Czech Republic Country Profile

EU Tax Centre

March 2019

Key tax factors for efficient cross-border business and investment involving Czech Republic

EU Member State

Yes

Double Tax Treaties

With the following countries, territories and jurisdictions:

Albania	Denmark	Jordan	Morocco	Slovenia
Armenia	Egypt	Kazakhstan	Netherlands	South Africa
Australia	Estonia	Rep. of Korea	New Zealand	Spain
Austria	Ethiopia	People's Rep. of Korea	Nigeria	Sri Lanka
Azerbaijan	Finland	Kuwait	North Macedonia	Sweden
Bahrain	France	Latvia	Norway	Switzerland
Barbados	Georgia	Lebanon	Pakistan	Syria
Belarus	Germany	Liechtenstein	Panama	Tajikistan
Belgium	Greece	Lithuania	Philippines	Thailand
Bosnia & Herzegovina	Hong Kong SAR	Luxembourg	Poland	Tunisia
Brazil	Hungary	Malaysia	Portugal	Turkey
Bulgaria	Iceland	Malta	Romania	Turkmenistan
Canada	India	Mexico	Russia	UAE
Chile	Indonesia	Moldova	Saudi Arabia	Ukraine
China	Iran	Mongolia	Serbia	UK
Colombia	Ireland	Montenegro	Singapore	USA
Croatia	Israel		Slovakia	Uzbekistan
Cyprus	Italy			Venezuela
	Japan			Vietnam

Most important forms of doing business

Limited Liability Company (s.r.o.), joint-stock company (a.s.), European Company (SE), Limited Partnership (k.s.), General Commercial Partnership (v.o.s.), Cooperative.

Legal entity capital requirements

s.r.o. - minimum registered equity is CZK 1

a.s. - minimum registered equity is MCZK 2

SE - minimum registered equity is TEUR 120

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v.o.s. - minimum registered equity is not set

k.s. - minumum registered equity is TCZK 5

cooperative - minimum registered equity is not set

Residence and tax system

A company is resident if it has been incorporated in the Czech Republic or if its management and control are exercised in the Czech Republic.

Resident companies are taxed on their worldwide income. Non-resident companies are taxed only on their Czech source income.

Compliance requirements for CIT purposes

A standard form is used for CIT compliance purposes. The tax return must be filed within three months of the end of the taxable period (or six months if the company is audited/the tax return is filed by a registered tax advisor based on a power of attorney). The tax return has to be filed electronically under penalty of TCZK 2.

Corporate Income tax rate

The standard corporate income tax rate is 19 percent.

Withholding tax rates

On dividends paid to non-resident companies

15 percent. A tax rate of 35 percent applies to dividends paid to jurisdictions that are not members of the EU/EEA or have not concluded a DTT which contains Article 26 - Information Exchange, or a Tax Information Exchange Agreement with the Czech Republic.

Exemption from WHT on dividends to an EU, Icelandic, Norwegian, Swiss or Liechtenstein parent:

- Participation requirement: 10 percent of the share capital;
- Minimum holding period: 12 months (or commitment) – can be met ex post;
- Taxation requirement: No.

On interest paid to non-resident companies

15 percent. A tax rate of 35 percent applies to dividends paid to jurisdictions that are not members of the EU/EEA or have not concluded a DTT which contains Article 26 - Information Exchange, or a Tax Information Exchange Agreement with the Czech Republic.

Exemption from WHT on interest paid to EU, Icelandic, Norwegian, Swiss or Liechtenstein affiliated companies:

- “affiliated companies”: 25 percent of the share capital or voting rights are held directly; or indirectly if common 25 percent parent;
- Minimum holding period: 24 months (or commitment) – can be met ex post;

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On patent royalties and certain copyright royalties paid to non-resident companies

15 percent. A tax rate of 35 percent applies to dividends paid to jurisdictions that are not members of the EU/EEA or have not concluded a DTT which contains Article 26 - Information Exchange, or a Tax Information Exchange Agreement with the Czech Republic.

Exemption from WHT on royalties paid to EU, Icelandic, Norwegian, Swiss or Liechtenstein affiliated companies:

- “affiliated companies”: 25 percent of the share capital or voting rights are held directly; or indirectly if common 25 percent parent;
- minimum holding period: 24 months (or commitment) – can be met ex post.

