

## Real Estate Acquisition Tax versus Real Estate Transfer Tax in the Czech Republic. Past or Future?

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**Abstract:** The real estate acquisition tax as a property transfer tax was part of the system of taxation of the Czech Republic until 25 September 2020.<sup>1</sup> It was a traditional historical tax forming a complementary element of the system of taxation. Since 1993, it was part of the system of taxation as a real estate transfer tax. As of 1 January 2014, due to the recodification of private law, extensive tax reform came into effect, the scope of which was unprecedented since the 1990s. As a result, a new tax was introduced by the Statutory Measure of the Senate No. 340/2013 Coll., namely the real estate acquisition tax, which replaced the former real estate transfer tax. The new tax regulation preserved the taxation of real estate transfers upon payment in the form of the acquisition of immovable property, reflecting the changes brought about by the recodification of private law and by the new Business Corporations Act. It redefined the taxpayer entity, reduced the administrative complexity of tax administration, including cases of mandatory submission of expert reports for the purpose of determining the tax base, and updated the cases of exemption from the real estate acquisition tax.

### 1. Introduction

The real estate acquisition (transfer) tax is categorized as a so-called transfer tax, which is usually classified in tax theory as a direct property

<sup>1</sup> Abolished by Act, Coll. 2020, No. 386 with effect from 26 September 2020.

tax. Direct taxes in the Czech Republic are divided into taxes of the income type, represented by the income tax (Act No. 586/1992 Coll., as amended), and taxes of the property type, which currently include the real estate tax (Act No. 338/1992 Coll., as amended). For practical reasons, property taxes also include the road tax<sup>2</sup>, which is not a typical property tax, although it resembles it in particular in the tax technique used (Act No. 13/1993 Coll., on the Road Tax, as amended).

Transfer taxes are imposed on the transfer of property, i.e. property “in motion”, where there is a change in ownership, and it is not decisive whether it is a transfer or a transition of ownership. The most common cases are sale, inheritance, and donation. However, taxes also apply in the case of exchange, dispossession, etc.

One of the main reasons for the existence of transfer taxes is the stability of their revenues. The collection of these taxes is almost independent of the economic cycle.

The aim of the article is a legal analysis of the real estate acquisition tax, including an answer to the question whether the real estate acquisition tax has its place in the system of taxation or not. The time-period examined is 1918–2022. The work was based primarily on the relevant legislation. In terms of methodology, the methods of comparison, description and legal analysis were used.

## 2. Real estate transfers de lege historia

The Czechoslovak state was established in 1918 on the ruins of Austria-Hungary by Act No. 11/1918 Coll. of Acts and Regulations, on the establishment

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<sup>2</sup> Michal Radvan et al., *Finanční právo a finanční správa – berní právo* (Brno: Masarykova univerzita, 2008), 369; similarly: Milan Bakeš, Marie Karfíková, Petr Kotáb and Hana Marková et al., *Finanční právo* (Praha: C. H. Beck, 2012), 241; Petra Hrubá Smržová and Petr Mrkývka, *Finanční a daňové právo* (Plzeň: Aleš Čeněk, 2020), 351; Petra Hrubá Smržová et al., *Daňové právo de lege lata* (Plzeň: Aleš Čeněk, 2022), 102. In contrast, compare with: Alena Vančurová and Lenka Láchová, *Daňový systém ČR 2018* (Praha: Vox, 2018), 267; See also the judgment of the Supreme Administrative Court of 18 May 2006, ref. no. 2 Afs 101/2005–67, where the road tax regulated by Act on the Road Tax, Coll. 1993, No. 16, constitutes a direct property tax. This means, inter alia, that taxation occurs regardless of whether or not the vehicle in question was used in the tax period.

of an independent Czechoslovak state. This Act adopted the tax regulations still in force, including the system of taxation<sup>3</sup>.

The real estate transfer in Czechoslovakia<sup>4</sup> was first regulated by Act No. 74/1901 (Imperial Code) of 18 June 1901, on fees on the transfer of property, in its provisions of §§ 1–10. This Act remained in force until 1957, when it was abolished on 1 July 1957 by Act No. 26/1957 Coll. on notarial fees, which introduced, inter alia, a notarial fee on the real estate transfer.

The real estate transfer fee was regulated in the provisions of §§ 11–13 of Act No. 26/1957 Coll., which also regulated inheritance and gift taxes, and charges imposed on legal acts performed. The real estate transfer fee was imposed on immovable property which was in personal or private ownership and was transferred upon payment to other persons, or was transferred by sale or by granting a right of access in execution proceedings, by dispossession or by prescription. The real estate transfer fee was also payable if the real estate was transferred mainly upon payment from personal or private ownership to socialist ownership. The transfer (transition) of temporary buildings and the establishment and transfer (transition) of the right to build were regarded as a transfer (transition) to ownership of the real estate. For the purposes of chargeability, the price of property transferred between the same persons in the one-year period preceding the last transfer was aggregated. The real estate transfer fee was payable by the transferee, the transferor and the transferee's successor in title to the transferred property. This was also applied, mutatis mutandis, if the immovable property was transferred by sale in execution proceedings. In the case of real estate transfer into socialist ownership, the fee was paid by the transferor. If the real estate was transferred by granting a right of access in execution proceedings, by dispossession or by prescription, the tax was paid by the transferee as well as the successor in title to the property transferred, unless the transferee was a socialist legal person. Where two or more persons acquired or transferred the real estate together, they had

