

International Tax Czech Republic Highlights 2018



Investment basics:

Currency – Czech Koruna (CZK)

Foreign exchange control – No restrictions are imposed on the import or export of capital. Repatriation payments can be made in any currency. Both residents and nonresidents can hold bank accounts in any currency.

Accounting principles/financial statements – Czech accounting legislation applies. Financial statements must be prepared annually. Companies that are publicly traded on a European regulated market must apply IFRS, as governed by the relevant EU directive, for their books of account and for preparing financial statements.

Principal business entities – These are the joint stock company, limited liability company, cooperative, limited partnership, general partnership and branch of a foreign corporation.

Corporate taxation:

Residence – A corporation is resident if it is incorporated or managed and controlled in the Czech Republic.

Basis – Residents are taxed on worldwide income; nonresidents are taxed only on Czech-source income. Foreign-source income derived by residents is subject to corporate income tax in the same way as Czech-source income. Branches are taxed in the same way as subsidiaries.

Taxable income – Taxable income is calculated according to Czech accounting rules, with adjustments for tax purposes. In general, all expenses incurred to generate, ensure and maintain taxable income are deductible if documented by the taxpayer, subject to limits specified in the corporate income tax law and in specific legislation.

Taxation of dividends – Dividend distributions between Czech companies are exempt from tax if the parent company maintains a holding in the subsidiary payer company (provided both companies have the prescribed legal form) of at least 10% for an uninterrupted period of at least 12 months.

Inbound dividends at the level of the Czech parent company are exempt if: (1) paid by a subsidiary in an EU member state or the European Economic Area ((EEA) the EU countries, plus Iceland, Liechtenstein and Norway) and the parent holds at least 10% of the distributing company for an uninterrupted period of at least 12 months; or (2) paid by a subsidiary that is tax resident in a non-EU/EEA country that has concluded a tax treaty with the Czech Republic, has a specific legal form, satisfies the conditions for the dividend exemption under the EU parent-subsidiary directive and is subject to a home-country tax similar to the Czech income tax at a rate of at least 12%.

Capital gains – Income from the sale of assets generally is included with other taxable income and taxed at the regular corporate income tax rate. See also under “Participation exemption.”

Losses – Losses may be carried forward for five years. The carryback of losses is not permitted.

Several anti-abuse provisions govern the utilization of tax losses; for example, tax losses may not be deducted when there has been a substantial change in the composition of the persons participating in the equity or control of the company, unless at least 80% of income is generated by the same activity for which the tax loss was incurred.

Rate – The corporate income tax rate is 19%. A 5% rate applies to basic investment funds, as defined in the income tax legislation, and a 0% rate to pension funds.

Surtax – No

Alternative minimum tax – No

Foreign tax credit – Foreign tax relief (credit or exemption) is available only under tax treaties. If relief is not available under a treaty, income tax paid abroad may be deducted as an expense in the following year, provided it is imposed on income included in Czech taxable income.

Participation exemption – If a foreign owner sells an investment in a company based in the Czech Republic, gains will be subject to tax as part of the aggregate tax base, regardless of where the purchaser is resident, unless otherwise provided in an applicable tax treaty. An exemption applies when the seller is an EU/EEA resident company that has an eligible legal form and that holds at least 10% of the company sold for an uninterrupted period of at least 12 months; the same treatment applies when the seller is a Czech company selling an investment in an EU/EEA resident company. The capital gains participation exemption for sales of shares in non-EU/EEA resident subsidiaries is subject to the same requirements as for the participation exemption for dividends (see under “Taxation of dividends”).

Holding company regime – No

Incentives – Investment incentives are available in certain circumstances and include 10-year tax relief, job creation grants, grants for retraining employees, provision of land at a reduced price and cash grants for the acquisition of fixed assets for strategic investment projects. Additional deductions of R&D costs also may apply.

Withholding tax:

Dividends – Dividends paid to a nonresident are subject to a 15% withholding tax, unless the rate is reduced under an applicable tax treaty. A 35% rate applies where the dividends are paid to a resident of a tax haven (i.e. a jurisdiction that has not concluded a tax treaty or an agreement for the exchange of information on tax issues with the Czech Republic).

