CZECH REPUBLIC

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1. INTRODUCTION

a. Forms of Legal Entity

Business activities in the Czech Republic can be carried by the following legal entities:

- General partnership – veřejná obchodní společnost (v.o.s.)
- Limited partnership – komanditní společnost (k.s.)
- Limited liability company – společnost s ručením omezeným (s.r.o.)
- Joint stock company – akciová společnost (a.s.)

In addition, it is also possible to do business in the form of a branch of a foreign legal entity.

The main legal differences between partnerships (v.o.s. and k.s.) and corporations (s.r.o. and a.s.) are that the liability of shareholders of corporations is generally restricted to the subscribed share capital, while no limitation of liability is given for general partners of a partnership (for limited partners, liability is also limited to an amount agreed in the partnership agreement). Furthermore, corporations may be established by a single shareholder while partnerships must consist of at least two different partners.

From a tax perspective, a general partnership is considered as tax transparent entity and income is attributed directly to the partners. With regard to a limited partnership the transparency principle depends on whether the income is attributable to its general (unlimited) partners or to its limited partners. A limited partnership is considered as partly tax transparent entity. Czech corporations on the other hand are recognised as tax subjects and income is assessed at the company level.

b. Taxes, Tax Rates

Domestic and foreign legal entities are subject to corporate income tax at a flat rate of 19% regardless of whether the profit is distributed to shareholders or retained. Dividends received from abroad forming a separate tax base are subject to a tax rate of 15% or 35%, however a reduction of WHT is possible, to 0% WHT if certain conditions are met (e.g. there is an EU domiciled legal entity shareholder with substance and beneficial ownership, holding at least a 10% shareholding for a holding period of at least one year).

Further, profits of basic investment funds (including mutual funds) are subject to a special corporate income tax rate of 5%. Profits of pension funds are subject to a special corporate income tax rate of 0%.

Income tax on income of individual persons is levied based on progressive tax rates (i.e. 15% for income up to CZK 1,867,728 (approximately EUR75,000) in 2022 and 23% for an income exceeding CZK 1,867,728 in 2022 (approximately EUR75,000).

In the Czech Republic, the following VAT rates are applicable:

- 21% standard VAT rate;
- 15% first reduced VAT rate, applicable for basic foodstuffs, pharmaceuticals and social housing, etc.;
- 10% second reduced VAT rate, applicable in particular, to the supply of heat and cold, the provision of restaurant and catering services, accommodation services, etc.

c. Common divergences between income shown on tax returns and local financial statements

The basis for corporate income tax base is the accounting profit/loss as declared in the financial statements prepared in accordance with the Czech GAAP. In a second step, tax adjustments are made to the GAAP profit/loss. Most commonly these adjustments include:

- Expenses which are not deductible for tax purposes (e.g. private expenditures, penalties, expenses for representation, gifts);
- Amortisation of goodwill (goodwill/negative goodwill may not be depreciated for tax purposes except for goodwill/negative goodwill within the purchase of an enterprise or a part of an enterprise);
- Tax depreciation of assets (there are two basic methods of depreciation of tangible assets, straight line and accelerated, which may be used for tax purposes);
- Provisions/ reserves (not all provisions and reserves established in accordance with Czech GAAP are accepted for tax purposes); and
- Tax exemptions on dividends and capital gains, if certain conditions are met.

2. RECENT DEVELOPMENTS

New double tax treaties

The double tax treaty concluded with the Czech Republic and Bangladesh that entered into force in 2021 has been applied in practice from 1 January 2022. A new double tax treaty between the Czech Republic and Senegal is in the legislation process and will be valid once the ratification procedures are completed.

Expected changes in international taxation

The Czech Ministry of Finance will focus in 2022 on the changes in taxation connected with the latest developments at the EU level and OECD such as the new reporting obligations for platform operators (so called “DAC7”) and the global minimum effective tax of 15%. The effective date of both initiatives has been set at 1 January 2023.

The draft wording of DAC7 rules is now in the legislation process and will be discussed during 2022. The intensive discussions regarding the minimum effective tax of 15% are expected at the level of the Czech Ministry of Finance. The Czech Republic currently applies the 19% nominal income tax rate which is above the proposed minimum rate. However, situations may arise where the effective tax will be below 15% for example as a result of applying relevant tax allowances.

In addition, the Czech Ministry of Finance will discuss the EU proposal regarding the new minimum substance rules against the misuse of shell companies for tax planning (the ATAD III Directive). Based on the proposal, the EU shell companies without the sufficient substance will be denied the benefits of double tax treaties and EU directives.

3. SHARE ACQUISITION

a. General Comments

In a share deal, the shares of a company are acquired and the ownership is transferred. Basically, all inherent rights and obligations in the corporation remain unchanged as only the shares of the legal entity are acquired. There is no step up for the buyer in relation to any premium over the accounting/tax value of the assets. The buyer inherits undisclosed liabilities including the tax liabilities.

Financing costs, including interest on loans for the acquisition of shares, are not tax deductible. Any loan taken out six months prior to the acquisition of shares is considered to be a loan for acquisition of shares, unless it is proven that this loan has been used otherwise.

