

Dear readers,

In cooperation with our colleagues from the Czech Republic, France, Austria and Slovakia, we are dealing with the topic of **“Investments into the immovable property in different EU-states”**. At this time, the investments into immovable property is very current topic by private as well as institutional investors. To avoid an unnecessary **burden of taxation**, we introduce you firstly main principles of taxation on the relevant country in following articles. Later on, the specifics of the relevant country are described as well as relevant treacherousness. Since there are different themes and laws at the national level, the articles of each of the five countries are a little different.



If you have any questions or if you need more information, please contact your local Moore Stephens office. We wish you a pleasant reading and we will be glad to help you if necessary.

Thomas Ziegler
Partner

Czech Republic

The investments into the real estate belongs to the investments with a permanent and sure income. From the investor point of view, it is good to evaluate the investment's impacts into the real estate in the Czech Republic from the tax point of view in following areas – corporate income tax, income tax of natural persons, value added tax and tax on the acquisition of immovable property. [more on page 2](#)

Germany

While the residential property market is dominated by German investors, nearly half of the buyers of commercial real estate are foreign investors. However, an investment in German property must be carefully planned in order to avoid an unnecessary tax burden when buying, during the holding phase and when selling. [more on page 3](#)

Slovakia

For the purposes of the Income Tax Act, the technical appreciation of tangible assets and intangible assets means expenditure on completed superstructures, additional structures and construction adjustments, reconstruction and upgrades, increasing the value of 1 700 EUR in total for individual tangible and intangible assets for a tax period. [more on page 4](#)

France

The previous French wealth tax, which had to be paid by individuals who owned assets of over 1.3 million EUR, and which consequently lead to the migration of wealthy owners, has been limited from the 1st January of 2018 to private immovable property. [more on page 4](#)

Austria

The ongoing management of real estate assets is subject to income tax in Austria. The surplus of revenue over the cost of advertising (all costs associated with rental) has to be determined for each year and represents a taxable source of income. The surplus has to be disclosed to the tax authorities as part of the annual income tax return. As tax rate the general progressive average tax rate applicable in Austria has to be applied. [more on page 5](#)

Czech Republic: Investments into immovable property from a Czech Tax point of view

Investments into real estate belongs to one of the investments with a stable and secure income. Investment can be made by a legal entity or an individual, each investment has its own specifics. From an investor's point of view, it is good to evaluate the investment's impacts from the real estate in the Czech Republic from a tax point of view in following areas – corporate income tax, income tax of natural persons, value added tax and the tax on the acquisition of immovable property.

• Taxation of income

Generally, in accordance with concluded contracts on avoiding double taxation, the profits from the immovable property are taxed in the state the real estate is located in. Generally, these profits should be taxed in the state of the source as well as in the state of the residence. However, in accordance with the concluded contract on avoiding double taxation with Germany, income from immovable property (tenure as well as sale) are taxed in the Czech Republic only, because the profits are exempt from taxation in accordance with the contract on avoiding double taxation in Germany.

• Legal entities

In the Czech Republic, **the corporate income tax rate is 19 %** and the tax base are based on the profits after the deduction of the related costs. The value of the immovable property **cannot be applied in the costs on a one time basis**, but it enters into the costs via amortisations (**30 or 50 years according to the type of the immovable property and it is possible to choose an amortisation, which is a uniform or an accelerated one**).

By correctly structuring the ownership of the immovable property and transactions, **it is possible to significantly reduce the burden of taxation** of the relevant transactions from the corporate income tax point of view as well as the value added tax or the tax on the acquisition of immovable property **in the Czech Republic**.

The sales of shares in companies **are not subject to VAT** and if this sale is made **after 12 months** of holding a share in a subsidiary, the related income **is exempted from corporate income tax**.

Generally, mergers or spin-off are a tax neutral transaction and if the conditions are met, it is possible to take over the tax losses that occurred previously.