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<sup>3</sup> More on that in: Petra Jánošíková, "The Tax System in the Czech Republic and Its Transformation in the 20<sup>th</sup> and 21<sup>st</sup> Centuries," in *System of Financial Law: System of Tax Law: Conference Proceedings*, ed. Michal Radvan (Brno: Masaryk University, 2015), 89–109.

<sup>4</sup> More on that in Marek Starý et al., *Dějiny daní a poplatků* (Praha: Havlíček Brain Team, 2009); František Picmaus et al., *Daně, odvody a poplatky v ČSSR* (Praha: Nakladatelství technické literatury, 1985).

the duty to pay the fee jointly and severally. However, the fee payer did not have the duty to pay more than the value of the share acquired or transferred. The fee was calculated on the general (selling) price of the property transferred and its accessories. In the event of exchange, the fee was calculated on the price of one of the properties exchanged; if they were not of the same value, it was calculated on the price of the property which was of a higher value. The rate of the fee was set at between 6% and 13% of the fee base. For transferees closely related to the transferor, the fee rate was set at between 1% and 5% of the fee base. For privately owned real estate, the rate of the fee was 2% higher. The fee was accessed by the state notary office and was payable until the registration of the transfer of the property (entry in the tax register). Act No. 26/1957 Coll. was abolished on 1 April 1964 by Act No. 24/1964 Coll. on notarial fees, which, like the previous Act, regulated the notarial fee on real estate transfer in addition to the notarial fee on inheritance, donation and legal acts performed.

The notarial fee on real estate transfer was regulated in the provisions of §§ 6–10 of Act No. 24/1964 Coll., on notarial fees. The fee was levied for the transfer (transition) of ownership of the real estate upon payment. If two properties were exchanged, the transfer of both properties was considered to be one transfer. The fee was levied on the transfer of the property on which the fee was higher. If the property was acquired from or into socialist ownership, no fee was levied. The base of the fee was the payment for the property. The fee rates were set by secondary legislation provisions<sup>5</sup> at between 6% and 13% of the fee base. If the previous owner of the property and its acquirer were closely related and if the acquisition of the property was not by dispossession or if the property acquired had not been sold in execution, the fee rate was set at between 1% and 5% of the fee base. The rates of the fee on the real estate transfer from or to private ownership were 3% of the fee base higher. For other transfers, a general rate of 6% to 13% was applied. The fee was paid by the transferor and guaranteed by the transferee. If the acquisition was by dispossession or by sale in execution, the fee was paid by the transferee. Where the fee was levied on the transfer

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<sup>5</sup> Decree of the Ministry of Finance, Coll. 1964, No. 25, implementing the Act on Notarial Fees, as amended, namely Decree of the Ministry of Finance of the Czechoslovak Republic, Coll. 1972, No. 30 and Decree, Coll. 1958, No. 74.

of two properties exchanged, the transferor and the transferee paid the fee jointly and severally. The transferor and the transferee had a duty to notify the competent state notary office within fifteen days of the date on which they were notified of the transfer. They did not have that duty if the transfer was by registration of the contract, by dispossession or by sale of a property in execution of a judgment. In the case of late notification, a penalty of 1% of the fee for each month of delay was provided for by law.

Act No. 146/1984 Coll., on notarial fees, repealed the previous Act as of 1 January 1985. An implementing Decree of the Ministry of Finance No. 150/1984 Coll., as amended by Decree No. 237/1990 Coll. and Decree No. 153/1992 Coll., was also issued. The notarial fee on the transfer and transition of the real estate was regulated in the provisions of Sections 8–11 of Act No. 146/1984 Coll. The subject of the fee was the transfer or transition of ownership of the real estate upon payment and the transfer of the right of personal use of land upon payment. Where immovable property was exchanged, the mutual transfers were deemed to constitute a single transfer. The fee was levied on the transfer of the property on which the fee was the highest. The base of the fee was the ascertained price. The rate was progressive and depended on the degree of relationship between the transferor and the transferee. Act No 201/1990 Coll. added further provisions to the Act on Notarial Fees, in particular concerning fee exemptions and the division of persons for fee purposes. The rate ranged from 1% to 20%. The transferor was the fee payer and the transferee was liable for the fee. Where the acquisition was of property sold in execution, the fee was paid by the transferee. If the fee was levied on the transfer of the properties exchanged, the transferors as well as transferees had the duty to pay the fee jointly and severally. Both the transferor and the transferee were subject to a reporting duty to the competent state notary office within 15 days from the date on which they were notified of the transfer of the property. They did not have this duty if the property transfer was by registration of the contract or by sale of the property in execution of a judgment. If the transfer was not notified in time, the fee payer had to pay a penalty of 0.5% of the fee for each new month of the delay.