Generally, all direct as well as indirect costs incurred in connection with the shareholding in the subsidiary, are not tax deductible. The indirect costs related to the shareholding amount are capped at 5% of the dividends paid by a subsidiary, unless lower indirect costs are proven to the tax authorities.

b. Tax Attributes

A tax loss can be carried forward for up to five years. Moreover, the tax losses incurred in 2020 and onwards of up to CZK30 million (EUR1.2 million) may be carried back and applied as deductible items in two preceding taxable periods. Neither the tax loss carry-forward nor the tax loss carry-back are available if there has been a substantial change in the shareholders or controlling persons of the company; as a substantial change is always considered a change concerning more than 25% of the registered capital.

Nevertheless, losses may be carried forward/back even in the case of a substantial change if it is proven to the tax authorities that there is no change in the company's business activities (i.e. a minimum of 80% of the income generated in the year in which the loss is utilized and in which the substantial change occurred was generated by the same business activities carried out in the year in which the tax loss was determined).

c. Tax Grouping

There is no corporate income tax grouping in the Czech Republic (only VAT grouping is possible)..

A general partnership is a transparent entity for tax purposes (not treated as a tax resident). This means that the income of the partnership is not attributed to the partnership but to its partners directly.

With regard to a limited partnership, a hybrid entity for tax purposes, the income of the partnership is split in two parts: income attributable to its general partners (the transparency principle applies, i.e. taxation at the level of partners); and income attributable to its limited partners (corporate taxation at the level of partnership).

d. Tax Free Reorganisations

Under the Czech Reorganisation Act ("RA"), which is based on the EC (corporate law) Merger Directive (2005/56/EC), the following types of reorganisations, both domestic or cross border, are regulated from the corporate law point of view:

- Mergers;
- Divisions;
- Conversions; and
- Cross border transfers of the registered office of a company.

A reorganisation is always legally effective as of the date of its entry into the Commercial Register. For accounting and tax purposes, the RA optionally allows reorganisations with retroactive effect (the effective date has to be within 12 months prior to the date of entry into the Commercial Register, not later than this date).

The Czech tax legislation has implemented the EC (tax law) Merger Directive (2009/133/EC) and basically provides for the following tax treatment, subject to certain conditions:

- No liquidation taxation due to the reorganisation (either on the level of the company/partnership or on the level of the shareholder/ partner);
- A tax neutral transfer of assets; and
- The transfer of losses carried forward to the receiving entity (with certain restrictions).

There is no step up in relation to the tax value of the assets and liabilities under a reorganisation. Goodwill/negative goodwill may not be depreciated for tax purposes.

Furthermore, reorganisations are not subject to value added tax.

e. Purchase Agreement

The Czech law does not provide any special rules regarding the tax warranty for share deals (i.e. the general rules apply). In a share deal, the buyer takes over the target company and all related liabilities, including tax liabilities. Therefore, it is of importance that not only the representations and warranties but also tax indemnities in case of violations of the representations and warranties are regulated in detail in the share purchase agreement.

In addition, as per the Czech tax legislation, a valuation is not required in the event of share acquisition. A valuation is generally recommended if the transaction is carried out between two related parties to support the fact that the purchase price is set at arm's length.

f. Transfer taxes on share transfers (including mechanisms for disclosure and collection)

There are no transfer taxes, stamp or capital duties in the Czech Republic. Administration fees are payable on certain services provided by government institutions.

No VAT should be in general applied on the sale of shares. Sale of shares in a Czech limited liability company (s.r.o.) or in a Czech joint venture (a.s.) are exempt from VAT.

g. Share Purchase Advantages

The advantages of share acquisitions are that the available tax losses carried forward in the target remain available, under certain conditions. Furthermore, participations of at least a 10% shareholding and a holding period of at least one year can be sold tax free (subject to certain restrictions).

h. Share Purchase Disadvantages

The main disadvantage of a share purchase is that no step up of the underlying asset book values is possible and the buyer inherits all liabilities including the historical tax liabilities of the target company. Interest deductibility at the level of the buyer may be restricted.

4. ASSET ACQUISITION

a. General Comments

In an asset deal, the trade and assets of a company are acquired and the ownership of the trade and assets is transferred to the buyer. The buyer has full tax basis in the purchased trade and assets and the seller is subject to tax on any gain.

From legal perspective, the sale of the trade and assets is usually considered as a sale of an enterprise or part of an enterprise which is capable of being operated as a separate business or as a sale of individual assets. The tax liabilities usually do not transfer in an asset deal.

The main characteristics of an asset deal are as follows:

- The book value of the acquired assets is stepped up subsequently.
- Goodwill can be capitalised and depreciated for tax purposes over 15 years;
- Interest on the debt financing of the acquisition of assets can be deducted (subject to restrictions such as thin capitalisation rules and excessive borrowing costs above CZK80 million or above 30% EBITDA).

b. Purchase Price Allocation

The total price for the asset deal can be set for trade and assets subject to a transfer of a going concern or apportioned between the individual trade and assets that are being transferred. As per the Czech tax legislation, the valuation is not required in the event of an asset acquisition. The valuation is generally recommended if the transaction is carried out between two related parties to support the fact that the purchase price is set at arm’s length.

c. Tax Attributes

Tax losses are not transferred in an asset deal, they remain at the level of the seller.

d. Tax Free Reorganisations

Under the Czech Reorganisation Act ("RA"), which is based on the EC (corporate law) Merger Directive (2005/56/EC), the following types of reorganisations, both domestic or cross border, are regulated from the corporate law point of view:

- Mergers;
- Divisions;
- Conversions; and
- Cross border transfers of the registered office of a company.

