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## REAL ESTATE TAX IN THE CZECH REPUBLIC

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**Abstract.** *In the Czech Republic, the legal regulation of the real estate tax was introduced in 1992 in connection to the tax system reform. The necessity of legal regulation arose from the effort to simplify the assessment and imposition of taxes. In the Czech Republic, the value-based real estate tax does not exist. The main question is how to conserve the tax burden of the taxpayer and herewith how to increase the importance of the real estate tax as a revenue for local budgets. This problem can only be solved in connection with other tax liabilities of the taxpayer, i.e. by introducing local taxes inclusive of the real estate tax. It is hard to predict the measures regarding property taxing that the Czech Republic will take in the future.*

**Keywords:** *real estate tax, value-based property tax.*

People either spend their income on essential living needs, or store it in banks, buy securities, insurance, etc. Another option is to convert revenues into property, either movable or immovable.

The consumer pays for the consumption of goods or services through an indirect tax, the value for money in the financial sector brings a return on capital, which suc-

cumbs to the taxation of income, while by the purchase of immovable property a tax is reflected in another form.

While indirect taxes are paid for each purchase, income tax, as a result of an assessment based on income and as a part of other revenues (or separately in the case of self-imposition of the withholding tax) from real estate, is different. Taxation of real estate is associated with the fact of ownership in itself. Property taxes may be imposed both for the property as a whole and for its separate parts, in accordance with the type of property or the net value of assets, the additional property.

In the past, in addition to real property, movable assets such as coaches, jewellery, livestock, etc. have been treated as objects of taxation. However, the land tax belonged to the first taxes collected already in ancient Rome, especially in the Roman provinces. The outflows of assets continued in further periods. Real property has an exceptional feature: it cannot be hidden or moved; it can be easily traced and, therefore, taxed.

The existence of property taxes is justified, among other things, by the fact that taxes on property help, to a certain extent, to supplement the tax revenue; the overall taxation of income and assets accurately captures the financial ability of individual taxpayers. The preservation of property taxes is considered by the proponents of this view as the opinion for the fair tax. However, there are opposing views.<sup>1</sup> According to another view, if one assumes that the property is acquired from the taxed income, it conducted, in the case of separate taxation of property, to the second taxation of this income. If the taxation of income or additions to income succeeds, no special property taxation is necessary, and incomes are taxed only through the income tax.<sup>2</sup>

What regards the context of the harmonization of the tax systems in EU countries, no directive has been passed to regulate the property tax. The main reason is the immobility of the subject of taxation and the dull possibility of tax competition which could occur only for new buildings and in a very long term.

Taxes on property are established in developed countries in very different ways. Generally, the tax base is the price of the immovable property in a given locality and the revenue from taxation. The proceeds from the tax go to local budgets. It is an important element of the self-sufficiency of local budgets, especially having in mind the stability of its robust yield.<sup>3</sup>

The importance of property taxes is also manifested by their share in the total taxation in the state, in our case, in the Czech Republic.

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1 McCluskey, W. J. The property tax: empirical evidence on its relative importance. *The Journal of Property Tax Assessment and Administration*. 1997/1998, 3(2): 47.

2 Bakeš, M. *et al. Finanční právo*. 5th ed. Prague: C. H. Beck, 2009, p. 576.

3 *Rural Property Tax Systems in Central and Eastern Europe*. 1st ed. Rome: FAO, 2002.

Table 1. Share of the real estate tax in the tax revenue of local budgets

	2004	2005	2006	2007	2008
Yearly tax revenue from real estate tax (in million CZK)	4.920	4.967	4.975	4.963	5.100
Total revenue from taxes to the local budgets (in million CZK)	128.707	168.519	172.939	187.429	204.238
Share of the real estate tax in the tax revenue of local budgets (in percentage)	3.82%	2.94%	2.87%	2.64%	2.49%

Source: statistics of the Ministry of Finance of the Czech Republic

The OECD classification serves for international comparisons of budgets. There the property tax is divided into subgroups according to the principles of taxation (whether the charge is regular or irregularly recurring, etc.).<sup>4</sup>

Table 2. Taxes on property and their share in the total taxation<sup>5</sup>:

