁽¹⁾ the amount of minimum salary may change during the year

Tax-Efficient Investments for Individuals

STATE-SUBSIDISED SUPPLEMENTARY PENSION INSURANCE

- An individual or employee can choose to invest in this in addition to the compulsory pension system. In addition to certain tax advantages (below), the government makes an additional contribution to the pension fund.
- The benefits are generally paid to participants once they have reached retirement.
- Only an adult individual with permanent residence in the European Union who participates in Czech health or pension insurance is eligible for the pension insurance.
- Contribution payments can be made by the individual or by the employer.
- The amount of the monthly state subsidy depends on the amount of the monthly contributions, with the maximum subsidy of CZK 150 applicable to monthly contributions of at least CZK 500.
- If an individual contributes more than CZK 6,000 in a year, the amount over CZK 6,000 and up to CZK 12,000 can be used to reduce his individual income tax base.
- An employer's contribution is tax-exempt for the purposes of the employee's individual income tax up to CZK 24,000 for both supplementary pension insurance and private life insurance (see below) per year.
- Benefits from the supplementary pension insurance that exceed the contributions and state subsidy are subject to 15% withholding tax, which represents the final taxation of the benefits. If the insurance scheme is terminated prematurely, the amount of the financial settlement that exceeds the contributions of the participant (employee) is subject to 15% withholding tax.

PRIVATE LIFE INSURANCE

- An individual or employee can choose to invest in this in addition to the compulsory pension system.
- It is an endowment or retirement annuity insurance for the individual if the benefits are paid no earlier than the year the individual reaches 60 years of age.
- The minimum duration of the insurance is 60 months.
- For insurance policies that pay out a fixed amount if and when the individual reaches a certain age, the minimum insured amount is CZK 40,000 if the term of the policy is from 5-15 years and CZK 70,000 if the term is over 15 years.
- Contribution payments can be made by an employee or by his employer to an insurance company that is entitled to carry out insurance activities in the Czech Republic.
- Up to CZK 12,000 of the annual contributions paid by the individual can be used to reduce his personal income tax base.
- Annual insurance premiums paid by an employer for an employee's private life insurance are exempt from the employee's individual income tax up to CZK 24,000 together with employer's contributions to supplementary pension insurance (see above) per year.
- Benefits that exceed the contributions are subject to 15% withholding tax, which represents the final taxation of the benefits. If the insurance scheme is terminated prematurely, the amount of the financial settlement that exceeds the contributions of the participant (employee) is subject to 15% withholding tax.

HOUSING SAVINGS ACCOUNTS

- These are primarily an efficient form of investment for Czech citizens with permanent residence in the Czech Republic and EU citizens with a Czech residence permit and a valid identification number; they are designed to finance housing, but they can also be used as a general investment instrument.

- The savings accounts generally have two phases:
 - The participant deposits his financial contribution.
 - Usually, after a certain period of time, a loan can be provided to finance housing and the participant begins repaying this loan. The loan is optional and the participant can decide not to take it, in which case the deposited money can be withdrawn. Other kinds of loans (e.g., bridging loans) can also be granted to the participant according to his needs and the contract conditions.
- Interest income from, and state contributions to, housing savings are fully exempt from personal income tax.

Corporate Income Tax

ENTITIES SUBJECT TO CORPORATE INCOME TAX

- Companies having their seat or place of management in the Czech Republic are taxed on their worldwide income.
- Permanent establishments and branches of foreign companies are generally taxed on Czech-source income only and are subject to specific rules.
- There are no provisions for group taxation, i.e., consolidated returns cannot be filed, and each group company subject to Czech taxation must submit a separate tax return.

TAX BASE AND RATES

- The tax base is generally the difference between income and expenses, as adjusted for tax purposes. The matching principle must be followed.
- The standard corporate tax rate is 21%.
- A special rate of 15% applies to income included in a separate tax base (e.g., certain dividends and similar income from abroad).
- A tax rate of 5% applies to investment funds, unit funds and pension funds.

EXEMPTIONS

- Under rules similar to those stated in the Parent/Subsidiary Directive, dividends paid by a qualified Czech subsidiary to a qualifying parent company that is tax resident in a member state are exempt from withholding tax. A dividend received by a qualified Czech parent company from a qualified EU subsidiary is also exempt from tax (for qualifying criteria see the Parent/Subsidiary Directive section).
- Equal treatment applies to dividends payable and receivable

between Czech and Swiss tax residents and for dividends receivable by Czech tax residents from their third-country subsidiaries in the double-taxation treaty countries outside the EU if (i) the subsidiary was subject to corporate income tax at the nominal rate of at least 12% in the year when the distribution was approved and in the previous year, and (ii) the subsidiary has a legal form similar to a Czech limited-liability company or a joint-stock company.

- Capital gains of Czech parent companies realised on sales of participations in companies fulfilling the above conditions for dividend exemption are also exempt.
- Property (including property rights) received by inheritance or gift.
- Other specific items listed in the Income Taxes Act.

TAX-DEDUCTIBLE ITEMS

- Generally those incurred to generate, ensure and maintain taxable income. Documentation (receipts, invoices) must be kept to support their tax deductibility. For tax audit purposes, a Czech translation may be requested.
- Interest (subject also to special rules), royalties and service fees.
- Tax depreciation of assets.
- Tax net book value of sold assets.
- Tax-deductible reserves and tax-deductible provisions, calculated under the Act on Reserves on the following assets:
 - Repair of fixed assets.
 - Bad debts from debtors in bankruptcy.
 - Other qualifying debts (or a proportion of such debts).
- Exchange rate gains/losses in the year in which they arise.
- Social security and health insurance if paid within one month of the end of the tax period.
- The value of inventory stocks under certain conditions.

TAX NON-DEDUCTIBLE ITEMS

- In certain cases, the tax law specifies limits or disallows expenses for tax purposes. The main limits on disallowed expenses are:
 - Expenses not incurred to generate, ensure and maintain income, up to the amount of income related to such expenses.
 - Expenses above statutory limits (e.g., company catering).
 - Expenses that are deductible only when paid (e.g., contractual fines and penalties).
- In certain cases, tax law specifies tax non-deductible expenses. The main non-deductible expenses are:
 - Gifts and donations.
 - Entertainment expenses.
 - Expenses related to non-taxable income, including holding costs (see below).
 - Accounting provisions and accounting reserves.
 - Fees paid to members of company statutory bodies.
 - Non-contractual fines and penalties.
 - Losses realised on the sale of land, receivables and specified participations.
- Special rules apply to expenses of the parent company related to its holding shares in a subsidiary as defined for the purpose of the Parent/Subsidiary Directive rules implemented into Czech tax law. Non-deductible expenses include:
 - Interest on debt finance provided by the parent company six months before acquisition of the shares, unless the parent company cannot prove that the borrowing does not relate to holding the shares.
 - Indirect costs of holding shares in the subsidiary company, explicitly set at 5% of dividends received by the parent company from the subsidiary unless the parent company can support the actual amount of indirect costs of holding.
- Losses from participations with decisive interest in a joint-stock company (more than 20%) or any interest in a limited-liability company, limited or unlimited partnership.
- Revaluation differences from shareholdings that may be exempt if sold (see the rules participation exemption above).