Within the transfer of immovable property, **the tax on the acquisition of immovable property** is a significant cost, because it amounts to **4 %** of the purchase price of the immovable property (it is compared with the market price), the acquirer is the taxpayer. In some cases, it is possible to eliminate this tax (i.e., transfer, merger or spin-off the company, which owns the immovable property).

• Individuals

In many cases, direct ownership of the real estate or real estate holding company owning the immovable property can be preferred

by an individual. When the income from the property rental and the related property is not intended for business, **the income tax rate of natural person** in the Czech Republic is taxed at **15 %** from the amount of income after the deduction of the related expenses (including the possibilities of amortisation of the relevant immovable property). From that income, social as well as health insurance is not paid.

By correctly structuring an investment, **it is possible to eliminate the income tax from natural persons as well as value added tax** in the Czech Republic – by selling an immovable property, the income does not have to be taxed in the Czech Republic as well as in Germany (for example, after 5 years of ownership). In case of a transfer of the share to a company, this income **can be exempted** after 5 years of ownership in the Czech Republic. At this moment, the immovable property can be moved into the holding structure without tax impacts within the income tax scheme of the Czech Republic.

The sale or deposit of immovable property into a company is always subject to the tax on the acquisition of the immovable property and the acquirer **has to pay a tax of 4 %** of the purchase price (after comparison with the market price).

• Value added tax

The provision on income tax is the same for individuals as well as for legal entities. The sale of immovable property **is tax exempt after 5 years** from the completion of or from a significant change on this immovable property (whichever comes later). Even after this term, **the sale may be subject to VAT**, if the seller comes to an agreement with the purchaser. Rental income is exempt from VAT. However, the lessor can decide, in some cases, to apply VAT in the rental agreement. If the output (rent or sale) is subject to VAT, it is possible to apply the related VAT on the input as a deduction. The Czech law applies the term of **10 years** for the immovable property, in which the Czech law observes the way the immovable property has been used and, in this term, the previously applied deduction is adjusted.

• Summary

In the case of a suitable structure, the related sale of the share is, for legal entities, exempt from corporate income tax after one year of ownership in the Czech Republic and this sale of the share is not subject to VAT or tax on the acquisition of the immovable property (as opposed to German adjustments). **It makes it possible to suitably transfer the related investments.**

For individuals, the sale of the immovable property is exempt from a Czech tax point of view in some cases or the sale of the share in a company after the term of 5 years of ownership.

[Read more.](#)

Germany: Foreign investments in German real estate assets

Property investments are currently booming with both institutional investors and private investors. The market is benefiting from the current low interest rate phase and the good economic development in Germany. Office and residential real estate in the big cities are especially popular. While the residential property market is dominated by German investors, nearly half of the buyers of commercial real estate are foreign investors. However, an investment in German property must be carefully planned in order to avoid an unnecessary tax burden when buying, during the holding phase and when selling.

- **Principle: Taxation of profits and income in Germany**

Income from renting or leasing German real estate assets is generally subject to income taxation in Germany. If the investors are natural persons, **rental and lease income is calculated as the excess of revenue over income-related expenses**. This surplus is then subject to the individual, progressive tax rate. In the case of investments through corporations, rental income is subject to corporation tax **in the amount of 15 %**. In addition, **corporate entities and commercial partnerships are subject to trade tax ranging between 7 % and 17 %**.

The income that international investors earn from the leasing of German real estate is also subject to taxation in Germany in the context of limited tax liability. If there is a **double taxation agreement** between the country of residence of the investor and Germany, **then the right of taxation is generally assigned to the country in which the property is located**, i.e. Germany. If the property is held directly by a foreign corporation, this does not constitute a permanent establishment in Germany. It is important here that the foreign company does not have its management in Germany. **If no domestic permanent establishment is formed**, in principle **no trade tax is due** in Germany. However, **special care should be taken when commissioning a domestic service provider** (asset manager, property manager, facility manager) **to manage the property**, as this, if equipped with extensive decision-making powers, **can constitute a permanent establishment**.