Based on the EU parent-subsidiary directive, dividends paid by a Czech company to a parent company located in another EU member state are exempt from withholding tax if the parent company holds at least 10% of the distributing company for an uninterrupted period of at least 12 months. The exemption also applies to dividends paid to a parent company in the EEA or Switzerland.

Interest – Interest paid to a nonresident is subject to a 15% withholding tax, unless the rate is reduced under a tax treaty or an exemption applies under the EU interest and royalties directive (or a similar measure for the EEA or Switzerland). A 35% rate is levied on interest paid to a resident of a tax haven (i.e. a jurisdiction that has not concluded a tax treaty or an agreement for the exchange of information on tax issues with the Czech Republic).

Taxpayers from EU/EEA member states are allowed to file a tax return at year end to deduct costs related to interest payments.

Royalties – Royalties paid to a nonresident are subject to a 15% withholding tax, unless the rate is reduced under a tax treaty or an exemption applies under the EU interest and royalties directive (or a similar measure for the EEA or Switzerland). A 35% rate applies where royalties are paid to a resident of a tax haven (i.e. a jurisdiction that has not concluded a tax treaty or an agreement for the exchange of information on tax issues with the Czech Republic).

Taxpayers from EU/EEA member states are allowed to file a tax return at year end to deduct costs related to royalty payments.

Technical service fees – Income paid to a nonresident for technical services provided in the Czech Republic (there is no taxation if services are provided abroad) is subject to a 15% withholding tax (35% if the payment is made to a resident of a tax haven). This tax generally is precluded under Czech tax treaties (although, e.g. the treaty with India allows for a 10% withholding tax) or if a service permanent establishment is created (generally after six months of rendering services in the Czech territory). In the latter case, no withholding tax applies, but the permanent establishment is taxable on a net basis at a rate of 19%.

Branch remittance tax – No

Other – The 15%/35% domestic withholding rate and other considerations applicable under “Technical service fees,” also apply to payments for other services and independent activities (e.g. commercial, consultancy and management) provided in the Czech Republic. Czech tax treaties do not allow withholding tax to be imposed on fees from other services or independent activities.

Rental payments for the use of a movable asset in the Czech Republic are subject to a 15%/35% withholding tax (5% if the payments are made for a financial lease with a subsequent purchase of the leased asset), as well as certain other payments.

Additionally, payments made to a non-EU/EEA recipient

from a Czech source that do not fall within any of the above categories generally are subject to a 10% tax "securement" (1% in certain cases) as an advance payment of income tax.

Other taxes on corporations:

Capital duty – No

Payroll tax – No

Real property tax – Land and building owners are subject to an annual real estate tax. The rate depends mainly on the size of the land/building (including paved surfaces as a special type of land).

Social security – The employer contributes 9% of the employee's gross salary to the state health insurance funds and 25% of the employee's gross salary to the state social security funds. A cap on the payments to the social security funds is applicable.

Stamp duty – No

Transfer tax – A real estate transfer tax is levied at a rate of 4%.

Other – Road tax is imposed on entities that use vehicles. Income tax is imposed on the gratuitous acquisition of property.

Anti-avoidance rules:

Transfer pricing – Czech transfer pricing rules require that transactions between related parties be on arm's length terms. If prices in a transaction involving related parties differ from current market prices and the difference cannot be justified, the market prices are used for tax purposes. Advance pricing agreements may be obtained from the tax authorities.

Certain companies are required to attach an appendix to the income tax return that lists and summarizes all related party transactions that took place during the tax year.

Thin capitalization – Thin capitalization rules apply to loans and credits from a related party, and to loans/credits from an unrelated party where a related party is obliged to grant a corresponding loan/credit to the unrelated party ("back-to-back financing"). The proportion of loans/credits to equity must not exceed 4:1 (6:1 if the debtor is a bank or an insurance company). Financing expenses related to loans/credits where the interest or the maturity is contingent on the profit of the debtor are nondeductible.