On fees for technical services

No

On other payments

Under Czech law, Czech-sourced income paid to a non-resident is generally subject to either 15 percent withholding tax or the non-resident must file a tax return. The WHT rate is increased to 35 percent if the income is paid to residents of countries which have not signed a DTT with the Czech Republic or where no arrangement is in place for the exchange of information on tax matters. Czech source income taxed through tax return:

- income from a permanent establishment;
- income from the sale and/or use of immovable assets;
- income from the sale of movable assets of a permanent establishment, investment instruments under the special regulation of capital market business, property rights registered in the Czech Republic;
- income from settlement of a receivable acquired by assignment;
- income from a transfer of shares in a company seated in the Czech Republic;
- income from a sale of business located in the Czech Republic.

Czech source income taxed at 15 percent:

- income from employment;
- income from provision of services*;
- income from an independent activity*;
- income of entertainers and sportsmen*;
- income from the use of movable assets*;
- remuneration of members of statutory bodies;

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- winnings from lotteries and other games of chance;
- pensions;
- contractual fines;
- income from trust;
- gratuitous income;
- rental income from movable property located in the Czech Republic;
- income received by a shareholder of a company in connection with a registered capital reduction.

*performed/exercised/located in the Czech Republic.

Branch withholding taxes

No

Holding rules

Dividend received from resident/non-resident subsidiaries

In principle, subject to 15 percent tax. An exemption (100 percent) applies to dividends from domestic and EU subsidiaries if the following requirements are met:

- Participation requirement: 10 percent of the share capital;
- Minimum holding period: 12 months (or commitment) – can be met ex post.

For dividends received from subsidiaries resident in non-EU countries that have entered into a DTT with the Czech Republic, the exemption can be applied if the minimum holding conditions are met and the subsidiary is subject to a minimum 12 percent tax rate. The exemption cannot be applied if the parent company or the subsidiary: are exempt from corporate income (or a similar) tax; or may claim some corporate income tax exemption or relief; or are subject to corporate income tax at a rate of 0 percent.

Capital gains obtained from resident/non-resident subsidiaries

Exemptions may apply to:

- gains derived by a domestic company from the sale of shares in a domestic, EU or non-EU subsidiary under the same conditions as apply to dividends.

Tax losses

Losses can be carried forward for 5 years.

Tax consolidation rules/Group relief rules

No

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Registration duties

For corporate income tax purposes, a taxpayer must register with the tax authorities:

- in the case of residents: within 15 days after the incorporation of a company;
- in the case of non-residents conducting business through a permanent establishment: within 15 days after the set up of the permanent establishment;
- in the case of non-residents: within 15 days after the receipt of certain types of Czech-sourced income or after obtaining the business permission.

Transfer duties

On the transfer of shares

No.

On the transfer of land and buildings

The buyer is responsible for paying the real estate transfer tax at a rate of 4 percent.

Stamp duties

No

Real estate taxes

Yes: computed based on the area of land occupied, category of land and other variables (number of floors, local coefficients determined by the local authorities).

Controlled Foreign Company rules

Yes. If a foreign subsidiary qualifies as a controlled foreign company (CFC), its income from qualifying assets and activities will be taxed at the Czech controlling entity. A controlled foreign company is a company in which a Czech controlling entity holds (directly or indirectly) at least 50 percent of the voting rights or registered capital or is entitled to more than 50 percent of the profits and whose effective tax liability is less than one half of what it would have been in the Czech Republic. CFC rules will mostly apply to the subsidiary's passive income (i.e., interest, dividend, royalties). The rules will apply to taxable periods starting after March 31, 2019.

Transfer pricing rules

General transfer pricing rules

OECD Transfer Pricing Guidelines.

Documentation requirement?

The Czech Ministry of Finance has issued guidelines covering recommended documentation.

