

Transfer of property without change of ownership ("exit tax") according to ATAD

The Income Tax Act amendment that transposed the ATAD Directive into Czech law is effective from 1 April 2019, with the exception of the provisions concerning exit tax and hybrid mismatches, which are effective from 1 January 2020.

The amendment introduced the legal fiction of the sale of property at market price when moving property from the Czech Republic abroad, if the Czech Republic loses the right to tax income from future sale. The law stipulates an exhaustive list of situations in which exit taxation applies. This involves the following transfer of assets:

- ▶ from a Czech tax resident to a foreign permanent establishment, if the income from the future sale of property would be exempt from taxation in the Czech Republic under a double tax treaty, e.g. under the Czech-German treaty,
- ▶ from a Czech permanent establishment abroad, if the income from the future sale of property would not be subject to Czech tax liability,
- ▶ associated with the transfer of the taxpayer's tax residence abroad, if the income from the future sale of the property would not be subject to Czech tax liability.

The explanatory memorandum confirms that cross-border conversions or contribution of assets abroad are not considered as transfers of assets without a change of ownership. The tax also does not apply if assets relocated abroad are returned to the Czech Republic within 12 months and the relocation of assets related to financing of securities provided as collateral or to meet the capital adequacy requirement or liquidity risk management of financial institutions.

The payment of the tax related to the transfer of property abroad without a change of ownership may be spread over a period of up to 5 years from the due date of the tax upon request and if additional conditions are met.

Reversely, upon the transfer of assets to the Czech Republic from abroad, assuming the transfer was subject to taxation abroad, the tax input/acquisition price of assets is the price that would be agreed for the given assets between unrelated persons.

We have already introduced the rules for limiting the tax deductibility of financial costs [HERE](#). Gradually, we will also familiarize you with the basic parameters of taxation of a foreign controlled companies and of hybrid mismatches.



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