A reorganisation is always legally effective as of the date of its entry into the Commercial Register. For accounting and tax purposes, the RA optionally allows reorganisations with retroactive effect (the effective date has to be within 12 months prior to the date of entry into the Commercial Register, not later than this date).

The Czech tax legislation has implemented the EC (tax law) Merger Directive (2009/133/EC) and basically provides for the following tax treatment, subject to certain conditions:

- No liquidation taxation due to the reorganisation (either on the level of the company/partnership or on the level of the shareholder/ partner);
- A ta -neutral transfer of assets; and
- The transfer of losses carried forward to the receiving entity (with certain restrictions).

There is no step up in relation to the tax value of the assets and liabilities in a reorganisation. Goodwill/negative goodwill may not be depreciated for tax purposes.

Furthermore, reorganisations are not subject to value added tax.

e. Purchase Agreement

In the sale of enterprise or a part of enterprise, the buyer takes over all the assets and liabilities of the seller, both disclosed and undisclosed. The tax liabilities usually do not transfer in an asset deal.

f. Depreciation and Amortisation

Generally, the buyer restarts the depreciation of the acquired assets based on the purchase price. The assets must be depreciated over their useful life for accounting purposes. From the tax perspective, two basic methods of depreciation, straight line and accelerated, may be used for tax depreciation. The tax depreciation of acquired intangible assets acquired after 1 January 2021 is equal to accounting depreciation.

It is possible to carry out a valuation of the assets acquired at the level of the buyer. In this case, a part of the purchase price not attributed to the individual assets in the valuation is treated as goodwill. Goodwill can be depreciated for tax purposes over 15 years but for five years for accounting purposes. When no valuation is carried out, any difference between the price and the pre-sale accounting book value of the assets is classified as a valuation difference. The valuation difference is depreciated for both tax and accounting purposes over 15 years. The buyer records the pre-sale accounting book values of the assets as the tax entry value of the assets.

g. Transfer Taxes, VAT

Real estate transfer tax is not applied in the Czech Republic. There are no stamp or capital duties in the Czech Republic.

The sale of assets is generally subject to Czech VAT at a standard rate of 21%. Possible VAT exemptions depend on the type of the acquired assets. In particular, the sale of some real estate is tax exempt with an option to tax (subject to further conditions). The sale of an enterprise or a part of an enterprise (transfer of a going concern) is not regarded as a supply for VAT purposes. If the transaction is VAT exempt, it could result in a clawback of input VAT that was previously claimed on the acquired assets.

h. Asset Purchase Advantages

The main advantage of an asset deal compared to a share deal is the step up in the asset values and thereby the increase in the baseline value for subsequent depreciation. Interest on borrowings is in general tax deductible.

i. Asset Purchase Disadvantages

The seller is generally taxed on any gain from the trade and asset sale. The tax losses are not transferred in an asset deal. In addition, VAT clawbacks may arise if the transaction is VAT exempt.

5. ACQUISITION VEHICLES

a. General Comments

Czech commercial and tax law do not provide a specific legal form or a concept for an acquisition vehicle or holding company. The optimal acquisition vehicle is chosen by the economic and legal requirements (e.g. liability) of the investor.

b. Domestic Acquisition Vehicle

In general, the main acquisition vehicles are the limited liability company (Czech "s.r.o.") or the joint stock company (Czech "a.s."). The reason for choosing these two legal forms is the possibility to benefit from the participation exemption from taxation of profit distribution and capital gains.

c. Foreign Acquisition Vehicle

This section is left intentionally blank.

d. Partnerships and joint ventures

Both partnerships and joint ventures are in general possible in the Czech Republic. Typically, limited liability companies (Czech "s.r.o.") are used as the main joint venture vehicle.

e. Strategic vs Private Equity Buyers

The preferred acquisition vehicle mainly depends on the investment strategy pursued by the investor as well as the industry.

6. ACQUISITION FINANCING

a. General Comments

In the Czech Republic, the acquisition transaction can be financed with debt, equity or a mix of both. The optimal acquisition financing should be chosen considering the interest deductibility restrictions (such as thin capitalisation rules etc.).

b. Foreign Acquirer

There are no differences in the type of acquisition for foreign entity or individual acquirors.

c. Debt

As a general rule, interest paid by Czech companies is tax deductible as long as the loans or credits on which the interest is paid serve the purpose of generating, securing and maintaining taxable income and unless the thin capitalisation and/or interest limitation rules apply.

