

Department of Financial Law
and Economics



Michal Radvan

CZECH TAX LAW

MASARYK
UNIVERSITY
PRESS

CZECH TAX LAW

**MASARYK
UNIVERSITY
PRESS**

**MUNI
LAW**

CZECH TAX LAW

Michal Radvan



Masaryk University
Brno 2020

Reviewed by Assoc. Prof. JUDr. Radim Boháč, Ph.D.

© 2005, 2008, 2010, 2020 Michal Radvan

© 2020 Masaryk University

ISBN 978-80-210-9673-8

ISBN 80-210-3702-4 (1st edition) (paperback)

ISBN 978-80-210-4681-8 (2nd edition) (paperback)

ISBN 978-80-210-5269-7 (3rd edition) (paperback)

Table of Contents

Introduction	7
1 Tax Law as an Independent Branch of Law	9
1.1 Object of Tax Law.....	9
1.2 Method of Legal Regulation of Tax Law.....	11
1.3 System Coherence of Tax Law Norms.....	14
1.4 Social Acceptance of Tax Law.....	20
2 Czech Tax System	23
3 Personal Income Tax	31
3.1 Incomes from Dependent Activities.....	31
3.2 Incomes from Business Activities.....	34
3.3 Capital Incomes.....	35
3.4 Rental Incomes.....	36
3.5 Other Incomes.....	36
3.6 Incomes Not Liable to Tax and Exempt Incomes.....	36
3.7 Personal Income Taxpayers.....	37
3.8 How to Assess Personal Income Tax.....	38
3.9 Personal Income Tax Administration, Payments, and Budget Destination.....	42
4 Social Security and Health Contributions	43
5 Corporate Income Tax	45
5.1 Object of Corporate Income Tax and Exemptions from Taxation.....	45
5.2 Corporate Income Taxpayers.....	46
5.3 How to Assess Corporate Income Tax.....	46
5.4 Corporate Income Tax Administration, Payments, and Budget Destination.....	47
6 Immovable Property Tax	49
6.1 Land Tax.....	49
6.2 Building Tax.....	52
6.3 Flats and Non-Residential Premises Tax.....	57
6.4 Immovable Property Tax Administration, Payments, and Budget Destination.....	58

7 Road Tax and other Charges on Using Roads	59
7.1 Road Tax.....	59
7.2 Time Charge (Vignette).....	63
7.3 Electronic Toll.....	63
8 Gambling Tax	65
9 Levy on Electricity from Solar Radiation	67
10 Value Added Tax	69
11 Selected Excise Taxes	73
11.1 Excise Tax on Petroleum Oils.....	74
11.2 Excise Tax on Spirit.....	75
11.3 Excise Tax on Beer.....	75
11.4 Excise Tax on Wine and Semi Products.....	76
11.5 Excise Tax on Tobacco Products.....	76
11.6 Tax on Heated Tobacco Products.....	77
11.7 Tax on Rough Tobacco.....	77
11.8 Tax on Earth Gas and Other Gases.....	77
11.9 Tax on Solid Fuels.....	77
11.10 Tax on Electricity.....	77
11.11 Selected Excise Taxes Administration, Payments, and Budget Destination.....	78
12 Local Charges	79
12.1 Administration of Local Charges.....	83
13 Other Charges	85
14 Tax Administration	87
14.1 Basic Terms and Principles.....	88
14.2 Tax Assessment Procedure.....	92
14.3 Tax Payment.....	94
14.4 Remedial Instruments.....	97
14.5 Other “Remedial” Instruments.....	99
14.6 Judicial Appeals.....	100
15 Double Taxation Prevention Treaties	105
Literature	107

Introduction

This information package aims to provide basic information on Czech tax law and the tax system used in the Czech Republic. It has been designed primarily for international students and LL.M. and MPA students studying tax law in the Czech Republic. Nevertheless, my hope is that anyone liable to tax in the Czech Republic finds there a lot of useful information. Every tax is described according to its structural items (components – the object of taxation, the subject liable to tax, possibilities for exemptions and the other correction components, the tax base, tax rate, and the tax administration). The many theoretical and research problems we are discussing in the Czech Republic in the given area are not the goal of this package, but the author offers additional consultations for the readers.

The Czech tax law and tax system are relatively new. After the significant changes in 1989 (so-called “Velvet Revolution”), it was necessary to prepare an entirely new tax system because of the changing economic and social atmosphere. In 1993 former Czechoslovakia split up into two separate states – the Czech Republic and the Slovak Republic. It was necessary to prepare the tax system for the newly independent Czech Republic before the end of 1992. That system was created too quickly to be without any mistakes. It was necessary to amend the tax acts several times. Still, many of these acts are too vague and there are many difficulties with their application and interpretation.

In 2004 (1 May), the Czech Republic became a Member State of the European Union. The EU claims that taxes fall within the discretionary powers of individual states, but it is not true. Especially when we speak about indirect taxes, many EU directives are binding on the individual Member States, and we are gradually becoming aware of the EU’s intervention into direct taxation. As well the economic situation is changing quite quickly, especially in the area of digitalization. Due to these facts, the Czech Republic must regularly amend (or make completely new) tax acts, such as the VAT Act or the Excise Taxes Act. In the future, we can expect that numerous changes in Czech tax law will be introduced and it will be necessary to prepare a new edition of the book dealing with Czech taxation.

Because of many changes in the legal regulation of the Czech tax system, it is necessary to modify the last edition of the information package “Czech Tax Law”. That is why now you hold in your hands the fourth edition of this publication. Most information in this booklet refers to the acts in force as of 1 January 2021 (if these acts were adopted no later than 15 September 2020).

Brno, 15. 9. 2020

Michal Radvan

1 Tax Law as an Independent Branch of Law¹

Tax law science has a longstanding tradition in the USA and Western Europe. It is sufficiently advanced that the question is hardly even posed whether tax law can be considered an independent branch of law. In contrast, Central and Eastern European legal sciences have only recently admitted the independent existence of financial law, which split from administrative law in the second half of the 20th century. Financial law, however, is a very broad area of law covering public finance, the financial sector (banking, insurance, capital markets), currency and foreign exchange, accounting, etc. Moreover, this is an area of law that is continually evolving, with new laws being passed or existing laws being amended. This hyperactivity stems not just from rapid economic development, to which the law sometimes reacts quickly and sometimes slowly and with more difficulty, but also from European Union law, which forces EU Member States to incorporate hundreds of EU directives into national legislation.

Tax law is an independent branch of law as it fulfills all criteria for being considered an independent branch of law, namely:

- separate and specific object of legal regulation;
- method of legal regulation;
- system and system coherence of legal norms;
- social acceptance of the branch.

1.1 Object of Tax Law

The object of tax law is the social relationships that, in addition to taxes *sensu stricto*, also deal with charges, customs duties, and similar levies, provided that they are paid into public funds (the state budget, local self-government budgets, state funds, etc.). These relationships are created, implemented, and expire in the process of creating public monetary funds. The primary purpose of regulation is to ensure a material basis for the subsequent provision of public goods by means of filling up public funds. It is possible

¹ A part of this chapter was previously published: RADVAN, M. Tax Law as an Independent Branch of Law in Central and Eastern European Countries. *Lex Localis – Journal of Local Self-Government*, 2014, no. 4, pp. 813–827. DOI: 10.4335/12. 4. 813-827(2014)

to determine the amount of the funds that are the object of such relationships (the amount of taxes, fees, etc.).

There is no doubt that these relationships will always be of an economic nature. The contents, creation, interpretation, and application of legal norms are also influenced by the type of economy in the given country and the economic model resulting from the government's economic policies. A good example might be the changes which took place after 1989, which led to an entirely new tax system in Central and Eastern European countries. To a lesser degree, the changes in government coalitions after parliamentary votes (e.g., introducing a linear percentage rate on income tax for natural persons and the gradual cancellation of inheritance tax and gift tax) usually mean the changes in tax law regulation, too.

Tax law relationships are monetary relationships *sui generis*, where the object of such relationships is public finances, i.e., receivables of public funds against tax entities and other entities in a similar position. These relationships are not monetary relationships under private finances, although pursuant to the law, certain relationships from the category of private finances can represent financial facts establishing the creation, change, or expiration of a monetary relationship falling under the category of tax law relationships, i.e., the object of tax law. One example is the payment of wages by the employer to the employee, which takes place in the process of performing the obligation of their private (private law, labor law) relationship by reallocating private monies between private monetary funds (funds for meeting private needs). This fact, however, is a financial fact establishing the employee's obligation to permit a deduction in wages by the mandatory amount transferred by the employer to certain public funds, specifically in the form of income tax (a personal income tax advance payments), social security and health contributions (social, pension, health) and other potential contributions stipulated by law (e.g., contribution to the state employment policy). The employer is also obliged to pay the levy essentially in the form of payroll taxes (the part of the employee's social security and health contributions covered by the employer) or social security and health contributions (e.g., the legally required accident insurance for employees), etc.

A tax law relationship must be considered a relationship with no equivalent and no direct counter-performance by the public monetary fund or fund administrator to the entity fulfilling its tax law obligation (e.g., paying taxes). We can also state that performances under these relationships are not only non-equivalent but irrecoverable. For instance, a tax is not a loan to the State or a conditional payment returnable in case of failure to perform the obligations on the part of the State (failure to fulfill the government program). The principles mentioned above make it clear that the relationships in question are power relationships: one of the participants is endowed by law with superior power, namely with the power to force performance of obligations using the threat of sanction or by actually enforcing the sanction from and within the confines of the law, and the other participant is obliged by law to fulfill the obligation stipulated by law, permit verification of the performance of the participant's obligation, and submit to potential sanctions, all insofar as the superior entity is proceeding within the confines of the authorizations, resources, and procedures stipulated by law. Unlike the object of branches of law classified under private law, where these social relationships can be classified as horizontal ("peer-to-peer") relationships, the relationships regulated by tax law belong to the category of public law relationships, i.e., relationships between entities on an unequal footing – vertical relationships, and considering the method of regulation, also potentially diagonal relationships.

1.2 Method of Legal Regulation of Tax Law

The power imbalance inherent in the social relationships regulated by tax law makes it clear that tax law will also use the regulation method with the characteristic features customary for the branches of law that we classify under the heading of public law within the traditional continental European concept of the system of law (legal culture) established on the basis of Roman law. In addition to tax law, this category certainly also includes financial law, constitutional law, administrative law, criminal law, etc.

Tax law is related to financial law and administrative law not just by their historical connection but also by the method of legal regulation. Based on its

characterization according to the criteria for being considered an independent branch of law, administrative law is distinguished by applying a type of public law method, which is the administrative law regulation method. This method is based on the effect of public authorities on the recipients of public authority, in particular by means of the norms enforceable by public authorities and contained in normative administrative acts, i.e., bylaws and ordinances issued by public authorities authorized in and for the implementation of the law and within limits stipulated by law (sub-statutory regulations), as well as by means of individual administrative acts – decisions of the public authorities authorized by law to make such decisions in the specific administrative matter. Just as public administration is gradually absorbing the client model into its operations, where its activities fit the image of real public service in place of the more or less repressive authoritarian police administration of a traditional bureaucratic nature, the administrative law method is also gradually incorporating new elements closer to private law methods (the contract). The method applied in financial law is essentially a modified version of the administrative law method, namely with regard to the actions of public administration authorities and in relationships regulated by financial law. Statistics can demonstrate a lower level of applying sub-statutory regulations in financial law regulation than in administrative law; in other words, the law gives public administration authorities less space to carry it out. Public administration authorities apply economic instruments to a greater extent in this area to affect recipients (the Czech National Bank interest rates, mandatory deposit in a state of emergency, etc.). Certain private law elements also modify the administrative law method, such as agreeing on the conditions for the use of grant funds, applying the principle of competition in using public funds in public procurement, etc. Certain administrative activities are also delegated to private law entities, such as monitoring fulfillment of the obligations stipulated by the Foreign Exchange Act to the client in carrying out currency exchange transactions, where this administrative activity is delegated to the currency exchange point (a bank or other entity with a currency exchange license).

A similar situation prevails in tax law. Very few sub-statutory regulations exist in this area; the vast majority of legal regulations in the area of tax law

take the form of an Act, primarily with regard to such a requirement stipulated in the Constitution or a similar document (e.g., in the Czech Republic such rule is contained in the Charter of Fundamental Rights and Basic Freedoms, which forms part of the constitutional system along with the Constitution). Of the types of sub-statutory regulations, the most significant in the Czech Republic are the generally binding ordinances, which municipalities (or other local self-government units) use to “complete” the legal regulation of property taxation and local taxes (fees). This area also contains many economic instruments that public administration authorities can use to affect recipients. These instruments generally include, e.g., tax credits and other corrective elements, tax holidays, etc. Specific to this area is the widespread use of private law elements to modify the traditional administrative law method of regulation. As an example, take the options of negotiating taxes, postponing taxes, payment calendars, etc. We can even find typical private law relationships in tax law, such as the relationship of an employer who pays wages (salary) to an employee: their relationship is, without a doubt, a labor law relationship, although the employer is obliged to deduct a personal income tax advance payment as well as social security and health contributions and other levies stipulated by law from the employee’s wages and the employee is obliged to permit such conduct. The authority to withhold tax is thus delegated from the State to a private law entity. Many analogous relationships can be found in tax law (a bank withholds tax on the interest accrued, a joint-stock company withholds tax on dividends, a seller collects VAT from a buyer along with the sale price, etc.).

What is the most specific to tax law, however, is a principle known as self-application. In tax proceedings (unlike in administrative or financial law), the administrative negotiations do not take place between the administrative authority (tax administrator) and (tax) entity, but rather primarily assume the knowledge and orientation of the tax entity in the area of tax law. The taxpayer applies tax law norms to itself by determining the tax base using its knowledge, uses the relevant tax rate for itself, and applies the corrective elements. The taxpayer then delivers the completed tax return to the tax administrator, which assesses the tax tacitly, i.e., implicitly, provided that it has no reservations regarding the correctness and completeness

of such return. In most cases, therefore, there is no interaction at all between the tax administrator and taxpayer.

Based on the facts mentioned above, we can state that tax law relationships certainly have a public law nature, reflecting the priorities of the public interest in the given area. The mandatory nature is moderated, however, in certain instances with an element of choice (voluntary VAT payer, method of depreciation, lump-sum expenditures for income taxes). Considering the above-stated specifics of the regulation method in tax law, the regulation method can be defined as an administrative law method modified to include private law elements using self-application.

1.3 System Coherence of Tax Law Norms

System coherence represents the level of interconnectedness of the norms in the given legislative area, i.e., to what extent the norms in such areas are linked to each other compared to those in other branches of law. A branch of law is not an island to itself in the sea of legislation; the norms of one branch have a certain relationship (even if not as strong) to the norms in another branch. The closest links are those between norms regulating the same category of social relationships (e.g., the set of legal norms regulating social relationships involving personal income tax on employment and emoluments), then those between norms regulating relationships involving less specified objects (personal income tax), then norms relating to both kinds of income tax (personal income tax and corporate tax), and lastly tax law norms – norms relating to all taxes (primarily the general institutions, policies, and principles valid for tax law as a whole). Outside of tax law, the closeness of the links will depend on how much the legislation overlaps (e.g., to what extent the laws refer to each other). A greater level of connection should exist between tax law and the other branches of public law.

The system coherence of tax law norms must be divided into external system coherence, expressing the relationship to other branches of legislation, and internal system coherence, i.e., within the system of tax law.

From the standpoint of the relationship to other areas of the law, the first consideration should be given to constitutional law. As in other areas of law,

the constitutions of Central and Eastern European countries generally fundamentally regulate certain institutions, institutes, and policies relating exclusively to tax law and also, of course, general policies and principles that apply to all legislation. Constitutions usually address issues of the operation of fiscal federalism and guaranteeing the economic autonomy of public self-administration authorities. The Constitution of the Czech Republic, e.g., establishes the basic principles of the economic basis of local self-government units or the state budget and the Character of Fundamental Rights and Basic Freedoms establishes the constitutional principle for modification and enforcement of tax and fee obligations.

Tax law is most often joined to financial law; many authors² classify tax law under the fiscal section of financial law (the public revenue section – for more details, see the section dedicated to social acceptance of tax law). These branches use a similar method of legal regulation; taxes are the income of public funds, many submissions are subject to payment of an administrative fee, an administrative fee is de facto a tax and, therefore, an object of interest for tax law.

The same statement regarding the regulation method also applies to administrative law. The creation, existence, or expiration of administrative law relationships, or potentially facts contingent upon them, can be a financial circumstance that is a prerequisite for the creation, implementation, or expiry of a tax law relationship. For example, commencing administrative proceedings is subject to payment of an administrative fee; breach of the administrative law obligations can mean fulfillment of the legally stipulated constituent elements of an administrative offense, which can be subject to a penalty (fine, etc.) from the administrative authority, such penalty is public monetary fund revenue and thus becomes a tax *sensu lato* and is subject to the same administrative and procedural norms as a tax owed. Tax proceedings are no more than a type of administrative proceedings, subject to the general policies and principles of administrative procedural law.

Criminal law contains the constituent elements of criminal offenses related to breach of tax law norms, thereby fulfilling the penalty component of tax

² MRKÝVKA, P. *Determinace a diverzifikace finančního práva*. Brno: Masaryk University, 2012, p. 167; BOHÁČ, R. Daňové a finanční právo. *Daně a finance*, 2006, no. 3, pp. 6–10.

law norms. Environmental law is related to tax law, mainly through the sanctions, fees, contributions, and payments related to the environment, which are public fund revenue.

Regarding procedural law norms, we should also mention civil procedural law, which is bound to financial law on the one hand by court fees (taxes *sensu lato*) and on the other by administrative justice, i.e., reviewing tax law decisions by the court as one of the means of monitoring legality in public administration.

The link to private law is seemingly less close. However, tax law norms do use some institutions and institutes regulated by the norms of civil law, commercial law, family law, or labor law, including the definitions regulated therein. If tax law operates with the concept of “natural person” or “legal person”, it does so by using the definition of “person” set by substantive civil law; if tax law applies the rights and obligations to, for instance, a general partnership or other company or to a cooperative, shareholders, partners, executive directors, cooperative members, etc., it defines these entities using commercial law norms. As indicated above in the example regarding the relationship of wages to taxes, at a certain moment stipulated by financial law, some relationships governed by the norms of civil law, commercial law, or labor law become a fact establishing the creation, change, or expiration of a tax law relationship. Thus, a purchase agreement, provided that the object of sale is immovable property, generally heralds the creation of a tax law relationship. A tax law relationship arises by the implementation of the purchase agreement, specifically by entry into the Real Estate Cadaster or other similar records. The entry takes effect retroactively as of the date of submitting the application for entry (the date of establishing the relationship between the new owner and the State with the object of such a relationship – immovable property tax) and upon delivery of the agreement with its entry in the Real Estate Cadaster marked (at which point the seller or buyer enters into a tax law relationship with the State, i.e., the tax on acquisition of immovable property). The process is similar in the case of donations. In civil law, inheritance and passing it to the heirs is a legal fact establishing the obligation to pay inheritance tax. The birth of a child is also a financial event with an impact on, for instance, tax relief on income tax for one

of the parents. The formation or dissolution of marriage and the formation, restriction, expansion, cancellation, or expiration of marital property is also a fact that is reflected in various degrees in the existence of tax law relationships. The same applies to the area of labor law relationships.

Tax law, like the entire legal system in the Czech Republic, is influenced by international law. In some cases, international law norms regulate the social relationships of the object of tax law. This is the case, e.g., with the application of double tax avoidance agreements. A new and significant element is the adoption of European standards and, in some respects, references to European law norms or EU norms in national legislation.

Internal system coherence is expressed in the system configuration of tax law. Internal system clarification is not only theoretical in value but primarily practical in the process of implementing and interpreting tax law norms. The tax law system should be understood as the internal differentiation of tax law into comprehensive collections or groups of tax law norms with regard to their content and the affinity of the social relationships they regulate.³ This system is not a dogma but is in its own way based on tradition, agreement, and acceptance of tax law theories just as in other disciplines. It is changeable, just as the object of tax law and the law itself changes and develops. A classification system for tax law is needed due to its lack of codification and, most likely, the reluctance to prepare a general codification shortly in all monitored states; therefore, there is a need for a certain orientation in the countless sources and individual norms. The classification system for tax law is utilitarian and also reflects the concept of tax law as a branch of law, a science, or an educational discipline, which is why we can speak of the system of tax law as the system of one of the areas of national legislation, but also as the system of tax law science and the system of teaching the subject called “Tax Law”, in particular at law schools and university economics departments. These systems are not strictly separated from each other, so just as there is a natural connection between the different views of tax law, there is also a certain level of connection between or merging of these system configurations.