As of 1 January 1993, the notarial fee on the transfer of immovable property was replaced by a classic tax, namely the real estate transfer tax, which was regulated together with the inheritance and gift taxes in Act

No. 357/1992 Coll., on Inheritance Tax, Gift Tax and Real Estate Transfer Tax. This regulation, as amended and supplemented, was in force until 31 December 2013.

In most cases, the taxpayer of the real estate transfer tax was the transferor. The transferee was the guarantor. In the case of acquisition of immovable property by inheritance, execution of a judgment, prescription, insolvency proceedings following an insolvency decision or on the basis of a contract for the secured transfer of rights, the taxpayer was the acquirer. For tax purposes, the exchange of real estate was treated as a single transfer and the property of higher value formed the base. The subject-matter of the tax was the transfer upon payment or transition of ownership of real estate, the settlement and distribution of divided co-ownership and the mutual exchange of immovable property. In principle, the tax base was the price of the property ascertained in accordance with the special regulations in force on the date of acquisition of the property, even if the agreed price was lower than the ascertained price. For some transfers, the tax base was determined specifically, either according to the price set by the special regulation in force on the date of acquisition of the property under a financial lease agreement followed by the purchase of the leased property, or according to the actual price in the case of a transfer of real estate owned by a local self-governed authority or in the case of auction and execution of judgment, or according to the value determined by an expert report. The tax rate was uniform, proportional and linear, initially 3%, but later increased to 4% from 2013. The taxpayer had the duty to file a tax return by the end of the third month following the calendar month in which the entry in the Land Register was registered. Taxpayers also had the duty to calculate and pay the tax themselves by the deadline for filing the tax return.

### **3. Real Estate Acquisition Tax versus Real Estate Transfer Tax**

The real estate transfer tax was regulated in Act No. 357/1992 Coll., on Inheritance, Gift and Real Estate Transfer Tax, as amended.

On 1 January 2014, the new Civil Code (Act No. 89/2012 Coll.) came into effect. On 9 October 2013, the Statutory Measure of the Senate No. 340/2013 Coll. on the Real Estate Acquisition Tax was adopted. The President of the Republic signed it on 17 October 2013. The first session of the newly established Chamber of Deputies of the Parliament of

the Czech Republic, which took place on 25–27 November 2013, confirmed the validity of this statutory measure through ratification. The Statutory Measure of the Senate on the Real Estate Acquisition Tax<sup>6</sup>, comprising 59 sections and abolishing or amending 51 acts, came into effect on 1 January 2014.

The main objective of this Statutory Measure of the Senate was to take into account the extensive changes in the area of private law introduced by the new Civil Code and to adapt the existing regulations of the real estate transfer tax to this new regulation. In particular, it was a response to the introduction of the principle of “*superficies solo cedit*” and to the creation, modification or renewal of certain private law institutions, in particular, of the right to build, trust funds, property contributed to a company and changes in co-ownership. In relation with the above changes, Act No 357/1992 Coll. on the Inheritance Tax, Gift Tax and Real Estate Transfer Tax, as amended, was abolished and inheritance and gift tax were transformed into the income tax mode.

Act No. 357/1992 Coll. has been amended 52 times in the last twenty years<sup>7</sup>. The first amendment was from the period when the Act had not yet come into effect.<sup>8</sup> Approximately 491 court decisions can be found on this

<sup>6</sup> More on that in Eva Zemanová and Václav Toman, *Zákonné opatření Senátu o Dani z nabytí nemovitých věcí* (Praha: Wolters Kluwer ČR, 2015) or in Vladimír Pelc, *Daň z nabytí nemovitých věcí* (Praha: Leges, 2014).

<sup>7</sup> Act on Inheritance, Gift and Real Estate Transfer Taxes, Coll. 1992, No 357 has been amended many times by the following regulations (52 in total): Act, Coll. 1993, No. 18; Act, Coll. 1993, No. 322; Act, Coll. 1994, No 42; Act, Coll. 1994, No. 72; Act, Coll 1994, No. 85; Act, Coll. 1994, No. 113; Act, Coll. 1995, No. 248; Act, Coll. 1996, No. 96; Act, Coll. 1997, No. 203; Act, Coll. 1997, No. 151 and 227; Act, Coll. 1998, No. 169; Act, Coll. 1999, No. 95; Act, Coll. 2000, No. 27; Act, Coll. 2000, No. 103; Act, Coll. 2000, No. 364; Act, Coll. 2000, No. 132 and 340; Act, Coll. 2001, No. 120; Act, Coll. 2001, No. 117; Act, Coll. 2002, No 148; Act, Coll. 2002, No. 198 and 320; Act, Coll. 2003, No. 420; Act, Coll. 2004, No. 669; Act, Coll. 2005, No. 342; Act, Coll. 2005, No. 179; Act, Coll. 2006, No. 245; Act, Coll. 2006, No. 230; Act, Coll. 2006, No. 186; Act, Coll. 2007, No. 270; Act, Coll. 2007, No. 261 and 296; Act, Coll. 2008, No. 476; Act, Coll. 2009, No. 215; Act, Coll. 2009, No. 281; Act, Coll. 2010, No 199 and 402; Act, Coll. 2011, No. 30; Act, Coll. 2011, No. 466; Act, Coll. 2011, No. 351; Act, Coll. 2011, No. 375; Act, Coll. 2011, No. 428 and 457 and 458; Act, Coll. 2012, No. 275 and 396 and 399 and 405 and 500 and 503.