Interest on a share acquisition loan (please note that any loan received within the six months preceding the acquisition is deemed to be an acquisition loan, unless proven otherwise) is not tax deductible.

i Limitations on Interest Deductions

The Czech tax legislation provides for the following interest limitations:

- Thin capitalisation rule

The Czech thin capitalisation provisions restrict the deductibility of interest on intragroup loans where the borrower has insufficient equity. Financial expenses arising from loans from related parties in excess of four times the borrower´s equity are not tax deductible. Interest on loans and credits received from unrelated parties, or those secured by a related party, are fully deductible on general principles, except for interest on back to back loans (i.e. where a related party provides a loan, credit or a deposit to an unrelated party, which then provides the funds to the borrower), which is treated as interest on related party debt.

- Excess borrowing costs

The Czech legislation further restricts the deductibility of excess borrowing costs (i.e. interest expenses and relating costs exceeding interest income). Exceeding borrowing costs are tax deductible up to the higher of CZK80 million or 30% of earnings before interest, tax, depreciation and amortisation (“EBITDA”) in a taxable period. Unlike the thin capitalisation test, this rule covers also borrowings from unrelated parties (such as bank loans). In addition, the definition of borrowing costs is wider than the definition of financing costs for the purposes of thin capitalisation rules.

ii Related Party Debt

Prices between related parties should generally be set at arm´s length. However, the Czech tax legislation provides for an exception from this general rule and allows to agree between related parties an interest which is lower that the arm's length interest if the lender is a Czech tax non-resident. From the Czech tax perspective, the interest for the can be agreed within the range between 0% and arm's length interest. Nevertheless, in such cases, the DAC6 reporting obligations might arise as the lower interest rate would be regarded as a hallmark involving the unilateral safe harbour rule.

In addition, interest on related party debt is subject to thin capitalisation rules.

iii Debt Pushdown

Debt pushdown acquisition structures can be used in the Czech Republic provided that solid business reasons exist. However, the tax authorities have increased their focus on such structures and there is a risk that the tax authority might treat these structures as an abuse of the Czech tax law.

d. Hybrid Instruments

The Czech Republic has fully implemented Directive EU 2017/952 (ATAD 2) covering cross border hybrid arrangements. According to these new rules, tax discrepancies such as double deduction or deduction without inclusion, caused by hybrid arrangements must be neutralised if further criteria are fulfilled.

e. Other Instruments

The financial expenses on the loans where the interest or other revenue is derived from the borrower's profit (profit participating loans) are not tax deductible.

f. Earn-outs

The Czech tax legislation does not provide for any special tax treatment for earn-out payments. Generally, earn-out payments are regarded as a price adjustments and thus are considered from the Czech tax perspective to be an increase of the purchase price at the moment when the legal entitlement to such adjustment arises based on the agreement.

7. DIVESTITURES

a. Tax Free

Under the domestic participation exemption regime, any income from a transfer of shares of a resident corporation (s.r.o. or a.s.) from a participation in another Czech corporation is exempt from corporate income tax, provided that it holds the participation of at least 10% (in share capital) for a minimum holding period of 12 months. The domestic participation exemption does not apply to income from a transfer of shares where a Czech subsidiary goes into liquidation.

The requirements for the international participation exemption differ depending on whether a foreign subsidiary is located in the EU, Norway, Iceland or Liechtenstein or in a third country.

The most important requirements in the case of subsidiaries in the above countries are:

- An equity participation of at least 10% in the EU subsidiary for a minimum holding period of 12 months;
- Listing of the legal form of the EU subsidiary in the Annex of the EC Parent Subsidiary Directive; and
- The Czech parent company is a beneficial owner of the income.

The participation exemption does not apply to income from dividends and liquidation proceeds, where the EU subsidiary goes into liquidation. The exemption cannot be applied if the parent company or the subsidiary:

- Is exempt from corporate income (or similar) tax;
- May claim a corporate income tax exemption or corporate income tax relief, or
- Is subject to corporate income tax at a rate of 0%.

The requirements for participation exemption in respect of third country subsidiaries are:

- The Czech Republic has concluded a tax treaty with the third country;
- Comparability of the legal form of the third country subsidiary to Czech corporations (s.r.o. and a.s.) or co-operatives; and
- The subsidiary is subject to corporate income tax of at least 12% in its residence country and is not tax exempt, or may not opt for tax exemption.

Beyond the scope of the Czech tax legislation, the tax exemption can be granted by the respective double tax treaty.

b. Taxable

- Share deal

Capital gains generated by Czech resident individuals on the sale of shares in a corporation are generally taxed at a progressive rates of income tax of 15%/23% unless exempt under certain conditions (at least 10% for a minimum holding period of 12 months).

Capital gains generated by a Czech resident corporation on the sale of shares in a corporation are generally subject to 19% corporate income tax if the Czech corporation cannot benefit from the participation exemption (at least 10% for a minimum holding period of 12 months).

- Asset deal

Capital gains generated by Czech resident individuals from the alienation of assets are generally taxed at a progressive rate income tax of 15%/23% unless exempt under certain conditions.

Capital gains generated by a Czech resident corporation on the sale of assets are generally subject to 19% corporate income tax.

c. Cross Border

The capital gains of a non-resident corporation resulting from the alienation of shares in a Czech corporation (s.r.o. or a.s.) are taxable in the Czech Republic at a rate of 19% corporate income tax unless tax exempt based on participation exemption or the respective double tax treaty specifies otherwise.