DEDUCTIONS FROM THE TAX BASE

Donations

- Donations to entities and government bodies for the purpose of financing science, education, culture, charity and responding to natural disasters are deductible up to 5% of the company's tax base after deduction of other allowances (e.g., tax losses, R&D allowance). Donations to universities and other public research institutions can be deducted up to an additional 5% of the company's tax base after deduction of other allowances. The minimum value of a tax-deductible donation is CZK 2,000.

Double deduction of R&D costs

- Taxpayers are entitled to use a new tax allowance for certain costs incurred in respect of research and development projects. This provision is intended to encourage investment into research and development activities in the Czech Republic.
- This means that costs incurred for research and development may in fact be deducted from the tax base twice (as "normal" costs and then as the new special tax allowance).

INTEREST

General

- Interest received from the Czech Republic and from abroad is taxable income.
- Interest paid to a Czech resident is not subject to any withholding tax apart from certain products offered by financial institutions to individuals.
- Interest paid abroad is subject to withholding tax, if not exempt under the relevant double-taxation treaty or the Interest and Royalty Directive.
- If the creditor is a taxpayer not keeping bookkeeping, interest is a tax-deductible expense only if paid.
- For accounting purposes, interest must be accrued in

accordance with the matching principle.

- Interest on the acquisition of fixed assets may be capitalised, depending on the company's decision.

Interest income from securities

- Generally, interest income from securities is to be included in the corporate income tax base of the recipient and subject to the applicable corporate income tax rate.
- Special rules apply to Czech interest income from government bonds issued prior to 1 January 1997 and interest income from corporate bonds issued prior to 1 January 1998.
- Interest income from mortgage bonds issued until 31 December 2007 is exempt from tax, if the issuer confirmed in the prospectus that the liabilities arising from the issued securities will be covered by receivables granted for acquisition or construction of the property. Interest income from mortgage bonds issued after 1 January 2008 will be taxed in the general tax base.
- Interest income from bonds issued abroad by Czech tax residents is exempt provided it is received by a non-resident.

Interest and Royalty Directive

The exemption of interest is available under the Interest and Royalty Directive on the following conditions:

- The interest is paid to a company resident in another EU country listed in the appendix to the Interest and Royalty Directive by a Czech permanent establishment of such EU company, a Czech joint-stock company, limited-liability company, limited partnership (komanditní společnost, k.s.), unlimited partnership (veřejná obchodní společnost, v.o.s.), or co-operative.
- The companies are directly related via capital (minimum share of 25%).
- The minimum required shareholding is maintained for at least 24 months. This condition may be met subsequently upon review.

- The recipient is a beneficial owner of the interest and the interest receipt is not attributable to a permanent establishment of the EU company in the Czech Republic or the third country. Exemption of the interest income is subject to approval by the Czech tax authorities.
- The above applies to Swiss companies paying and receiving royalties based on the agreement between Switzerland and the EU.

THIN CAPITALISATION

- The tax-deductibility of financial costs (i.e., interest on loans from both related and unrelated parties and other related costs such as arrangement fees, commitment fees, etc.) is limited by thin-capitalisation rules. Generally, the permitted debt/equity ratio is 6:1. The debt/equity ratio of 2:1 applies to related-party loans (3:1 for insurance companies and banks). Financial costs from subordinated debts and from profit-participating loans are tax non-deductible. Tax non-deductible costs will also comprise incurred financial costs exceeding an interest rate cap calculated from the average twelve-month reference rate (PRIBOR/LIBOR/EURIBOR etc.) increased by 4%.
- These rules do not apply to financial costs arising from loans from unrelated parties which do not exceed CZK 1 mil. (approx. EUR 37,940) in total.
- The definition of “related parties” for thin-capitalisation purposes corresponds to the definition for transfer-pricing purposes as of 1 January 2005.
- The thin-capitalisation rules effective as of 1 January 2008 will apply to financial costs paid based on loan and credit agreements concluded after 1 January 2008 or if the level of funding is increased after 1 January 2008 by an amendment to the agreement signed before 2008.

DIVIDENDS

Parent/Subsidiary Directive

Under the rules similar to those in the Parent/Subsidiary Directive, dividends are exempt from withholding taxes (upon payment) and from corporate income tax (upon receipt) if the following conditions are met:

- The parent company has at least a 10% participation in the registered capital of its subsidiary.
- The EU company has a legal form defined in the appendix to the Parent/Subsidiary Directive.
- In the Czech Republic, the provisions apply to Czech permanent establishment of the above-mentioned EU companies, and the Czech legal forms entitled to exemption under the Directive are joint-stock company (akciová společnost, a.s.), limited-liability company (společnost s ručením omezeným, s.r.o.), and co-operative (družstvo).
- The minimum required shareholding is maintained for at least 12 months. This condition may be met subsequently upon review.

If the above conditions are not met subsequently (the decisive day is the day the general meeting approves the dividend payment), the payment will be considered a net payment of dividends. The sum will, therefore, be grossed-up and an additional tax assessment and penalty levied. The same rules also apply to distribution of profit between Czech companies and to Swiss companies paying and receiving dividends.

Dividend income

- Dividend income from a Czech company is excluded from the tax base, as it is subject to a 15% final withholding tax, or the income is exempt if the dividends are received from subsidiaries as defined for the purpose of the rules similar to the principles of the Parent/Subsidiary Directive.
- Dividends received from abroad, if not exempt under the rules similar to the principles of the Parent/Subsidiary Directive, are included in a separate corporate income tax base of the

recipient and are subject to a 15% at special corporate income tax rate.

ROYALTIES

Royalties generally represent tax-deductible expense. If paid abroad, they are subject to 15% withholding tax (5% for financial lease payments), which may be reduced under the relevant double taxation treaty. Royalties paid to directly related companies based in the EU will be exempt from withholding tax under the EU's Interest and Royalty Directive under the same conditions as interest payments (above) after 2011.

- The above applies to Swiss companies paying and receiving royalties based on the agreement between Switzerland and the EU.

RELATED-PARTY TRANSACTIONS

- Prices between related parties must be at fair market value (the "arm's-length" principle) for corporate tax purposes. This does not apply in the case of loan interest, which may be lower than arm's length under certain conditions if the loan agreement was signed before 2008.
- The tax authorities can adjust the tax base and assess penalties if they decide that arm's-length prices were not used in related-party transactions and the justification for the difference is not well-documented. "Related parties" includes entities or individuals related by capital (directly or indirectly related by participation in capital or voting rights of 25% or more) or in another way (related via management or control or close persons).
- Companies may apply for a transfer-pricing binding ruling in accordance with the Czech Income Taxes Act. At the same time, the Ministry of Finance is going to enforce transfer-pricing documentation in a form of a degree.
- OECD transfer-pricing guidelines are to be applied when

determining whether prices between related parties conform to the arm's-length principle.

- Transfer-pricing documentation should be prepared in line with the conclusions made by the EU Joint Transfer Pricing Forum.
- Transfer-pricing rules also apply to transactions between persons who have entered into a commercial relationship largely for the purpose of reducing their tax base or increasing their tax loss.
- The non-arm's-length part of the agreed price is excluded from the tax base. For tax non-residents, the excluded part is reclassified as a deemed distribution of dividends and taxed appropriately. The reclassified part of the non-arm's-length price received from abroad that was taxed as a dividend in the foreign country may be treated as dividend income for Czech tax purposes if a double-taxation treaty was concluded with the relevant country.

