



Legal update

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News in legislation

Abolition of real estate acquisition tax

On 13 May 2020, the Government submitted a draft law to the Chamber of Deputies seeking the repeal of the Senate's statutory measure No. 340/2013 Coll., on real estate acquisition tax, as amended, and amending and repealing other related legal regulations, namely as Chamber Press No. 866. On 8 July 2020, the Chamber of Deputies approved the proposal and forwarded it to the Senate. After its discussion, the Senate returned it to the Chamber of Deputies on 12 August 2020 with amendments. The Chamber of Deputies will now discuss the proposal again, with the proviso that it may adopt the proposal as approved by the Senate or as forwarded to the Senate.

However, in both cases both Senate Statutory Measure No. 340/2013 Coll., on Real Estate Acquisition Tax, as amended, and Decree No. 419/2013 Coll., on the implementation of a Senate statutory measure on real estate acquisition tax, as amended, will be repealed. The decisive date was set as 31 March 2020. The tax liability for real estate acquisition tax will therefore expire on the date of entry into force of this Act, in the event that the deadline for filing a tax return expires on 31 March 2020. This means that this tax liability will cease in the case of real estate acquisitions registered in the Land Registry after 1 December 2019.

In particular, the abolition of real estate acquisition tax is intended to simplify and streamline the tax system and reduce tax administration. At the same time, the aim is also to compensate for the effect of the coronavirus pandemic on society. In addition, its abolition should serve to restrict the formation of business corporations in order to seek to avoid the application of this tax to real estate transfers.

Following the abolition of this tax, the time limit for the time test used to determine whether the sale of immovable property acquired for purposes of other than for one's own residence will be subject to income tax or will be exempt from this tax will also change. The relevant period between the acquisition and sale of immovable property is now set at five years, but will be extended to ten.

This will make it more difficult for investors to take advantage of this exemption, making it more difficult for investors to use this tax benefit, leading to a likely decrease in their activity in this and a worsening of the lack of supply of residential real estate. In addition, this should reduce the speculators' handling of real estate. However, in order to promote the acquisition of residential real estate for main residence purposes, the extension will not apply where the seller uses the income from the sale of immovable property to acquire his next residence. Also, the extension will not apply to the transfers of real estate carried out before 1 January 2021.

Another related change will be the adjustment of the institute of the non-taxable part of the tax base pursuant to Section 15 Paragraph 3 of Act No. 586/1992 Coll., On Income Taxes, as amended, thanks to which it was possible to apply a deduction of interest paid on a loan intended to cover housing needs.

Initially, this option was to be abolished, but thanks to the amendments, will be maintained. However, the threshold for the deduction of interest payments from the tax base will be reduced, from CZK 300,000 to CZK 150,000.

In addition, the proposal submitted by the Chamber of Deputies to the Senate, allows the deduction to be made on loans obtained only after 1 January 2022, one year earlier than the previous cut-off date. We await the wording which will pass the Chamber of Deputies.



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The principle of equal pay and related criteria

(Judgment of the Supreme Court file no. 21 Cdo 3955/2018 of 20 July 2020)

In this judgment, the Supreme Court clarified the principle of equal pay, namely the question of what criteria should be, in accordance with Section 110 of Act No. 262/2006 Coll., The Labour Code, as amended ("Labour Code"), taken into account when assessing whether employees perform the same work or work of the same value for which they are entitled to the same wage, salary, or remuneration from an agreement on work performed outside the employment relationship ("remuneration").

The Supreme Court provided an exhaustive of comparative criteria enshrined in Section 110 of the Labour Code, meaning that other factors no longer have relevance. The following criteria shall apply for an assessment of work value:

- Complexity, responsibility and effort of work;
 - Education and practical knowledge and skills;
 - Complexity of the subject of work;
 - Organizational and managerial complexity;
 - Degree of liability for damage, health and safety;
 - Physical, sensory and mental stress and the effects of the negative effects of work;
- Working conditions;
 - Difficulties with work arrangements resulting from working time arrangements (e.g. shifts, non-working days, night work or overtime);
 - Harmfulness or difficulty due to other negative effects of the work environment;
 - Level of risk of the working environment;
- Work performance;
 - Intensity and quality of work performed;
 - Work skills;
 - Working capacity;
- Work results;
 - Amount;
 - Quality;

All the above criteria are aimed at comparing the internal conditions of work at an employer. External criteria such as in the present case the socio-economic conditions and the adequate level of living costs (e.g. accommodation and transport costs, prices of goods and services) in individual regions, will be irrelevant for this assessment.

It is therefore not decisive whether the work performed by employees is in different places of work. If it is judged as the same work or work of the same value, an employee is always entitled to the same remuneration.

When does the subjective limitation period for the right to compensation begin to run?

(Judgement of the Supreme Court file no. 25 Cdo 1510/2019 of 28 May 2020)

As for the running of the subjective limitation period, its beginning is generally tied to either real knowledge of the decisive circumstances or guilty ignorance, which follows from the wording of Section 619 of Act No. 89/2012 Coll., The Civil Code, as amended (hereinafter "Civil Code"):

"[...] the entitled person became aware of the circumstances decisive for the start of the limitation period or when he should and could have learnt thereof."

In the case of the right to compensation, these decisive facts are information about the damage and about the person obliged to compensate it. For both of these information, it is not necessary to know the exact information, so it is not necessary to know the exact amount of damage, nor to have 100% certainty about the person liable to compensate. It is sufficient for the person entitled to compensation to have at least sufficiently probable information on those facts.

The Supreme Court therefore concluded that if, in the event of a traffic accident, an accident record is drawn up in which the two pieces of information mentioned above is given, the subjective limitation period begins to run from the moment it is drawn up, notwithstanding the fact that the misdemeanour proceeding, which would make it certain who is liable for the damage, has not ended.

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