8. FOREIGN OPERATIONS OF A DOMESTIC TARGET

a. Worldwide or Territorial Tax System

Companies and other legal entities that are resident in the Czech Republic are subject to unlimited tax liability, which means the taxation of worldwide income in the Czech Republic. Companies and other legal entities are Czech tax resident if they have their legal seat or place of management in the Czech Republic.

Non-resident companies and other legal entities are subject to limited tax liability only, (i.e. only income with its source in the Czech Republic is taxable in the Czech Republic).

b. CFC Regime

The Czech Republic has fully implemented Directive EU 2016/1164 ("ATAD 1") covering CFC rules. Based on these rules, a Czech entity should include in its tax base selected income items of its CFC; a CFC means a company in whose capital the Czech company participates more than 50% directly or indirectly. Except for the condition of 50% participation, this provision is only applicable for a foreign company that does not carry out any substantial economic activities, and at the same time whose tax liability abroad is lower than one half of the tax liability that such company would have if it were taxed under Czech CIT law.

If the foreign subsidiary qualifies as a CFC under these conditions, its Czech parent company has to include its selected income (such as income from dividends, interest and royalties, etc.) in its own tax base. The Czech legislation also stipulates that the Czech parent should not lower its tax base from losses generated by the CFC, these losses could however be utilised as an offsetting item against a positive tax base of the CFC which arose in three consecutive taxable periods. The Czech parent may offset any tax paid by the subsidiary on this income abroad against its tax liability.

c. Foreign Branches and Partnerships

In respect of branches or permanent establishments of foreign entities, only income from Czech sources that is attributable to the branch/permanent establishment is subject to tax according to standard rules.

The Czech Republic generally follows the OECD recommendations regarding the profit attribution to the permanent establishment. A binding tax ruling is available in the Czech Republic in respect of the methodology of how to determine a tax base of a permanent establishment.

d. Cash Repatriation

In general, dividends and other profit distributions paid out by Czech corporations are subject to a withholding tax of 15% / 35% (unless exempted under the participation exemption or based on the respective double tax treaty). The withholding taxation is final, (i.e. the withholding tax can neither be credited nor refunded.)

Foreign sourced dividend income (including profit shares, settlement and liquidation payments) derived by a Czech resident company is subject to tax (if not exempt based on the participation exemption or based on the respective double tax treaty).

9. OTHER GENERAL INTERNATIONAL TAX CONSIDERATIONS

a. Special Rules for Real Property, including Shares of “Real Property-Rich” Corporations

Real Estate Transfer Tax (“RETT”) has been abolished in the Czech Republic.

b. CbC and Other Reporting Regimes

In 2016, the Czech Republic implemented country by country (CbC) reporting obligations in the Czech Republic which apply to multinational enterprise groups (MNE groups) with consolidated group revenue exceeding EUR750 million and with at least one MNE group entity resident in the Czech Republic.

10. TRANSFER PRICING

Based on the Czech tax law, affiliated companies are required to follow the arm’s length rules and the prices for sold goods and provided services, royalties, interest rates, rental etc. should be set at arm’s length. The same applies for transactions between the head offices and their permanent establishments.

The Czech Republic generally follows the OECD recommendations in respect of transfer pricing. The transfer pricing principles setup by the OECD Guidelines were implemented into the Czech tax system via Guidance D-34 published by the Czech Ministry of Finance. Although not legally binding, the guidance is widely followed by the Czech tax authorities.

Transfer pricing documentation is not obligatory in the Czech Republic, but highly recommended. The taxpayer may be requested to prove during the tax audit how the transfer prices with the related parties were setup and if they comply with the arm’s length principle.

11. POST-ACQUISITION INTEGRATION CONSIDERATIONS

a. Use of Hybrid Entities

The Czech tax administration applies the tax transparency approach (a so called "look through" approach) and takes over the tax status of the foreign entity (its transparency status) for the Czech tax purposes. Except for a general partnership or a limited partnership, the Czech Republic has not introduced other hybrid entities.

b. Use of Hybrid Instruments

The Czech Republic has fully implemented Directive EU 2017/952 ("ATAD 2") covering rules relating to cross border hybrid mismatches.

c. Principal/Limited Risk Distribution or Similar Structures

The Czech Republic generally follows the OECD approach with regard to arm's length standards of inter-company distribution structures. Thus, transfer prices for distribution services can be calculated by means of the standard methods (comparable uncontrolled price method, resale price method and cost plus method). In practice, the transactional net margin method ("TNMM") is often chosen as the relevant profit indicators can be backed up by comparables from generally recognised databases.

d. Intellectual Property

The Czech Republic has not introduced any specific tax regime for intellectual property. The tax treatment of intellectual property follows the accounting treatment. The tax depreciation of acquired intangible assets acquired after 1 January 2021 is equal to accounting depreciation.

A company involved in research and development projects may deduct from its tax base an additional 100% or 110% of qualifying research and development costs, spent in the course of realising an R&D project. The R&D project must fulfill the definition of R&D according to specific regulations. That basically means that the R&D project must encompass an appreciable element of newness, or it must lead to the clarification of research or technical uncertainty.

The deduction may not be claimed in relation to royalty payments, services and intangible results of research and development acquired from other parties (with the exception of costs expended on services purchased from public universities and research organisations).

e. Special Tax Regimes

This section has been left intentionally blank.