TAX LOSSES

- From the tax period commencing in 2004, tax losses can be carried forward and offset against future profits for a maximum of five years. Losses generated in a tax period commencing in or before 2003 can be carried forward for a maximum of seven consecutive tax periods.
- Utilisation of a tax loss is not possible if there has been a significant change in the shareholding of the company intending to utilise the tax loss and the company does not satisfy the "same business" test, i.e., it does not generate at least 80% of its revenues from the same business compared to the tax period when the tax loss arose.
- Significant change in the shareholding is defined as a change in more than 25% of the registered capital or voting rights or when a shareholder gains decisive control.
- Losses cannot be carried back, nor can they be offset against the profits of another group company.

MERGERS

The provisions incorporating the Merger Directive allow Czech companies to carry out tax-neutral contributions of a business or its part, share exchanges, mergers and de-mergers or spin-offs. In addition, subsequent to the contribution of a business or its part, merger or de-merger, the tax losses of the contributing entity or the one ceasing to exist as a result of the merger are transferred to the legal successor company. The Czech company must be a joint-stock company or a limited-liability company.

RULINGS

The following types of binding opinions are available to taxpayers (most of them with effect from 1 January 2008):

- Advance Pricing Arrangements (APA)
- Methodology of recognition of expenses (costs) that relate to non-taxable income and cannot be allocated purely to taxable income
- Recognition of tax-deductible expenditures (costs) connected with operation of real estate property that is used both for private and business purposes
- Decision whether expenditure for a change in an asset qualifies as repair or technical improvement of the asset
- Recognition of costs incurred on R&D projects (deduction of these costs is allowed under Czech tax law)
- Tax deductibility of losses carried forward in the case of a substantial change of business

Depreciation

CAPITAL ALLOWANCES

- Capital allowances are generally available in respect of expenditure incurred on the following tangible fixed assets:
 - Separate movable assets and sets of movable assets with a purchase price exceeding CZK 40,000 and with an operational and technical life exceeding one year.
 - Buildings, houses, flats and non-residential premises.
 - Constructions (e.g., bridges, pylons, roads, construction sites), with certain exceptions.
 - Technical appreciation and certain "other assets".

Note: Some types of assets, such as plots of land and artwork, are not eligible for depreciation.

- Tangible fixed assets are classified into depreciation groups (to which different depreciation periods apply), as follows:

Depreciation Group	Minimum Depreciation Period (years)	Examples
1	3	Office machines and computers, tools and implements.
2	5	Engines, pumps, cooling/freezing equipment, accumulators, and TV and radio receivers, motor vehicles.
3	10	Elevators, escalators, turbines, air-conditioning equipment, electric motors and generators.
4	20	Houses and buildings made of wood and plastic, long distance transmission lines.
5	30	Houses and buildings not made of wood or plastic, bridges, tunnels, waterworks and other construction works (with the exception of buildings included in 6 below).
6	50	Administrative buildings, department stores, historical buildings and hotels.

- Taxpayers are not obliged to depreciate an asset every year. Depreciation may be interrupted in any year and continued in a later year without a loss of depreciation potential.
- Tangible assets are generally depreciated by the taxpayer with ownership title, except, for example:
 - Technical appreciation of a rented asset carried out by a tenant may be depreciated by that tenant, subject to certain conditions.
 - An asset that is transferred to a creditor as a pledge may be depreciated by the original owner.
- Depreciation can only start once the assets are put into use and comply with the requirements of specific laws.
- The value to be used as the basis for depreciation depends on how the asset is acquired, e.g.
 - Acquisition cost (construction and equipment costs, architect's fees, legal fees, notary's fees, etc.) if the asset is acquired for a consideration.
 - Own costs incurred if the asset is acquired or produced internally.
- For most assets, the taxpayer can choose to claim depreciation on either a straight-line or an accelerated basis in accordance with the following tables:

Straight-line method

Depreciation	Annual Depreciation Rate		
	1 st year	Subsequent years	For increased input price
1	20%	40%	33.3%
2	11%	22.25%	20%
3	5.5%	10.5%	10%
4	2.15%	5.15%	5%
5	1.4%	3.4%	3.4%
6	1.02%	2.02%	2%

Accelerated method

Depreciation Categories	Coefficient for Accelerated Depreciation		
	1 st year	Subsequent years	For increased input price
1	3	4	3
2	5	6	5
3	10	11	10
4	20	21	20
5	30	31	30
6	50	51	50

ACCELERATED DEPRECIATION IN THE FIRST YEAR

- Czech tax law allows (for both the above-mentioned methods of depreciation) an increase in the first-year depreciation of some tangible assets in the year in which the assets are put into use, provided certain conditions are met:
 - The taxpayer must be the first owner of the asset.
 - The assets are classified in depreciation groups 1, 2 or 3.
 - The possibility to increase the first-year depreciation cannot be applied to assets such as personal cars, planes, household equipment and certain other given assets.
- The first-year depreciation can be increased by:
 - 10% for office equipment, computers, generators, accumulators, transformers, air-conditioning and most other assets fulfilling the above conditions.
 - 15% for gas generators, filters and rectification appliances.
 - 20% for forestry and agriculture machines owned by taxpayers whose main activity is agriculture or forestry.

DEPRECIATION OF INTANGIBLE ASSETS

- Special rules apply to depreciation of intangible assets. The depreciation method differs depending on the year of the acquisition:

- Assets acquired until the end of the 2000 period are classified in depreciation groups 1, 2 or 3 and are depreciated according to the legislation valid until the end of the 2000 period.
- For assets acquired from the 2001 period to the end of the 2003 period, the accounting depreciation is also applied for tax purposes.
- For assets acquired from the 2004 period, the following rules are applied:

Intangible fixed assets are depreciated from the following month and over the period of time for which the right to use was provided to the company claiming the capital allowances. If no period was agreed, audiovisual work is depreciated over 18 months, software and intangible results of R&D over 36 months, establishment costs over 60 months, and other intangible fixed assets over 72 months.
- Goodwill acquired for a consideration is depreciated over 180 months (for tax purposes).
- Technical appreciation of intangible assets increases the input price of intangible asset, and the taxpayer shall continue to write off depreciation for the remaining part of the depreciation period. However, from 2006, this period should not be for less than 9 months if audiovisual work is concerned, 18 months if software and intangible results of R&D are concerned, and 36 months if other intangible fixed assets are concerned. If the right to use the intangible assets is time limited, the increased input price is depreciated for the remaining period given by an agreement.

Corporate Income Tax for Foreign Entities

GENERAL PRINCIPLES

- A foreign entity is generally subject to Czech tax on the income that it generates in the Czech Republic.
- The extent to which a foreign entity is subject to Czech tax is determined by the activities undertaken in or related to the Czech Republic.
- A foreign entity can be subject to taxation by establishing a branch, creating a permanent establishment, or via withholding tax on Czech-source income.

BRANCH OF A FOREIGN ENTITY

- A branch has to be registered in the Czech Commercial Register.
- It can be a trading and/or non-trading branch.
- It is subject to corporate income tax on its attributable profits minus expenses. For non-trading branches only, it may be possible to negotiate a special method of calculating attributable profit as a percentage of realised sales/income generated from the branch's activities.
- It has the same registration, filing, payment and advance payment obligations as local legal entities.
- Profit distribution to the head office country is not regarded as dividend distribution and is not subject to any taxes.