Property taxes and their share in the total taxation (in percentage)	year 2007	year 2008
Australia	8,9	No data
Austria	1,4	1,3
Belgium	5,1	5,1
Canada	9,9	10,2
Germany	2,5	2,3
Mexico	1,7	0,0
Switzerland	8,2	7,8
U.S.	11,0	11,7
Denmark	3,8	4,1
Finland	2,6	2,6
France	8,0	7,8
Greece	4,3	4,5
Hungary	2,0	2,2
Iceland	6,1	6,1
Italy	4,9	4,3
Ireland	8,2	6,5
Japan	9,0	15,1
Korea	12,8	11,9
Luxemburg	9,8	7,4

4 Radvan, M. *Zdanění majetku v Evropě*. 1st ed. Prague: C. H. Beck, 2007, p. 385.

5 Property taxes in this table include taxes which are called transfer taxes. This can be misrepresenting.

Netherlands	3,3	No data
New Zealand	5,3	6,0
Norway	2,8	2,8
Poland	3,4	No data
Portugal	3,8	3,6
Slovakia	1,4	1,3
Spain	8,0	6,7
Sweden	2,4	2,3
Turkey	3,8	3,7
Great Britain	12,6	11,6
The Czech Republic	1,2	1,1
Average EU-15	5,4	No data

Source: Revenue Statistic OECD

The Czech Republic has so far failed to move on the value system of the taxation of property. Legislation regarding the real estate tax was adopted in 1992 in connection with the introduction of a new system of taxation.

Prior to the adoption of new acts, there was a provision contained in various laws, which, for example, dealt with the taxation of property, the volume of wages and remuneration and profit (Act on Agricultural Tax<sup>6</sup>), the household tax (Tax Act on the Household Tax<sup>7</sup>), the taxation of income from agricultural production (Act on Income Tax of the Population<sup>8</sup>).

At that time there existed no elaborate system for valuing all properties for tax purposes. Only the Act on Agricultural Tax stipulated certain criteria (with reference to which the value could be at least partly estimated) for the taxation of the land on certain criteria. It was the inclusion of land into the production business groups, where a fixed rate was legally assigned to a group of land lots—it was not the quality determination unit of a particular lot.<sup>9</sup>

The introduction of the real estate tax in 1992 was based and is still based on the principle that in the Czech Republic the ownership of land and the ownership of buildings are separated—the owners may be different persons. The institution of property is not established in the tax law, but assumes the definition as presented in the Civil Code: real estate property is defined as lands and buildings connected with the ground by a firm foundation. Gradual appearances of lots, which were in former times consolidated to the big units and whose borders are not in the country as well as the existence of some other facts determine the fact that the tax on lots is not paid by the proprietor, as it could be

6 Act n. 172/1988 Coll., as amended.

7 Act n. 143/1961 Coll., as amended.

8 Act n. 389/1990 Coll., as amended.

9 Mrkývka, P.; Pařízková, I. *Základy finančního práva*. Brno: Masarykova univerzita, 2008, p. 252.

assumed, but by other person—a renter or a user. Some lots are exempted from taxation (e.g. lots where a construction is located). For taxation purposes, lots are registered to the certain groups (agricultural lots, building land, etc.) and to every group the rate on the unit is assigned (as a rule, on a square meter). What regards agricultural lots, taxation joined with value is expressed in a generally binding notice.<sup>10</sup>

Taxation of constructions comes out from the classification of constructions to certain groups according to the purpose it serves. Individual flats or non-residential spaces may also be objects of taxation, if they are registered in the Land Register of Real Properties. Groups of constructions are exempted from taxation (e.g. public transport constructions such as a motorway, a railway, etc.) and for some constructions either a time-limited exemption or exemption based on the functional usage of the construction. Concerning rates, these are, in the event of construction, fixed rates on a square meter of surface.<sup>11</sup>

Some adjustment of the revenue of the real estate tax allows introducing correction coefficients, which are derived from the size of municipality (according to the population). This possibility refers to building lots and living houses, flats and non-residential spaces. Municipality may (by decreasing or increasing a given coefficient) change the category of municipality given by law and, therefore, influence the amount of tax revenue. The municipality can issue the generally binding public notice which is able to change the category only under the conditions provided by law. With regard to the height of fixed rates, this change does not mean substantial difference of the final amount of the tax.<sup>12</sup>