³ SLOVINSKÝ, A. et al. *Základy česko-slovenského finančního práva*. Bratislava: Univerzita Komenského v Bratislave, 1992.

Like other branches of law, tax law can be divided into a general and specific section. From a doctrinal and didactic perspective on tax law, the general section is made up of general information regarding tax law and its object, norms, and relationships. A review of tax law can gradually lead to the conclusion that although the general section of tax law is not codified, it does contain certain institutes of a general nature which are completed in the individual sections of tax law, as well as certain general principles applying to the tax law as a whole, which serve to create, implement and interpret it. To what extent this can be formed into a coherent whole, using unified terminology, policies, and legal institutes valid for all tax law relationships will depend on the further development of tax law. These general issues could appear, e.g., in existing regulations of a more procedural nature as well as entirely new legislation, e.g., the Public Finance Act, which would contain general institutes from the area of tax law as well as financial law. Tax law jurisprudence could also play a significant role in this process.

The specific section, labeled as substantive tax law, contains the substantive legislation with regard to individual tax law relationships. Their regulation is split between many different legal regulations. Nevertheless, we can find a certain organization system in the jumble of individual legal regulations and norms, based on which of the following sub-branches the specific section of tax law entails:

- tax law (in the narrow sense) – the traditional name for the set of legal norms regulating public revenues from taxes (i.e., taxes *sensu stricto*), with these norms determining the persons burdened with tax liability, the object, base, and rate of the relevant levy and other structural elements of the tax;
- charge law – sub-branch regulating public budget revenues from charges/fees and the structural elements thereof;
- customs law – sub-branch in many ways similar to tax and charge law, but regulating the essential accessorial public revenue: a customs duty. The question is, however, whether customs duty is different enough from a tax to justify regulating it under an independent branch of law – customs law.

Another set of norms within the tax law system is a relatively comprehensive set of procedural law norms. Procedural tax law norms regulate:

- the procedural law position of entities in proceedings on the rights, legally protected interests, and obligations resulting for participants from substantive tax law;
- procedural law practices in decision-making processes before tax administration authorities and legal and natural persons, if they were entrusted by law or based on the law with making decisions on the rights, legally protected interests, and obligations of other entities resulting from substantive tax law norms;
- the practices of subordinate entities when implementing substantive tax law, which does not involve proceedings before public authorities but procedures the subject (e.g., subject of taxation – taxpayer, payor) applies to him, or the payor sets a legal obligation for the taxpayer based on substantive tax law (e.g., tax liability) using the prescribed technique (tax technique), declares such fact in the prescribed manner to the superior entity (authority), with this declaration having the same legal effect as a judgment in legal proceedings, and carries out the declared obligation, again in the prescribed manner (e.g., the apt Polish term “samowymiar”, which describes this process *sui generis*). Unlike the processes outlined in the first two points, which are an authoritative application of substantive tax law, in this case, the authoritative component is secondary, used only in the event of the subordinate entity’s failure in the primary “self-application” of the relevant norms of substantive tax law. This method of implementing substantive tax law norms resulting in the declaration as mentioned above of obligation (e.g., in the form of a tax return) is not identical to the direct implementation of the norms of tax law, which lacks such an outlet;
- the legislative process in creating, passing, and monitoring fulfillment of public budgets pursuant to the financial (tax) documents.

Concerning the processes of applying substantive tax law, we can distinguish primarily the following:

- tax proceedings,
- administrative proceedings before the tax administrator, when the object of the proceedings is not the tax itself but another obligation of the taxpayer,
- the “self-application” process (see above).

Another specific sub-system of procedural law will be judicial tax law regulating the decision-making processes in matters of substantive tax law in court, particularly in administrative justice and judicial enforcement of tax administration decisions.

Public administration authorities have an active presence in tax-related activities. The norms of an administrative law nature regulating the organization and legal position of tax administration authorities do not comprise a unified sub-branch of substantive administrative law or a unified section of tax law. However, we can entertain the idea of possible administrative tax law, made up of the set of legal norms regulating public administration in taxes and related activities. This would involve, in particular, regulating tax administration authorities, i.e., public administration authorities, in the area of public revenues from taxes and charges, as well as regulating customs administration, such as public administration of customs and customs duties, etc. The literature also mentions the term organizational financial (tax) law.⁴

The deliberate focusing of a certain section of tax law norms (including tax administration norms) on defining the foundations and consequences of liability for breach of tax law norms, i.e., the set of such norms of a protective nature, can be described jointly as criminal tax law. The legal regulation of criminal tax law is contained in the Tax Code and Criminal Code and, to a lesser extent, in the individual, predominantly substantive, tax regulations (e.g., in the Act on Local Charges).

1.4 Social Acceptance of Tax Law

Concerning the fourth criterion for being considered an independent branch, social acceptance, it will take some time for this criterion to be met in Central and Eastern European countries. Tax law has a very long history and it could perhaps be said that this is one of the first, if not the very first, branch of law. Even the professional literature states that law came into being along with the first nation-states. For these states to function, they needed substantial financial resources (taxes), which they collected – whether by violent

⁴ SPÁČIL, B. *Teorie finančního práva Č.SSR*. Praha: Orbis, 1970, p. 72.

or non-violent means – from the people living in the given territory. However, most Central European authors (e.g., from Poland Košíkowski, Ruśkowski, Borodo, from the Czech Republic Bakeš, Karfíková, Marková, Mrkývka) lean more toward the opinion that tax law is a sub-branch of the fiscal section of financial law.

Some Polish scholars, however, take opposing positions, which are relevant to the perspectives presented in this text. Mastalski,⁵ for instance, defines tax law using criteria for being considered an independent branch, similar to the approach in this article. He believes the object of tax law regulation to be the specific social relationships belonging to broadly conceived economic phenomena. They are social relationships arising from the division of funds between society, represented by the State, and individuals. Social relationships regulated by tax law are created, implemented, and expire in the background of the transfer of funds from economically active individuals to the State. Such transfers do not produce immediate, direct counter-performance on the part of the recipient. Other Polish authors publishing in support of an independent tax law include Etel, Brzeziński, Malecki, Gomulowicz, and others.⁶

The strongest voice in favor of independent tax law in Slovakia is Babčák. In his opinion, the object of tax law is those socioeconomic relationships pertaining to the implementation of tax authorizations and the fulfillment of tax obligations by the participants in such relationships. The object of tax law is first and foremost a tax obligation, i.e., an obligation expressed by paying taxes. From the perspective of systemizing tax law, Babčák distinguishes tax authorizations and obligations of a monetary nature from tax authorizations and obligations of a non-monetary nature.⁷

Tax law is more and more perceived as an independent branch of law, which is apparent not just in the opinions of individual authors, but also

⁵ MASTALSKI, R. *Wprowadzenie do prawa podatkowego*. Warszawa: C. H. Beck, 1995, pp. 30–32.

⁶ ETEL, E. (ed.). *System prawa finansowego – Prawo daninowe*. Warszawa: Wolters Kluwer, 2010; GOMUŁOWICZ, A. and J. MAŁECKI. *Podatki i prawo podatkowe*. Warszawa: LexisNexis, 2010; BRZEZIŃSKI, B. *Wprowadzenie do prawa podatkowego*. Toruń: Dom organizatora, 2008.

⁷ BABČÁK, V. *Dane a daňové právo na Slovensku*. Bratislava: Epos, 2008, p. 49.

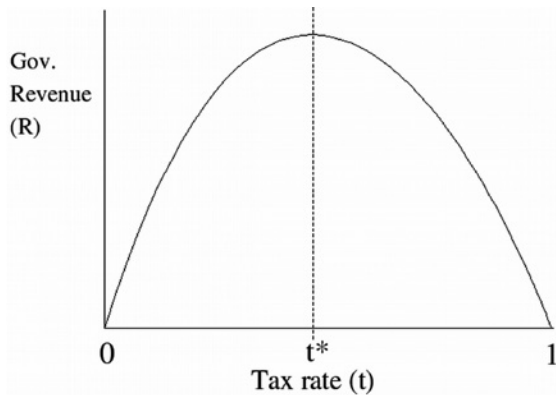
in the number of publications on this topic, separate instruction on tax law at law schools, the establishment of specific courses focused on tax law at independent tax law departments, etc. These conclusions are also supported by the experience of experts from the USA and Western Europe, where tax law science has a long tradition and the question is hardly even posed whether tax law can be considered an independent branch of law.

2 Czech Tax System

Talking about taxes, we are somewhere between economy, politics, and law. There is no doubt that every government has its ideas on creating a tax system, but political aspects are very subjective and uncertain in time. The taxpayer is not only a subject with his duty to comply with the incomes incurred into the public budgets but a voter, too. We can usually say that the level of tax duties corresponds with the level of state intervention in social life. But sometimes, high tax rates can be the result of former government policy, international situation, etc. When we are thinking about an optimal level of taxation, we must respect not only political criteria but economic aspects, as well. An economic model is more important than anything else. The limits of taxation are in the effectiveness of the economic system.⁸

In every country, including the Czech Republic, the fiscal function of taxes is the most important one. Its purpose is to guarantee the incomes of the state and municipal budgets and other (public corporation) budgets because taxes are the most substantial incomes for these budgets. Thanks to taxes, it is possible to affect activities of economic subjects because the tax is an instrument for the regulation of income and property distribution. High tax rates (and high taxation) does not necessarily mean the increased revenue for the government, as is evident from the Laffer curve:

Picture 1: Laffer curve



⁸ See MRKÝVKA. In: MRKÝVKA, P. et al. *Finanční právo a finanční správa – 2nd part*. Brno: Masaryk University, 2004, p. 7; ŠIROKÝ, J. *Daňové teorie s praktickou aplikací*. Praha: C. H. Beck, 2003.

The fiscal function is closely connected with the regulation function: using taxes, the State can effectively correct the incomes while transferring money between economic subjects and public funds. A good tax system can affect the effectiveness of the economy. But the State must be very careful in tax rates: the tax burden must respect the tax capacity. Taxes that are too high may disincentivize people from working or running a business. The last one of the essential functions of taxes – the stimulation function – means using tax instruments to impress an economic subject. It is executed by using several tax rates to stimulate the development of some activities or stifle others. Other possibilities are, e.g., the catalog of tax reduction or exemptions from taxation. Although there are many tax acts in the Czech Republic, they lack the definition of “**tax**”. The answer to the question of what the tax is can be found just in the tax theory. A tax *sensu stricto* is an obligatory amount defined by an act with a laid down rate, which is more or less regularly collected from the incomes of economic subjects to the public budgets on the irrecoverable principle.

We can find something similar to the definition of tax in the Czech legislation; in the Tax Procedural Code (Act no. 280/2009 Sb., as amended, Section 2(3)), there is a legal definition of tax for the purposes of the Tax Procedural Code: tax means taxes, fees, transfers, advance payments, and other assessments, i.e., taxes *sensu lato*.

The main rule concerning taxes is included in the Charter of Fundamental Rights and Freedoms. Article 11(5) assigns that taxes and fees can be imposed only by acts. It means not only taxes but also all the fees and other taxes *sensu largo* must be imposed by acts, not just by ordinances of municipalities or ministries.

We have the same problem with the definition of tax as with the definition of “**fee**” or “**charge**”. The tax theory describes the fee as an obligatory irrecoverable amount defined by an act and collected by the State or other public corporations for certain legal acts. In contrast to tax, this amount is irregular (*ad hoc*) and the fee payor is eligible to ask for some consideration. It means that the fee is very similar to the price and sometimes we can even see somebody to collect “**fee**” for baggage deposit or coat deposit (though it is not the right term).¹⁰

⁹ The term “**fee**” means the same as the term “**charge**”.

¹⁰ See MRKÝVKA. In: MRKÝVKA, P. et al. *Finanční právo a finanční správa – 2nd part*. Brno: Masaryk University, 2004, p. 6.

Legislators often tend to find different titles for taxes sensu largo (contributions, insurance, toll, levy, tariff, and lots of other varieties in national languages). No matter what is the term officially used in the act, each such a tax sensu largo has either tax or charge characteristics.

The difference between “tax” and “fee” is more theoretical than practical. For example, in a lot of municipalities, the “dog charge” is, in fact, the “dog tax”: the holders of dogs (the taxpayers) do not get any plastic bags for the excrements, the municipality does not install wastebaskets, does not clean sidewalks and roads, etc. On the other hand, the “road tax” is rather “road charge” because the whole revenue must be invested by the State Fund of Transport Infrastructure to the modernization of existing roads and building new ones.

From the legal perspective, it is possible to define tax as a legal relationship with typical structural components for any legal relationship. The subjects are usually the taxpayer and the tax administrator. The object of the tax relationship might be defined as the tax in the more or less economic sense, as stated above. Both subjects have rights and obligations; this is the content of the tax relationship. However, tax relationships have more common components: all Czech legal acts dealing with taxes and fees do have a very similar structure according to the basic **structural components**:

- The object of taxation is a legally relevant situation described by law connected with a tax duty. It is usually obvious what the object of taxation is just from the title of the tax. Incomes, possession or using property, transfers with property, consumption, etc. can be the object of taxation;
- Czech tax administration knows two types of taxpayers:¹¹
 - a natural person or legal entity whose income, property, or legal acts (legal transactions) are the object of taxation (taxpayer),
 - a natural person or legal entity that has the responsibility to calculate the tax, collect it or withheld it, and transfer it in time to the tax administrator (payor);
- Talking about the tax base, we mean the quantity of the object of taxation. As the tax base is usually economic income (for income taxes),

¹¹ These terms are no more in Czech legal order, but legal acts are still operating with them and using them.

- value (for VAT, tax on acquisition of immovable property and other transfer taxes, partly excise taxes and immovable property tax), area (immovable property tax), or something different (e.g., a combination of weight and number of axles or engine capacity for the road tax);
- The tax rate determines the amount of the tax to the tax base. Several kinds of tax rate are distinguished:
 - fixed tax rate – a fixed amount of money irrespective of the quantity of the tax base,
 - percent tax rate – tax includes several percent of the tax base and there are three possibilities for percent tax rate:
 - » linear tax rate – the same percentage for a different tax base,
 - » progressive tax rate – the higher the tax base, the higher the percentage,
 - » degressive tax rate – the higher the tax base, the lower the percentage (this kind of tax rate is not used because of its injustice);
 - Correction components are some possibilities for the taxpayer not to pay the tax or pay less than usual. Tax reduction and exemptions from taxation are the most common. Sometimes but not very often, the correction components can have the opposite effect: they can increase the tax duty;
 - Payment conditions are usually terms and fundamentals of payment. Some taxes are paid in one term; others can be paid in several part payments. Sometimes the taxpayer is obliged to pay advance payments before he knows his annual tax duty.
 - We have numerous tax administrators in the Czech Republic, but most often, the tax administrator is the tax office. In other situation, taxes can be administrated by other public administration bodies, by courts or by customs offices. The most important task for a tax administrator is to make everything so that all the taxes will be collected in time and in the right amount;
 - The budget destination is significant for all citizens; it means which of the public funds will get the collected money. These are usually the state budget and local budgets (municipal budgets and region budgets).¹²

¹² Vide PAŘÍZKOVÁ, I. *Finanční právo: finance územní samosprávy*. Brno: Masaryk University, 2005; MARKOVÁ, H. a R. BOHÁČ. *Rozpočtové právo*. Praha: C.H.Beck, 2007; NETOLICKÝ, M. *Rozpočty obcí v naší legislativě*. Brno: Tribun EU, 2008.

Table 1: Budget Destination in the Czech Republic

Tax	Municipal budget	Region budget	State budget
Personal income tax (withholding tax)	23.58 %	8.92 %	67.5 %
Personal income tax (from business activities) – remaining 60 %	23.58 %	8.92 %	67.5 %
Personal income tax (from dependent activity)	23.58 % + 1.5 %	8.92 %	66 %
Corporate income tax ¹³	23.58 %	8.92 %	67.5 %
Immovable property tax	100 % ¹⁴		
Road tax			100 %
Gambling tax	30 % (35 % ¹⁵)		70 % (65 % ¹⁶)
Levy on electricity from solar radiation			100 %
VAT	23.58 %	8.92 %	67.5 %
Excise taxes			100 %

There are numerous possibilities of how to **classify taxes**. Some are more practical, and some are less. Just two of them will be mentioned in the following text:

- Classification according to the impact,
- Classification according to the object of taxation.

The most typical and the most common class is the classification according to tax impact. We may distinguish between direct taxes and indirect taxes. Direct taxes are assessed to every taxpayer according to his incomes, property and they usually respect the personal situation of the taxpayer. The group of direct taxes includes income taxes, road tax, immovable property tax, transfer taxes, etc. On the other hand, indirect taxes are paid and collected in the prices of goods, service, etc. and does not respect the personal situation of the taxpayer. The most important indirect taxes are VAT and excise taxes.

¹³ Corporate income taxes paid by municipalities and regions are the incomes of their budgets.

¹⁴ According to the location of the property.

¹⁵ In case of technical games.

¹⁶ In case of technical games.

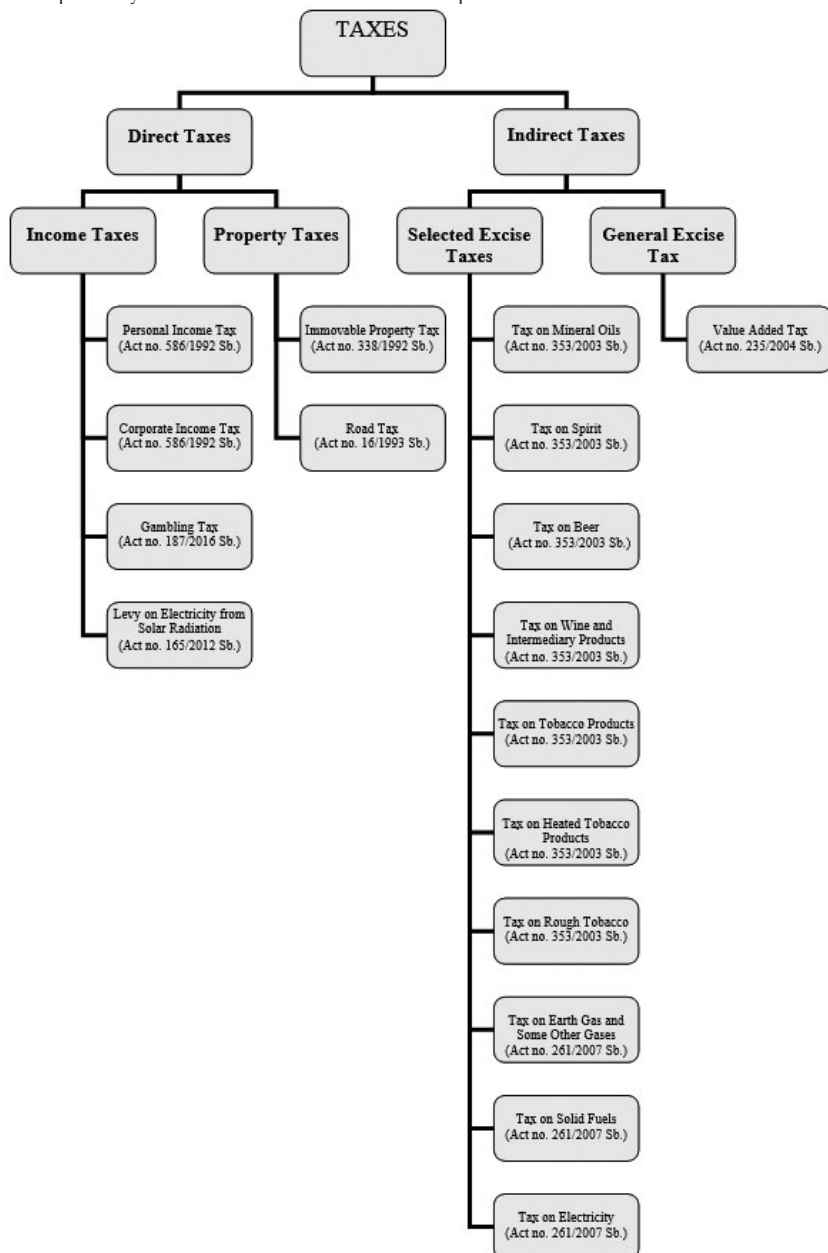
The other useful classification of taxes is the classification according to the object of taxation. There are:

- Income taxes – taxes on income of natural persons and legal entities, usually not only income in money but income in kind and emoluments of office-holders, too. There are two income taxes in the Czech Republic: personal income tax and corporate income tax;
- Property taxes – taxes on ownership, holding, lease, or using of property. Immovable property tax and road tax are the most typical property taxes in the Czech Republic. Transfer taxes (tax on acquisition of immovable property, gift tax, and inheritance tax) and several local charges such as dog charge are very often characterized as property taxes;
- Transfer taxes are collected from transfer or transference of ownership title. Inheritance tax and gift tax were officially abolished in the Czech Republic. However, in practice, inheritances and gifts are taxed by the income taxes. The tax on acquisition of immovable property was canceled in 2020;
- Subject taxes are paid because of the existence of a subject; they do not exist anymore;
- Turnover taxes are paid from the value added by every processor; the turnover tax is value added tax (VAT);
- Excises (excise taxes) are imposed on the consumption of selected commodities such as petroleum oils, spirit, beer, wine, and tobacco products, since the beginning of 2008 on the consumption of gas, coal, and electricity, too.