PERMANENT ESTABLISHMENT (PE)

- A PE is not necessarily a legal entity, but is a taxable entity.
- It is created through:
 - The provision of services (if employees of a foreign company or individuals working in another capacity for the foreign company provide management, consulting or similar services to a Czech entity, including branches, and their presence

- during the provision of such services in the Czech Republic exceeds six months in a 12-month period).
- The maintenance of an office or manufacturing facilities by a foreign entity, irrespective of the six-month rule.
 - A dependent or independent agent, i.e., a person that is entitled to conclude agreements in the Czech Republic in the name of a non-resident and usually executes such entitlement.
 - The conditions for creation of a PE may be modified by the relevant double-taxation treaty.
 - The method of taxation can be negotiated with the Tax Office (if the method is based on a percentage of income earned via the PE, the Tax Office will determine the appropriate percentage).
 - It has the same registration, filing, payment and advance payment obligations as local legal entities.

TAX SECUREMENT

- A Czech individual or entity may be required to secure tax from payments made to foreign, non-EEA based taxpayers having Czech-source income.
- When paying, transferring or crediting an amount to a foreign, non-EEA entity, the Czech tax resident must withhold 10% from income derived from sources in the Czech Republic and 1% from sales of investment instruments and from the repayment of receivables assigned to a foreign, non-EEA entity.
- Czech-source income is defined in the Income Taxes Act.
- A tax securement corresponding to the personal or corporate tax rate, as appropriate, should be withheld from income attributable to general partners of a general or limited partnership.
- The Tax Office may waive the obligation or lower the rate of tax to be secured.
- The secured tax is treated as an advance tax payment of the foreign entity, and the foreign entity may file a tax return

at the end of the year to settle its tax liability in the Czech Republic.

- The relevant double-taxation treaty may eliminate the imposition of tax securement in the Czech Republic by assigning the taxing rights to the other country.

WITHHOLDING TAXES

The payments listed below are subject to withholding tax when made by Czech companies to foreign parties. The rate of tax may be modified by the relevant double-taxation treaty (see the appendix for specific rates applicable to each country) or even abolished if the EU Directives are applicable to payments made to EU tax residents. (The same rules as under the Parent/Subsidiary Directive apply to dividend payments between Czech entities.) The reduced rates are applied automatically.

Dividends 15% or 0%

Dividends paid abroad are subject to the same final withholding tax (15%) as dividends paid to Czech residents if not reduced under the relevant double-taxation treaty. The exemption is available under the rules similar to those in the Parent/Subsidiary Directive or the agreement between Switzerland or other treaty countries as described in the Exemptions section above.

Interest 15% or 0%

Interest paid abroad is subject to 15% withholding tax if not reduced under the relevant double-taxation treaty, the Interest and Royalty Directive or the agreement between Switzerland and the EU as implemented in Czech tax law.

Royalties 15%

As noted above, royalties paid abroad are subject to 15% withholding tax if not reduced under the relevant double-taxation treaty or the Interest and Royalty Directive.

Management fees 15%

These are fees for management services provided in the Czech Republic (representing Czech-source income) that are paid by a Czech tax-resident company to a non-resident without a Czech permanent establishment. The tax rate can be reduced under the relevant double-taxation treaty.

Financial lease payments 5%

Financial lease payments made to a Czech non-resident are subject to 5% withholding tax. The payments made based on agreements signed before 1 January 2008 are subject to 1%.

- For management services fees, interest and royalties, the tax should be withheld by the Czech tax resident on the date of payment to the foreign subject, but no later than the date on which the liability is recorded.
- For dividends, the tax should be withheld by the Czech tax resident on the date of payment to the foreign entity but no later than the end of the third month following the date on which the decision about the payment of dividends was made by the general meeting of shareholders or, in the case of dematerialised shares, by the end of the following month.
- The tax should be transferred to the Tax Office no later than the end of the month following the month in which the tax was withheld.
- The Czech tax resident must notify the Tax Office that the tax was withheld and paid.
- The withholding obligation lies with Czech tax residents. If the tax is not withheld, is withheld in an incorrect amount, or is not transferred to the Tax Office within the deadline, the unpaid tax will become a debt of the Czech tax resident and a penalty, which would be tax non-deductible, can be assessed and charged.
- A tax underpayment will arise if the two-year or one-year holding criterion for the exemption of interest, royalties (from 2011) or dividends under the rules similar to these in the Parent-Subsidiary and Interest and Royalty Directives is not met after the payments were made, as mentioned above.

CERTIFICATE OF PAYMENT OF WITHHOLDING TAX

- The Tax Office will issue a confirmation of payment of withholding tax if requested by the taxpayer, i.e., foreign entity.
- The Czech tax resident who withheld the tax can ask for such confirmation on behalf of the foreign entity.
- This confirmation serves as proof for foreign financial authorities that the tax was paid in the Czech Republic.

REPORTING DUTIES

- Czech residents are obliged to inform the Czech National Bank of all acceptance and settlements of outstanding accounts or payments in respect of a foreign exchange loan exceeding CZK 1 million (approx. EUR 37,940). The above duties are fulfilled by completing the prescribed form issued by the Czech National Bank.

Corporate Tax Compliance

TAX PERIOD

- The tax period can be:
 - A calendar year.
 - A fiscal year (must be 12 successive calendar months).
 - The period from the decisive day of:
 - a merger,
 - a squeeze-out merger, or
 - a de-merger of a company (partnership) or co-operative to the end of the calendar year or fiscal year in which such merger, squeeze-out merger or de-merger is entered in the Commercial Register.
 - The accounting period, if longer than 12 successive months. To change the tax period from a calendar year to a fiscal year, the taxpayer must inform the relevant Tax Office at least three months prior to the suggested starting date of the fiscal year.

FILING

- Returns must be filed within three months of the end of the tax period.
- A three-month extension of the filing deadline is available to a taxpayer represented by a registered tax advisor. This three-month extension is automatically granted subject to a Czech statutory audit.
- In some special cases returns must also be filed after an accounting period that is not considered to be a tax period. In these cases, the filing deadline is shorter, usually one month, and may be extended only with the approval of the Tax Office.

PAYMENT

- Tax payments are due on the same day as the filing deadline.
- A company is obliged to make corporate income tax advances if its last known tax liability exceeded CZK 30,000.
The advance period starts on the day following the statutory date for filing the corporate income tax return.
- Advances are assessed:
 - No advances need to be paid if the last known tax liability did not exceed CZK 30,000.
 - Semi-annually (40% of the last known tax liability) if the last known tax liability exceeded CZK 30,000.
 - Quarterly (25% of the last known tax liability) if the last known tax liability exceeded CZK 150,000.
- Upon filing a tax return, reconciliation is made between the advances paid during the respective tax period and the actual tax liability. Any outstanding amount must be paid on the date the tax return is due. Any overpayment will be refunded upon request or can be credited against future tax liabilities.

Investment Incentives

Investment incentives are available for large-scale manufacturing projects, “strategic services” and “technology centres” and are compatible with EU requirements.