12. OECD BEPS CONSIDERATIONS

The Czech Republic in general follows OECD guidelines and supports the OECD BEPS actions. The Czech Republic has already implemented the following BEPS related EU Directives: Directive EU 2015/2376 on automatic exchange of information on tax rulings, EU Directive 2016/881 on country by country reporting, Directive EU 2016/1164 (ATAD 1) and Directive EU 2017/952 (ATAD 2) on rules against tax avoidance practices including the interest limitation rules, CFC rules, hybrid mismatches and exit taxation and Directive EU 2018/822 on mandatory automatic exchange of information in relation to reportable cross border arrangements.

The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("MLI") entered into force in the Czech Republic on 1 September 2020. The Czech Republic has committed to the OECD minimum standard and therefore, only provisions required to meet this minimum standard should impact the covered double tax treaties entered into by the Czech Republic. The proposed anti-abuse rules are part of treaty negotiations.

13. ACCOUNTING CONSIDERATIONS

In general, transactions should be accounted for based on the Czech GAAP principles. IFRS principles are applicable for the companies whose securities are listed on a regulated market in an EU member state or for the companies who are part of the consolidation group and whose consolidated financial statements are prepared based on IFRS. Nevertheless, for tax purposes, the Czech GAAP principles should be followed.

14. OTHER TAX CONSIDERATIONS

a. Distributable Reserves

A dividend distribution abroad is generally subject to withholding tax at 15%/35% if not exempt based on the participation exemption (at least 10% for a minimum holding period of 12 months) or unless the double tax treaty specifies otherwise.

Repayment of capital is not subject to withholding tax under the condition that the capital was not created from the profit of the company or from the funds which were created from the profit of the company.

b. Application of Regional Rules

The Czech Republic has transposed EU Parent Subsidiary Directive, EU Interest and Royalty Directive and EU Merger Directive in tax related matters into the Czech domestic law.

c. Tax Rulings and Clearances

Binding tax rulings are available in the Czech Republic in respect of transfer pricing (the confirmation of the transfer pricing methodology or the methodology how the determine a tax base of a PE), tax loss carryforwards, R&D allowances and VAT rates. The ruling is generally valid for up to three years. The administration fee for the ruling is CZK 10 thousand (EUR 400). The ruling process takes approximately 3 to 6 months.

15. MAJOR NON-TAX CONSIDERATIONS

This section is left intentionally blank.

16. APPENDIX I - TAX TREATY RATES

Jurisdiction	Dividends %	Interest %	Royalties %	Footnote Reference
Albania	15 / 5	5	10	
Armenia	10 / 10	5 / 10	5 / 10	[5], [6]
Australia	15 / 5	10	10	[7]
Austria	10 / 0	0	0 / 5	[8]
Azerbaijan	8 / 8	5 /10	10	
Bahrain	5 / 5	0	10	
Bangladesh	15 / 10	10	0 / 10	[9], [10]
Barbados	15 / 5	0 / 5	5 / 10	
Belarus	10 / 5	5	5	
Belgium	15 / 5	0 / 10	0 / 5 / 10	[11], [12]
Bosnia and Herzegovina	5 / 5	0	10	
Botswana	5 / 5	0 / 7.5	7.5	[13]
Brazil	15 / 15	- / 10 / 15	15 / 25	
Bulgaria	10 / 10	10	10	[14], [15]
Canada	15 / 5	10	10	
Chile	15 / 15	4 / 5 / 10 / 15	5 /10	[16], [17]
China (People´s Rep.)	10 / 5	7.5	10	
Colombia	15 / 5	0 / 10	10	[18], [19]
Croatia	5 / 5	0	10	
Cyprus	5 / 0	0	0 / 10	[20], [21], [22]
Denmark	15 / 0	0	0 / 10	[23]
Egypt	15 / 5	15	15	
Estonia	15 / 5	10	10	
Ethiopia	10 / 10	10	10	
Finland	15 / 5	0	0 / 1 / 5 / 10	[24]
France	10 / 0	0	0 / 5 / 10	[25]
Georgia	10 / 5	8	0 / 5 / 10	
Germany	15 / 5	0	5	

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Jurisdiction	Dividends %	Interest %	Royalties %	Footnote Reference
Ghana	6 / 6	0 / 10	8	[26]
Greece	- / -	10	0 / 10	[27]
Hong Kong	5 / 5	0	10	
Hungary	15 / 5	0	10	
Iceland	15 / 5	0	10	
India	10 / 10	10	10	
Indonesia	15 / 10	12.5	12.5	
Iran	5 / 5	0 / 5	8	
Ireland	15 / 5	0	10	
Israel	15 / 5	10	5	
Italy	15 / 15	0	0 / 5	
Japan	15 / 10	10	0 / 10	
Jordan	10 / 10	10	10	
Kazakhstan	10 / 10	10	10	
Korea (Dem. People´s Rep.)	10 / 10	10	10	
Korea (Rep.)	5 / 5	0 / 5	0 / 10	
Kuwait	5 / 0 / 5	0	10	[28], [29]
Kyrgyzstan	10 / 5	0 / 5	10	[30] [31]
Latvia	15 / 5	10	10	
Lebanon	5 / 5	0	10	
Liechtenstein	15 / 0	0	0 / 10	[32], [33]
Lithuania	15 / 5	10	10	
Luxembourg	10 / 0	0	0 / 10	[34]
Macedonia	15 / 5	0	10	
Malaysia	10 / 10	12	12	
Malta	5 / 5	0	5	
Mexico	10 / 10	10	10	
Moldova	15 / 5	5	10	
Mongolia	10 / 10	10	10	