The system of taxes and fees in the Czech Republic is very similar to those in other developed European countries. Nowadays, there is no act dealing with the tax system in the Czech Republic. There used to be Act no. 212/1992 Sb. that created the whole system of taxes in 1993. But this Act had no practical importance; there was no problem in approving some new tax acts. That is why that Act was abolished in 2003.

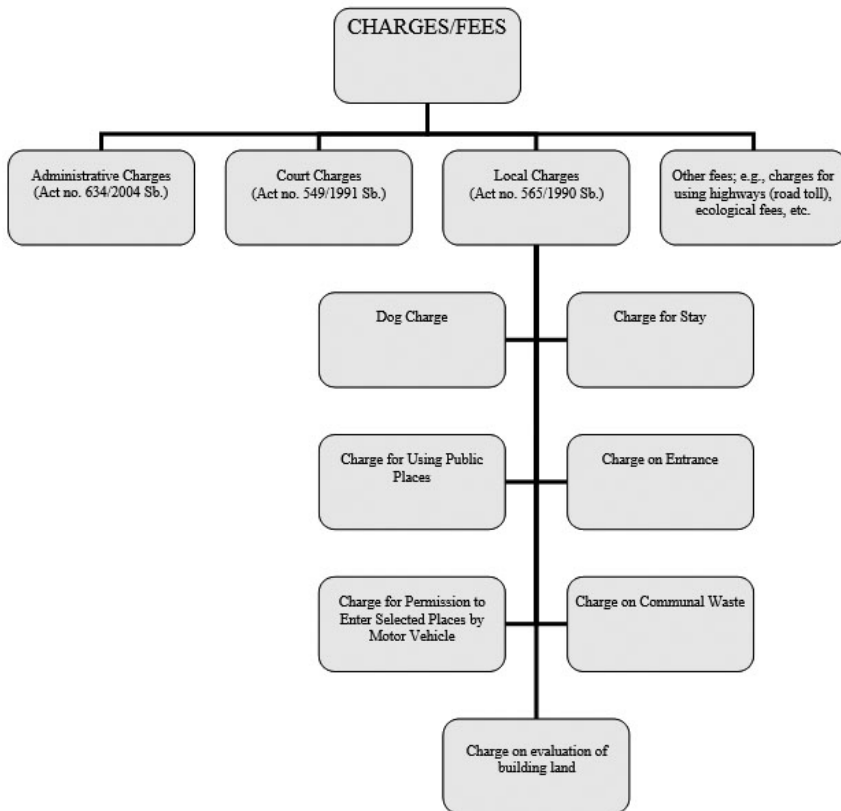
Nowadays, the **system of taxes** in the Czech Republic looks as follows (for better orientation, the classification according to impact is used; only the most important taxes *sensu largo* are mentioned although there are more public payments with the tax characteristics).

Graph 1: System of Taxes in the Czech Republic



The definition of fees is mentioned above. Considering the tax system, just local fees are important, but there are some other kinds of fees. In the following graph, the **system of fees** is described:

Graph 2: System of Fees in the Czech Republic



3 Personal Income Tax

In the Czech Republic, the personal income tax is regulated together with the corporate income tax by an act called Income Taxes Act (Act no. 586/1992 Sb., as amended). This Act lies down that the objects of taxation are the following types of income (no matter if it is a monetary or a non-monetary income or the income was acquired by exchange):

- Income from dependent activity (employment);
- Income from independent (business and other independent gainful) activity;
- Capital property income;
- Rental (lease) income;
- Other income.

Each of these incomes is described individually in Sections 6–10 of the Income Taxes Act and for each of these incomes, it is necessary to calculate the so-called partial tax base. In the end, every taxpayer must calculate these partial tax bases together to get the tax base.

3.1 Incomes from Dependent Activities

Incomes from dependent activities are defined as incomes from the recent or former labor relationship, service relationship or membership relationship, or a similar relationship if the taxpayer – employee – must respect the payor’s – employer’s – commands in the course of execution of work for the payor.

Besides that, incomes for work done by members of cooperatives, associates of limited liability companies and limited partners of limited partnerships, remunerations of company liquidators and members of statutory bodies of legal entities, and incomes following in connection with recent, future, or former execution of dependent activity or of function regardless of whether they follow from the payor for whom the taxpayer executes the dependent activity or function or from the payor for whom the taxpayer does not execute the dependent activity or function are

considered to be the incomes from dependent activities.¹⁷ As there is different and higher taxation of employees than entrepreneurs, many taxpayers are trying to become entrepreneurs, even if they must respect someone else's commands in the course of execution of work. In the Czech Republic, this practice is called Svarcssystem. This system offers even more benefits: the "employer" has no duty to pay social security and health contributions (pension insurance premiums, contribution to the state employment policy, sickness insurance premiums, and health contribution) for his "employees" and they are cheaper than real employees. The "employee" can pay lower taxes and social security and health contributions, so he has no reason to fight with his "employer" for legal status. The Svarcssystem is very popular for the taxation of professional team sport athletes, too.¹⁸

The income is even 1 % (but not less than 1,000 CZK¹⁹) of the input price of a motor vehicle in each month if the employee can use it not only for business but for himself, too.

Function benefits (as incomes from dependent activities) are defined as function salaries of members of the government, deputies, and senators of the Parliament of the Czech Republic and salaries of chiefs of central authorities of the state administration and remunerations for execution of a function in authorities of municipalities, in other authorities of territorial self-governance, state authorities, civic and professional associations, chambers and other authorities and institutions.²⁰

There are several **incomes that are not liable to tax** from dependent activity, e.g., reimbursements of travel expenses provided in connection with execution of dependent activity up to the sum provided by a special regulation as well as the value of food provided by an employer in case of a work journey, the value of personal protection working means, washing, cleaning and disinfection means provided in the extent provided

¹⁷ See Section 6(1) Income Taxes Act.

¹⁸ RADVAN, M. Income Taxation of Entrepreneurs in the Czech Republic. *Křtyka práva. Nezálezné studia nad právem*, 2013, no. 1, pp. 301–313. DOI: 10.7206/kp.2080-1084.17; RADVAN, M. and J. NECKÁŘ. Taxation of Professional Team Sport Athletes in the Czech Republic. *Public Governance, Administration and Finances Law Review in the European Union and Central and Eastern Europe*, 2016, no. 1, pp. 40–46.

¹⁹ 26 CZK = 1 €.

²⁰ See Section 6(10) Income Taxes Act.

by a special regulation including costs spent in order to maintain personal protection means and working means as well as value of provided uniform including contributions to their maintenance and value of working dress designed by the employer for the purpose of execution of work including contribution to its maintenance, sums received by the employee from the employer as an advance payment, reimbursements of wear of own tools, facilities and items necessary for execution of work granted to the employee and reimbursements of expenses provided in connection with execution of function to that a legal claim arises according to special regulations.²¹

Income charged or paid by the employer based on the employment agreement shall be a separate tax base for taxation under a special tax rate (15 %) if the total sum paid by the same employer does not exceed the sum of 10,000 CZK in one calendar month. In such a case, an employee does not have to sign the tax declaration, i.e., he does not apply for the tax reductions and tax allowance for children. The social contributions are not paid. Usually, it is used by the taxpayers in their second job. At the end of the year, there is no need to include this income in the tax return; however, the taxpayer may file the tax return and include these incomes to benefit from tax reduction or tax allowance for children.

Besides standard exemption from taxation, there is a rather long list of **exemptions from work taxation** and several possibilities on how to “forestall taxes” should be mentioned. The reasons for exemptions are mostly social and economical and in the list of exemptions²² there are e.g., sums spent by the employer in order to improve his employees’ professional skills or for reskilling, value of food given by the employer to the employees as a non-monetary performance, value of soft beverages provided by the employer to the employees as a non-monetary performance, non-monetary performance given by the employer to the employees from a fund of cultural and social needs or from the social fund, privileges granted by the employer running public personal transportation to his employees and members of their families in the form of free or cheaper tickets, value of non-monetary gifts provided from a fund of cultural and social needs

²¹ See Section 6(7, 11) Income Taxes Act.

²² See Section 6(9) Income Taxes Act.

according to the relevant regulation (this exemption shall apply up to the sum of 20,000 CZK yearly for each employee), money performance for dress and food requisites given to members of armed forces and corps according to special regulations and compensations for loss of service income (salary) given to members of armed forces and corps according to special regulations, value of temporary accommodation up to 3,500 CZK monthly, income up to the sum of 500,000 CZK granted by the employer to the employee as a social assistance in direct connection with overcoming of his extraordinarily difficult condition due to natural disaster, environmental or industrial accident occurred in territories where a state of emergency was declared, the employer's contribution to additional pension insurance with state contribution remitted to his employee's account at a pension fund up to the sum of 50,000 CZK from one employer, in-kind performance and reimbursement of expenses in the sum of money value of in-kind performance granted according to special legal regulations to representatives of state power and of several state authorities and to judges, or sums as a refund of wages or salary for the period of temporary sickness leave.

The **partial tax base** – super gross wage – shall be defined as income from dependent activity or function benefits increased by sums of social security and health contributions (pension insurance premiums, contribution to the state employment policy, sickness insurance premiums, and health contribution) that must be paid by the employer according to special regulations.²³ The social security and health contributions paid by the employer are very high – 33.8 %²⁴ of the gross income.²⁵

3.2 Incomes from Business Activities

Incomes from business activities are incomes from agriculture production, forestry and fish farming, income from business (trade), shares of partners

²³ Till the end of 2007 the tax base was defined as income from dependent activity or function benefits reduced by sums of social security insurance premium, contribution to the state employment policy and general health insurance premium that must be paid by the employee according to special act. The social security and health contributions paid by employee were 12.5 % of the gross income.

²⁴ 34 % till the end of 2019.

²⁵ For more details, see RADVAN, M. Taxation of Employment Income in the Czech Republic. *Kvartálník práva daňového*, 2018, no. 1, pp. 23–35.

in profits of a general partnership, and general partners' shares in profits of a limited partnership. Incomes from other independent profitable activities such as the income from the use or provision of industrial or other intellectual property and from copyright, income from the pursuit of an independent profession, etc. are ranked among incomes from business activity.²⁶

The **partial tax base** is created by the incomes mentioned above reduced by the expenses incurred to generate, assure, and maintain income specified in Section 24 of the Income Tax Act. If the taxpayer does not have enough expenses, he may claim lump-sum expenses:

- 80 % of the income from agricultural production, forestry, and fish farming and from handicraft industry;
- 60 % of the income from other industry and trades;
- 40 % of the income from other business (e.g., lawyers, doctors, etc.) and other incomes like incomes from intellectual property, etc.;
- 30 % of the income from business property rents.

De lege lata, lump-sum expenses can be used only if the maximum value of lump-sum expenses does not exceed:

- 1,600,000 CZK in case of incomes from agricultural production, forestry, and fish farming and from handicraft industry;
- 1,200,000 CZK in case of incomes from other industry and trades;
- 800,000 CZK in case of incomes from other business and other incomes like incomes from intellectual property, etc.;
- 600,000 CZK in case of incomes from business property rents.

3.3 Capital Incomes

The object of tax on income from capital are dividends based on ownership interest in a joint-stock company, a limited liability company or a limited partnership, a silent partner's share in profits, interests, benefits from private life insurance, and benefits received from state-contributory supplementary pension insurance.

A withholding tax should be usually used for all these incomes.²⁷

²⁶ For more details, see RADVAN, M. Taxation of Business Income in the Czech Republic. *Knariálník práva podatkového*, 2017, no. 4, pp. 21–31.

²⁷ For details see Section 36 Income Taxes Act.

3.4 Rental Incomes

Rental incomes are the incomes from the lease of immovable property or flats and the incomes from lettings of movable property except occasional leasing (occasional leasing is the object of income tax on other incomes).

The **partial tax base** is the difference between the incomes mentioned above and expenses incurred to generate, assure, and maintain income specified in Section 24 of the Income Tax Act. However, the taxpayer does not often have any expenses at all. For this situation, the taxpayer can claim lump-sum expenses at 30 % of his income, up to 600,000 CZK.

3.5 Other Incomes

All the other incomes are taxed by the tax on other incomes. Other incomes are above all:

- Income from occasional activities or occasional lease of movable assets (up to 30,000 CZK this income is exempt);
- Income from the transfer of immovable property including flats and non-residential premises, movable asset or security;
- Winnings in lotteries, betting, and other games of chance;
- Prizes from public competitions and sporting competitions,
- Inheritance and gifts, etc.

The **partial tax base** includes the incomes reduced by expenses that can be submitted as having been incurred to generate such income. But the Income Tax Act defines in particular expenses for almost every kind of other income.

3.6 Incomes Not Liable to Tax and Exempt Incomes

There are several **incomes that are not liable to personal income tax** in general mentioned in the Personal Taxes Act, e.g., the income attained by restitution, further credits, and loans, the income in the amount which the Czech Republic is bound to settle as satisfaction accorded by the European Court for Human Rights, the incomes of au-pairs from abroad, etc.²⁸

²⁸ See Section 3(4) Income Taxes Act.

Even though some other incomes are liable to tax, the taxpayer can use **tax exemption** (they can be tax-exempt). Since there are a large number of exemptions, only several of them will be mentioned:²⁹

- Inheritance and gifts;
- Income from the sale of a family house or a flat including the land related to that, if the seller had his residential address there for at least two years immediately before the sale;
- Income from the sale of immovable property, flats or non-residential premises (spaces), if the seller owned that property for at least five years;
- Income from the sale of movable assets;
- Compensations received for damages;
- Compensations received for restitution;
- Alimony payments;
- Social welfare benefits, state social support grants;
- Rewards paid to donors of blood and other human biological materials;
- Subsidies from public budgets, etc.

If the taxpayer has received revenue with a value higher than 5,000,000 CZK, he is obligated to file the report with the appropriate tax office at the same time as the tax return must be filed. This rule does not apply for revenues, which the tax office can find out through public registers (e.g., the Real Estate Cadastre). Failure to fulfill these obligations results in a fine (0.1 % of the value of the unreported revenue when the obligation has been fulfilled without prior notice, 10 % when the taxpayer has met the obligation within the additional period allowed to the taxpayer in a notice from the tax office, or 15 % when the taxpayer has failed to fulfill the obligation after the additional period).

3.7 Personal Income Taxpayers

There are two types of taxpayers liable to personal income tax:

1. **Tax residents** – natural persons with a residential address in the Czech Republic or individuals who usually stay in the Czech Republic (it means for at least 183 days in the relevant calendar

²⁹ For the whole list of exemptions see Sections 4 and 4a Income Taxes Act, and other provisions concerning tax exemption in this act, e.g. Section 10(3).

year, either continuously or intermittently); these persons are liable to tax on income arising from sources in both the Czech Republic and abroad;

2. **Tax non-residents** – natural persons not mentioned above as tax residents, students from abroad, or patients staying in the Czech Republic for medical treatment; they are liable to tax on incomes arising only from sources in the Czech Republic.

3.8 How to Assess Personal Income Tax

First of all, the taxpayer must sum up all the partial tax bases to one **tax base**. This tax base is not final; it shall be reduced by so-called **tax allowances** to get the modified (reduced) tax base. The most common tax allowance is the value of gifts donated for a charitable purpose³⁰ in case that the total value of gifts in the taxable periods does not exceed 2 % of the tax base or 1,000 CZK and the total maximum allowable deduction is 15 % of the tax base. Other tax allowances are offered to the taxpayers paying contributions to the state-contributory supplementary pension insurance scheme (sum paid within the taxable period reduced by 6,000 CZK; the maximum amount is 24,000 CZK in one taxable period) or paying private life insurance premiums (sum paid within the taxable period; the maximum amount is 24,000 CZK in one taxable period). As tax allowances are considered the amount equal to the interest paid in the taxable period on loan provided from a housing saving scheme or the amount equal to the interest on a mortgage loan or the amount equal to the interest on a loan provided by a housing savings bank (300,000 CZK at max. per household). The contributions paid by a member of a trade union organization up to 1.5 % of the taxable income (the maximum amount is 3,000 CZK in one taxable period) and remunerations for exams verifying the result of continuing education to 10,000 CZK are the last tax allowances according to Czech law.

Besides tax allowances, the taxpayer can also use **items deductible from the tax base**³¹ to reduce his tax base. The most essential item deductible from the tax base is a tax loss recorded and assessed in five previous taxable

³⁰ For details see Section 15(1) Income Taxes Act.

³¹ For details see Section 34 Income Taxes Act.

periods. There is one other crucial deductible item: 100 % or even 110 % of costs for research and development.

The **tax rate** is percentual linear of 15 % calculated from the reduced tax base.³² Since 2013, a special solidary surcharge is in effect. The base of this surcharge is computed as a positive difference between the sum income included in the partial tax bases from dependent activities and independent activities and the average salary according to the Social Security Act multiplied by 48. The rate of this special surcharge is 7 % from this base. It means that the percentual progressive tax rate is applied in the Czech Republic.

The tax (gross tax) can be reduced by **tax reductions/tax reliefs**. The following amounts are valid per year, but 1/12 of them (with several exemptions, e.g., the taxpayer must sign the so-called statement³³) can be used during the calculations of advance tax payments by the payors in particular months:³⁴

- 24,840 CZK for each taxpayer (so-called basic tax reduction);
- 24,840 CZK for a spouse living with the taxpayer in one household (but the spouse's income may not exceed 68,000 CZK in the taxable period), if the spouse is the holder of ZTP/P³⁵ card, the amount is double;³⁶
- 2,520 CZK for the beneficiary of a disability pension (1st and 2nd grade of disability);
- 5,040 CZK for the beneficiary of a disability pension (3rd grade of disability);
- 16,140 CZK for the ZTP/P cardholder;
- 4,020 CZK for the student up to 26 years or Ph.D. student up to 28 years.

There is a tax relief for child placement corresponding to the amount of expenses demonstrably incurred by the taxpayer for placing a maintained child in a facility providing care for children of pre-school age, including

³² Till the end of 2007 the tax rate was percentual progressive between 12–32 %.

³³ In the statement there are information for the employer about tax reductions and tax preferences; the employee can sign the statement only for one employer and if he does not do that, he has no right for tax reductions and tax preferences.

³⁴ See Section 35ba Income Taxes Act.

³⁵ A very handicapped person with a guide.

³⁶ This amount can be used only after the end of taxable period.

a nursery. This tax reduction per child is up to the amount of minimum wage. Other tax reductions can be used if the businessman employs disabled employees (18,000 CZK for every disabled employee, 60,000 CZK for every severely disabled employee)³⁷ or runs an electronic revenue registry (up to 5,000 CZK).³⁸

People with children living in their households have the right to use so-called **tax preferences for children**. For the first child, one parent can deduct as the tax reduction an amount of 15,204 CZK in a year (or 1/12 in a month), for the second child 19,404 CZK, and for the next child 24,204 CZK. If the tax after this reduction would be in minus, the tax preference is divided into two parts: tax reduction up to zero tax and tax bonus. If the taxpayer is economically active, the tax bonus (up to 60,300 CZK) should be paid back!

a. Structure of assessing the advance tax payment and net wage

Gross wage

+ Social security and health contributions paid by employer (33.8 % of gross wage³⁹)

Tax base (rounded up to whole hundreds)

Advance tax payment brutto I (15 % of the tax base, possibly 7 % special solidary surcharge)

- Tax reductions (1/12)

Advance tax payment brutto II ≥ 0

- Tax preferences for children

Advance tax payment netto / Tax bonus

Gross wage

- Social security and health contributions paid by employee (11 % of gross wage)

- Advance tax payment / + Tax bonus

Net wage

³⁷ See Section 35 Income Taxes Act.

³⁸ See Section 35bc Income Taxes Act.