For the past 10 years, a change in the legal regulation of the taxation of real estate (in terms of introducing value-based taxation) has been expected. This intention seemed unreal and, till present, impossible to realize. A lot of reasons could be found: the main reason could be the economic-political reason the essence of which is that the assessment of the price of immovable property and the percentage rate based on its usage is economically profitable for the recipient, i.e. a municipal budget, but not for taxpayer—a voter, whose tax burden increases.<sup>13</sup>

Therefore, is necessary to find a compromise, a way acceptable for the budget and the taxpayer. It is evident that fixed tax rates, which do not change for long periods of time, even if the prices of goods and services change, cannot satisfy the needs of budgets, but, due to inflation, the taxpayer is taxed less and less. Taxpayers are satisfied with this situation and do not require any changes.

The problem regarding the preservation of the levels of the tax burden on taxpayers but at the same time the increase of the importance of real estate tax may be solved only in connection with other tax liabilities of taxpayers. For example, local fees could be cancelled and a certain municipal tax which would include the real estate tax could be

10 Vybíhal, V. *Zdanění majetku*. 1st ed. Prague: Grada Publishing, 1997, p. 432.

11 Decision of the Constitutional Court of the Czech Republic No. II. ÚS 529/05.

12 Holmes, A. Právní moc obcí stanovit výši koeficientu pro výpočet daně z nemovitosti. *Daňový expert*. 2008, 3: 15–17.

13 Decision of the Supreme Administrative Court of the Czech Republic No. 5 Afs 24/2008.

introduced. In terms of a uniform taxation, for persons, who are not in possession of real property in a given municipality, but permanently lives or temporarily stays in it and derives benefits from the municipality services (e. g. pick-up and liquidation of communal waste), tax credits could be offered or, in some cases, tax exemption applied. Through such payments it would be also possible to respond to the needs of environmental protection, etc. The introduction of uniform municipal taxes would lead also to savings for the administration of local fees and other payments.

The problem of real estate tax administration would also be solved. Till this time, all the process of administration is entrusted to financial offices, and to municipalities only the revenue (based on the kind, the size, etc. of the immovable property) is transferred. In case of a situation, when the real estate tax is the base of a uniform municipal tax, it would be necessary to settle the issue of its administration. Municipalities administrate local fees and various other payments for services. Real estate tax municipalities, however, get without further activity. The introduction of a uniform payment would require to decide who and how should administrate the mentioned income.<sup>14</sup>

One possibility (taken, for example, by Lithuania), is to base the real estate tax on the value principle. First experiences are acquired through the introduction and provision of the new system, but they can also be used in other states. In contemporary conditions of the Czech Republic, it is, however, impossible to unambiguously tell, what way of property taxing will be chosen in the Czech Republic.

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14 Marková, H. *Finanční hospodaření zemních samosprávných celků*. Charles University in Prague, Faculty of Law, 2008, p. 152.

## NEKILNOJAMOJO TURTO MOKESTIS ČEKIJOS RESPUBLIKOJE

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**Santrauka.** *Čekijos Respublikoje teisinis nekilnojamojo turto reglamentavimas įvestas 1992-aisiais, kartu su mokesčių sistemos reforma. Teisinio reglamentavimo poreikis atsirado dėl bandymų supaprastinti mokesčių įvertinimą ir apmokestinimą. Čekijos Respublikoje vertė paremto nekilnojamojo turto mokesčio nėra. Pagrindinė problema yra išlaikyti nepakitusių mokesčių mokėtojų našta, bet tuo pat metu padidinti nekilnojamojo turto mokesčio kaip vietinio biudžeto pajamų svarbą. Šios problemos sprendimas galėtų būti siejamas su kitais mokestiniais mokesčių mokėtojų įsipareigojimais, t. y. vietinių mokesčių, į kuriuos įeity ir nekilnojamojo turto mokestis, įvedimu. Sunku numatyti priemones, susijusias su turto apmokestinimu, kurių bus imtasi Čekijos Respublikoje ateityje.*

**Reikšminiai žodžiai:** *nekilnojamojo turto mokestis, vertė paremtas turto mokestis.*

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