<sup>8</sup> Act, Coll. 1993, No. 18, of 21 December 1992 amending and supplementing Act, Coll. 1992, No. 357 of the Czech National Council on Inheritance Tax, Gift Tax and Real Estate Transfer Tax.

Act and an application was filed with the Constitutional Court by the Supreme Administrative Court to repeal the provisions in the Act related to the real estate transfer tax. However, the Constitutional Court rejected this application for repeal<sup>9</sup>. The subject of the tax was the transfer or transition of ownership of immovable property upon payment in the civil law sense, i.e. of land or a building as a thing connected to the ground by a fixed foundation in the legal sense<sup>10</sup>, or a flat or non-residential space as a unit under the Act on Ownership of Flats<sup>11</sup>. The taxpayer was usually the transferor (seller) and the transferee was the guarantor. In special cases, the taxpayer was the transferee, in the case of an exchange the transferor and the transferee jointly and severally, and in the case of a community of property, each spouse half and half. The tax base was the price negotiated or ascertained in accordance with Act No. 151/1997 Coll., on the Valuation of Property, as amended, and always the higher one. The tax was 4% of the tax base. The tax exemptions were extensive, e.g. new buildings and contributions to the registered capital of companies and cooperatives were exempted.

The new real estate acquisition tax regulation<sup>12</sup> basically preserved the existing definition of the taxpayer. In the case of ordinary transactions based on sale and exchange contracts, the transferor remained the taxpayer, with the transferee, as in the old regime, being the guarantor. However, the parties to the contract were now allowed to choose the purchaser as the taxpayer in those cases, but the purchaser would not be the guarantor of the tax. This, however, required an active agreement of the contracting parties. In the absence of such an agreement, the taxpayer was, as under the old rules, the seller. In other cases where the purchaser was the taxpayer under

<sup>9</sup> The Judgment of the Constitutional Court of the Czech Republic of 21 April 2009, file No. Pl. ÚS 29/08.

<sup>10</sup> Section 119, Act on Civil Code, Coll. 1964, No 40.

<sup>11</sup> Act on the Ownership of Flats, Coll. 1994, No. 72.

<sup>12</sup> More on that in: Petra Jánošíková and Radka MacGregor Pelikánová, “The Danube Dynamics of Elevation of Real Estate Transfer Tax,” *Danube: Law, Economics and Social Issues Review* 44, no. 4(1917): 191–206; Petra Jánošíková and Radka MacGregor Pelikánová, “The Heterogenous Diversity of the Real Estate Transfer Tax in the EU,” in *Contemporary Trends and Challenges in Finance*, ed. Krzysztof Jajuga, Lucjan Orłowski and Karsten Staehr (Cham: Springer, 2017), 247–255; Petra Jánošíková, „Daň z převodu nemovitostí versus daň z nabytí nemovitých věcí,” in *Naděje právní vědy Býkov*, ed. Vilém Knoll, Kateřina Burešová, Kateřina Gvardová, Patrik Kurz and Zuzana Martínková (Plzeň: Aleš Čeněk, 2017), 403–408.



the old real estate transfer tax regime, the purchaser was also the taxpayer under the new Statutory Measure of the Senate on the Real Estate Acquisition Tax. It was easier for the tax authorities to collect the tax from the acquirer of ownership. Purchasers were more motivated to pay the tax. They were known to the tax administrator at the time of the tax proceedings, as they were recorded in the Land Registry as the owner and usually used the immovable property. In the event of non-payment of the tax, it was possible to enforce the tax by selling the immovable property owned by the purchaser.

In order to ensure continuity with the new Civil Code, which changed the concept of immovable property, the right to build was also newly subject to tax if it was acquired upon payment, since under the new Civil Code this right in rem is considered an immovable property. The subject of the tax was the acquisition of immovable property upon payment, not just the transfer. It was an acquisition tax. The subject of the tax was not only the acquisition of the right to build but also its extinction. Other rights in rem, such as security interests or easements, were not subject to taxation. The acquisition of immovable property by prescription, by the acquisition of immovable property in a trust fund and by the acquisition of a building built illegally on someone else's land were newly subject to taxation.