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Jurisdiction	Dividends %	Interest %	Royalties %	Footnote Reference
Montenegro	10 / 10	10	5 / 10	[35]
Morocco	10 / 10	10	10	
Netherlands	10 / 0	0	5	
New Zealand	15 / 15	10	10	
Nigeria	15 / 12,5	15	15	
Norway	15 / 0	0	0 / 5 / 10	
Pakistan	15 / 5	0 / 10	10	[36], [37]
Panama	10 / 10	5 / 10	10	
Philippines	15 / 10	10	10 / 15	[38]
Poland	5 / 5	0 / 5	10	
Portugal	15 / 10	10	10	
Romania	10 / 10	7	10	
Russia	10 / 10	0	10	
Saudi Arabia	5 / 5	0	10	
Serbia	10 / 10	10	5 / 10	
Singapore	5 / 5	0	0 / 5 / 10	
Slovakia	15 / 5	0	0 / 10	
Slovenia	15 / 5	5	10	
South Africa	15 / 5	0	10	
Spain	15 / 5	0	0 / 5	
Sri Lanka	15 / 15	10	0 / 10	
Sweden	10 / 0	0	0 / 5	
Switzerland	15 / 5	0	5 / 10	[39]
Syria	10 / 10	10	12	
Tajikistan	5 / 5	0 / 7	10	
Thailand	10 / 10	10	5 / 10 / 15	[40], [41]
Tunisia	15 / 10	12	5 / 15	
Turkey	10 / 10	10	10	
Turkmenistan	10 / 10	10	10	

Jurisdiction	Dividends %	Interest %	Royalties %	Footnote Reference
Ukraine	15 / 5	5	10	
United Arab Emirates	5 / 0 / 5	0	10	[42]
United Kingdom	15 / 5	0	0 / 10	
United States	15 / 5	0	0 / 10	
Uzbekistan	10 / 5	0 / 5	10	
Venezuela	10 / 5	10	12	[43]
Vietnam	10 / 10	10	10	

Footnotes	
[1]	Unless otherwise indicated, the reduced treaty rates given in this column apply if the holding is at least 25% of the capital or of the voting power, as the case may be.
[2]	In the case of relations between EU Member States, dividend payments from subsidiaries to parent companies may be exempt if the conditions of the Parent Subsidiary Directive 2011/96/EU are met.
[3]	Many treaties provide for an exemption for certain types of interest, e.g. interest paid to or by the state, local authorities, the central bank, export credit institutions or in relation to sales on credit. Such exemptions are not considered in this column.
[4]	In the case of relations between EU Member States, interest and royalties payments between related companies may be exempt if the conditions of the EU Interest and Royalties Directive 2003/49/ EC are met.
[5]	The lower rate applies, inter alia, to interest on bank loans.
[6]	The lower rate applies to copyright royalties, including films etc.
[7]	A minimum holding of 20% is required.
[8]	A minimum holding of 10% is required.
[9]	Effective from 1 January 2022.
[10]	The 0% rate applies in cases when the interest is paid to the Government, including any political subdivision or local authority; or to the Central Bank; or to any institution owned or controlled by that Government if the purpose of the existence of such an institution is the promotion of export. Alternatively, it applies when the interest is paid in connection with any loan or credit guaranteed by the Government, including any political subdivision or local authority, by the Central Bank, or by any institution owned or controlled by that Government if the purpose of the existence of such an institution is the promotion of export.
[11]	The lower rate applies, inter alia, to interest on bank loans and deposits.