MANUFACTURING INCENTIVES

The support can be granted to investment projects allocating funds to sectors of the manufacturing industry (according to international classification) that support economic development and the creation of jobs in the Czech Republic. The new programme was introduced on 2 July 2007.

Main eligibility requirements

A company must satisfy the following criteria:

- It must be a registered Czech entity (this includes subsidiaries of foreign companies).
- New manufacturing facilities must be constructed or existing facilities expanded.
- A minimum of CZK 100 million (EUR 3.8 million) must be invested into long-term tangible and intangible assets in the form of land, buildings, machinery, know-how and licences.

Note: *Know-how and licences from third parties may be included up to 50% of tangible eligible costs.*

- At least half of the above-mentioned amount should be financed by the equity of the investor.
- Investment into machinery must account for at least 60% of the total investment into the above-mentioned long-term tangible and intangible assets.
- Machinery must be new, i.e., it should never have been depreciated.
- The project must be environmentally friendly.
- The work on the project may not begin before the issuance of the “Confirmation of Project Registration” by CzechInvest.

- Investment or supported newly created jobs should be maintained for at least five years.

Note: In regions with high unemployment, the minimum investment is reduced to CZK 60 million (EUR 2.3 million) or even CZK 50 million (EUR 1.9 million), of which CZK 30 (EUR 1.2 million) million or CZK 25 million (EUR 0.9 million) must come from the recipient's own equity.

Available incentives

The following incentives are available:

- Full or partial corporate income tax relief for up to five years.
- Financial support for job creation.
- Financial support for training/re-training of employees.
- Acquisition of land or land with infrastructure on preferential terms.
- The level of incentives depends on the investment into tangible and intangible fixed assets, the number of jobs created, and the investment into training/re-training of employees. The percentage of granted subsidies depends on the region in which the project is located. The support for companies that qualify as SMEs can be increased by 20% in the case of small enterprises and by 10% in the case of medium-sized enterprises.

BUSINESS SUPPORT SERVICES AND TECHNOLOGY CENTERS

Business support services are generally defined as services that support critical value chains and contribute to the upgrading of key infrastructures (e.g., customer contact centres, shared service centres, expert solution centres, software development centres and high-tech repair centres). Support for “technology centres” is aimed at their development and at motivating companies to invest in innovative activities in the area of pre-production, focusing on investments into assets, employees and training of employees.

Available incentives

- Once the company meets the investment conditions, it can claim two subsidies:

- Business subsidy
- Job training/re-training subsidy
- The level of incentives depends on personnel costs incurred. The percentage of granted subsidies depends on the region in which the project is located, its size, and the type of investment.

Note: The new programme to support business support services and technology centres is effective from 18 April 2007.

FINANCIAL SUPPORT FROM EU STRUCTURAL FUNDS

The Czech government has recently implemented the Operational Programme “Enterprise and Innovation” for the period 2007-2013 to foster the performance and competitiveness of enterprises especially in the area of manufacturing industry and services. Within the framework of this programme, the Czech Ministry of Industry and Trade introduced 15 aid programmes for co-financing business projects in the manufacturing industry and related services.

Most of the aid programmes are designated to support small and medium-sized enterprises. Support for large enterprises operating in the manufacturing industry is possible under the programme implementing Priority Axis 4: “Innovation”. The programme Innovation is aimed at increasing the innovation potential, in particular by:

- implementing technical and usable values of products and technologies (product innovation) or
- implementing an innovative element within the production process (process innovation)

The support may be granted to a large enterprise that is registered in the Czech Republic as an income-tax payer for the period of at least two complete tax periods preceding the date of application for a subsidy. The project supported under the programme Innovation must be tied together with the finalised research and development, which must be documented by the contract on the transfer of the

unique know-how or the licence agreement. The support is provided for the purchase of long-term assets, especially machinery and other equipment, necessary for the implementation of innovative production or processes.

Other activities of large enterprises, but unfortunately not those primarily focused on production support, may also be supported from the Operational Programme “Enterprise and Innovation”:

- Research, development and innovation of products and processes (production is not supported) under the Potential programme.
- Development and implementation of new ICT solutions and applications and creation or extension of high-tech repair centres under the ICT and business support services programme.
- Decrease in the energy intensity of production; decrease in consumption of primary energy resources; increase in the utilisation of energy from renewable resources under the Ecoenergy programme.
- Creation or extension of training centres under the Training centres programme.
- Development of real estate and related infrastructure under the Real Estate programme.
- Creation of clusters and technology platforms under the Co-operation programme.
- Creation or extension of infrastructure for innovative firms as incubators under the Prosperity programme.

Value-Added Tax (VAT)

Value-added tax was first introduced in the Czech Republic on 1 January 1993. In principle, VAT is a tax on consumer expenditure; entities registered for Czech VAT can generally recover Czech VAT costs incurred during the course of economic activity.

Czech accession to the EU has greatly impacted Czech VAT rules and procedures, as EU directives, regulations and case law apply. Entities and individuals registered for Czech VAT charge VAT on the supply of most goods, services, and rights (output VAT). VAT is assessed on the transfer price for the supply and forms part of the cost for the purchaser.

- The standard VAT rate is 19% and applies to most goods and services; a reduced rate of 9% applies to certain services and essential goods.
- As of 1 January 2008, taxpayers may ask the Czech Ministry of Finance for a binding ruling in respect of correct application of the tax rate.
- Entities and individuals registered for Czech VAT can generally reclaim VAT incurred on purchases used for economic activities (input VAT).
- Goods acquired from VAT payers registered in an EU member state are subject to VAT. Czech VAT payers self-assess VAT on acquisition and can reclaim this VAT in the same VAT period, assuming they are fully taxable persons.
- Goods imported from outside the EU are subject to import VAT, which is similarly self-assessed and recovered by VAT payers as with Intra-Community supplies.
- The receipt of certain services from EU or third countries is subject to VAT based on the reverse-charge mechanism, i.e., the Czech customer self-assesses VAT on the purchase of such services, which may also be recovered under normal input recovery rules.
- The dispatch of goods to a VAT payer registered in an EU member state is considered an “exempt with credit” supply, i.e., no output VAT is charged, but the provider is able to

reclaim input VAT related to the supply.

- The export of goods outside the EU is generally also considered an “exempt with credit” supply, i.e., no output VAT is charged, but the provider is able to reclaim input VAT related to the supply.
- The provision of certain services abroad is treated as being outside the scope of VAT.
- Certain supplies (e.g., banking services, insurance, financial operations) are treated as “VAT exempt.” While output VAT on such supplies is 0%, input VAT related to VAT-exempt supplies can not be reclaimed.
- Taxpayers must file VAT returns in which the amount of input VAT paid on purchases is deducted from the amount of output VAT charged. If during the tax period the amount of output VAT charged is higher than the amount of input VAT incurred, the balance must be remitted to the Tax Office. In the opposite case, the Tax Office remits the difference to the taxpayer.
- For Intra-Community transactions, VAT payers must also submit EC Sales list and Intrastat reports.

VAT REGISTRATION

Czech entities and individuals can register voluntarily for VAT if they carry out economic activity in the Czech Republic. VAT registration is mandatory if turnover reaches CZK 1,000,000 (approx.

EUR 38,000) within any twelve consecutive calendar months.