Acquisition of the right to immovable property through land improvements, transformations of business corporations or acquired as compensation for dispossession was excluded from the subject of the tax. A mutual donation between two or more entities was treated as a purchase or exchange for the purposes of the real estate acquisition tax. The reason was to prevent circumvention of the law by simulating two donations where they were in fact transfers upon payment. Thus, in the case of an exchange, both acquisitions of ownership of immovable property were now subject to taxation.

The Statutory Measure of the Senate reduced the number of cases in which the preparation of an expert report determining the ascertained price and its mandatory submission by taxpayers to the tax administrator was necessary for the determination of the tax base. An expert report was not required, in particular, for transfers of immovable property intended for housing, recreation and garages. For transfers of immovable property which formed part of commercial property, the duty to submit an expert report was maintained. The cost of the mandatory expert report was now a tax-deductible expense reducing the tax base.

The provision defining the tax base was also changed. The tax base was newly defined as the acquisition value, which could be reduced by the expenses demonstrably incurred for an expert report, but only in cases where the report was required as a mandatory attachment to the tax return. If the expert report was not a mandatory attachment to the tax return, only the acquisition value formed the tax base. The acquisition value could be the negotiated price, the comparative tax value, the ascertained price or the special price. For the purposes of determining the tax base, unlike the previous regulation, the negotiated price was not in all cases compared with the ascertained price according to the valuation regulations, but if the taxpayer chose, the negotiated price (the price agreed between the seller and the buyer) was compared with the so-called comparative tax value. For these purposes, the comparative tax value meant either 75% of the so-called guideline value or 75% of the ascertained price (the price according to Act No. 151/1997 Coll., on the Valuation of Property). The guideline value was a figure established by the tax administrator, based on the prices of immovable property at a given place and time, taking into account the type, purpose, location, condition, age, equipment and structural and technical parameters of the real estate. The procedure for calculating the guideline value was set out in Ministry of Finance Decree No. 419/2013 Coll., implementing the Statutory Measure of the Senate on the Real Estate Acquisition Tax. However, taxpayers were still allowed to have an expert report prepared if they wished. In such a case, for the purposes of determining the tax base, the comparison of the negotiated price against only 75% of the ascertained price stated in the expert report was now used. Simply stated, the tax base in cases where no expert report was required was the negotiated price, unless it was more than one third lower than the so-called guideline value, which essentially represented the normal price at that place and time. If the negotiated price was more than one third lower, the tax base was set at 75% of the guideline value, i.e. the normal price. In certain specific cases, in particular auctions, insolvency, sales of real estate in relation to inheritance, and contributions of real estate to business corporations, a special price was ascertained for the determination of the tax base. This could be, for example, the price of the immovable property obtained by auction, the price stated in the memorandum of association when the immovable property was contributed to a company, cooperative or limited company, the price determined by an expert when

valuing a non-capital contribution, or the price obtained by selling the immovable property in relation to insolvency or inheritance. If a specific price could be determined, the acquisition value was exclusively that price.

The possibility of applying the tax exemption was newly extended for all first acquisitions of the ownership right upon payment to new flats and dwelling houses, including the land of which they were part, if the first transfer took place within five years from the date from which the new building could be used according to the Building Act, which meant from the date of the occupancy permit issue, or from the date on which 30 days from the notification of the commencement of using the building had passed, unless the building control authority prohibited the use. In the previous regulation, this exemption was not conditional on meeting the time test, but on the fact that the building had not yet been used. However, proving or verifying that this condition had been met or breached was very administratively complicated and time-consuming. Therefore, all first acquisitions of specified immovable property upon payment made within the above-mentioned time period were now exempted. The first transfers upon payment of a dwelling in a new building or a dwelling resulting from an extension, addition or alteration were also exempted. This exemption was no longer conditional, as before, on the transferor being engaged in the business of building or selling flats. In practice, this meant that all first transfers of immovable property used for residential purposes were exempted, provided that the above-mentioned time test was met at the time of transfer. The Statutory Measure of the Senate eliminated the double taxation of finance leases, as it included an exemption for the acquisition of immovable property used under a finance lease agreement by its user at the end of the lease relationship. Before this Measure, finance leases were subjects to double taxation. Firstly, on the acquisition of the leased property by the leasing company and secondly, on the termination of the finance lease and transfer of ownership of the property to the lessee. In the new legislation, the exemption for transfers and transitions of ownership of immovable property in the context of privatisation of state property was abolished due to redundancy, as well as the exemption for contributions to business corporations and cooperatives.

The tax rate remained at the same level as in the previous regulation, i.e. 4% of the tax base. The deadline for filing the tax return was also

the same. As before, the tax return was submitted within three months of the end of the calendar month in which the entry of the ownership right in the Land Register was made. Unlike the previous regulation, the tax calculation was carried out by the tax administrator. In the tax return, the taxpayer simply calculated the tax, provided the data necessary to determine the guideline value of the immovable property and calculated the advance tax payment of 4% of the negotiated price. The calculated advance payment was rounded up to the nearest whole crown and was payable on the last day of the period for filing the tax return. If the tax authority accessed a higher tax than the advance payment, the arrears were due within 30 days of the receipt of the payment assessment.