³⁹ 35 % in 2011.

b. Structure of assessing personal income tax from dependent activity

Gross wage/wages

+ Social security and health contributions paid by employer (33.8 % of gross wage⁴⁰)

Tax base

- Tax allowances

Modified tax base (rounded down to whole hundreds)

Tax brutto I (15 % of the tax base, possibly 7 % special solidary surcharge)

- Tax reductionsTax brutto II ≥ 0 - Tax preferences for children

Tax netto / Tax bonus

- / + Advance tax payments / Tax bonuses

After payment / Overpayment

c. Structure of assessing personal income tax

Partial tax base § 6

+ Partial tax base § 7

+ Partial tax base § 8

+ Partial tax base § 9

+ Partial tax base § 10

Tax base

- Tax allowances

Modified tax base (rounded down to whole hundreds)

Tax brutto I (15 % of the tax base, possibly 7 % special solidary surcharge)

- Tax reductionsTax brutto II ≥ 0 - Tax preferences for children

Tax netto / Tax bonus

- / + Advance tax payments / Tax bonuses

After payment / Overpayment

⁴⁰ 35 % in 2011.

3.9 Personal Income Tax Administration, Payments, and Budget Destination

The **tax administrator** is the tax office determined by the residential address of the taxpayer.

The taxpayer must submit his **tax return** before 1 April following the expiry of the taxable period. If the tax return is prepared and submitted by the tax advisor or barrister, the tax return shall be filed latest six months following the expiry of the taxable period. However, before the unextended due date expires (1 April), a power of attorney authorizing such representation must be submitted.

In the tax return, the taxpayer must state all necessary information relevant to the control of his tax duty and he must calculate the tax.

There are just two possibilities given by tax acts when the taxpayer does not have to submit his tax return:

- His incomes are lower than 15,000 CZK in the taxable period;
- His only income comes from employment at one employer or consecutively at more employers. In this situation, the taxpayer signs the so-called tax statement, and his employer will prepare an annual account of tax advances.

It is very usual to pay tax **advance payments** not only in the Czech Republic. No tax advances are paid by taxpayers whose last known tax liability did not exceed 30,000 CZK and, in some cases, if he has incomes from dependent activity. In other cases, the taxpayer is obliged to pay advance payments and their amount and frequency depends on the last known tax liability:

- A taxpayer with the last known tax liability between 30,000 CZK and 150,000 CZK must pay two advances in the amount of 40 % by 15 June and 15 December;
- A taxpayer with the last known tax liability over 150,000 CZK must pay four advances in the amount of 25 % by 15 March, 15 June, 15 September, and 15 December.

The **revenue** from personal income tax **is** generally **distributed** between municipal budget (23.58 %), region budget (8.92 %), and state budget (67.5 %).⁴¹

⁴¹ Closer see Chapter 1.

4 Social Security and Health Contributions

Even though there are relatively low taxes in the Czech Republic, one of the worst problems to be solved in the future are very high social security and health contributions. Despite the discussions about whether the social and health contributions are taxes or not (and I believe they are, as they fulfill all the defining characters of a tax), they should be mentioned at least briefly as they influence the taxation of incomes from dependent activities.

Social security contributions provide funding for three separate funds: pensions, unemployment benefits, and sickness. These contributions are regulated by the Act no. 589/1992 Sb., as amended. Health insurance covers medical care. It is obligatory; however, there is a choice of seven licensed insurance companies to which subject pays health insurance contributions. The health contributions are regulated by the Act no. 592/1992 Sb., as amended.

Generally, the income that is subject to income tax is subject to contributions to social security and health insurance funds. The maximum annual cap for the social security contributions base is 48 times the average monthly wage per year, which copies the special solidary personal income tax surcharge. There is no such cap for health contributions.

The employee's assessment base for all the contributions is the sum of the earnings, which are subject to income tax according to the Income Tax Act. The employer's assessment base is the sum of the assessment bases of its employees.

The assessment base of a self-employed person is to be designed by this person, but not less than 50 % of the tax base according to the Income Tax Act. The amount of the assessment base may not be lower than 25 % of the average wage, resp. 10 % of the average wage (self-employed who have carried out only subsidiary/part-time independent gainful activity).

The assessment base of a self-employed person for health contributions is 50 % of the tax base according to the Income Tax Act. The minimal assessment base is defined as 12 times one half of the monthly average wage.

The following social security and health contributions are set:

Table 2: Social Security and Health Insurance Rates in the Czech Republic

	Employee (%)	Employer (%)	Total (%)	Self-employed (%)
Health contribution	4.5	9.0	13.5	13.5
Social security	6.5	24.8	31.3	31.3
- pension insurance premiums		21.5		28
- sickness insurance premiums		2.1		2.1
- unemployment contribution		1.2		1.2
Total	11.0	33.8	44.8	44.8

Social security contributions are administered by the District Social Security Administration. Contributions should be paid for the given calendar month by the 20th day of the following calendar month. If the contributions are not paid on time or if it is paid at a lower amount, there is a penalty of 0.05 % for every calendar day. One month after the date for the delivery of the tax return, a self-employed person has a duty to deliver the so-called overview of incomes and expenditures for the previous calendar year.

The health contribution is administered by a health insurance company. Contributions for employees should be paid for the given calendar month by the 20th day of the following calendar month. Contributions of entrepreneurs are payable until the 8th day of the calendar month following the month for which they are paid. If the contributions are not paid on time or if it is paid at a lower amount, there is a penalty of 0.05 % for every calendar day. After the end of the calendar year, one month after the date for the delivery of the tax return, a self-employed person has a duty to deliver the so-called overview of incomes and expenditures.

5 Corporate Income Tax

The second (but not the second in importance) income tax is the corporate income tax regulated together with the personal income tax in the Income Taxes Act (Act no. 586/1992 Sb., as amended). There are five types of corporations in the Czech legal system: general partnership (shares of partners in profits are liable to personal income tax), limited partnership (general partners' shares in profits are liable to personal income tax, too, while limited partners' shares in profits are liable to corporate income tax), limited liability company, joint-stock company and cooperative. Besides those, we should mention a silent partnership, too.

5.1 Object of Corporate Income Tax and Exemptions from Taxation

Income from all activities and from the management of all types of property is **liable to tax**. There are just several exceptions (incomes that are not liable to corporate income tax) like incomes obtained by inheritance or donation of immovable property or movable asset or property rights, or income in the amount which the Czech Republic is bound to settle as satisfaction accorded by the European Court for Human Rights, etc.

Although almost all the incomes are liable to personal income tax, some are exempt. The list of **exemptions** is very extensive. Below are several examples:⁴²

- Membership fees;
- Income from collections in churches;
- Income of state funds;
- Income of the Children's and Youth Fund;
- Income from the operation of lotteries and similar games of chance;
- Interest on mortgage bonds;
- Income in the form of interest received due to tax overpayments caused by the tax administrator;
- Income in the form of interest received on overpayments caused by the social security authorities;
- Incomes of the Czech National Bank, etc.

⁴² All the exemptions and other conditions are mentioned in Section 19 Income Taxes Act.

5.2 Corporate Income Taxpayers

Defining the taxpayers of corporate income tax is not very easy because there is the merely negative definition in the Income Taxes Act (“*Taxpayers liable to corporate income tax are those who are not natural persons...*”). The taxpayers are entities such as companies (limited partnerships,⁴³ limited liability company, joint-stock company, and cooperative), civil corporations, political parties, interest corporations, foundations, municipalities, state corporations, banks, insurance companies, exchanges, investment corporations, and investment funds, state funds, pension funds, churches, organizational components of the State, etc.

There is the same rule for corporate income tax like the one that was mentioned in the part dealing with taxpayers of personal income tax: there are two types of taxpayers liable to corporate income tax:

1. **Tax residents** – entities having their seat or head office in the Czech Republic are liable to tax on income arising from sources in both the Czech Republic and abroad;
2. **Tax non-residents** – entities not having their seat or head office in the Czech Republic are liable to tax on incomes arising only from sources in the Czech Republic.⁴⁴

5.3 How to Assess Corporate Income Tax

The taxpayer can read the **economic income** (it means incomes reduced by the expenses incurred to generate, assure, and maintain income specified in Section 24 of the Income Tax Act) from the bookkeeping. This is the **tax base**, which is not final; it shall be reduced by **items deductible from the tax base**.⁴⁵ The most important items deductible from the tax base are a tax loss recorded and assessed in five previous taxable periods and 100 % (110 %) of costs for research and development.

⁴³ Only limited partners' shares in profits are liable to corporate income tax, while general partners' shares in profits are liable to personal income tax.

⁴⁴ For details see RADVAN, M. and J. SCHWEIGL. Corporate Tax Residence in the Czech Republic. In: TRAVERSA, E. (ed.). *Corporate Tax Residence and Mobility*. Amsterdam: IBFD, 2018, pp. 213–234.

⁴⁵ For details see Section 34 Income Taxes Act.

The tax base reduced by items deductible from the tax base is called a modified tax base and this amount should be taxed by a linear percentual **tax rate**. This rate decreases year by year: in 2003 the rate was 31 %, in 2004 28 %, in 2005 26 %, and in 2006 and 2007 24 %. In 2008 it was only 21 %, the next year it went down to 20 %, and it finishes at 19 % for 2010 and the following years.

This tax is not final; the taxpayer can use several kinds of **tax reductions** (tax reliefs):⁴⁶

- 18,000 CZK for every disabled employee;
- 60,000 CZK for every severely disabled employee;
- One half of the tax if the taxpayer employs at least 25 employees and more than 50 % of them are disabled employees or severely disabled employees.

5.4 Corporate Income Tax Administration, Payments, and Budget Destination

The **tax administrator** is the tax office determined by the location of the registered office of the taxpayer.

Other information concerning tax administration and conditions of payment are very similar to the personal income tax: the taxpayer must submit his **tax return** at the latest three months following the expiry of the taxable period (usually 1 April). If the tax return is prepared and submitted by the tax advisor or barrister, the tax return shall be filed latest six months following the expiry of the taxable period, but before the unextended due date expires, a power of attorney authorizing such representation must be submitted.

There is one exception: the taxpayer of corporate income tax can choose whether he will use a calendar year or an economic (financial) year (which must begin on the first day of any month and must be twelve months long) as a **taxable period**.

The taxpayer must state all necessary information relevant to the control of his tax duty and he must count the tax in the tax return.

⁴⁶ For details see Section 35 Income Taxes Act.

Paying **advance payments** is much more usual dealing with corporate income tax, but the rules are the same as for personal income tax: no tax advances are paid by taxpayers whose last known tax liability did not exceed 30,000 CZK. In other cases, the taxpayer is obliged to pay advance payments and their amount and frequency depends on the last known tax liability:

- A taxpayer with the last known tax liability between 30,000 CZK and 150,000 CZK must pay two advances in the amount of 40 % by 15 June and 15 December;
- A taxpayer with the last known tax liability over 150,000 CZK must pay four advances in the amount of 25 % by 15 March, 15 June, 15 September, and 15 December.

The **revenue** from corporate income tax is distributed between municipal budget (23.58 %), region budget (8.92 %), and the state budget (67.5 %).

6 Immovable Property Tax

The most common property tax⁴⁷ in the Czech Republic and many other countries is the immovable property tax. Its profitability is not very good and there are a lot of discussions about whether to abolish this tax or not. In fact, this tax can be beneficial especially for municipalities as the beneficiaries of immovable property tax: a return from this tax is stable and there is hardly any tax evasion. We can expect that the citizens paying immovable property tax will try to use their property in the best way they can (lease, reconstruction, land cultivating, etc.) if they are obliged to pay this tax.

The immovable property tax is regulated by the Immovable Property Tax Act (Act no. 338/1992 Sb., as amended).⁴⁸ There are two, respectively, three parts of immovable property tax: land tax, building tax, and flats and non-residential premises (space) tax as a part of building tax.

This distinction is necessary because assessing these taxes is individual (different taxpayers, different tax base, and tax rate). But the total sum of these taxes creates one immovable property tax written down in one tax return.

The following text is divided into three parts with regard to particular immovable property taxes.

6.1 Land Tax

Since the 18th century, there has been the Real Estate Cadastre (land register) in the Czech lands (Czech Republic). It has been used as well to define the object of land tax: the **object of land tax** is created by the land in the territory of the Czech Republic registered in the land register. But the **land tax is not imposed on** some land; they are although registered in cadastre:

- Land within the area of the ground plan of the building which is built on;

⁴⁷ The inheritance tax and the gift tax were in force till the end of 2013. The tax on acquisition of immovable property was cancelled in 2020.

⁴⁸ Vide e.g., RADVAN, M. Theoretical Aspects of Real Estate Tax. In: *Sovremennye problemy teorii nalogovogo prava* [The Modern Problems of Tax Law Theory]. Voronezh: Voronežskij gosudarstvennyj universitet, 2007, pp. 439–446; RADVAN, M. Major Problematic Issues in the Property Taxation in the Czech Republic. *Analyses and Studies of CASP*, 2019, no. 2, pp. 13–31. DOI: 10.33119/ASCASP.2019.2.2

- Woodlands, if they involve preventive forests and forests of special determination;
- Water-covered areas, except ponds used for commercial fish-farming;
- Land used for defense of the State;
- Land owned by the owner of the unit where the land is used together with the unit (such as a flat and non-residential property).

All the other land are **liable to tax**:

- Agricultural land like arable land, hop-fields, vineyards, gardens, orchards, and permanent grass growth;
- Commercial forests;
- Ponds used for fish-farming;
- Built-up areas and courtyards;
- Development land;
- Flat structures (e.g., parking lots);
- Other areas (playing fields, bathing places, cemeteries, etc.).

Although numerous kinds of land are liable to land tax, they can be **tax-exempt**. There are a lot of reasons and many conditions for land to be exempt from taxation. The most common condition is not to use the land for running a business. The legislator was motivated primarily by public interest, ecological aspects, and international treaties in creating exemptions. In several cases, the tax return does not have to be filed. This concerns land owned by the State, municipalities, regions and diplomatic representatives, water dams and other structures used to regulate water flows, water conduits and sewerages, city wastewater treatment plants, energy distribution structures, public transport structures (roads, highways, railways, airports, ports, etc.). Other claims for exemptions must be set up in the tax return. This rule concerns the land owned by churches, schools and universities, museums and galleries, hospitals, etc. All these lands are tax-exempt permanently. Other lands are exempt just for several years:

- Agricultural land for five years following the year when they were returned to use in agriculture after reclamation;
- Woodlands for 25 years following the year when they were returned to use in forestry after reclamation;

- Land affected by a natural disaster for a period up to five years to eliminate consequences of natural disasters (this tax exemption depends on the opinion of a municipality);
- Agricultural land except for gardens, if the municipality decides so.

In most cases, the **taxpayer** of the land tax is the owner of the land. Sometimes the leaseholder of the land can be the taxpayer. This rule is used mainly for the land registered in the Real Estate Cadastre in the facile way, administered by the Czech Republic's Land Fund or the Administration of State Material Reserves, or transferred to the National Property Fund. Even the user of the land can be the taxpayer of land tax. This can happen if the owner of such land is unknown or if the boundaries of the land came into being in the terrain after such land was handed over as compensation for the original land, which was consolidated. If two or more people should be the taxpayers of one land in co-ownership, they usually pay the tax jointly and severally. If one of them pays the tax, the tax duty of the other is fulfilled. But one of them can file his tax return only for himself, for his part of the land. In this situation, the tax office counts the tax for other co-owner(s) and every co-owner must pay a minimum tax of 50 CZK.

To **set up the tax**, every taxpayer must know the tax base and the tax rate; he must multiply the tax base by the tax rate.⁴⁹

The system of assessment of the tax base and tax rate is different for every kind of land:

- The tax base of **agricultural lands** such as arable land, hop-fields, vineyards, gardens, orchards, and permanent grass growth is the price of land determined as a multiple of the actual area of the land in square meters and the average price per square meter of the land laid down in a decree. The tax rate is different: lower (0.25 %) for permanent grass growth (they have lower productivity), higher (0.75 %) for the other agricultural land.
- Assessing the tax base of **commercial forests and ponds used for fish-farming**, the taxpayer can choose what is better for him: whether to use the price of the land as determined under the price regulations

⁴⁹ The tax base and the tax must be rounded up to CZK.

valid on 1 January of the taxable period or the actual area in square meters multiplied by 3.80 CZK. The tax rate is just one – 0.25 %.

- The tax base of other lands (**built-up areas and courtyards, development land, and other areas**) is the actual area of the land in square meters, as ascertained on 1 January of the taxable period. The tax rate per square meter is different for built-up areas and courtyards and other areas (0.20 CZK) and development land (2 CZK). The development land has another value depending on whether it is in a small village or a city. That is why the tax rate of 2 CZK is not final and it is regulated (multiplied) by a coefficient called location rent according to the number of inhabitants (municipality can increase or reduce a basic coefficient by a generally binding ordinance).

Table 3: Coefficients Used for Land Tax on Development Land

Number of inhabitants / Municipality	Coefficient				
	Basic	Reduced			Increased
≤ 1,000	1.0	–	–	–	1.4
> 1,000 ≤ 6,000	1.4	–	–	1.0	1.6
> 6,000 ≤ 10,000	1.6	–	1.0	1.4	2.0
> 10,000 ≤ 25,000	2.0	1.0	1.4	1.6	2.5
> 25,000 ≤ 50,000	2.5	1.4	1.6	2.0	3.5
> 50,000 + Františkovy Lázně, Luhačovice, Mariánské Lázně, Poděbrady	3.5	1.6	2.0	2.5	4.5
Prague	4.5	2.0	2.5	3.5	5.0

The final tax (with the exception for agricultural land) can be multiplied by the local coefficient at 2, 3, 4, or 5 assessed by a generally binding ordinance. This resolution depends on the municipality.

6.2 Building Tax

Both buildings for dwelling and buildings used for business **are liable** to building tax. The objects of taxation are the buildings in the territory of the Czech Republic connected to the land with fixed foundations. Moreover, the objects of taxation also include so-called engineering

structures such as chimneys, which may or may not rely on foundations for their attachment to the land.

Apartment block buildings, in respect of which the tax is payable on the individual apartments/flats and associated non-residential premises, are **not liable to the building tax**.

There are a large number of buildings that are liable to building tax, but they are **tax-exempt**. The reasons and conditions are the same as the ones mentioned for the land tax. The most common condition is not to use the land for running a business. The legislator was motivated mostly by public interests, ecological aspects, and international treaties in creating exemptions but we can see economic motivations, too.

Sometimes the tax return cannot be filed. This rule is applied for buildings owned by the State, municipalities, regions, and diplomatic representatives or used in public passenger transport.

Other claims for exemptions must be set up in the tax return. For better understanding, it is useful to create two parts of these exemptions:

- Buildings that are tax-exempt permanently. This rule concerns buildings owned by churches, schools and universities, museums and galleries, hospitals, etc.;
- Other lands are exempt just for several years:⁵⁰
 - Cultural monuments for eight years after the year following the year when a building permit was issued for alterations undertaken by the owner;
 - Buildings affected by a natural disaster for a period of up to five years to eliminate the consequences of natural disasters (this tax exemption depends on the opinion of a municipality), etc.

In general, the **taxpayer** of the building tax is the owner of the structure. If the structure is managed by the Czech Republic's Land Fund or the Administration of State Material Reserves or transferred to the Czech Republic's National Property Fund, these entities are the taxpayers. But if these structures are leased, their lessees should pay the building tax.

⁵⁰ Exemptions for newly-constructed residential buildings and flats in newly-constructed residential buildings (for 15 years) and for structures where the heating system was converted from use of solid fuels to more ecological fuel (for 5 years) were abolished in 2009.

(This rule is not used for residential buildings, where the entities mentioned above are the taxpayers.) If two or more people should be the taxpayers of the land, they must pay the tax jointly and severally. If one of them pays the tax, the tax duty of the others is fulfilled. But one of them can file his tax return only for himself, for his part of the structure (in 2011 for the first time). In this situation, the tax office counts the tax for other co-owner(s) and every co-owner must pay a minimum tax of 50 CZK.

The **tax base** is the same for all kinds of buildings and it is defined as a built-up area in square meters on 1 January of the taxable period. The **tax rate** is different for separate kinds of buildings:

- The standard tax rate for **residential buildings** is 2 CZK per square meter of a built-up area. This rate shall be increased by 0.75 CZK per each additional above-ground floor (so-called increased tax rate). This standard rate or increased rate shall be multiplied by a location rent – a coefficient according to the number of inhabitants (the municipality can increase or reduce a basic coefficient by a generally binding ordinance):

Table 4: Location Rent

Number of inhabitants / Municipality	Coefficient				
	Basic	Reduced			Increased
≤ 1,000	1.0	–	–	–	1.4
> 1,000 ≤ 6,000	1.4	–	–	1.0	1.6
> 6,000 ≤ 10,000	1.6	–	1.0	1.4	2.0
> 10,000 ≤ 25,000	2.0	1.0	1.4	1.6	2.5
> 25,000 ≤ 50,000	2.5	1.4	1.6	2.0	3.5
> 50,000 + Františkovy Lázně, Luhačovice, Mariánské Lázně, Poděbrady	3.5	1.6	2.0	2.5	4.5
Prague	4.5	2.0	2.5	3.5	5.0

- The standard tax rate for **other structures that provide facilities for residential buildings** is 2 CZK per square meter of a built-up area, too, but only for the area which is over 16 square meters. This rate shall be increased by an increased tax rate (0.75 CZK per each

additional above-ground floor). This standard rate or increased rate shall be multiplied by a location rent.