The application for mandatory registration must be filed with the Tax Office no later than the 15th day of the month following the month in which the turnover threshold is exceeded. VAT-only registration for foreign companies is possible in the Czech Republic under EU rules provided taxable supplies will be carried out in the Czech Republic. With effect from 1 January 2008, a group of related companies can register as a single VAT entity.

ADMINISTRATION

VAT is administered by the Tax Office, with the exception of import VAT, which is administered by the Customs Office for non-VAT registered persons. Complete and accurate records of input and output VAT must be kept. For input VAT refund purposes, this involves invoices or receipts that meet the conditions of a tax document for VAT purposes. For output VAT, invoices with all essential details are required. Special rules apply to import and export. For VAT return purposes, received taxable supplies must be divided into domestic, Intra-Community, and imported supplies. Received supplies must be further allocated into one of three groups based on the purpose and type of supply and the taxpayer's economic activity.

The Tax Office is authorised to make compliance visits to ensure that records and accounts are in order and that VAT is charged and paid correctly. Compliance visits tend to occur frequently, particularly if the VAT refund amount is high. An issue not identified at one compliance visit can be identified at a subsequent visit. VAT returns must be filed within 25 days of the end of the taxable period (see below) and any VAT liability paid within this time period. Significant penalties can be and are frequently imposed by the financial authorities for failure to comply with VAT legislation.

EC Sales List and Intrastat Reporting

In addition to VAT returns, VAT payers involved in Intra-Community trade must file an EC Sales List for the delivery of goods to VAT payers in the EU. This document is filed quarterly together with the VAT return with a local tax authority. For statistical purposes, VAT payers involved in Intra-Community trade must file Intrastat reports to record the movement of goods across internal EU borders. The reports are filed monthly with the local Customs Office if trade exceeds a certain volume. The deadline for submission of Intrastat reports is 10 working days after the respective month end if submitted in hard copy and 12 working days if submitted electronically.

TAX PERIOD

- One calendar month - if turnover exceeds CZK 10 million (approx. EUR 378,400) in the previous calendar year.
- Calendar quarter - if previous annual turnover is less than CZK 2 million (approx. EUR 75,900) and for all “VAT only” registered taxpayers.
- Monthly or quarterly - if previous annual turnover is more than CZK 2 million but less than CZK 10 million (the taxpayer may choose).

Upon registration for VAT, the tax period is determined based on anticipated turnover.

TAX POINT

Each transaction subject to VAT has a “tax point,” i.e., the date on which the supplier is obliged to charge output VAT. This in turn defines the tax period to which the taxable supply belongs. For the sale of goods based on a purchase agreement, VAT payers charge VAT on receipt of payment or the date of taxable supply, whichever occurs first. For most goods and, in particular, for services, it is necessary to determine the date of taxable supply based on the specifics and according to Czech legislation.

PLACE OF SUPPLY

If goods or services are supplied in the Czech Republic, they are subject to Czech VAT (as applicable). However, for various transactions and in particular for the provision of cross-border services, it can be difficult to determine the place of supply. In general, if goods are made available in the Czech Republic or are located in the country at the time delivery begins, they are considered as supplied in the Czech Republic and, therefore, subject to Czech VAT.

Services are generally considered as provided in the Czech Republic if the provider is located in the Czech Republic. Certain

services are subject to reverse charge, and their place of supply is where the recipient is located. Different rules apply to different types of services, and it can be quite difficult in some cases to determine the place of supply.

Services subject to reverse charge include

- Transfer or assignment of copyrights, patents, licences, trademarks, and similar rights.
- Advertising services.
- Services of advisors, engineers, consultants, lawyers, accountants, data processing and supply of information.
- Banking, financial and insurance services.
- Supply of staff.
- Lease of movable tangible property, except all means of transport.
- Telecommunications services.
- Operation of radio and television broadcasting.
- Electronic services.
- Obligation to refrain from pursuing or exercising, in whole or in part, a business activity or a right referred to in this list.
- Supply of services by disclosed agents for services referred to in this paragraph.

For the transfer of real estate or the delivery of a structure, the place of supply is the place the real estate or structure is located.

REFUND OF INPUT VAT

VAT that is to be reclaimed is divided into three different groups of taxable supplies: supplies with a full refund of VAT, supplies with no refund of VAT, and supplies with a partial refund of VAT. Taxpayers must allocate received supplies (purchases) to one of these three groups.

- **Group 1** - purchases used for economic activity subject to output VAT; purchases used for economic activity subject to zero-rated VAT (e.g., export of goods, Intra-Community deliveries); purchases related to supplies outside the scope of VAT (in certain cases); and for a limited number

of purchases related to taxable supplies that are VAT-exempt.

- **Group 2** - purchases used to provide VAT- exempt supplies or supplies that do not relate to economic activities of the taxpayer. No refund of input related to purchases used to provide VAT-exempt supplies is allowed.
- **Group 3** - purchases used for both Group 1 and Group 2 supplies. For purchases classified under Group 3, the taxpayer is obliged to reduce its refund of VAT, i.e., only a partial VAT refund is possible.

NON-RECOVERABLE INPUT VAT

Certain input VAT is always irrecoverable and is, therefore, always an actual cost to a business. Currently, this applies to purchase or financial lease of passenger cars, technical improvements to passenger cars, and tax non-deductible representation expenses.

REFUND OF CZECH VAT TO EU VAT PAYERS

VAT payers registered in an EU member state are entitled to a refund of Czech VAT. These VAT payers must file a refund application (in Czech) with the Tax Office for Prague 1 not later than 30 June of the following year and fulfil all other statutory and procedural requirements.

REFUND OF CZECH VAT TO EU NON-VAT PAYERS

The refund of VAT to non-EU VAT payers is based on the system of VAT reciprocity. Currently Switzerland, Norway and Macedonia have confirmed VAT reciprocity with the Czech Republic. An application for a refund of VAT based on reciprocity must be filed not later than 30 June of the following year with the Tax Office for Prague 1 and meet all statutory and procedural requirements.

REFUND OF CZECH VAT TO TOURISTS

Under certain conditions, foreign nationals (tourists) who are not citizens of an EU member state are entitled to a VAT refund when they take purchases made in the Czech Republic abroad. VAT is refunded if all conditions are met, i.e., the foreign national has neither permanent nor temporary residence in the Czech Republic; the price of purchased goods (including VAT) paid to a single vendor exceeds a certain amount of Czech crowns; and the goods leave the EU no later than three months from the end of the month in which the purchase was made. The entitlement to a VAT refund expires after six months from the end of the month in which the purchase was made. The VAT refund is restricted in the case of certain goods, such as tobacco products, alcoholic beverages and foodstuffs.

VAT AND OTHER TAXES

When calculating taxable profit for income tax purposes, VAT that cannot be reclaimed may be deducted as a business expense. Similarly, VAT that is not recovered may be included in the capital costs of assets that are depreciated for tax purposes. VAT that is not recovered will normally arise only for entities that make VAT-exempt supplies or which are not registered for Czech VAT. If a full refund of input VAT is made, the relevant transaction is recorded net of VAT for income tax purposes. For more information on income tax in the Czech Republic, please refer to our Corporate Tax chapter.

Types of Supplies

Taxable Supplies (19%, 9% VAT).

In general, the sale of most goods and services is subject to 19% output VAT. Certain essential goods and services are subject to the reduced VAT rate of 9%. This basically includes all food and beverages (other than alcohol) and social housing.

