

Ministry of Finance
submits to the
Government a proposal
to abolish the real
estate acquisition tax

According to a Ministry of Finance press release dated 29 March 2020, the Ministry has submitted a proposal for the abolition of real estate acquisition tax. Along with the abolition of the tax, it is proposed that the application of interest on loans used to finance housing needs as a tax deduction be abolished. At the time of this alert's preparation, no more detailed parameters are available except that the proposal should be effective retroactively at a predetermined date. The question remains whether this retroactivity would also apply to the interest on loans.

The application of interest should be retained for real estate acquired before that date and the transitory provision should also cover the refinancing of such loans.

The proposal is partially in line with the general waiver of penalties related to the delay with the acquisition tax obligations, when the deadline for filing the return and paying the tax/advance payment falls in the period of 31 March to 31 July 2020.

The Minister of Finance was quoted in the media as saying that a budget decrease of 13 to 14 billion per year is expected. This amount corresponds to the cost of the total abolition of the acquisition tax, which was stated in the last such proposal, on which the government adopted a dissenting opinion in December, i.e. CZK 13.5 billion. From this we conclude that the proposal in question should indeed probably be the complete abolition of the entire real estate acquisition tax, which in the current situation thus becomes significantly more likely than ever.

Real estate owners can generally be divided into two groups - 1) natural persons satisfying their housing needs, and 2) owners holding real estate as an investment. Under the current legislation, the first purchase of new buildings of family houses (including the land of which they are part) and units in a residential or family house is exempt from the real estate acquisition tax.

From the very little information available so far, we understand that:

- ▶ The main economic impact for those wanting to satisfy their housing needs by buying a new house/flat is in fact the inability to apply related interest costs as a tax deduction (the acquisition would be exempt under the existing legislation). If it is applied retroactively, it may even worsen their situation in already negotiated deals, if they are counting on the possibility of deduction for the negotiated deals (for example, at the stage of a binding preliminary contract). In the case of a second-hand flat, the real estate acquisition tax will not be newly applied and, in order to assess the economic impact, any future tax deductions (and the time value of money) need to be considered.

- ▶ For investors in (and landlords of) new houses/flats, nothing should change in terms of the economic impact (the acquisition remains tax-free and the related costs are applied as before). However, investors in older houses/flats and other real estate should benefit from the abolition of the acquisition tax while maintaining the current method of applying costs. In their case, it is advisable to consider whether to carry out a possible transaction after the adoption of the law or after the date of cancellation/non-application of the tax is known.

From the point of view of legal entities, the prospect of not applying the real estate acquisition tax is often one of the reasons why investors acquire whole companies (“share deal”) as opposed to buying the real estate itself (“asset deal”). If the tax were abolished, this argument would be dropped, and the buyer’s interest would likely shift significantly in favour of the asset deal. The reasons a seller prefers a sale in the form of a share deal (e.g. time distribution of profit, administrative costs of liquidation of the company, preferential tax regime and so on) should remain; therefore, sellers can be expected to have a significantly more difficult bargaining position than before. Another impact from the legal point of view may be the application of an asset deal in situations where, in today’s conditions, a company transformation (demerger/merger) would typically take place. For upcoming transactions that are normally subject to tax, such as real estate sales and contributions, postponing them may save this transaction cost.

The proposed changes may have a significant impact on the way in which both real estate and entire businesses are sold in the Czech Republic and on the wallets of all investors. We recommend that you keep an eye out for future developments and we will keep you informed.



Eva Zemanová

eva.zemanova@cz.ey.com
+420 731 627 027



Václav Toman

vaclav.toman@cz.ey.com
+420 730 191 853