- The standard tax rate for **houses and family houses used for individual recreation** is 6 CZK per square meter of a built-up area. This rate shall be increased by an increased tax rate (0.75 CZK per each additional above-ground floor) and by the so-called municipal coefficient (1.5 – assessed by a generally binding ordinance). If such houses are located in national parks or first-category protected countryside zones, there is another coefficient of 2.0 that shall be used.
- The standard tax rate for **other structures that provide facilities for houses and family houses used for individual recreation** is 2 CZK per square meter of a built-up area. This rate shall be increased by an increased tax rate (0.75 CZK per each additional above-ground floor), by a municipal coefficient (1.5) and if such structures are located in national parks or first-category protected countryside zones, the coefficient at 2.0 shall be used.
- The standard tax rate for **garages** constructed separately from residential buildings is 8 CZK per square meter of a built-up area. This rate can be multiplied by a municipal coefficient (1.5).
- The standard tax rate for **structures for business activities** depends on the type of business activities:
 - 2 CZK per square meter of a built-up area for structures used for primary agricultural production, forestry and water management,
 - 10 CZK per square meter of a built-up area for structures used for industrial production, civil engineering, transport, power, and other agricultural production and for other business activities.
 The standard tax rate shall be increased by an increased tax rate (0.75 CZK per each additional above-ground floor) and by a municipal coefficient (1.5).
- For **other structures**, the standard tax rate is 6 CZK per square meter of a built-up area. It can be increased by an increased tax rate (0.75 CZK per each additional above-ground floor).

The final tax can be multiplied by the local coefficient at 2, 3, 4, or 5 assessed by a generally binding ordinance. This resolution depends on the municipality.

Knowing or even finding a correct tax rate in the Act is very difficult, so it might help you to look at the following table:⁵¹

Table 5: Building tax Coefficients

Object of building tax	Standard tax rate (CZK/m ²)	Increases tax rate (additional above-ground floor)	Multiplied coefficients			Local coefficient
			According to number of inhabitants	Municipal	National park	
Residential buildings	2	+ 0.75 CZK/m ^{2*}	x 0.3 – 5.0	–	–	2,3,4 or 5
Other structures that provide facilities for residential buildings (over 16 m ²)	2	+ 0.75 CZK/m ^{2*}	x 0.3 – 5.0	–	–	2,3,4 or 5
Houses and family houses used for individual recreation	6	+ 0.75 CZK/m ^{2*}	–	none / 1.5	x 2.0	2,3,4 or 5
Other structures that provide facilities for houses and family houses used for individual recreation	2	+ 0.75 CZK/m ^{2*}	–	none / 1.5	x 2.0	2,3,4 or 5
Garages	8	+ 0.75 CZK/m ^{2*}	–	none / 1.5	–	2,3,4 or 5
Structures for business activity – primary agricultural production, forestry, and water management	2	+ 0.75 CZK/m ^{2**}	–	none / 1.5	–	2,3,4 or 5
Structures for business activity – industrial production, civil engineering, transport, power, and other agricultural production and for other business activity	10	+ 0.75 CZK/m ^{2**}	–	none / 1.5	–	2,3,4 or 5
Other structures	3	+ 0.75 CZK/m ^{2*}	–	–	–	2,3,4 or 5

* If the area of a built-up additional above-ground floor exceeds two-thirds of the built-up area

** Always

⁵¹ The tax must be rounded up to the whole CZK.

6.3 Flats and Non-Residential Premises Tax

The flats and non-residential premises tax is a special category of the building tax. This tax includes proportionate shares in common areas of the building, such as laundries, hanging rooms, corridors, etc. related to the flats and non-residential premises. Only flats and non-residential premises registered in the Real Estate Cadastre are liable to tax. Buildings in which flats and non-residential premises are objects of taxation are not liable to building tax.

Exemptions from flats and non-residential premises tax are the same as the exemptions from building tax.

The definition of the **taxpayer** of flats and non-residential premises tax is the same as the definition of the taxpayer of building tax; it means the owner of the flat or non-residential premise is usually the taxpayer of this tax.

The **tax base** of flats and non-residential premises tax is the so-called adjusted floor area; it means the floor area of the flat or non-residential premise in square meters on 1 January of the taxable period, multiplied by a coefficient of 1.20 (or 1.22, if there is any land used together with the unit).

The **tax rate** is different for flats and non-residential premises:

- The standard tax base for **flats** is 2 CZK per square meter of the adjusted floor area. This standard rate shall be multiplied by a coefficient according to the number of inhabitants (a location rent).
- There are usually some business activities run in **non-residential premises**. For this situation, the taxpayer must set his standard rate according to the business activity:
 - 2 CZK per square meter of the adjusted floor area for flats and non-residential premises used for primary agricultural production, forestry, and water management,
 - 10 CZK per square meter of the adjusted floor area for flats and non-residential premises used for industrial production, civil engineering, transport, power, and other agricultural production and for other business activity.

These standard rates shall be multiplied by the municipal coefficient of 1.5.

- If the non-residential premise is used as a garage, the standard tax rate is 8 CZK per square meter of the adjusted floor area. This standard rate shall be multiplied by the municipal coefficient of 1.5, too.
- If the non-residential premise is used for anything else, the standard tax rate is 2 CZK per square meter of the adjusted floor area and it can be multiplied by a location rent.

The final tax can be multiplied by the local coefficient at 2, 3, 4, or 5 assessed by a generally binding ordinance. This resolution depends on the municipality.

6.4 Immovable Property Tax Administration, Payments, and Budget Destination

The **tax administrator** is the tax office in whose district such property is situated.

The **tax return** must be filed by the taxpayer by 31 January of the **taxable period** (the calendar year). The immovable property tax is assessed according to the situation on 1 January of the calendar year of which it is assessed.

The tax return does not have to be filed every year; usually, if the tax return was filed in any previous taxable period and there are no changes, the taxpayer does not have this duty. Even if there are changes in the tax rate, in the average price of land, in the coefficients, etc., there is no duty to file the tax return.

Every year the tax office sends the assessment with the tax duty to every taxpayer. If the annual immovable property tax does not exceed 5,000 CZK, it shall be **payable** in one payment no later than 31 May of the current taxable period. If the tax exceeds 5,000 CZK, it shall be payable in two equal installments no later than 31 May and 30 November. The taxpayers engaged in farming and fish-farming have to pay the tax in two installments no later than 31 August and 30 November.

The **revenue** from the immovable property tax is the income of the municipality in whose district the property is situated.

7 Road Tax and other Charges on Using Roads

Many motorists have to pay for using motorways and highways, not only in the Czech Republic. There are three types of charges: the road tax, time charge, and electronic toll. The income of these charges is (even together with other sources of money, e.g., part of excises) not enough to repair existing roads and to build new ones.⁵²

7.1 Road Tax

The road tax (the tax on motor vehicles) is one of the direct taxes collected in the Czech Republic. The primary purpose of this tax is the taxation of using roads by motor vehicles. The tax base and the tax rate depend on how the vehicle damages the roads. The road tax has been in operation since 1 January 1993 and it is adjusted in the Road Tax Act (Act no. 16/1993 Sb., Road Tax Act, as amended).

The **objects of the road tax** are all motor vehicles registered and operated in the Czech Republic and used for running a business. Vehicles of the total weight over 3,5 tons, registered in the Czech Republic, and determined solely for the freight transport are always liable to tax (if they are used for the business activity or not).⁵³

Some vehicles such as special tracked motor vehicles, tractors and their trailers, vehicles with special number plate, etc. are **not liable to the road tax**.

Some operators of motor vehicles have immunity from taxes; they do not have to pay road tax. The tax **exemption** is usually motivated by a public utility (police cars, fire brigade cars, ambulance cars, army cars, breakdown service cars, road sweeping vehicles, etc.), ecological aspects (cars with electric drive, cars using LPG, intercity buses) or international treaties. Tax exemption is used for vehicles with less than four wheels (L category in a log-book), especially motorcycles.

⁵² Vide DAVID, P. Principles of Taxation of Road Motor Vehicles and their Possibilities of Application. *Acta Universitatis agriculturae et silviculturae Mendelianae Brunensis*, 2012, no. 2, pp. 483–491; RADVAN, M. *Zdanění majetku v Evropě*. Praha: C. H. Beck, 2007.

⁵³ But government decree sets up several exemptions from this rule especially because of social and charitable reasons.

The **taxpayer** is the operator of the vehicle (a natural person or legal entity) and his name is entered in vehicle registration papers (log-book). It means that the taxpayer is usually the owner of the vehicle. In some special cases, the taxpayer can be the employer: if the employer sends his employee on a business trip and the employee uses his own vehicle, the employer is the taxpayer and he is obliged to pay the road tax.

The **tax base** differs from the type of vehicle:

- For motor cars, the tax base is the engine capacity in cm³;
- For trucks and semi-trailers, the tax base is the sum of the highest admissible weights on axles in tons and the number of axles (this combination is very pragmatic because the truck with more axles destroys the road less than a truck with the same weight and lower number of axles).

The **tax rate** is fixed for every vehicle. The tax is paid for every vehicle separately.

For motor cars, the annual tax rate is:

Table 6: Tax Rate of Road Tax for Motor Cars

Engine capacity	Tax rate
to 800 cm ³	1,200 CZK
from 800 cm ³ to 1,250 cm ³	1,800 CZK
from 1,250 cm ³ to 1,500 cm ³	2,400 CZK
from 1,500 cm ³ to 2,000 cm ³	3,000 CZK
from 2,000 cm ³ to 3,000 cm ³	3,600 CZK
from 3,000 cm ³	4,200 CZK

For trucks and semi-trailers, the annual tax rate is:

Table 7: Tax Rate of Road Tax for Trucks and Semi-Trailers

Number of axles	Weight	Tax rate	Number of axles	Weight	Tax rate	
1	to 1 t	1,800 CZK	3	to 1 t	800 CZK	
	from 1 t to 2 t	2,700 CZK		from 1 t to 3.5	2,400 CZK	
	from 2 t to 3.5 t	3,900 CZK		from 3.5 to 6 t	3,600 CZK	
	from 3.5 t to 5 t	5,400 CZK		from 6 t to 8.5 t	6,000 CZK	
	from 5 t to 6.5 t	6,900 CZK		from 8.5 t to 11 t	7,200 CZK	
	from 6.5 t to 8 t	8,400 CZK		from 11 t to 13 t	8,400 CZK	
	from 8 t	9,600 CZK		from 13 t to 15 t	10,500 CZK	
2	to 1 t	1,800 CZK	3	from 15 t to 17 t	13,200 CZK	
	from 1 t to 2 t	2,400 CZK		from 17 t to 19 t	15,900 CZK	
	from 2 t to 3.5 t	3,600 CZK		from 19 t to 21 t	17,400 CZK	
	from 3.5 t to 5 t	4,800 CZK		from 21 t to 23 t	21,300 CZK	
	from 5 t to 6.5 t	6,000 CZK		from 23 t to 26 t	27,300 CZK	
	from 6.5 t to 8 t	7,200 CZK		from 26 t to 31 t	36,600 CZK	
	from 8 t to 9.5 t	8,400 CZK		from 31 t to 36 t	43,500 CZK	
	from 9.5 t to 11 t	9,600 CZK		from 36 t	50,400 CZK	
	from 11 t to 12 t	10,800 CZK		4 and more	to 18 t	8,400 CZK
	from 12 t to 13 t	12,600 CZK			from 18 t to 21 t	10,500 CZK
	from 13 t to 14 t	14,700 CZK			from 21 t to 23 t	14,100 CZK
	from 14 t to 15 t	16,500 CZK	from 23 t to 25 t		17,700 CZK	
	from 15 t to 18 t	23,700 CZK	from 25 t to 27 t		22,200 CZK	
	from 18 t to 21 t	29,100 CZK	from 27 t to 29 t		28,200 CZK	
	from 21 t to 24 t	35,100 CZK	from 29 t to 32 t		33,300 CZK	
	from 24 t to 27 t	40,500 CZK	from 32 t to 36 t		39,300 CZK	
	from 27	46,200 CZK		from 36 t	44,100 CZK	

If the tax liability arises or expires during the year, then the tax is just 1/12 of the annual rate tax for every month when the taxpayer is obliged to pay the road tax. The tax liability arises as of the calendar month in which decisive conditions are met and terminates in the calendar month in which decisive conditions cease to be met.

In the case when the employer sends his employee on a business trip and the employee uses his own vehicle, the employer is obliged to pay road tax and he has the possibility to pay a special tax rate 25 CZK per day.

The Czech legislator decided to give preferential tax rates to the operators of new vehicles (presuming that they fulfill ecological standards). That is why the tax rate for vehicles is only 52 % of the basic tax rate during the first 36 months after the first registration of the vehicle, 60 % during the next 36 months, and 75 % during the next 36 months. If trucks and semi-trailers of the total weight between 3,5 and 12 tons are not used for running a business, it is not necessary to pay any tax. If the total weight of these vehicles is over 12 tons, the tax rate is only 52 % of the basic tax rate.

On the other hand, the taxpayers are obliged to pay the tax rate increased by 25 % for vehicles registered till the end of 1989.

If using combined transport, the taxpayer can set up a claim to **tax relief** (tax reduction). Combined transport means the transport of cargo on roads combined with transport on railroads or water roads. The distance between the place of loading or discharge and the railway station or the port must be 150 km at maximum. The amount of tax relief depends on the number of drives made by combined transport during the year:

Table 8: Tax Relief for Road Tax

Number of drives	Tax relief in % from the annual tax rate
vehicles used only for combined transport	100
more than 120	90
from 91 to 120	75
from 61 to 90	50
from 31 to 60	25

If the distance on the railroad or in the water road is longer than 250 km, it is calculated as two drives.

The **tax return** on the road tax must be filed by 31 January of the next year. In this tax return, the taxpayer must calculate his tax liability. The **tax administrator** is the tax office determined by the location of the registered office of the taxpayer (legal entity) or residential address (natural person).

The **tax must be paid** by 31 January of the next year. But the taxpayer is obliged to pay **tax advances** during the year. There are four terms to pay tax advances: 15 April, 15 July, 15 October, and 15 December.

The whole **revenue** from the road tax is the income of the State Fund of Transport Infrastructure.

7.2 Time Charge (Vignette)

This charge is regulated by the Land Roads Act (Act no. 13/1997 Sb., as amended). It is paid only by the operators of motor vehicles with four wheels or the operators of road trains using Czech motorways and highways. In other words, anyone who wants to use a motorway or highway must pay no matter how many kilometers he goes on the paid stage. This system is not fair; the operator has the only opportunity to choose for how long he will need to travel on the paid motorways: one year, one month, or ten days. Vehicles of the total weight of at least 3,5 tons do not pay a time charge because they are liable to electronic toll.

Till the end of 2020, the allowance of the charge was verified by the tax sticker on the front window. Since 2021, there is electronic evidence of time charges. Land Roads Act sets up a maximal level of taxation at 1,500 CZK per year. Electric cars are exempted from payments.

According to the Act, shorter periods of taxation (month, ten days) are possible with sufficient value of tax stickers. The concrete value of the time charge is set up in the government decree:

Table 9: Time Charge

Validity period	one year	one moth	ten days
Weight of vehicle			
to 3.5 t	1,500 CZK	440 CZK	310 CZK

The whole **revenue** from the time charges is the income of the State Fund of Transport Infrastructure.

7.3 Electronic Toll

Electronic road tolls systems are relatively modern systems replacing time charges in many European countries. The same situation is in the Czech Republic, where the electronic road toll has been used since 2007. The electronic toll is regulated by Land Roads Act, too. It is paid only by the operators

of motor vehicles with four wheels or the operators of road trains of a total weight of at least 3,5 tons using Czech motorways, highways, and selected other 1st class roads. Concrete value of the time charge per kilometer is set up in the government decree, with respect to ecological limits, a number of axles, kind of road (higher rates for highways and motorways, lower for 1st class roads), and time (higher rates for Fridays between 3 and 8 PM).

The whole **revenue** from the electronic toll is the income of the State Fund of Transport Infrastructure.

8 Gambling Tax

Hazard is often considered to be a socially undesirable phenomenon. In 2017, a new law of hazard came into force in the Czech Republic. The general gambling regulation is connected with the new law on gambling taxation, too. Gambling tax is regulated by the Gambling Tax Act (Act no. 187/2016 Sb., as amended).⁵⁴

The **object of the gambling tax** is any gambling operation in the territory of the Czech Republic for a gambling participant if a basic license is required to operate such gambling, or such gambling must be notified (i.e., operating without a license is to be taxed, too). The same principle is mentioned in the definition of a **taxpayer**, who is not only a basic license holder under an act governing gambling or a notifier of gambling, but also a person who operates gambling whose pursuit of such a license is required, or a person who operates gambling whose notification of operation is required.

The **tax base** is the sum of partial tax bases that make up the amount by which the sum of received deposits exceeds the sum of total winnings paid and returned deposits. The tax base may consist of up to eight partial tax bases for individual types of gambling: lotteries, odds betting, totalizator games, bingo, technical games (gambling machines), live games, raffles, and small-sized tournaments. There is a special partial tax base in case of gambling carried out by the use of remote communication using the internet, in which the gambling participant (Czech resident) is playing against another person who is registered to participate in gambling or who paid a deposit, and who is not a Czech resident. This partial tax base is made up of the difference of 1. the product of a) the amount by which the sum of received deposits exceeds the total winnings paid and b) the ratio of the sum of received deposits from gambling participant (i.e., Czech resident) and the sum of all received deposits and 2. the sum of returned deposits to gambling participant. For each live game tournament, when determining the tax base, only

⁵⁴ RADVAN, M. Municipalities and Gambling Taxation in the Czech Republic. *Lex Localis – Journal of Local Self-Government*, 2017, no. 3, pp. 529–540. DOI: 10.4335/15.3.529-540(2017); BOHÁČ, R. and H. KRASULOVÁ. *Zákon o dani z hazardních her: Komentář*. Praha: Wolters Kluwer, 2017.

the winnings paid of up to 95 % of the received deposits into the tournament are considered in total for all taxation periods.

The **tax rate** is higher for the partial tax base on lotteries and technical games (35 %), lower for odds betting, totalizator games, bingo, live games, raffles, and small-sized tournaments (23 %). For the technical games, the minimal partial tax is set as the product of the sum of all game points of authorized terminal devices specified in the gambling premises location license and the amount of CZK 9,200 per calendar quarter.

Tax returns must be filed within 25 days after the expiry of the taxation period, which is set as the calendar quarter. The tax is due on the last day of the period set for submission of the tax return. The **tax administrator** is the tax office determined by the location of the registered office of the taxpayer (legal entity) or residential address (natural person). The tax is to be paid on the last day of the period set to submit the tax return.

The **revenue** is distributed between the central budget (70 %, respectively 65 % in case of technical games) and the municipal budgets (generally 30 % and 35 % in case of technical games).

9 Levy on Electricity from Solar Radiation

The levy on electricity from solar radiation is regulated by Act no. 165/2012 Sb., on Supported Energy Sources and on Amendments to Certain Acts, as amended. The levy was collected for the first time in 2014 as the object of the levy is the electricity made from solar energy from 1 January 2014 in the power plants using solar radiation and placed in service from 1 January 2010 to 31 December 2010 as long as the right to the support of electricity generation from renewable resources continues. The reason to adopt the levy was high guaranteed amounts of the support of electricity generated from renewable resources in the power plants using solar radiation and placed in service in 2010 when the construction costs were lower. These legal and economic consequences led to high profits and the levy was, in fact, a special tax on profit. Only electricity generated from solar radiation in equipment whose capacity is up to 30 kW is exempted.

The taxpayer is a producer of electricity, which is made from solar energy. The tax payor (paying agent) is an electricity supplier to the final consumer. The tax base is the amount without VAT paid from electricity supplier to electricity producer for electricity made from solar energy. The tax rate is 10 % (11 % in the case of a green bonus).