VAT-Exempt Supplies

VAT-exempt supplies are charged with no output VAT. The provider cannot reclaim input VAT incurred in connection with the provision of most VAT-exempt supplies. VAT-exempt supplies include banking, insurance, and financial operations; postal services; public radio and television broadcasting; the sale or lease of land; and the sale or lease of buildings, unless the option to tax is pursued. If during the course of business a taxpayer provides both VAT-exempt and taxable supplies, the taxpayer must reduce his overall VAT refund by a coefficient that is determined by reconciling the amount of taxable supplies against the total amount of all supplies (including exempt supplies) in each tax period. For providers of VAT-exempt supplies, the reduction of the VAT refund can be significant. It is advisable to seek consultation if transactions are carried out in the Czech Republic involving an entity providing exempt supplies.

VAT Exempt with Credit (Zero-Rated) Supplies

In general, the export of goods and the Intra-Community delivery of goods are the most frequent supplies treated as exempt with credit. No output VAT applies, and the provider is entitled to a full refund of input VAT incurred in connection with the provision of such supplies.

Supplies outside the Scope of Czech VAT

In general, transactions that do not have their place of supply in the Czech Republic, such as reverse-charge services, are considered to be outside the scope of Czech VAT and have no Czech VAT implications. Related input tax is generally recoverable.

Energy taxes

- The tax reform introduced a new type of indirect taxes implementing the relevant EU regulations in the area of environmental taxes with effect from 1 January 2008.
- These taxes are levied on supplies of electricity, natural and other gases, and solid fuels ("energy"). The payers of energy tax are either suppliers of energy in the Czech Republic selling the energy to end users or operators of distribution or transmission systems. Taxpayers are also, e.g., entities that use tax-exempt energy for other than exempted purposes or that used untaxed energy.
- The amount of tax on electricity is calculated by multiplying the tax base, i.e., the amount of electricity in MWh, by the tax rate, which is CZK 28.30/MWh.
- The tax base for gas is the amount of gas in MWh of gross heating value. The tax rate varies from CZK 0/MWh to CZK 264.80/MWh, depending on the nomenclature code for gas and the date the tax liability arose.
- The tax base for solid fuels is set as the amount of solid fuels expressed in GJ of gross heating value in the original sample. The tax rate is CZK 8.50/GJ of gross heating value in the original sample.

Road Tax

- Taxable vehicles include:
 - Vehicles registered and operated in the Czech Republic for commercial purposes.
 - Vehicles over 12 tonnes used exclusively for freight transport and registered in the Czech Republic.
 - Cars belonging to employees that are used for business trips, if the employer pays travel allowances to the employees.
- Exempt vehicles include, among others:
 - Motorcycles,
 - Buses for public transport,
 - Public emergency and rescue vehicles,
 - Electric vehicles.
- The person named on the vehicle's registration document is liable to pay the tax, except when an employee's and car is used for commercial purposes, in which case the employer is liable. This includes Czech branches and permanent establishments of foreign companies.
- The road tax liability is calculated as follows:
 - For passenger cars used for commercial purposes, the liability is based on the vehicle's engine capacity and ranges from CZK 1,200 to CZK 4,200.
 - For semi-trailers, the liability is based on the maximum permitted weight and number of axles and ranges from CZK 1,800 to CZK 50,400.
 - For other vehicles (e.g., trucks, trailers), the liability is based on a combination of their weight and the number of axles; the tax ranges from CZK 1,800 to CZK 50,400.
 - For cars belonging to employees that are used for business purposes, the tax may be based on either the number of days used (using the special tax rate of CZK 25 per day) or the usual annual tax rate.
- The standard road tax liability can be reduced as follows:
 - 25% for vehicles used in agriculture.
 - Up to 48% for vehicles that meet EURO emission limits. The relief does not apply to passenger cars.

- Up to 100% for vehicles used for transporting ISO containers or in combined car-train-car or car-boat-car transport (depending on the number of journeys in the tax period).
- The standard road tax liability is increased by 15% for vehicles registered in the Czech Republic before 1990.
- The liability is proportionally reduced if the vehicle is used only for part of the year.
- Road tax is calculated on an annual basis for the calendar year. Quarterly tax advances must be paid by 15 April, 15 July, 15 October and 15 December. Any outstanding liability must be paid by 31 January of the following year.
- The road tax return must be filed by 31 January following the end of the tax period and can be filed electronically.

Real Estate Transfer Tax

- Real estate transfer tax is levied on the sale or transfer of real estate.
- The tax rate is 3% and is levied on either the transfer price or the officially assessed value, whichever is higher. The tax is normally payable by the seller, with the purchaser acting as the guarantor.
- The tax return must generally be filed by the end of the third month following the month in which the transfer of legal title occurred.
- The tax is due by the deadline for filing the tax return.

Real Estate Tax

- Real estate tax is payable by the legal owner of land or buildings located in the Czech Republic.
- If ownership cannot be determined, real estate tax is payable by the user of the land/property. In practice, the user of the real estate bears the burden of the tax, either directly or through increased rent or service charges.
- Owners of real estate must file a real estate tax return with the Tax Office by 31 January of the taxable period in the first year. In other years the tax return is filed only if a qualifying change to the real estate has occurred since the previous year.

Inheritance Tax

- Applies to property gratuitously acquired as the result of an individual's death.
- Is assessed on the net value of property acquired after the deduction of debts and other liabilities.
- Is payable by the recipient within 30 days of the day that the recipient receives the tax assessment document stating the amount due.

Tax rate

- The tax is levied on a scale of progressive rates ranging from 0.5% to 20%, depending on the value of the property and the group into which the transferor and transferee fall.
- Depends on the relationship between the recipient (transferee) and the decedent (transferor).
- Individuals are categorised into three groups according to their relationship:
 - **Category I**
 - direct relatives and spouses.
 - **Category II**
 - a) other relatives (in the collateral line), namely siblings, nephews, nieces, uncles and aunts.
 - b) children's spouses, husbands' children, husbands' parents, spouses of parents and, if certain conditions are met, persons living with the testator in a common household.
 - **Category III**
 - other individuals and legal entities.

Main exemptions

- Transfer of assets up to certain limits:
 - **Category I** - fully exempt.
 - **Category II** - fully exempt.
 - **Category III** - value of movable assets up to CZK 20,000.

Savings accounts at registered banks in the Czech Republic exempt up to CZK 20,000.

Gift Tax

- Is levied on the value of the property donated, reduced by related debts and other liabilities.
- Is payable by the taxpayer within 30 days of the day the taxpayer receives a tax assessment stating the amount due.

Taxpayer

- The taxpayer is normally the recipient, unless the gift is donated abroad, in which case the donor is the taxpayer.

Tax rate

- The gift tax rate is double the applicable rate of inheritance tax.
- Depends on the relationship between the recipient and the donor.
- Individuals are categorised into three groups according to their relationship (same categories as applicable in the case of inheritance tax).

Category I and II are fully exempt from gift tax. The same exemption limits as in the case of inheritance tax apply to Category III.

Tax return

- A specific gift tax return must be filed within 30 days of, for example:
 - The day a gift of movable property is made.
 - The day a gift is provided abroad or received from abroad.
 - The day the official document confirming ownership of real estate is delivered to the taxpayer.