- **Special feature: The extended trade tax reduction**

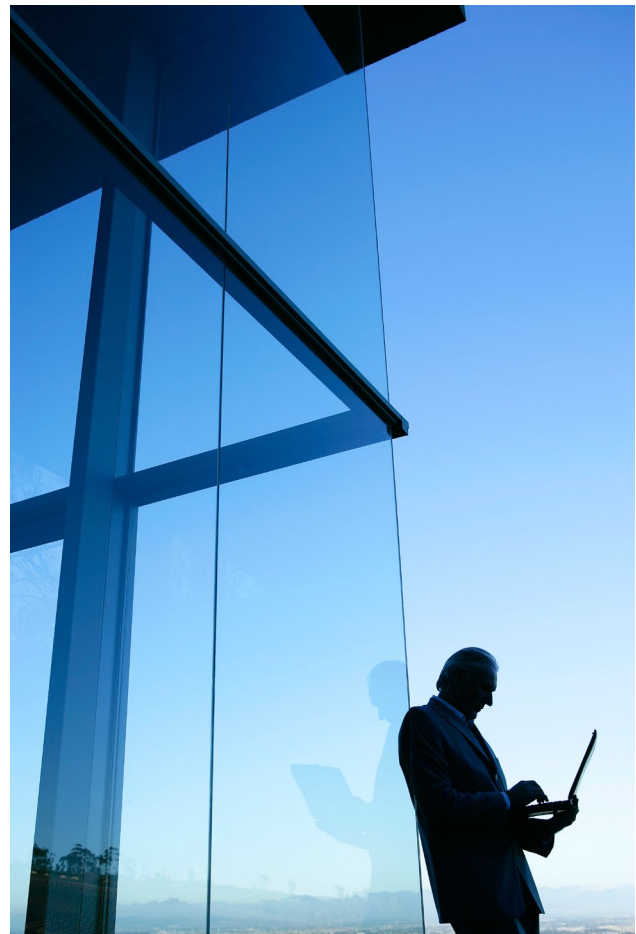
A special feature of the trade tax is the so-called **extended trade tax reduction**. **This is applicable if the company exclusively manages and uses its own property**. As a result, asset management corporations that are subject to trade tax based on their legal form are exempted from this additional tax burden and are thus treated equally to asset management partnerships. Any secondary activities are harmful and constitute grounds for denial of a potential tax reduction. In this context, particular attention must be paid to the **harmful renting** of so-called operating equipment (e.g. goods lift) or inventory.

- **Real estate transfer tax pitfall**

Transfers of real estate in Germany are subject to real estate transfer tax. Depending on the state, this amounts to **between 3.5 % and 6.5 %** and is generally based on the purchase price. However, it should be noted that even the direct or indirect transfer of shares in a property holding company or a change of ownership in a property holding partnership may trigger real estate transfer tax. For this reason, increased attention must be paid to property holding companies, especially in the case of restructuring.

In summary, it should be noted that flexible taxation structures are available with respect to real estate investments. This means that unnecessary tax burdens can be avoided when taking the applicable legal provisions into account. In any case, in the event of real estate transactions or restructuring within a group which holds German real estate assets, tax advice should be obtained in order to enable a tax-optimized structure.

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Slovakia: Technical appreciation and repairs made by the Lessee and non-monetary income of the Lessor from the perspective of the Slovak legislation

For the purposes of the Income Tax Act, the technical appreciation of tangible assets and intangible assets means expenditure on completed superstructures, additional structures and construction adjustments, reconstruction and upgrades, increasing the value of 1 700 EUR in total for individual tangible and intangible assets for a tax period.

Since 1st January of 2015, the Slovak legislation has specified the definition of „lease relationship“ for the purpose of adjusting the tax base of the Lessor for non-monetary income by the Lessee for the technical appreciation and repairs to the leased property.