The levy bill should be filed in 25 days from the end of the tax period, which is a calendar month. It must be paid at the same time. The levy is administered by the tax office and the revenue is the income of the state budget.

10 Value Added Tax

Value added tax (VAT) is the most typical indirect tax collected not only in the Czech Republic. The Czech regulation of VAT follows the EU directives. VAT is a tax on transactions or better, a consumption tax. In fact, it is the tax paid by a final consumer on the purchase of goods and services, even a lot of the consumers do not know they are paying this tax.

In the Czech Republic, VAT is quite a new tax: it was first introduced on 1 January 1993. It is regulated by Act no. 235/2004 Sb., Value Added Tax Act, as amended.⁵⁵

The **objects of VAT** are:

- Supply of goods for payment by a taxable person, if a place of transfer is in the Czech Republic; goods are all movable assets, heat energy, electric power, water, gas, banknotes and coins, etc.;
- Supply of service for consideration by a taxable person, if a place of transfer is in the Czech Republic;
- Acquisition of goods from another Member State of the European Union for payment;
- Import of goods with a place of supply in the Czech Republic.

Several supplies are **exempt from taxation**. These include, i.a., banking operations, insurance operations, postal service, radio, and television broadcasting or lease of immovable property (land and buildings, with several exceptions).

Taxable persons (payors) are individuals and legal entities that carry out economic activities such as trading, manufacturing activities, and the provision of services in the Czech Republic. Every taxable person must be registered to VAT once the statutory requirements for registration are met. The taxable person is usually the one whose turnover exceeds 1,000,000 CZK in the past twelve months. This person must file the registration form and transfer it to the tax office before the fifteenth day following the end of a month when its turnover exceeded the sum mentioned above.

⁵⁵ Vide PAŘÍZKOVÁ I. and M. RADVAN. In: RADVAN, M. et al. *Finanční právo a finanční správa – Berní právo*. Brno: Masaryk University et Doplněk, 2008.

This person becomes the taxpayer of VAT on the first day of the second month after the month when the turnover was exceeded.

Some persons use the possibility given by the VAT Act to be registered voluntarily. In this case, they do not have to pay on all purchases and they have a possibility to reclaim the amount of VAT paid as a refund.

It is typical for VAT that it occurs in every phase of the turnover (it means, e.g., the acquisition of raw materials, phases of manufacturing and distribution, sale to the final consumer). Every phase usually adds some value and this added value is the object of taxation. The final, total sum of the tax is paid by the final consumer because every VAT payor has a right to ask for the refund of the tax, but the final consumer does not have this right.

The **tax base** is a monetary amount that was received or is to be received as a consideration by a VAT payor from a person to whom the VAT payor realized a taxable supply. The tax base also comprises customs, dues, charges (fees), excise taxes (incl. energy taxes), price subsidies, accidental expenses, materials directly connected to rendered service, building and fitting works connected to the construction, etc.

There are **three rates** to be used for assessing VAT in the Czech Republic. The basic tax rate is 21 % and it is used both for the supplies of goods and services. The first reduced tax rate is 15 % and the second reduced rate is 10 %. There are lists of goods and services liable to reduced VAT rates in annexes to the Value Added Tax Act. Just several kinds of goods and services will be mentioned like foodstuffs, including beverages or water, pharmaceutical products, napkins for babies, books, newspapers and journals, baby safety seats used in cars, water management, regular mass transport, cultural activities, etc.

To assess the tax, we must use this formula: $VAT = \text{Tax Base} \times \text{Coefficient}$, where $\text{Coefficient} = \text{Tax Rate} / 100$. The tax can be rounded up to the whole hellers (0.01 CZK).

There is one more formula used in the situations when we know the whole sum, including VAT: $VAT = \frac{\text{the Whole Sum} \times \text{Tax Rate}}{(\text{Tax Rate} + 100)}$, it means $VAT = \frac{\text{the Whole Sum} \times 0.1736}{211}$ for 21 % VAT rate, $VAT = \frac{\text{the Whole Sum} \times 0.1304}{115}$ for 15 % VAT rate, and $VAT = \frac{\text{the Whole Sum} \times 0.0909}{109}$ for 10 % VAT rate.⁵⁶

⁵⁶ The quotient is rounded to four decimal positions.

There are two possibilities of the **VAT period** and two periods for submitting the tax return depending on the VAT payor's turnover in the previous calendar year:

- A VAT payor whose turnover in the previous calendar year was less than 10,000,000 CZK can choose whether the tax period will be a calendar quarter or one month;
- A VAT payor whose turnover in the previous calendar year was more than 10,000,000 CZK has a monthly taxable period.

Every taxpayer must submit his **tax return** by the 25th day after the relevant taxable period.

The **tax administrator** is the tax office determined by the location of the registered office of the taxpayer (legal entity) or residential address (natural person) or customs offices in case of export.

The **tax must be paid** in the term for filing the tax return. The VAT **revenue** is distributed between municipal budget (23.58 %), region budget (8.92 %), and the state budget (67.5 %)

11 Selected Excise Taxes

Selected excise taxes are typical indirect taxes that have been collected for many years in many countries, including the Czech Republic. Not all products are liable to excise taxes, just several of them chosen by the State. The states usually argue that these products are not healthy (alcohol, tobacco), or they are dangerous for nature (petroleum oils). But mostly the real reason for these taxes is money for public budgets. In fact, all these products are also liable to the VAT, so that we can talk about double taxation.

Historically there were five selected excise taxes (excise duties) in the Czech Republic:

- Excise tax on petroleum oils (hydrocarbon fuels);
- Excise tax on spirit;
- Excise tax on beer;
- Excise tax on wine and semi-products;
- Excise tax on tobacco products.

Since the beginning of 2008, there are three new excise taxes, often called energy taxes or (more often, but incorrectly) ecological taxes. The main principles of regulation correspond to the Directive 2003/96/ES. These taxes are:

- Tax on earth gas and other gases;
- Tax on solid fuels;
- Tax on electricity.

As there are new types of tobacco products, initially not taxed, two additional taxes on tobacco were introduced:

- Tax on rough tobacco (1 July 2015);
- Tax on heated tobacco products (1 April 2019).

Both new tobacco taxes are regulated together with “old” selected excise taxes by Act no. 353/2003 Sb., Excise Taxes Act, as amended. Energy taxes are regulated by Act no. 261/2007 Sb., Public Budgets Stabilization Act, as amended.⁵⁷

⁵⁷ Vide e.g., RADVAN, M. Energy Taxes. In: KNEZ, R., N. ROZEHNALOVÁ, V. TÝČ et al. *Five Years of EU Membership Case of Czech Republic and Slovenian Law*. Maribor: University of Maribor, 2009, pp. 108–123.

These selected products are the objects of the excise tax if they are produced in the territory of the European Union or if they are imported to the territory of the European Union.

There are two main groups of **payors** of excise taxes:

1. An individual or legal entity – the operator of the tax deposit, recipient or producer of selected products;
2. An individual or legal entity that has a duty to pay the tax in case of import.

Since there are ten different selected excise taxes, the following text will be divided into several parts. The same formula stands for all the excise taxes: $\text{Tax} = \text{Tax Base} \times \text{Tax Rate}$.

11.1 Excise Tax on Petroleum Oils

Petroleum oils are all the motor petrol and aviation petrol-type fuels, medium oils and heavy gas and heating oils, waste oils, liquefied petroleum gases, and compressed gases and mixtures of petroleum oils.

The **tax base** is usually 1,000 liters of petroleum oils at the temperature of 15 °C (motor petrol and aviation petrol-type fuels, medium oils and heavy gas and heating oils, waste oils) or 1 ton (liquefied petroleum gases and liquefied petroleum gases). This amount must be rounded to two decimal positions.

The **tax rate** is fixed and the tax rates are mentioned in the following table:

Table 10: Excise Tax Rates on Petroleum Oils

Description	Tax rate
Motor petrol and aviation petrol-type fuels with lead content not exceeding 0,013 g per liter	12,840 CZK per 1,000 liters
Motor petrol and aviation petrol-type fuels with lead content exceeding 0,013 g per liter	13,710 CZK per 1,000 liters
Medium oils and heavy gas and heating oils	10,950 CZK per 1,000 liters
Heavy heating oils	472 CZK per ton
Waste oils	660 CZK per 1,000 liters
Liquefied petroleum gases	0 – 3,933 CZK per ton

11.2 Excise Tax on Spirit

If there is more than 1,2 % of ethanol in the product, this product is liable to the excise tax on spirit.

The **tax base** is 100 liters (hectoliter) of ethanol at the temperature of 20 °C. The **tax rate** is fixed and there is one basic rate and one reduced rate for the spirit in fruit spirits, distilled by growers of fruit:

Table 11: Excise Tax Rates on Spirit

Description	Tax rate
Spirit in fruit spirits, distilled by growers of fruit	16,200 CZK per hectoliter of ethanol
Spirit in other products	32,250 CZK per hectoliter of ethanol

11.3 Excise Tax on Beer

If there is more than 0,5 % of alcohol in the product, this product is liable to an excise tax on beer.

Some producers of beer are not liable to the excise tax on beer if they produce beer just for themselves and they do not produce more than 2,000 liters of beer in one calendar year. They just must announce this to the tax administrator.

The **tax base** is 100 liters (hectoliter) of beer. The **tax rate** for each whole percent of the original primary brew is fixed, but small independent breweries pay reduced tax rate:

Table 12: Excise Tax Rates on Beer

Standard tax rate for each whole percent of the original primary brew (in CZK per hectoliter)					
Standard rate	Reduced rate for small independent breweries according to output in hectoliters				
	up to 10,000 hl.	10,000 – 50,000 hl.	50,000 – 100,000 hl.	100,000 – 150,000 hl.	150,000 – 200,000 hl.
32.00	16.00	19.20	22.40	25.60	28.80

11.4 Excise Tax on Wine and Semi Products

Similarly to the excise tax on beer, some producers of wine are not liable to the excise tax on wine if they produce wine just for themselves and they do not produce more than 2,000 liters of wine in one calendar year.

The **tax base** is 100 liters (hectoliter) of wine. The **fixed tax** rates are as follows:

Table 13: Excise Tax Rates on Wine and Semi Products

Description	Tax rate
Sparkling wines	2,340 CZK per hectoliter
Non-sparkling wines	zero-rated
Wine semi-products	2,340 CZK per hectoliter

11.5 Excise Tax on Tobacco Products

Cigarettes, cigars, cigarillos, and tobacco are liable to the excise tax on tobacco products.

There are two types of the **tax base** in the Czech Republic:

1. Sale price, if the percentage tax rate is used (the sale price is directly fixed by the State);
2. Units or kilograms, if the fixed tax rate is used.

The **tax rate** is a combination of a fixed and percentage tax rate. There is a minimum tax rate, too. The total tax is the sum of a fixed tax rate and a percentage tax rate, but it must be at least the minimum tax:

Table 14: Excise Tax Rates on Tobacco Products

Description	Tax rate		
	fixed	percentage	minimum
Cigarettes	1.61 CZK / unit	30 %	2.90 CZK / unit
Cigars, cigarillos	1.88 CZK / unit		
Tobacco for smoking	2,460 CZK / kg		

11.6 Tax on Heated Tobacco Products

A heated tobacco product means a tobacco product that contains tobacco and is intended for a use that does not include gradual combustion of tobacco, nasal use nor chewing, and is not subject to the tax on tobacco products. The object of the tax is tobacco contained in a heated tobacco product. The **tax base** is the quantity of tobacco contained in heated tobacco products in unit packages intended for direct consumption expressed in grams rounded to 1 decimal place. The **tax rate** is 2.46 CZK/g.

11.7 Tax on Rough Tobacco

Leaves and other parts of tobacco plants are objects of the tax on rough tobacco. The **tax base** is the quantity of raw tobacco expressed in kilograms. The **tax rate** corresponds to the rate of excise tax on tobacco for smoking.

11.8 Tax on Earth Gas and Other Gases

Tax on earth gas is imposed on gases. The most significant exemption is the one for the production of heat for households. The payor is usually the supplier of gas. The **tax base** is the amount of heat and **tax rates** correspond to the purpose of use. It is fixed between 0–264.80 CZK/MWh of heat. While gas is supplied continuously, the taxable period is one month.

11.9 Tax on Solid Fuels

Tax on solid fuels is imposed on coal, briquettes, coke, semi-coke, etc. The most common exemptions are used in the production of electricity or coke. The payors are the suppliers supplying solid fuels to the final consumers. The **tax base** is the amount of solid fuels in GJ of heat. The **tax rate** is at the minimal level according to the EU directive – 8.50 CZK per GJ of heat.

11.10 Tax on Electricity

The last selected excise tax is the tax on electricity. Electricity produced ecologically (from solar energy, in water power plants, from biomass, etc.)

is exempt from taxation. The same rules are applied for the electricity produced in mounts or used for trains, tramways, and trolleybuses. The payors are the suppliers of electricity to the final consumers. The **tax base** is the amount of electricity in MWh. The **tax rate** is 28.30 CZK per MWh. While electricity is supplied continuously, the taxable period is one month.

11.11 Selected Excise Taxes Administration, Payments, and Budget Destination

The **taxable period** for excise taxes is one month. Every taxpayer must submit his **tax return** by the 25th day after the end of the relevant taxable period – calendar month. One tax return must be filed for every excise tax. If the goods are imported, there is no duty to file the tax return because there is another document similar to the tax return – the customs declaration. There is no tax return for the excise tax on tobacco products because the order of tobacco labels serves as a tax return.

The **tax administrator** is the customs office determined by the location of the registered office of the taxpayer (legal entity) or residential address (natural person).

The **tax must be paid** generally by the 40th day after the end of the relevant taxable period (25th day in case of energy taxes and 55th day in the case of a tax on spirit). The whole **revenue** from selected excise taxes is the income of the state budget except the revenue from petroleum oils excise tax, where the revenue is divided between the State Fund of Transport Infrastructure (9,1 %) and the state budget (90,9 %).

12 Local Charges

Every municipality in the Czech Republic has a possibility to levy local charges (local fees, local taxes⁵⁸). The authority for doing so must be established by law. Not every municipality levies every local charge; the town council has an opportunity to decide whether the municipality will levy the local charge and it can define the amount of this charge. In fact, the income from the local charges is quite important for the municipalities and paying local charges is the same duty as to pay every other taxes and charges. Local charges have (except the fiscal function) regulative and protective function, too.

Dealing with local charges, the legal regulation of these charges is critical. The Charter of Fundamental Rights and Freedoms (Act no. 2/1993 St., in current wording) in its Article 11(5) says that taxes and charges can be imposed only by a legal act. This act is Act no. 565/1990 Sb., Local Charges Act, as amended. In Section 14, it contains authorization for municipalities to assess local charges by the ordinance. In this ordinance, conditions for levying, charge rate, charge maturity, and eventual immunity must be given. The ordinance may not exceed the conditions defined by the Local Charges Act (e.g., the absolute charge rate or varieties of charges).⁵⁹

Nowadays, the municipalities in the Czech Republic have an opportunity to levy the following local charges:

1. Dog charge;
2. Charge for stay;

⁵⁸ See also MRKÝVKA, P. Některé úvahy o materiálním základu veřejné správy. *Časopis pro právní vědu a praxi*, 2003, no. 2.

⁵⁹ Vide RADVAN, M. Article 9 of the European Charter of Local Self-Government in the Czech Republic. In: GLINIECKA, J., A. DRYWA, E. JUCHNIEWICZ and T. SOWIŃSKI (eds.). *Finansowanie samorządu terytorialnego i jego zadań a Europejska Karta Samorządu Lokalnego / Local Government Financing and European Charter of Local Self-Government*. Warszawa: CeDeWu, 2016, pp. 69–82; RADVAN, M., P. MRKÝVKA and J. SCHWEIGL. Challenges of the Implementation of the European Charter of Local Self-Government in Czech Legislation. *Lex Localis – Journal of Local Self-Government*, 2018, no. 4, pp. 895–906. DOI: 10.4335/16.4.895-906(2018); ROMÁNOVÁ, A., M. RADVAN and J. SCHWEIGL. Constitutional Aspects of Local Taxes in the Slovak Republic and in the Czech Republic. *Lex Localis – Journal of Local Self-Government*, 2019, no. 3, pp. 591–616. DOI: 10.4335/17.3.591-616(2019)

3. Charge for using public places;
4. Charge on entrance;
5. Charge on communal waste;
6. Charge for permission to enter selected places by motor vehicle;
7. Charge on evaluation of building land.

This list is complete and the municipality has no possibility to levy any other charge.

The most common charge in Czech municipalities is the **dog charge**. The taxpayer of this charge is the holder of the dog, not the owner any more (since 1 January 2004). The definition of the holder is not exact because the Act just says that a holder is a natural person or corporation with residence in the Czech Republic. This definition can cause many problems in the application. A better definition is only in the explanatory note to the Act (the holder of the dog is a person that takes care of this dog in the same way as the owner of the dog and there is no doubt that the dog is living with this person).⁶⁰

The holders do not have to pay the charge for all dogs, just for dogs older than three months. Some holders are exempt from paying, e.g., blind people, people training dogs, taking care of abandoned dogs, hunters, etc. Municipalities can extend the list of exemptions.

Every holder of a dog must pay the dog charge to the municipality covering every month in the year if the conditions for paying are fulfilled. The same rule must be used in the situation when the holder moves from one town to another. The charge rate can run up to 1,500 CZK for a dog per year, for pensioners 200 CZK. For the second and every other dog, the charge rate can be increased by 50 %.

The taxpayer of the **charge for stay** (the **tourist charge**) is generally the guest in the accommodation facility, but not every guest. According to the law, it is a person not registered in the municipality, i.e., a person with a permanent residency in any other municipality. The charge is collected by the quartermaster, who, as a payor (paying agent), sends it to the tax

⁶⁰ For the legal definition of the taxpayer of the dog charge it is necessary to use the definition of the possession in civil law.

administrator – the municipal office. The quartermaster has a duty to keep the registration book for every place, with the information about the guest for six years after the last record in the book. For massive sport and cultural events with more than 1,000 participants, it is possible to keep the evidence to a simplified extent if announced in advance to the tax administrator.

The object of charge is a paid stay provided by an individual supplier lasting less than 60 consecutive calendar days, not necessarily at the same place. A “paid stay” includes not only accommodation in the place designed for such activity, but also any other form of a paid stay, such as lease agreements and other innominate agreements, where any place (structure, flat, garden, meadow, etc.) is rented for money and used for a stay (in a tent, a caravan, etc.). The object of charge is not a stay in which personal freedom is restricted by law. Other situations are exempted from charging. The charge is therefore not paid by blind people, children under 18 years old, patients in hospitals except spas, people taking care of children during recovery stays, people working seasonally, soldiers, police officers, and state officials in service. Other exemptions might be added by the local bylaw.

The charge base is the number of days of stay, except for the day of arrival, i.e., the number of nights. The tax rate is at a maximum of 50 CZK per day⁶¹. The charge rate must be specified in the local bylaw. It can be differentiated for specific dates in the year, or specific parts of the municipality, with respect to anti-discrimination rules and public incentives regulations.

The local **charge for using public place** can be levied by the municipality in the following situations:

- Positioning of temporary constructions for building or advertisement, for selling goods or services;
- Positioning of amusement parks, circuses;
- Creating and running dumps;
- Reservation of parking place;
- Using public place for culture and sport or for shooting movies;
- Pursuing site excavation.

⁶¹ 21 CZK till the end of 2020.

The municipality has the possibility to levy the charge only in these situations. Only actions with charitable aims are exempt. The findings made by Constitutional Court lay down that every municipality must define what the public place (name of the street, square, etc.) are. They are very important for practice because only at those places can the municipality levy the charge for using public place.⁶²

The charge rate is 10 CZK for a square meter per day; in some cases, it can be even 100 CZK for a square meter per day (sales, advertisement, amusement parks, etc.).

The **charge on entrance** is obliged to be paid by every person who organizes cultural, sport, sale or advertisement action and collects an entrance. If the action has charitable aims, the charge is not levied. For the right levying, it was necessary to lay down what the entrance is. The entrance means a sum of money paid by the participant to take part in the event (without VAT). It means that the entrance charge has to be levied even if there is no official entrance, but the participant has to buy a card for a meal or seat reservation ticket to get to the event. There is no possibility to levy the charge for the entrance to castles and chateaux because this is not a cultural event. A cultural event means only a single cultural event such as an exhibition, dance, or theatre performance.⁶³

The charge rate is 20 % from the entrance.

Every person living in the town or owning a building for recreation in this town has to pay the **charge on communal waste** (charge on the operation of the system for picking, collection, transport, sorting, recovery, and disposal of municipal waste).⁶⁴ The charge rate has two parts. The first one is 250 CZK for a person per year at maximum; the second one must respect the real expenses of the municipality in the area of municipal garbage and can be up to 750 CZK for a person per year at maximum. It means

⁶² Finding of Constitutional Court 14. 6. 1994, no. Pl. ÚS 20/93.