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Thin capitalization rules/Interest Limitation rules

Interest and other expenses on credits and loans (e.g., loan arrangement fees, guarantee fees) from related parties and are subject to thin capitalization rules, as follows:

- Debt-to-equity ratio of 4:1 (6:1 for banks and insurance companies) on loans or credits granted by related parties: Excess expenses (including interest) are non-deductible.
- Interest on “back-to-back” loans is treated as interest on related-party debt.
- Any upward adjustment of profit resulting from a thin capitalization or transfer pricing adjustment relating to a non-EU or non-EEA resident counterparty may be treated as a dividend, i.e., is subject to dividend withholding tax and reduced by the provisions of any applicable DTT, if such reclassification is allowed by the DTT.

Deductibility of borrowing costs

Excessive borrowing costs (i.e. the difference between tax deductible borrowing costs and taxable borrowing income) are tax deductible only up to a certain threshold calculated for tax purposes from earnings before tax, interest, depreciation and amortisation (EBITDA). Therefore, if borrowing costs exceed this limit, the tax base is increased by the excess amount. Non-deductible borrowing costs may be transferred to the following tax periods. The limit should be CZK 80 million or 30 percent EBITDA. The rules will apply to taxable periods starting after March 31, 2019.

General Anti-Avoidance rules (GAAR)

Yes

Specific Anti-Avoidance rules/Anti Treaty Shopping Provisions/Anti-Hybrid rules

Restrictions on loss utilization in corporate reorganizations and changes in ownership if there is also a change in the business ("same activities test").

"Subject to tax" requirement for the exemption of dividends and capital gains.

Where the interest rate or the interest payment is dependent on the borrower’s profit, the related expense is non-deductible.

Czech tax authorities apply the beneficial ownership test to grant benefits resulting from double tax treaties or local legislation (e.g. exemption or reduction of the withholding tax rate for dividends, interest or royalties).

Taxation of hybrid instruments

Taxable profit will be increased by the amount of expenses, which as a consequence of their hybrid treatment, resulted at the group level in the effective double deduction of this expense or the deduction of this expense without the corresponding income being taxed. This will apply as of January 1, 2020.

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Advance Ruling system

Binding rulings can be obtained for the following:

- The apportionment of costs that cannot be allocated solely to taxable income;
- The calculation of the proportion of expenses connected with the operation of real estate used partly for business or lease purposes and partly for private purposes (for sole traders);
- Improvement of an asset;
- Deductibility of expenses incurred on R&D projects;
- Loss carry-forward on a change of ownership (but only after the event);
- Transfer pricing;
- The applicable VAT rate;
- Application of local VAT reverse charge mechanism on sale of scrap;
- Situations where it is unclear whether the taxpayer has an obligation to register/report sales electronically;
- The amount of profit allocated to the permanent establishment of a foreign entity in the context of transfer pricing arrangements.

IP / R&D incentives

Yes.

Other incentives

Investment incentives can be granted if the particular conditions and all the administrative requirements are met.

VAT

The standard rate is 21 percent, with two reduced rates: 15 percent and 10 percent.

Other relevant issues

Multilateral instrument (MLI)

The approval process for the OECD MLI has commenced; the Czech Republic will only apply the OECD BEPS minimum standards (principal purpose test and mutual agreement procedure).

Exit taxation

The transfer of assets abroad without a change of ownership – for instance a transfer of assets from the head office in the Czech Republic to a permanent establishment abroad or vice versa or a transfer of tax residence abroad – will be subject to taxation. The rules will apply to transfers occurring after December 31, 2019.

Reporting duty related to income flowing abroad

Taxpayers should report not only payments (income) to foreign entities from which tax was withheld but also transactions generally liable to withholding tax but exempt from tax in particular cases, either under national legislation or the

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relevant double tax treaty. Untaxed payments (income) flowing abroad will have to be reported if they exceed CZK 100,000 per taxpayer per month. This duty will include dividends, royalties and interest paid abroad and also gratuitous income. The rules will apply as of April 1, 2019.

Mandatory disclosure requirements (DAC6)

The obligation to report to tax authorities cross-border arrangements meeting hallmarks defined in the EU Directive 2018/822 (e.g. certain arrangements where obtaining a tax advantage is one of the main benefits of such an arrangement) will be implemented as of July 1, 2020. However, taxpayers or their advisors will be obliged to also report arrangements meeting the conditions for reporting whose implementation started after June 25, 2018 (the date on which the directive came into force).

Source: Czech tax law and local tax administration guidelines, updated 2019.

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