Overall, the scope of documents that taxpayers were required to attach to their tax returns was limited. Mandatory attachments to the tax return no longer had to be notarised, but could be attached as plain paper copies or electronically. Simplification was also introduced for the sale or exchange of immovable property to the community property of spouses. Under the new regulation, each spouse no longer filed a tax return, but they became joint and several taxpayers. Thus, the tax was declared and paid by either of them and, if neither of them paid the tax, the tax office could claim the tax from either of them.

All tax duties and rights related to real estate acquisition tax arising prior to the effective date of the Statutory Measure of the Senate were governed by the old regulation, Act No. 357/1992 Coll., as amended, until the effective date of the new regulation.

The Statutory Measure of the Senate regulating the real estate acquisition tax was amended twice during its existence, by Act No. 254/2016 Coll. and Act No. 264/2019 Coll. The fundamental change was the provision on the taxpayer, who, since 1 November 2016, was only the acquirer of the ownership right to immovable property. The real estate acquisition tax was abolished by Act No. 384/2020 Coll. Since 26 September 2020, this tax has no longer been part of the Czech system of taxation.

The aim of the new real estate acquisition tax regulation, which replaced the real estate transfer tax, was primarily to reduce the administrative burden on taxpayers and tax administrators, increase the efficiency of tax collection, shorten the tax procedure and make the tax easier to enforce.

#### 4. Real Estate Acquisition Tax and the Efficiency of Its Collection

The collection of real estate acquisition tax in the Czech Republic was ensured by a system of financial bodies<sup>13</sup>. The proceeds of the tax went to the state budget. The following table shows the state budget revenues that were generated from the collection of the real estate transfer tax and the real estate acquisition tax, including their yield, which is an indicator of the tax administrator's success.

Table 1 – The Development of total real estate transfer tax collection and total real estate acquisition tax collection in the Czech Republic (in millions of CZK)

Year	Tax Collection	Stipulated	Yield (%)
2007 Real estate transfer tax	9,774	8,993	109.4
2008 Real estate transfer tax	9,950	10,106	98.5
2009 Real estate transfer tax	7,809	7,936	96.3
2010 Real estate transfer tax	7,453	7,299	102.1
2011 Real estate transfer tax	7,362	6,900	106.7
2012 Real estate transfer tax	7,660	7,365	104
2013 Real estate transfer tax	8,894	8,581	103.6
2014 Real estate transfer tax	3,686	4,607	80
2014 Real estate acquisition tax	5,600	3,506	159.5
2015 Real estate acquisition tax	10,982	10,297	106.7
2016 Real estate acquisition tax	12,696.6	12,211.9	104
2017 Real estate acquisition tax	12,478.5	13,411.5	93
2018 Real estate acquisition tax	13,572.6	14,028.6	96.7
2019 Real estate acquisition tax	13,846.6	14,047.4	98.6
2020 Real estate acquisition tax	2,796.4	4,188.6	66.8

Source: In-house processing - data taken from the Financial/Tax Administration of the Czech Republic (2011–2020)<sup>14</sup>.

<sup>13</sup> Act on the Financial Administration of the Czech Republic, Coll. 2011, No 456, as amended, establishes a system of financial bodies whose primary objective is to administer taxes and charges and other similar payments/monetary performance. The bodies of the Financial Administration of the Czech Republic are administrative offices and organisational units of the State. Only the General Financial Directorate is an accounting unit. The other bodies, the Appellate Financial Directorate, the Specialised Financial Office and the Financial Offices, are internal organisational units of the General Financial Directorate.

<sup>14</sup> Financial Administration of the Czech Republic, Information on the activities of the Financial Administration of the Czech Republic in 2020, accessed June 10, 2022, <https://www.>

Table 2 – Share of real estate transfer tax/real estate acquisition tax in total tax collection in the Czech Republic

Year	Tax Collection	Total Tax Payments*	Share (%)
2007 Real estate transfer tax	9,774	576,506	1.69
2008 Real estate transfer tax	9,950	606,665	1.64
2009 Real estate transfer tax	7,809	522,847	1.49
2010 Real estate transfer tax	7,453	548,477	1.36
2011 Real estate transfer tax	7,362	561,176	1.31
2012 Real estate transfer tax	7,660	583,569	1.31
2013 Real estate transfer tax	8,894	610,603	1.46
2014 Real estate transfer tax	3,686		
2014 Real estate acquisition tax	5,600	639,007	1.45
2015 Real estate acquisition tax	10,982	670,216	1.67
2016 Real estate acquisition tax	12,696.6	690,878	1.84
2017 Real estate acquisition tax	12,478.5	788,968	1.60

[financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace\\_o\\_cinnosti\\_FS\\_CR\\_za\\_rok\\_2020.pdf](https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace_o_cinnosti_FS_CR_za_rok_2020.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2019, accessed June 10, 2022, [https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace\\_o\\_cinnosti\\_FS\\_CR\\_za\\_rok\\_2019.pdf](https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace_o_cinnosti_FS_CR_za_rok_2019.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2018, accessed June 10, 2022, [https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace\\_o\\_cinnosti\\_FS\\_CR\\_za\\_rok\\_2018.pdf](https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace_o_cinnosti_FS_CR_za_rok_2018.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2017, accessed June 10, 2022, [https://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace\\_o\\_cinnosti\\_FS\\_CR\\_za\\_rok\\_2017.pdf](https://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace_o_cinnosti_FS_CR_za_rok_2017.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2016, accessed June 10, 2022, [https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace\\_o\\_cinnosti\\_FS\\_CR\\_za\\_rok\\_2016.pdf](https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace_o_cinnosti_FS_CR_za_rok_2016.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2015, accessed June 10, 2022, [http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace\\_o\\_cinnosti\\_FS\\_CR\\_za\\_rok\\_2015.pdf](http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace_o_cinnosti_FS_CR_za_rok_2015.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2014, accessed June 10, 2022, <http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace-o-cinnosti-FS-CR-za-rok-2014.pdf>; Information on the activities of the Financial Administration of the Czech Republic in 2013, accessed June 10, 2022, [http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace\\_o\\_cinnosti\\_FS\\_CR\\_za\\_rok\\_2013.pdf](http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace_o_cinnosti_FS_CR_za_rok_2013.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2012, accessed June 10, 2022, [http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace\\_o\\_cinnosti\\_DS\\_za\\_rok\\_2012.pdf](http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace_o_cinnosti_DS_za_rok_2012.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2011, accessed June 10, 2022, [http://www.financnisprava.cz/assets/cs/prilohy/INTERNET\\_Informace\\_o\\_cinnosti\\_DS\\_za\\_rok\\_2011.pdf](http://www.financnisprava.cz/assets/cs/prilohy/INTERNET_Informace_o_cinnosti_DS_za_rok_2011.pdf).

2018 Real estate acquisition tax	13,572.6	842,222	1.60
2019 Real estate acquisition tax	13,846.6	901,941	1.50
2020 Real estate acquisition tax	4,188.6	832,353.7	0.50

Source: In-house processing - data taken from the Financial/Tax Administration of the Czech Republic (2007–2020)<sup>15</sup>.

\* Without Public Premiums

<sup>15</sup> Financial Administration of the Czech Republic, Information on the activities of the Financial Administration of the Czech Republic in 2020, accessed June 10, 2022, [https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace\\_o\\_cinnosti\\_FS\\_CR\\_za\\_rok\\_2020.pdf](https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace_o_cinnosti_FS_CR_za_rok_2020.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2019, accessed June 10, 2022, [https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace\\_o\\_cinnosti\\_FS\\_CR\\_za\\_rok\\_2019.pdf](https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace_o_cinnosti_FS_CR_za_rok_2019.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2018, accessed June 10, 2022, [https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace\\_o\\_cinnosti\\_FS\\_CR\\_za\\_rok\\_2018.pdf](https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace_o_cinnosti_FS_CR_za_rok_2018.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2017, accessed June 10, 2022, [https://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace\\_o\\_cinnosti\\_FS\\_CR\\_za\\_rok\\_2017.pdf](https://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace_o_cinnosti_FS_CR_za_rok_2017.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2016, accessed June 10, 2022, [https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace\\_o\\_cinnosti\\_FS\\_CR\\_za\\_rok\\_2016.pdf](https://www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace_o_cinnosti_FS_CR_za_rok_2016.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2015, accessed June 10, 2022, [http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace\\_o\\_cinnosti\\_FS\\_CR\\_za\\_rok\\_2015.pdf](http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace_o_cinnosti_FS_CR_za_rok_2015.pdf); Information on the activities of the Czech Republic in 2014, accessed June 10, 2022, <http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace-o-cinnosti-FS-CR-za-rok-2014.pdf>; Information on the activities of the Financial Administration of the Czech Republic in 2013, accessed June 10, 2022, [http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace\\_o\\_cinnosti\\_FS\\_CR\\_za\\_rok\\_2013.pdf](http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace_o_cinnosti_FS_CR_za_rok_2013.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2012, accessed June 10, 2022, [http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace\\_o\\_cinnosti\\_DS\\_za\\_rok\\_2012.pdf](http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace_o_cinnosti_DS_za_rok_2012.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2011, accessed June 10, 2022, [http://www.financnisprava.cz/assets/cs/prilohy/INTERNET/Informace\\_o\\_cinnosti\\_DS\\_za\\_rok\\_2011.pdf](http://www.financnisprava.cz/assets/cs/prilohy/INTERNET/Informace_o_cinnosti_DS_za_rok_2011.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2010, accessed June 10, 2022, [http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace\\_o\\_cinnosti10.pdf](http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace_o_cinnosti10.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2009, accessed June 10, 2022, [http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace\\_o\\_cinnosti09.pdf](http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace_o_cinnosti09.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2008, accessed June 10, 2022, [http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace\\_o\\_cinnosti08.pdf](http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace_o_cinnosti08.pdf); Information on the activities of the Financial Administration of the Czech Republic in 2007, accessed June 10, 2022, [http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace\\_o\\_cinnosti07.pdf](http://www.financnisprava.cz/assets/cs/prilohy/fs-vysledky-cinnosti/Informace_o_cinnosti07.pdf).