⁶³ Finding of Constitutional Court 25. 10. 1995, no. Pl. ÚS 14/95.

⁶⁴ Vide e.g., RADVAN, M. Municipal Charges on Communal Waste: Do They Compete with the Immovable Property Tax? *Journal of Financial Management of Property and Construction*, 2019, no. 1, pp. 1–19. DOI: 10.1108/JFMPC-02-2018-0007; RADVAN, M. Taxes on Communal Waste in the Czech Republic, Poland and Slovakia. *Lex Localis – Journal of Local Self-Government*, 2016, no. 3, pp. 511–520. DOI: 10.4335/14.3.511-520(2016)

1,000 CZK for a person per year at maximum. The municipality must account for expenses for one person in the ordinance. If a person moves from or to the town or sells or buys his building for recreation, he must pay the charge just for the relevant months.

Besides the local charge on communal waste, the municipality may choose the charge on communal waste according to the Waste Act (the payer is then the person producing the waste and there is no maximal limit for the rate) or make contracts with persons producing communal waste.

Everybody who has a permission for access by a motor vehicle to chosen places and parts of towns (and nobody else cannot get there because of a road sign) has to pay the **charge for permission to enter selected places by motor vehicle**. Of course, some people should be exempt from paying, e.g., the persons living in this part of town, persons owning immovable property there, their families, the handicapped, etc. The charge rate is 200 CZK for one day at maximum.

The **charge on evaluation of building land** is paid by the owner of the lot if he has a possibility to connect it to municipal water conduit or sewerage. The charge rate can be the difference between the prices before and after the possibility to connect the lot to water conduit or sewerage at maximum. The charge rate must be published in the ordinance.

12.1 Administration of Local Charges

If somebody has a duty to pay a local tax and he fails to do it (in time or he does not pay the right amount), the municipality sends him an assessment. The amount due can be raised three times in the assessment. The municipality must start a legal action against a debtor within three years after the debtor had to pay the charge because after there is no chance to levy the charge. The maximum term is ten years after the debtor had to pay the charge.

The **administration office** is the municipal office of the municipality that levied the charge. The municipal office has the right to waive the charge.

13 Other Charges

Besides local charges, there are many other charges collected in the Czech Republic. We can create four groups of these fees:

- Administrative charges;
- Court charges;
- Ecological charges;
- Other charges.

The aim of the **administrative charges** is to contribute by the applicant (taxpayer) to the administration of the State or local government administrative body because this activity is done in his interest and it would not be fair if everybody should pay for these activities. The second aim is to protect administrative bodies against useless administrative actions.

Legal regulation of administrative fees is in Act no. 634/2004 Sb., Administrative Charges Act, as amended. The object of charge is the administrative proceedings and other activities of the administrative office related to state administration. The concrete activities liable to charge and the rates are in the appendix of the Act. The list of exemptions is very extensive; some exemptions concern the taxpayers, some the activities.⁶⁵ The tax rates are fixed or percentual. If the charge is not paid, the charged operation will not be done.

There are two types of **court charges**: charges for proceedings and charges for activities. Both are regulated in Act no. 549/1991 Sb., Court Charges Act, as amended. In the appendix of the Act, there is a list of charges with the rates. There are many exemptions because of economic reasons and state interest in injustice.⁶⁶ The taxpayer is usually the plaintiff. If the charge is not paid, the proceedings usually cannot start. The tax base is the price of the object of proceedings in CZK; the rate is usually percentual.

We have already mentioned one type of **ecological charge** – charges on using roads. But there are several other ecological charges:

- Charges on waste-water disposal into day water;

⁶⁵ See Section 8 Administrative Charges Act.

⁶⁶ See Section 11 Court Charges Act.

- Charges on waste-water disposal into underground water;
- Charges on discharge of pollutants in air;
- Charges on waste;
- Levy on withdrawn of land from the agricultural land fund;
- Charges on underground water take-off;
- Levies to the Wine Fund;
- Etc.

Many **other fees** and charges cannot be included in the groups, as mentioned above. Many of them are actual charges (irregular, with some consideration); however, some might have tax characteristics.⁶⁷ We should mention at least:

- Audiovisual charges;
- Fee for using the access interface;
- Charges for the use of radio frequencies;
- Radio and television charges;
- Advertising fee;
- Fee for authorization of the public administration contact point;
- Etc.

⁶⁷ BOHÁČ, R. *Daňové příjmy veřejných rozpočtů v České republice*. Praha, Wolters Kluwer, 2013.

14 Tax Administration

In the Czech Republic, there is a general act dealing with the tax administration called Act no. 280/2009 Sb., Tax Procedural Code, as amended. It is used in situations when there is no special regulation in a special tax act. It defines the most important terms, the principles of tax administration, the delivery of tax decrees, the procedure of tax administration such as how to assess the tax, how to pay it, legal remedies, tax execution, etc.⁶⁸

Czech tax law theory deals with several terms concerning the tax procedures. With regard to the diversity of the Czech language, it is difficult to translate these terms from the national language into English. For the purpose of this text, three different terms are being used: tax process, tax administration, and tax proceedings.

Tax proceedings is the narrowest term covering the proceedings between the individual taxpayer and the tax administrator concerning individual tax in one taxable period. The tax proceedings should be understood as specific administrative proceedings concerning the tax, which is important for admissibility, or the inadmissibility of the subsidiary application of the provisions on general administrative procedures. There are several partial tax proceedings:

- Finding proceedings:
 - Assessment proceedings, the purpose of which is to determine the tax;
 - Referral proceedings, which is conducted to determine the change in the last known tax;
 - Ordinary appeal proceedings against the decision given in the proceedings under points 1 and 2;
- Proceedings when paying taxes:
 - Proceedings on tax postponements and the distribution of tax payment on installments;

⁶⁸ Vide RADVAN, M., R. BOHÁČ and K. BRYCHTA. Chapter 11: Czech Republic. In: PISTONE, P. (ed.). *Tax Procedures*. Amsterdam: IBFD, 2020, pp. 393–434; MRKÝVKA, P. and J. NECKÁŘ. Tax Administration in the Czech Republic. In: *Sovremennye problemy teorii nalogovogo prava* [The Modern Problems of Tax Law Theory]. Voronezh: University of Voronezh, 2007, pp. 203–212.

- Proceedings on tax securing;
- Tax enforcement (tax recovery) proceedings;
- Ordinary appeal proceedings against the decision given in the proceedings under points 1 to 3;
- Extraordinary appeal proceedings and supervisory proceedings against individual decisions issued in the framework of tax proceedings.

Tax administration includes all relationships between taxpayers and tax administrators. In the following text, the terms “tax administration” and “tax procedures” are used as synonyms. Within the framework of the functional concept of tax administration (and according to the definition in the Tax Procedural Code), the activity of the tax administrator should be understood in a comprehensive way, that is, as the entire activity of the tax administrator in the care of the relevant tax, which occurs under the law of regulated and unregulated procedural approaches. Some of these approaches are implemented in the tax procedure as authoritative external application processes. Tax subjects also make specific approaches in the course of their tax obligations. These are the procedural approaches related to the fulfillment of duties and the administration of the tax, which subsequently trigger the tax procedure or affect its course and outcomes.

The **tax process** goes in many aspects beyond the Tax Code and it is regulated primarily by the Income Taxes Act. It is the broadest term of all mentioned above and covers all approaches of all subjects in tax relationships. That is, not only approaches within relationships between taxpayers and tax administrators but also between taxpayers (taxpayers and payors) themselves. Thus, the tax process will be the tax payor’s approach when determining the tax and withholding it from the taxpayer, the tax payor’s approach when paying the tax to the tax administrator, and related tax reporting.

14.1 Basic Terms and Principles

The first and most important term is the **tax**. At the beginning of this paper, the definition of tax was mentioned with the note that the term “tax” is defined just by tax theory and there is no definition in Czech law. In the Tax Procedural Code, for the purpose of this Act, tax means taxes,

charges (fees), customs, and some other money performances, which are the revenue of public budgets.

Another important term is “**subjects of tax**” (persons liable to tax); there are two types of persons liable to tax:

- Taxpayer – a person whose income, property, or acts in law are directly liable to tax;
- Payor – a person who has a material liability to transfer collected or withheld taxes from the taxpayer to the tax administrator.

However, these two definitions of persons liable to tax are no more the part of Czech law, even both terms are used not only in tax acts very often.

Besides persons liable to tax, there is a group of persons taking part in the tax proceedings (**third persons**) such as:

- Witnesses;
- Persons who hold documents;
- Experts, auditors, interpreters;
- Guarantors;
- Bankruptcy trustees;
- State authorities and local government authorities;
- Skilled consultant;
- Surety, etc.

The taxpayer can be substituted in the tax proceedings. There are several types of substitutions:

- Legal representative mostly for children under 18 years old or for people with no or limited capability;
- Representative established by a tax administrator for people without full capability and without a legal representative, for people with unknown place of residence or seat or mentally disabled people;
- Personal representative with a power of attorney, mostly attorney or tax advisor;
- Common representative used if there are more taxpayers with one tax duty (e.g., co-ownership of property that is to be taxed by the immovable property tax);
- Holder of procuration (a special type of substitution for a corporation described in Business Code).

Talking about **tax administrators**, first, it is necessary to have a look into special tax acts. If there is nothing about the tax administrator in the special tax act, the answer is in the Tax Procedural Code. The tax administrator is usually the tax office as the first instance of the Financial Administration determined in the case of a legal entity by the location of its registered office in the Czech Republic, in the case of a natural person by his residential address. For taxes imposed on property, the locally competent tax administrator is the tax office in whose district such property is situated. Tax offices have territorial branches as their organizational units. The Specialized Tax Office seated in Prague represents the tax office on the national level for the selected taxpayers (bank institutions, insurance companies, and legal entities with turnover higher than CZK 2,000,000,000). The second instance is the Appellate Financial Directorate seated in Brno, which carries out its activity for the whole territory of the Czech Republic. The central body of the Financial Administration is the General Financial Directorate seated in Prague.

The Customs Administration is the exclusive administrator of excise taxes and VAT for imported products and services. Another power of the Customs Administration is the shared administration, according to the Tax Procedural Code. The shared administration means collection and enforcement of monetary payments (e.g., penalties) imposed by other state authorities within their special proceedings so far as these payments are part of the state budget revenue, of state foundations, or the budgets of regional and municipal authorities. The customs office (of each region and one for the international airport in Prague) is the main executive body of the Customs Administration responsible for all of its fundamental activities. The appellate body is the General Directorate of Customs, located in Prague.

The other tax administrators in the Czech Republic are:

- Municipal office and the appellate Regional office for local charges and some administrative charges;
- Court and the appellate superior court for court charges;
- Individual administrative office and its superior office for individual administrative charges.

Tax administrators engaged in the administration of taxes must respect several **fundamental principles**. Just some of them are mentioned below:

- Principle of self-application – the taxpayer must know if and when to file the tax return, calculate the tax and pay it without any cooperation with the tax administrator;
- Principle of legality – the tax administrator shall proceed in conformity with laws and other generally binding statutory provisions;
- Principle of collaboration – the tax administrator shall proceed in close collaboration with the tax subjects, and it shall select only means which cause the least inconvenience to these persons;
- Principle of non-public proceedings – tax proceedings are never made public;
- Principle of discretion – everybody except tax subjects is to maintain confidentiality in respect of everything learned during tax proceedings;
- Principle of equality – all tax subjects have equal rights and duties in the tax proceedings;
- Principle of cooperation – all tax subjects have the right and duty to cooperate with the tax administrator;
- Principle of effectiveness – tax proceedings should be quick, with respect to costs of the taxpayer. All the information available for the tax administrator must be used without asking the taxpayer for it;
- Principle of foreseeability – in similar cases, there should be no unreasonable differences in the decision.

For a valid decision, it is necessary to **deliver** this decision to the taxpayer. The most common delivery should be done electronically or during the oral proceedings, but still, tax administrators usually send official letters by post. In this case, it is important to deliver official letters to the taxpayer's residential address (natural persons) or seat (corporation). If the taxpayer is not found at home, the letter is placed usually at the post office for ten days. The last day is the day of delivery (fiction of delivery), even the taxpayer did not know about any delivery. The official letter is posted in the post box the next day. The only possibility for the taxpayer, that has no real chance to pick up the official letter, is to ask the tax administrator to pronounce the ineffectiveness of the delivery.

There are other possibilities for delivering, but they are not used so often:

- Delivery by public notice;
- Delivery by means of a collective list relating to tax liability.

Almost every taxpayer has a **registration duty**; it means that within thirty days after he receives permission or is authorized to engage in a business activity or undertakes other independent gainful activity, he must submit an application for registration to the locally competent tax office. Every change must be announced to the tax administrator within fifteen days after this change occurred. If the taxpayer does not fulfill his registration duty, the tax administrator registers the taxpayer *ex officio*. There are three groups of persons with no registration duty:

- Taxpayers with one time or accidental tax duty (typically charges);
- Taxpayers paying tax for their property (immovable property tax);
- Taxpayers with a duty to pay tax through the payor (e.g., personal income tax from dependent activity, tax from interests, from dividends, and other types of capital incomes).

The tax administrator allocates a **tax identification number** to a person liable to tax, which is registered. The tax identification number includes code “CZ” and an identifier. An identifier of the natural person is his personal identification number; an identifier of a legal entity is its identification number.

14.2 Tax Assessment Procedure

Everybody who has a duty arising under a tax act or who is called upon by the tax administrator must submit the **tax return**. The taxpayer must himself calculate the tax in his tax return, including specifying exemptions, advantages, allowances, and deductions. Mostly the tax becomes due at the same time as the tax report.

There are two **basic time limits for filing the tax return**: at the latest three months following the expiry of the annual taxable period or within 25 days after the expiry of the taxable period shorter than one year.

Other – **special time limits for filing the tax return** are defined for selected taxes such as:

- Road tax (31 January of the following taxable period);
- Immovable property tax (31 January of the taxable period).

Besides these basic and special time limits, there are four **extended time limits for filing the tax return**:

- Latest six months following the expiry of the taxable period, if a taxpayer shall have a financial statement verified by an auditor;
- Latest six months following the expiry of the taxable period, if the taxpayer's return is prepared and submitted by his tax advisor or by his attorney;
- The basic time limit for filing the tax return extended by a maximum of three months, if the taxpayer asks for this (the tax administrator need not accord a request);
- Up to ten months following the expiry of the taxable period, if the taxpayer with incomes from abroad asks for this (the tax administrator need not accord a request).

The tax administrator has three possibilities in the **tax assessment procedure**:

1. Implied tax assessment – the assessed tax does not differ from the tax stated in the tax return. In this situation, the tax administrator is not obliged to inform the taxpayer about the result of the assessment. The last day of the time limit for filing the tax return is considered as the day of the tax assessment and as the day of the delivery of the tax decision;
2. Reproach proceedings – there are doubts about the correctness, truthfulness, substantiation, or completeness of the tax return. In this situation, the tax administrator informs the taxpayer about these doubts and calls upon him to give his views or complete the incomplete data, etc. The tax administrator should set an appropriate time limit in his call, not shorter than fifteen days. The tax administrator has more possibilities to assess the tax: it can exercise a tax control or local tax examination, hear the witnesses, go through the paper proofs, etc. At the end of these proceedings, the tax administrator sets the tax base and prescribes the amount of tax and notifies the taxpayer by the reasoned tax assessment. The tax is payable within fifteen days of the legal power of the decision (tax assessment);

3. Assessment using “other tools” – if the tax return was not filed in time (even the tax administrator called to do so) or if the irregularities were not rectified within the time limit, the tax administrator may determine the tax base and assess the tax according to whatever materials and information without cooperation with the taxpayer. The tax administrator notifies the taxpayer by the tax assessment. The tax is payable within fifteen days of the legal power of the decision (tax assessment). In this situation, there is no possibility to appeal against the tax base and the tax and the taxpayer can object only to the way of assessment procedure (that there were no legal reasons to use assessment using “other tools”) or the inadequacy of “other tools”.

For the tax assessment procedure, the **time limits for assessment** are very important. These time limits are times of extinction. The tax may not be assessed after the lapse of three years from the end of the time limit to file the tax return or the time limit to pay the tax if there was no duty to file the tax return. If before the expiry of the time limit, there is a tax control, a tax return is filed, or there is a call for filing the tax return, the three-year period commences to run anew from the day such an act had happened. If, during the last twelve months of the basic three-year period, there is an additional tax return, a tax assessment, proceedings on a remedial instrument, or a decision on the nullity of the decision, the time limit will be one year longer. Moreover, there are several situations when the time limit does not run (e.g., there are proceedings at the court).

The tax might be assessed no later than ten years after the end of the time limit to file the tax return or the time limit to pay the tax if there was no duty to file the tax return.

14.3 Tax Payment

Everybody who is liable to pay the tax or who is liable to transfer collected and withheld tax is a tax debtor and he is obliged to pay the tax. The tax must be paid to the competent tax administrator, mostly in the Czech currency. The taxpayer can choose from eight possible ways of tax payment:

1. By means of a transfer from a debtor’s bank account to the appropriate tax administrator’s bank account;

2. In cash by means of a postal money order or by means of a bank to the appropriate tax administrator's bank account;
3. In cash to a person authorized by the tax administrator to receive cash payments of tax from tax debtors, usually at the tax office (maximum amount is 500 000 CZK per day at one tax office);
4. By cheque;
5. In cash to the officer in the execution;
6. In cash to an employee of the tax administrator in cases of fines;
7. By means of revenue stamps;
8. By excess payment in respect of some other tax.

To fulfill the duty to pay the tax in time, it is necessary to know the **dates of payment**:

- In the case of bank account transfers and the case of cash payment by means of a postal money order or by means of a bank, the date of payment is the day when the amount is put to the tax office's account;
- In the case of cash payment to a person authorized by the tax administrator, the date of payment is the day when an authorized person receives the money.

If the tax debtor fails to pay the amount of the tax in time, he is in arrears.⁶⁹ In this situation, he must pay the **interest on late payment** of repo rate of the Czech National Bank + 8 % of the amount outstanding for each day of delay for a maximum of five years. The amounts of the interests are payable at the moment they occurred. If the tax is additionally assessed by the tax administrator (or by the taxpayer in the tax return), the **penalty** is 20 % of the amount of additionally assessed tax. The penalty is communicated to the tax debtor within the frame of the assessment order. That is why it must be paid within fifteen days after the delivery of the assessment order.

Several more institutes should be mentioned when talking about sanctions. For example, if the tax return is not submitted in time, the tax administrator

⁶⁹ Vide MORAVEC, L and M. RADVAN. Chapter 14: Czech Republic. In: SEER, R. and A. L. WILMS. *Surcharges and Penalties in Tax Law*. Amsterdam: International Bureau of Fiscal Documentation, 2016, pp. 259–282.

assesses a **fine for late tax return filing** (0.05 % of the assessed tax for each day of the delay; minimum 500 CZK, maximum 5 % of the assessed tax up to 300,000 CZK). The fine notified by the tax assessment is payable within 30 days after the delivery of the assessment. The tax administrator can impose an **order fine** up to 50,000 CZK or even 500,000 CZK, too.

If the tax administrator has apprehension that some future payment will be uncollectible, he may issue a **securing order**. To secure a tax receivable, the tax administrator may order a **lien**.

On the other hand, sometimes, the taxpayer can have **overpaid tax**. In this situation, the tax administrator can use this amount for arrears of any other tax or as an advanced payment. Nevertheless, the taxpayer can apply the overpaid tax to be refunded and the tax administrator must refund the overpaid tax within thirty days of the delivery of the application. If the tax administrator does it later or if the tax administrator caused the occurrence of the overpaid tax, the interest of the repo rate of the Czech National Bank + 8 % must be paid to the taxpayer.

There are situations when the tax debtor does not have enough money to pay the assessed tax. In this case, there are several possibilities mentioned in the Tax Procedural Code. The tax debtor can apply for the **deferment of tax** or the **approval of installments** – the tax debtor will pay half of the interest on late payment and such permission can be made dependent on certain conditions.

For the tax payment, the **time limits on tax arrears exaction** are significant. These time limits are times of extinction. In general, the right to collect and exact tax arrears ends six years after the arrears became payable. If before the expiry of the time limit, an act (like exaction of arrears, lien, deferment of tax, and approval for installments) is undertaken, the six-year period commences running anew the moment this act was undertaken. There are several situations when the time limit does not run (e.g., during tax exaction). But the arrears may be exacted for a maximum period of twenty years after the arrears became payable.