Controlled foreign companies – No

Disclosure requirements – A country-by-country (CbC) report is required to be prepared on behalf of a multinational group by the ultimate parent entity, or by a

surrogate entity or another member of the multinational group of companies, provided additional requirements are met. Notification of the ultimate parent entity and the entity filing the CbC report on behalf of the group generally is required to be submitted by local taxpayers by the last day of the reporting period. The deadline for filing the CbC report is 12 months from the end of the relevant reporting period. The CbC report and notification filings must be made via specific electronic forms.

Compliance for corporations:

Tax year – The calendar year or fiscal year may be used.

Consolidated returns – Consolidated returns are not permitted; each company must file a separate return.

Filing requirements – The deadline for filing the tax return is the first day of the fourth month after the end of the taxable period. This deadline may be extended to the first day of the seventh month after the taxable period if the tax return is prepared and submitted by a registered tax advisor under a power of attorney. The power of attorney must be filed with the financial office by the original tax return filing deadline. A three-month extension to file a return may be granted at the discretion of the tax authorities. The deadline for companies that are subject to statutory audits is automatically extended to the first day of the seventh month after the end of the taxable period. Two or four advance payments of tax are required, depending on the previous year's tax liability, and any tax liability is due on the deadline for filing the tax return.

If the taxpayer is an audited company or is in possession of a "data box," the tax return must be filed electronically.

Penalties – Penalties apply for late filing or failure to file, for underdeclaring income and for failure to fulfill other nonmonetary obligations. Interest is applied to late payments of tax. Penalties of up to CZK 500,000 can be imposed for failure to register, report or keep records as prescribed by law or the tax authorities. Up to 75% of a penalty for underdeclaring income may be remitted if the tax on the undeclared income is paid. The full amount of interest charged on the late payment of tax may be remitted if the late tax ultimately is paid and the payment of the interest is considered too harsh.

Rulings – Advance rulings may be obtained in certain cases provided by law, particularly for advance pricing agreements, the utilization of losses when there has been a significant change to the shareholding structure and R&D projects. The rulings are binding and effective for a maximum period of three years. As from 1 January 2018,

a new type of binding ruling is introduced on the allocation of profits to a permanent establishment.

Other – A requirement for business entities to electronically register their sales carried out in establishments in the Czech Republic is being implemented in a phased manner for various business sectors. The requirement already applies to entities that provide restaurant or accommodation services (the first phase) and to retail trade and wholesale (the second phase). As from 1 March 2018, the third phase will impose the requirement on other professions (except those in the fourth phase), including freelance professionals, transportation and agriculture. As from 1 June 2018, the requirement will be extended to selected crafts and manufacturing activities (the fourth phase).

A sale must be registered if paid in cash, by credit card or by similar means, if it results in business income that is taxable for Czech income tax purposes (and if the transaction is not specifically exempt from registration under the relevant legislation). Payments made by direct bank account transfers or bank debits do not have to be registered.

Personal taxation:

Basis – Tax residents are taxed on their worldwide income (with an exemption for employment income derived from work undertaken outside the Czech Republic under certain circumstances); nonresidents are taxed only on Czech-source income.

Residence – A tax resident is defined as an individual who has a home address in the Czech Republic or who stays in the Czech Republic for 183 days or more within a 12-month period.

Filing status – Each individual must file a separate return; joint filing for married couples is not available.

Taxable income – There are five basic sources of income: employment, entrepreneurial activity, capital, leased assets and "other." General taxable income is defined as the difference between actual gross income and allowable expenses incurred in obtaining the income, other than for employment income, for which the tax base equals the gross taxable remuneration increased by the employer's part of the social security contributions. Domestic-source dividend and interest income are taxed separately under a lump-sum withholding system.

Capital gains – Capital gains generally are taxed at a rate of 15%, but may be exempt if certain conditions are satisfied.

Deductions and allowances – Deductions are granted for mortgage interest, life and supplementary pension insurance and gifts. The deduction available for pension

and life insurance contributions made by employees is CZK 24,000 per annum, and up to CZK 50,000 per annum of pension and life insurance contributions made by the employer is tax exempt for the employee. Personal allowances are available to the taxpayer, his/her spouse and children, but limits apply if the taxpayer opts for the lump-sum expense option.