For the purposes of the Income Tax Act, the term „lease relationship“ is defined as:

- a lease relationship concluded in accordance with the Civil
- a lease relationship based on an unnamed contract in accordance with the Civil Code
- a use relationship based on the material burden concluded

in accordance with the Civil Code

- a lease relationship according to the Act on lease and sub-lease of non-residential premises, as amended (sub-lease relationship)

The extended term „lease relationship“ applies to cases of technical appreciation and repairs made above the necessary and standard terms agreed in the „lease agreement“ for a taxpayer with a tax year in one calendar year, except for the cases for which it is charged from 1st January of 2015.

Upon submission of the tax declaration after 31st December of 2015, with effect from 1st January of 2016, the Lessee shall apply the full remaining tax deduction value of the building to his tax expenses in case of ending technical appreciation by sale, irrespective of the fact, in what deduction group the lessee depreciates the rented property.

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France: the French wealth tax – now limited to real estate, but stricter than before!

The previous French wealth tax, which had to be paid by individuals who owned assets of over 1.3 million EUR, and which consequently lead to the migration of wealthy owners, has been limited from the 1st January of 2018 to private immovable property.

The new wealth tax (“impôt sur la fortune immobilière”, “IFI”) takes over many provisions of the old one, for example regarding the threshold (**1.3 million EUR**), the **taxation rates (maximum tax rate of 1.5 %)** and some global evaluation criteria.

The taxation rules of **directly and indirectly owned real estate** are stricter than before. As long as the real estate is not used by a company for its own activity (other than leasing), it is in the scope of the IFI.

Through this, the entire non-operational immovable property held by French tax resident individuals and non-French tax residents should be subject to the wealth tax. **Other financial assets, such as cash, movable goods, bonds, and participations are excluded.**

There will be **an extension** of their taxable base **for the non-resident taxpayers** who were subject to the former wealth tax because of their immovable French property and **shares** in a real estate company.

The provisions regarding the deduction of loans and liabilities linked to the wealth tax **have changed**. For example, loans granted by family members and by companies linked to the company can't be taken into account anymore (some very specific exceptions apply). **The deduction of shareholder loans remains prohibited**. If the value of the taxable asset exceeds **5 million EUR** and if the **loan represents more than 60 %** of the taxable asset, the deduction will be limited.

It remains to be seen in practice, how the new rules should be applied. We would be happy to advise and help you in this matter.

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Austria: Investment in real estate assets in Austria and their tax consequences

In case of direct investment in real estate assets in Austria, consider the following tax regulations:

- **Real Estate Transfer Tax, Land Register Fee:**

When purchasing a property, a **real estate transfer tax of 3.5 %** and a **land register fee of 1.1 %** has to be paid. Determination base is the **purchase price**.

- **Income Tax:**

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Tax-relevant expenses are e.g. :

- depreciation
- deferred financing costs
- maintenance costs

Since buildings are subject to depreciation, the purchase price share (which apportioned to the building) is distributed over the **estimated useful life** and hence depreciated. In principle, **60% of the acquisition costs must be attributed to the building, 40% to the land** - in case buildings are not held as business assets. Nevertheless, there are a broad number of exceptions.

For buildings used to earn rental income, the useful life is **66.6 years** without proof of an expert's report (**1.5 % of the determination base**).

- **Real Property Tax:**

In Austria, property ownership is usually subject to property tax. Property tax is calculated from the unit value of a property. Simplified, the unit values in the respective area correspond to the average basic prices of 1973, plus an extra charge of **35%**. The property tax is calculated and levied by the municipalities.

- **Value Added Tax:**

The management of real estate assets/ properties provoke in general VAT. Rental for residential purposes is subject to a **10% VAT rate**, other rentals to a **20% VAT rate**. If there is a VAT-liable rental, the landlord is able to recover VAT.

- **Real Estate Income Tax:**

Since 1st April of 2012, profits derived from private property sales are subject to income tax. The base for the **30% tax** is the difference between the purchase and the selling price of the property.

Moore Stephens in the Czech Republic

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and tax consulting firms operating on the Czech market.

We take over the solution of specific financial, accounting, tax and legal issues and prepare customized solutions for you. As a member of international network Moore Stephens offers you complete peace of mind, both here in the Czech Republic and worldwide.

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