Dealing with the tax payment, the **exaction of tax arrears** must be mentioned. If the tax debtor does not pay the tax in time, then the tax administrator

can commence the exaction of tax arrears. The possible execution titles are a final statement of tax arrears, an enforceable decision imposing monetary payment, or a securing order.

The tax execution can be levied upon the issue of an execution order for:

- Tax debt to be settled from monetary means held by tax debtor in his bank account;
- Tax debt to be settled from other monetary receivables;
- Amounts to be withheld from wages;
- Infliction of other property rights;
- Sales of movable assets;
- Sales of immovable property.

The tax debtor must pay the costs of execution:

- Compensation for the writ of execution (2 % of the exacted arrears, no less than 500 CZK, maximum at 500,000 CZK);
- Compensation for the costs of carrying out the sale (2 % of the exacted arrears, no less than 500 CZK, maximum at 500,000 CZK);
- Reimbursement of cash expenses (must be paid within fifteen days of the day when the tax debtor was informed by the decision of the amount).

14.4 Remedial Instruments

There are two types of remedial instruments in the Tax Procedural Code. Ordinary remedial instruments can be used if the decision is not yet final; extraordinary remedial instruments are used for final decisions.

On the other hand, the Tax Procedural Code also divides remedial instruments (*sensus stricto*) into remedial instruments (*sensus lato*) and supervisory instruments depending who is allowed to start the remedial proceedings: in the case of remedial instruments, it is the tax subject, in case of supervisory instruments it should be tax administrator *ex officio*.

Two **ordinary remedial instruments** can be used in tax administration:

- Appeal;
- Remonstrance.

The most common ordinary remedial instrument is the **appeal**. It is usually used in situations when the taxpayer is not satisfied with the determined tax base and imposed amount of the tax by the tax administrator or with any other decision. An appeal must be submitted within thirty days (in general) of the day after the day of delivery of the decision against which the appeal is made. There is a common rule that the appeal has no suspensory effect. The appeal proceeding has two phases; the tax administrator whose decision is challenged by the appeal can decide on the appeal himself if it fully complies with it. It can also dismiss an appeal if it is inadmissible or submitted after the time limit.

If the tax administrator does not make a decision, he passes the appeal to the appellate authority (authority immediately superior). This authority can amend (even to the appellant's disadvantage), cancel or dismiss the contested decision.

The **remonstrance** is a special type of appeal against the central administrative body. It is based on the same principles as a common appeal.

There is just one **extraordinary remedial instrument** used in tax administration – **re-opening of tax proceedings**. The proceedings will be re-opened if the taxpayer so applies or *ex officio* (it means, it is also a **supervisory instrument**) and if there are new important facts or proofs not yet used in the former (original) proceedings with an effect on the final decision, or there was some criminal activity in the former proceedings such as forged or falsified document, false statement of a witness, false expert opinion, or preliminary query was decided differently. An application must be submitted within six months of the day on which the applicant learned of the grounds for re-opening proceedings and no later than the time limits for tax assessment or tax payment have passed. In other cases, the objective term is three years after the legal power of the decision. When the re-opening of proceedings is approved (or ordered), it has suspensory effects. It is absolutely new proceedings and a new decision annuls the original decision.

The other supervisory instrument is **review proceedings**. It is used in situations when the decision is in conflict with statutory provisions. The review proceedings usually start *ex officio* within the control of financial bodies, but even any subject dealing with tax proceedings can suggest this

process. Review proceedings can be started no later than the time limits for tax assessment or tax payment have passed. In other cases, the objective term is three years after the legal power of the decision. When the review proceedings are ordered, it has suspensory effects. The former decision can be changed or abolished in the review proceedings, but if it is with respect to the statutory provisions, the review proceedings will be stopped.

14.5 Other “Remedial” Instruments

Complaint deals with the withheld tax. If the taxpayer does not agree with the amount of a withheld tax, he can ask his payor for an explanation within sixty days of tax withholding. The payor must answer in thirty days and if the taxpayer disagrees with the explanation, he can file a complaint within thirty days from the day when he received the information from the payor. The decision of the tax administrator must be sent to both the taxpayer and the payor and they both may appeal against such decision.

In respect of the tax payment, the taxpayer can raise the **objection** against any act of the tax administrator. It must be raised within thirty days from the day the taxpayer learned of such an act.

Corrections of obvious errors and irregularities are made if the taxpayer so applies or *ex officio* if the tax assessment relates to a person not liable to tax, or there is an obvious error in computation or writing, or the tax liability is imposed twice, etc. It is necessary to correct the tax appurtenances⁷⁰ (penalties, increases of tax, costs arising from tax administrative proceedings, interest, and fines) in line with the corrections made to tax liability. Corrections can be made no later than the time limits for tax assessment or tax payment have passed. Otherwise, it depends on the characteristics of the tax duty that is to be corrected.

The **tax waiver** is the possibility of taxpayers to ask the tax administrator to waive the tax for some reason. The other possibility is given to the Minister of Finance. He can waive the tax because of inconsistencies ensuing from the application of the tax acts or if there are natural disasters. Usually, tax

⁷⁰ Tax appurtenances follow the course of events of the tax to which they are attached.

waiving in the Czech Republic is in the form of the so-called D-direction published by the Ministry of Finance.

14.6 Judicial Appeals

The administrative justice is regulated primarily by the Act no. 150/2002 Sb., Code of Administrative Justice, as amended. The bodies which hear and decide matters in the judicial review of administrative and tax decisions are regional courts and the Supreme Administrative Court as the “second instance”.

In tax justice, the basic and traditional type of protection is the judicial review of an unlawful administrative decision commenced by the **action against a decision of an administrative authority**. The action must be brought before the regional court according to the seat of the defendant tax administrator, which decided in the first instance in the tax procedure. The action must be filed within two months after the notification in writing of the final decision by the tax administrator. The petitioner (taxpayer) seeks the annulment of the challenged decision. One of the essential admissibility criteria for the action is that the taxpayer has exhausted all ordinary remedies in the proceeding before the tax administrator. The action for the judicial review of unlawful decisions does not have an automatic suspensive effect. The petitioner may, however, request the suspension of the challenged decision, provided that the legal consequences of the decision would result in irreparable damage to the petitioner. The court renders a final decision on the merits in a judgment. The court can either dismiss the action and uphold the tax decision or annul the decision and send the case back to the tax administrator for a new assessment. When deciding the case anew, the tax administrator is bound by the proposition of law expressed by the court. If a penalty for an administrative delict is challenged, the court may also reduce the penalty or waive it altogether.⁷¹

There is a special way to shorten the overall duration of the tax procedure and to terminate the proceedings before administrative courts: until

⁷¹ Action against a decision of an administrative authority. *Supreme Administrative Court* [online]. [cit. 7. 10. 2018]. Available at: http://www.nssoud.cz/main.aspx?cls=art&art_id=489

the moment when the court issues its decision, the tax administration (if it realized that it had erred in its assessment) may start the review proceedings during the judicial phase to rectify its error – to change or cancel the decision to satisfy the petitioner (the taxpayer). In such a case, the court, having heard the petitioner's statement, will discontinue proceedings.⁷² In tax theory, this procedure is called a **prejudicial review**.

The other institute applicable in tax justice is the **action for the failure to act** for those who are not able to obtain a decision or an attestation that the competent authority was obliged to issue. The procedural precondition is that, in spite of invoking all the remedies the tax procedure offers, the competent tax administrator remains inactive. An action may be filed, at the latest, within one year from the date on which the time-limit laid down by a special law for the issue of a decision or an attestation has passed (if no such time-limit is set, within one year from the date on which the tax administrator has done the last act). If the action is successful, the court will issue a judgment ordering the administrative authority to issue a decision or give an attestation within a time frame set by the court. Should the administrative authority fail to comply with the court's judgment in a timely fashion, the court can enforce its judgment by imposing financial penalties.⁷³

Even the Code of Administrative Justice officially creates one instance system of judicial review. With no appeal or other ordinary judicial remedy being permissible, there is the possibility of filing an extraordinary remedy – the **cassation complaint** before the Supreme Administrative Court. The admissibility criteria for a cassation complaint are defined quite broadly: the cassation complaint lies against any final decision of a regional court in administrative and tax matters, provided it is not expressly precluded by law. Both errors in the assessment of substantive legal provisions and errors in the procedure before the court of the first instance might be challenged. The cassation complaint must be filed within two weeks

⁷² Action against a decision of an administrative authority. *Supreme Administrative Court* [online]. [cit. 7. 10. 2018]. Available at: http://www.nssoud.cz/main.aspx?cls=art&art_id=489

⁷³ Protection against a failure to act. *Supreme Administrative Court* [online]. [cit. 7. 10. 2018]. Available at: <http://www.nssoud.cz/Protection-against-a-failure-to-act/art/490?menu=310>

after the regional court's decision became final. The complaint does not have an automatic suspensive effect. The Supreme Administrative Court renders the final decision on the merits in a judgment. The court can either dismiss the complaint and uphold the regional court's decision or annul the regional court's decision and send the case back to the regional court for a new decision. When deciding the case anew, the regional court is bound by the proposition of law expressed by the Supreme Administrative Court. The Supreme Administrative Court may even annul the regional court's decision and the tax decision itself (if the reasons were discussed already before the regional court) and send the case back to the tax administrator for a new assessment.⁷⁴

As is evident from the text above, a judicial appeal may directly quash decisions issued by tax authorities. It is not necessary to merely state the rights of taxpayers affected by such acts. On the contrary, the Constitutional Court rules on a **constitutional complaint** against a decision that has gone into legal effect or other intervention by a public authority that interferes with constitutionally guaranteed rights and freedoms. The constitutional complaint can be filed by an individual or legal entity who claims that a decision that has entered into legal effect in proceedings in which the complainant was a party, a measure, or other intervention by a public authority violated the complainant's fundamental right or freedom guaranteed by the constitutional order. The complainant must state in the constitutional complaint which fundamental right was violated, which public authority and by what decision or intervention it was violated, and specifically what that violation of a fundamental right or freedom consisted of. A constitutional complaint may also propose annulment of a provision of legal regulation, but only if the application of that provision led to a circumstance that is the subject matter of the constitutional complaint, and only if the complainant claims that the legal regulation or the provision is inconsistent with the certain constitutional act. If the Constitutional Court finds that a constitutional complaint is impermissible, the constitutional complaint is denied due to impermissibility. If the Constitutional Court finds the constitutional complaint

⁷⁴ Remedies against decisions of administrative courts. *Supreme Administrative Court* [online]. [cit. 7. 10. 2018]. Available at: <http://www.nssoud.cz/Remedies-against-decisions-of-administrative-courts/art/496?menu=316>

to be justified, it may annul the contested decision and the matter is returned to the public authority for a new decision. The Constitutional Court may also forbid that particular public authority from continuing the violation of the right or freedom. Decisions of the Constitutional Court are final and cannot be overruled.⁷⁵

⁷⁵ Guide on Proceedings on Constitutional Complaints. *Constitutional Court* [online]. [cit. 9. 10. 2018]. Available at: <https://www.usoud.cz/en/guide-on-proceedings-on-constitutional-complaints/>

15 Double Taxation Prevention Treaties

The Czech Republic is the signatory to a Treaty for the Prevention of Double Taxation with many countries not only in Europe but all over the world.⁷⁶

Every double taxation prevention treaty uses one or more of the **methods of double taxation prevention**:

- Full exemption – income liable to tax abroad is not liable to tax in the Czech Republic;
- Exemption with progression – income liable to tax abroad is not liable to tax in the Czech Republic, but the taxpayer must use the tax rate for both incomes from abroad and from the Czech Republic (possible only if there is a progressive tax rate);
- Full credit – all the taxpayer's incomes (from abroad and from the Czech Republic) are liable to tax in the Czech Republic and from the final tax can the taxpayer deduct the tax paid in abroad;
- Ordinary credit – both the taxpayer's incomes from abroad and from the Czech Republic are liable to tax in the Czech Republic and from the final tax, the taxpayer can deduct the tax paid abroad. This amount can be at the maximum amount of the tax that shall be paid from incomes from abroad according to the Czech tax rate.

If there is no double taxation prevention treaty including one of the methods mentioned above, or if the tax paid abroad cannot be used because of provisions in double taxation prevention treaties, the taxpayer can use the tax paid abroad as an expense incurred to generate, assure and maintain income.

⁷⁶ Topical information available at: <http://www.mfcr.cz>

Literature

- BABČÁK, V. *Dane a daňové právo na Slovensku*. Bratislava: Epos, 2008.
- BOHÁČ, R. Daňové a finanční právo. *Daně a finance*, 2006, no. 3.
- BOHÁČ, R. *Daňové příjmy veřejných rozpočtů v České republice*. Praha: Wolters Kluwer, 2013.
- BOHÁČ, R. and H. KRASULOVÁ. *Zákon o dani z hazardních her: Komentář*. Praha: Wolters Kluwer, 2017.
- BRZEZIŃSKI, B. *Wprowadzenie do prawa podatkowego*. Toruń: Dom organizatora, 2008.
- DAVID, P. Principles of Taxation of Road Motor Vehicles and their Possibilities of Application. *Acta Universitatis agriculturae et silviculturae Mendeliana Brunensis*, 2012, no. 2, pp. 483–491.
- ETEL, E. (ed.). *System prawa finansowego – Prawo daninowe*. Warszawa: Wolters Kluwer, 2010.
- GOMUŁOWICZ, A. and J. MAŁECKI. *Podatki i prawo podatkowe*. Warszawa: LexisNexis, 2010.
- MARKOVÁ, H. and R. BOHÁČ. *Rozpočtové právo*. Praha: C. H. Beck, 2007.
- MASTALSKI, R. *Wprowadzenie do prawa podatkowego*. Warszawa: C. H. Beck, 1995.
- MORAVEC, L. and M. RADVAN. Chapter 14: Czech Republic. In: SEER, R. and A. L. WILMS. *Surcharges and Penalties in Tax Law*. Amsterdam: International Bureau of Fiscal Documentation, 2016, pp. 259–282.
- MRKÝVKA P. et al. *Finanční právo a finanční správa – 2nd part*. Brno: Masaryk University, 2004.
- MRKÝVKA, P. *Determinace a diverzifikace finančního práva*. Brno: Masarykova Univerzita, 2012.

- MRKÝVKA, P. Některé úvahy o materiálním základu veřejné správy. *Časopis pro právní vědu a praxi*, 2003, no. 2, pp. 153–157. Available at: <https://journals.muni.cz/cpvp/article/view/8034>
- MRKÝVKA, P. and J. NECKÁŘ. Tax Administration in the Czech Republic. In: *Sovremennye problemy teorii nalogovogo prava* [The Modern Problems of Tax Law Theory]. Voronezh: University of Voronezh, 2007, pp. 203–212.
- NETOLICKÝ, M. *Rozpočty obcí v naší legislativě*. Brno: Tribun EU, 2008.
- PAŘÍZKOVÁ, I. *Finanční právo: finance územní samosprávy*. Brno: Masaryk University, 2005.
- RADVAN, M. *Zdanění majetku v Evropě*. Praha: C. H. Beck, 2007.
- RADVAN, M. et al. *Finanční právo a finanční správa – Berní právo*. Brno: Masaryk University et Doplněk, 2008.
- RADVAN, M. Income Taxation of Entrepreneurs in the Czech Republic. *Krytka prava. Niezależne studia nad prawem*, 2013, no. 1, pp. 301–313. DOI: 10.7206/kp.2080-1084.17
- RADVAN, M. Tax Law as an Independent Branch of Law in Central and Eastern European Countries. *Lex Localis – Journal of Local Self-Government*, 2014, no. 4, pp. 813–827. DOI: 10.4335/12.4.813-827(2014)
- RADVAN, M. Taxes on Communal Waste in the Czech Republic, Poland and Slovakia. *Lex Localis – Journal of Local Self-Government*, 2016, no. 3, pp. 511–520. DOI: 10.4335/14.3.511-520(2016)
- RADVAN, M. Municipalities and Gambling Taxation in the Czech Republic. *Lex Localis – Journal of Local Self-Government*, 2017, no. 3, pp. 529–540. DOI: 10.4335/15.3.529-540(2017)
- RADVAN, M. Taxation of Business Income in the Czech Republic. *Kwartalnik prawa podatkowego*, 2017, no. 4, pp. 21–31.
- RADVAN, M. Taxation of Employment Income in the Czech Republic. *Kwartalnik prawa podatkowego*, 2018, no. 1, pp. 23–35.

- RADVAN, M. Municipal Charges on Communal Waste: Do They Compete with the Immovable Property Tax? *Journal of Financial Management of Property and Construction*, 2019, no. 1, pp. 1–19. DOI: 10.1108/JFMPC-02-2018-0007
- RADVAN, M. Major Problematic Issues in the Property Taxation in the Czech Republic. *Analyses and Studies of CASP*, 2019, no. 2, pp. 13–31. DOI: 10.33119/ASCASP.2019.2.2
- RADVAN, M. Energy Taxes. In: KNEZ, R., N. ROZEHNALOVÁ, V. TÝČ et al. *Five Years of EU Membership Case of Czech Republic and Slovenian Law*. Maribor: University of Maribor, 2009, pp. 108–123.
- RADVAN, M. Theoretical Aspects of Real Estate Tax. In: *Sovremennye problemy teorii nalogovogo prava* [The Modern Problems of Tax Law Theory]. Voronezh: Voronežskij gosudarstvennyj universitet, 2007, pp. 439–446.
- RADVAN, M. Article 9 of the European Charter of Local Self-Government in the Czech Republic. In: GLINIECKA, J., A. DRYWA, E. JUCHNIEWICZ and T. SOWIŃSKI (eds.). *Finansowanie samorządu terytorialnego i jego zadań a Europejska Karta Samorządu Lokalnego* [Local Government Financing and European Charter of Local Self-Government]. Warszawa: CeDeWu, 2016, pp. 69–82.
- RADVAN, M., R. BOHÁČ and K. BRYCHTA. Chapter 11: Czech Republic. In: PISTONE, P. (ed.). *Tax Procedures*. Amsterdam: IBFD, 2020, pp. 393–434.
- RADVAN, M., P. MRKÝVKA and J. SCHWEIGL. Challenges of the Implementation of the European Charter of Local Self-Government in Czech Legislation. *Lex Localis – Journal of Local Self-Government*, 2018, no. 4, pp. 895–906. DOI: 10.4335/16.4.895-906(2018)
- RADVAN, M. and J. NECKÁŘ. Taxation of Professional Team Sport Athletes in the Czech Republic. *Public Governance, Administration and Finances Law Review in the European Union and Central and Eastern Europe*, 2016, no. 1, pp. 40–46.

RADVAN, M. and J. SCHWEIGL. Corporate Tax Residence in the Czech Republic. In: TRAVERSA, E. (ed.). *Corporate Tax Residence and Mobility*. Amsterdam: IBFD, 2018, pp. 213–234.

ROMÁNOVÁ, A., M. RADVAN and J. SCHWEIGL. Constitutional Aspects of Local Taxes in the Slovak Republic and in the Czech Republic. *Lex Localis – Journal of Local Self-Government*, 2019, no. 3, pp. 591–616. DOI: 10.4335/17.3.591-616(2019)

SLOVINSKÝ, A. et al. *Základy česko-slovenského finančního práva*. Bratislava: Univerzita Komenského v Bratislave, 1992.

SPÁČIL, B. *Teorie finančního práva ČSSR*. Praha: Orbis, 1970.

ŠIROKÝ, J. *Daňové teorie s praktickou aplikací*. Praha: C. H. Beck, 2003.

Editorial board

Assoc. Prof. JUDr. Marek Fryšták, Ph.D. (chairman);
prof. JUDr. Josef Bejček, CSc.; prof. JUDr. Jan Hurdík, DrSc.;
prof. JUDr. Věra Kalvodová, Dr.; prof. JUDr. Vladimír Kratochvíl, CSc.;
Assoc. Prof. JUDr. Petr Mrkývka, Ph.D.; Assoc. Prof. JUDr. Radim Polčák, Ph.D.;
Assoc. Prof. JUDr. Ivana Průchová, CSc.; Assoc. Prof. JUDr. Ing. Josef Šilhán, Ph.D.

CZECH TAX LAW

Assoc. Prof. JUDr. Ing. Michal Radvan, Ph.D.

Published by Masaryk University
Žerotínovo nám. 617/9, 601 77 Brno
in 2020

Publications of the Masaryk University
Edition Textbook, no. 550

1st electronic edition, 2020

ISBN 978-80-210-9673-8
www.law.muni.cz

MASARYK
UNIVERSITY
PRESS

MUNI
LAW