The collection of the tax is associated with additional costs, and therefore, to assess its rate of return, it is not enough to quantify its collection, but it is necessary to measure the efficiency of their collection. The above shows that the tax administration of the Czech Republic was successful in ensuring tax collection, but the tax share in the total tax collection was small. The abolition of the tax has reduced the administrative burden of tax administration for taxpayers, who no longer have the duty to file tax returns or to spend money on professional assistance in filing returns or conducting tax proceedings. Savings have also been made on the part of the State, as it is no longer necessary to print tax return forms and invest in technical support for the administration of the tax. In the long term, cost reductions in the order of millions of CZK are expected.

## 5. Conclusion

The real estate acquisition tax used to be a transfer tax and could be characterised as a direct, random, irregular and unstable tax in terms of tax proceeds. This characteristic was the reason why all of its proceeds was state budget revenue in the Czech Republic, despite the very close link between the property and the place where it was located. As of 26 September 2020, this tax was abolished without replacement, although it had its place in the history of Czech statehood first in the form of a fee, then a real estate transfer tax and finally a real estate acquisition tax. The abolition of the tax simplified and made the tax system more transparent.

Moreover, the real estate acquisition tax was only a supplementary revenue of the state budget. Its proceeds amounted to approximately 1.5% of the state budget revenue. It was the low yield in relation to the costs of administering the tax that led to its abolition. The abolition of the tax also reduced the incentive to set up special purpose business corporations owning immovable property and to transfer shares in them for the purpose. The transfer of an interest in a business corporation could not be subject to the real property transfer tax. The benefits of the abolition of the tax are, in particular, the expected increase in investment in immovable property due to a reduction in acquisition costs and an increase in the State's revenue from other taxes, in particular the value added tax and income tax. In the light of these facts, a return of this tax to the Czech system of taxation cannot be expected in the near future.



## References

- Bakeš, Milan, Marie Karfíková, Petr Kotáb, Hana Marková et al. *Finanční právo*. Praha: C. H. Beck, 2012.
- Jánošíková, Petra. “The Tax System in the Czech Republic and Its Transformation in the 20<sup>th</sup> and 21<sup>st</sup> Centuries.” In *System of Financial Law: System of Tax Law: Conference Proceedings*, edited by Michal Radvan, 89–109. Brno: Masaryk University, Faculty of Law, 2015.
- Jánošíková, Petra. „Daň z převodu nemovitostí versus daň z nabytí nemovitých věcí.“ In *Naděje právní vědy Býkov*, edited by Vilém Knoll, Kateřina Burešová, Kateřina Gvardová, Patrik Kurz and Zuzana Martínková, 403–408. Plzeň: Aleš Čeněk, 2017.
- Jánošíková, Petra, and Radka MacGregor Pelikánová. „The Danube Dynamics of Elevation of Real Estate Transfer Tax.“ *Danube: Law, Economics and Social Issues Review* 44, no. 4 (Brno 1917): 191–206.
- Jánošíková, Petra, and Radka MacGregor Pelikánová. „The Heterogenous Diversity of the Real Estate Transfer Tax in the EU.“ In *Contemporary Trends and Challenges in Finance*, edited by Krysztof Jajuga, Lucjan Orłowski and Karsten Staehr, 247–255. Cham: Springer, 2017.
- Pelc, Vladimír. *Daň z nabytí nemovitých věcí*. Praha: Leges, 2014.
- Picmaus, František, et al. *Daně, odvody a poplatky v ČSSR*. Praha: Nakladatelství technické literatury, 1985.
- Radvan, Michal, et al. *Finanční právo a finanční správa – berní právo*. Brno: Masarykova univerzita, 2008.
- Smržová, Petra Hrubá, et al. *Daňové právo de lege lata*. Plzeň: Aleš Čeněk, 2022.
- Smržová, Petra Hrubá, Petr Mrkývka. *Finanční a daňové právo*. Plzeň: Aleš Čeněk, 2020.
- Starý, Marek, et al. *Dějiny daní a poplatků*. Praha: Havlíček Brain Team, 2009.
- Vančurová, Alena, and Lenka Láchová. *Daňový systém ČR 2018*. Praha: Vox, 2018.
- Zemanová, Eva, and Václav Toman. *Zákonné opatření Senátu o dani z nabytí nemovitých věcí*. Praha: Wolters Kluwer ČR, 2015.