Rates – The tax rate is 15%, with a 7% increase in the rate for income from employment and entrepreneurship exceeding 48 times the average salary during the calendar year.

Other taxes on individuals:

Capital duty – No

Stamp duty – No

Capital acquisitions tax – No

Real property tax – Land and building owners are subject to an annual real estate tax. The rate depends mainly on the size of the land/building (including paved surfaces as a special type of land).

A real estate transfer tax also applies, at a rate of 4%.

Inheritance/estate tax – Inheritance and estate taxes are incorporated within the income tax system and the same rates apply as for income tax. Certain persons (generally relatives) are exempt from inheritance/estate tax.

Net wealth/net worth tax – No

Social security – An employee contributes 11% of gross income (4.5% health insurance, 6.5% old-age pension). A self-employed individual is subject to a mandatory contribution of 42.7% (13.5% health insurance, 28% old-age pension, 1.2% unemployment) on the assessment base (determined as 50% of the income tax base). There is no maximum assessment base for health insurance purposes. The maximum assessment base for social security purposes (i.e. old-age pension contributions and unemployment insurance) is 48 times the monthly average wage, which corresponds to CZK 1,438,992 for 2018.

Compliance for individuals:

Tax year – Calendar year

Filing and payment – Tax on employment income is withheld by the employer and remitted to the tax authorities. Self-employed individuals (entrepreneurs) must file a tax return. The tax return must be filed by 1 April of the following year, but the deadline can be extended if the tax return is prepared and submitted by a registered tax advisor under a power of attorney (see above under "Corporate taxation"). Upon the application

of the taxpayer, a three-month extension to file a tax return may be granted at the discretion of the tax authorities.

Penalties – Penalties apply for late filing or failure to file, for underdeclaring income and for failure to fulfill other nonmonetary obligations. Interest is applied to late payments of tax. Penalties of up to CZK 500,000 can be imposed for failure to register, report or keep records as prescribed by law or the tax authorities. Up to 75% of a penalty for under declaring income may be remitted if the tax on the undeclared income is paid. The full amount of interest charged on the late payment of tax may be remitted if the late tax ultimately is paid and the payment of the interest is considered too harsh.

Value added tax:

Taxable transactions – VAT is levied on the sale of goods, the provision of services and on imports.

Rates – The standard rate is 21%, the reduced rates are 10% and 15%. Certain supplies are zero rated or exempt.

Registration – A Czech company must register for VAT if its supplies in the Czech Republic exceed CZK 1 million for a period of 12 consecutive months. A foreign company must register once a first supply in the Czech Republic is made, unless the VAT on such a supply is reverse-charged by the recipient (which has become common since the reverse-charge mechanism was made applicable in the case of any sale of goods performed by a foreign company not yet registered for VAT in the Czech Republic to a Czech VAT payer). Voluntary registration is possible if a company renders (or will render) taxable supplies in the Czech Republic.

Some companies must register in a simplified form,

mainly if they purchase/receive business-to-business services or if their purchases of goods from other EU member states exceed CZK 326,000 in a calendar year.

Filing and payment – The return must be filed and the tax paid within 25 days after the end of the taxable period. The taxable period is a calendar month or calendar quarter, depending on the taxpayer's turnover. Newly registered VAT payers are required to have monthly taxable periods for only a certain period of time (subject to various conditions).

VAT payers must submit local sales/purchases reports that will enable the authorities to match sales with purchases. Taxpayers also must report supplies received from other EU member states, and even supplies for private purposes.

Source of tax law: Income Taxes Act, VAT Act, Tax Procedure Code, Real Estate Tax Act, Real Estate Transfer Taxes Act

Tax treaties: The Czech Republic has concluded more than 80 income tax treaties.

The Czech Republic signed the OECD MLI on 7 June 2017.

Tax authorities: Financial Office (including Specialized Financial Office for selected tax subjects), Customs Office, General Financial Directorate, Appellate Financial Directorate, Customs Directorates, Ministry of Finance

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