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Footnotes	
[12]	The rate under the treaty is 10%. However, by virtue of a most favoured nation clause, the rate is reduced to 0% and 5%: • the zero rate applies to copyright royalties, including films, etc, effective from 1 January 2004. Under the Czech Republic and Slovak Republic treaty, the rate is 0% for copyright royalties, including films, etc; and • a reduced rate of 5% applies to industrial royalties and know-how, effective from 1 January 2008. Under the Austria and Czech Republic treaty, the rate is 5% for industrial royalties and know-how. The 5% rate under the Belgium and Czech Republic treaty continues to apply to equipment leasing/rental.
[13]	The 0% rate applies in cases when the interest is paid in connection with the sale on credit of any merchandise or equipment; or on any loan or credit of whatever kind granted by a bank; or to the Government, including any political subdivision or local authority; or to the Central Bank.
[14]	The domestic rate applies to interest paid by public bodies (under the treaty such interest is taxable only in the source state and there is no reduction). The 10% rate applies in respect of loans granted by banks for at least 10 years, subject to conditions.
[15]	The 25% rate applies to trademarks.
[16]	The interest rates under the treaty are 5% and 15%. The 5% rate applies to interest derived from loans or credits granted by banks or insurance companies. However, by virtue of a most favoured nation clause, under the Chile-Japan treaty the rates are reduced as follows: • from 1 January 2017, the rate for certain types of interest is reduced to 4% (restrictions may apply to back-to back loans); and • from 1 January 2019, the general rate is reduced to 10%. For further details, including the updated text of article 11, see Circular No. 22/2018 issued by the Chilean tax administration and Czech Republic-1, News 22 November 2017.
[17]	The 5% rate applies in case of royalties for the use of, or the right to use, any industrial, commercial or scientific equipment.
[18]	The zero rate applies to interest paid on loans granted by a bank for a period of not less than 3 years or in connection with loans guaranteed by the government, political subdivision or local authorities.
[19]	A most favoured nation clause may be applicable with respect to royalties.
[20]	A minimum holding of 10% for an uninterrupted period of at least 1 year is required. This rate applies if the beneficial owner (i) holds at least 10% of the capital in the paying company, or (ii) is a pension fund or an institution providing pension schemes.
[21]	The lower rate applies to copyright royalties, excluding computer software, but including films, etc.
[22]	A most favoured nation clause may be applicable with respect to royalties.
[23]	A most favoured nation clause may be applicable with respect to royalties.
[24]	The 1% rate applies to royalties paid for finance leases of equipment; the 5% rate applies to royalties paid for the use of computer software and operational leases of equipment; the 10% rate applies to industrial royalties in general.

Footnotes	
[25]	The zero rate applies to copyright royalties, excluding computer software, but including films, etc. The 5% rate applies to equipment rentals. The 10% rate applies to patents, trademarks and know-how.
[26]	The 0% rate applies in cases when the interest is paid in connection with the sale on credit of any merchandise or equipment; or on any loan or credit of whatever kind granted by a bank; or to the Government, including any political subdivision or local authority; or to the Central Bank.
[27]	The domestic rate applies; there is no reduction under the treaty.
[28]	A most favoured nation clause may be applicable with respect to dividends, interest and royalties.
[29]	No withholding tax applies to dividends received by (i) a government or a governmental institution or (ii) a company which is controlled or in which at least 25% of the capital is held by a government or a governmental institution.
[30]	The reduced treaty rate applies if the holding is at least 15% of the capital.
[31]	The 0% rate applies in cases when the interest is paid in connection with indebtedness arising as a consequence of the sale on credit of any merchandise or equipment; or paid to the Government/ local authority/the Central Bank; or paid in connection with any loan or credit guaranteed by the Government.
[32]	A minimum holding of 10% for an uninterrupted period of at least 1 year is required.
[33]	The zero rate applies for any copyright of literary, artistic or scientific work (except for computer software) including cinematograph films, and films or tapes for television or radio broadcasting.
[34]	A most favoured nation clause may be applicable with respect to royalties.
[35]	The treaty concluded between the Czech Republic and the former Serbia and Montenegro.
[36]	The zero rate applies to interest paid on loans granted by banks or other financial institutions.
[37]	The rate applies also to services fees, such as payments received as a consideration for the provision of technical, consultancy and managerial services.
[38]	The lower rate applies to copyright royalties, excluding film royalties.
[39]	The rate is 5% as long as Switzerland does not levy withholding tax on royalties under its domestic law.
[40]	The 10% rate only applies to interest received by financial institutions, including insurance companies. For other interest payments there is no limitation under the treaty; the domestic rate applies.
[41]	The 5% rate applies to copyright royalties, excluding films, etc.; the 10% rate applies to royalties for patents, trademarks, design and models, secret formulas and processes.
[42]	A most favoured nation clause may be applicable with respect to dividends, interest and royalties.
[43]	A minimum holding of 15% is required.

17. APPENDIX II - GENERAL CORPORATE ENTITY TAX DUE DILIGENCE REQUESTS

Nº.	Category	Sub-Category	Description of Request
1	Tax Due Diligence	General	Financial Statements for the last three years.
2	Tax Due Diligence	General	Tax registration confirmations issued by the tax authorities.
3	Tax Due Diligence	General	Confirmation of existing tax underpayments issued by the authorities.
4	Tax Due Diligence	General	Tax audit reports for the Due Diligence period.
5	Tax Due Diligence	General	Correspondence with tax authorities (e.g. ruling, etc).
6	Tax Due Diligence	General	Documents regarding pending and closed appeals of the last five years.
7	Tax Due Diligence	General	Existing or expected significant tax issues.
8	Tax Due Diligence	General	Aggressive or unusual tax strategies.
9	Tax Due Diligence	Corporate Tax	Corporate Income Tax returns and tax assessments for the last three years.
10	Tax Due Diligence	Corporate Tax	Tax adjustments for the last three years.
11	Tax Due Diligence	Corporate Tax	Amount of tax loss carry forwards.
12	Tax Due Diligence	Transfer Pricing	Transfer pricing documentation.
13	Tax Due Diligence	VAT	Information regarding Value Added Tax.
14	Tax Due Diligence	Payroll Taxes	Information regarding employment taxes applied.
15	Tax Due Diligence	Payroll Taxes	Information regarding freelancers (including an overview of volume of services provided by freelancers in the last three years, the type of services provided and the number of freelancers).

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