Assessments

- A tax may not be assessed or additionally assessed after three years have elapsed from the end of the taxable period during which the obligation to file a tax return arose.
- If legislation directed at the assessment of tax or additional tax is enacted within three years of the end of the taxable period, the three-year period commences anew from the end of the year in which the taxpayer was notified of this act.
- Tax may be assessed or additionally assessed no later than ten years after the end of the taxable period during which the duty to file a tax return arose.
- The assessment period is extended for companies receiving investment incentives and companies utilising tax losses.

Additional Tax Return

- If a taxpayer discovers an error in the tax return resulting in a higher tax liability or a lower loss, an additional tax return must be filed within one month following the month in which the error was discovered. Any additional tax must be paid within this time limit.
- If a taxpayer discovers an error in its favour in a filed tax return, an additional tax return can also be filed under certain conditions.
- The additional tax return can also be submitted if the taxpayer makes only a correction that does not change his last known tax liability but only concerns data previously declared.

Tax fines and penalties

As of 1 January 2007, new rules for penalties calculation were introduced.

Penalties

Penalties will become a one-off fine of:

- 20% if the tax is increased or the tax deduction decreased
- 5% if the tax loss is decreased

The tax liability declared based on an additional tax return is not subject to penalty calculation.

Default interest

The Administration of Taxes Act regulates default interest, which is deemed a pecuniary fine for late payment, i.e., as the hitherto regulation on penalties. The amount of default interest is 14% plus the repo rate of the Czech National Bank valid on the first day of the calendar half-year (i.e., as at 1 January 2007 the repo rate will be 3.5%; thus, the overall default interest will be 17.5%).

This new amendment applies to taxes where the deadline for filing the tax return expires after 1 January 2007, or more precisely, to taxes whose primary payment date occurs after 1 January 2007. This means that for taxes where the deadline for filing the tax return expired before 31 December 2006 (or for taxes whose primary payment date occurred before 1 January 2007), the wording that applied until such time is used, i.e.:

- A taxpayer is subject to cash penalties if:
 - It fails to pay its tax liabilities in full and on time.
 - Tax is under-declared in a tax return and is increased by an additional tax return filed voluntarily by the taxpayer.
 - A tax assessment was made by the Tax Office resulting from an inspection.
- The standard penalty is 0.1% of the outstanding amount per day, assessed from the day following the day when the

tax was due until the full amount is paid. The penalty is halved if the under-declared tax is discovered and reported by the taxpayer. If the tax authorities make the discovery, the penalty can be doubled to 0.2% of the outstanding amount per day. This calculation applies for the first 500 days of delay; from the 501st day, the penalty is calculated as 140% of the Czech National Bank's discount interest rate.

- For the late filing of a tax return, the penalty can be up to 10% of the total tax liability.
- Failure to comply with non-monetary obligations, e.g., late registration or failure to keep appropriate tax records, may result in repeatedly assessed fines of up to CZK 2 million in total. The cash fine can be imposed repeatedly and can be imposed up to two years from the end of the year in which the action that gave rise to the right to impose a fine occurred.
- There are other potential penalties for failure to comply with the requirements of Czech accounting law and health insurance and social security law.

APPENDIX

Withholding taxes

Czech corporations are required to withhold tax on payments of dividends, interest and royalties as follows.

Recipient	Dividends	Interest	Royalties
	%	%	%
Resident corporations	0/15 ¹	0	0
Resident individuals	15	15 ² /PIT ³	0

Non-resident corporations, individuals

Non-treaty:

Corporations	0/15 ⁴	0/15 ⁴	1/25 ^{4,5}
Individuals	15	15	1/25 ⁵

Treaty:

	Dividends ⁶	Interest ⁷	Royalties ⁸
Albania	5/15	0/5	10
Australia	5/15	10	10
Austria	10	0	0/5
Belarus	10	0/5	10
Belgium	5/15	10	0/10
Brazil	15	10/15	15/25
Bulgaria	10	0/10	10
Canada	5/15	0/10	10
China, P. R.	10	0/10	10
Croatia	5	0	10
Cyprus	10	0/10	0/5
Denmark	15	0	0/5
Egypt	5/15	0/15	15
Estonia	5/15	0/10	10
Finland	5/15	0	0/15/5/10
France	10	0	0/5
Germany	5/15	0	5
Greece	Local rates	0/10	0/10
Hungary	5/15	0	10
Iceland	5/15	0	10
India	10	0/10	10
Indonesia	10/15	0/12.5	12.5
Ireland, Rep. of	5/15	0	10
Israel	5/15	0/10	5

Italy	15	0	0/5
Japan	10/15	0/10	0/10
Kazakhstan	10	0/10	10
Korea, Rep. of	5/10	0/10	0/10
Latvia	5/15	0/10	10
Lebanon	5	0	5/10
Lithuania	5/15	0/10	10
Luxembourg	5/15	0	0/10
Macedonia	5/15	0	10
Malaysia	0/10	0/12	12
Malta	5	0	5
Mexico	10	0/10	10
Moldova	5/15	5	10
Mongolia	10	0/10	10
Netherlands	0/10	0	5
Nigeria	12.5/15	0/15	15
Norway	5/15	0	0/5
Philippines	10/15	0/10	10/15
Poland	5/10	0/10	5
Portugal	10/15	0/10	10
Romania	10	0/7	0
Russia	0	0	10
Singapore	5	0	10
Slovak Republic	5/15	0	0/10
Slovenia	5/15	0/5	10
South Africa	5/15	0	10
Spain	5/15	0	0/5
Sri Lanka	15	0/10	0/10
Sweden	0/10	0	0/5
Switzerland	5/15	0	10/5
Thailand	10	0/10	5/10/15
Tunisia	10/15	0/12	5/15
Ukraine	5/15	5	10
United Arab Emirates	0/5	0	10
United Kingdom	5/15	0	0/10
United States	5/15	0	0/10
Uzbekistan	10	0/5	10
Venezuela	5/10	0/10	12
Vietnam	10	0/10	10
Yugoslavia (former)	5/15	0	10

Notes:

1. See section *Securities, Income From Securities, Dividend Income*.
2. Applies to interest income from bonds, term deposits, etc.
3. Inclusion in the personal income tax base applies to interest income from loans, credits, etc.
4. See the section *Corporate Income Tax for Foreign Entities, Withholding Taxes*.
5. The lower rate applies to lease contracts under which the lessee has the right to purchase the leased asset at the end of the lease period, provided the lease is of a certain minimum duration.
6. The lower rate applies if the recipient is a company that owns at least a certain amount of the capital or a certain amount of the voting shares of the company paying the dividend directly (mostly 25%).
7. The lower rate applies mostly in situations when the interest is received by the government or a state-owned institution or is paid by the government.
8. The lower rate applies mostly to cultural royalties.

Arrangements regarding double taxation involving the former Soviet republics, except for the Baltic republics, Belarus, Kazakhstan, Moldova, Russia, Uzbekistan and Ukraine, continue to be governed by the CMEA (COMECON) multilateral tax treaties for legal and physical entities. These treaties provide for a nil rate of withholding on dividends, interest and royalties.

As part of the Czech Republic's economic plan, it is working toward double-taxation treaties with countries that are or will be its most important trading partners.

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