

RANDA HAVEL ■ LEGAL

Abolition of real estate acquisition tax and statutory pre-emptive right

We would like to inform you that the Government of the Czech Republic (the “Government”) has decided, not only in connection with the COVID-19 pandemic, to abolish certain legal institutes related to the real estate transfer.

It particularly concerns an abolition of:

- (i) Real estate acquisition tax; and
- (ii) Statutory pre-emptive right between co-owners.

While the Government has decided to abolish the real estate acquisition tax mainly in order to stimulate the real estate market, the reason for abolishing the statutory pre-emptive right is not so clearly detectable.

Abolition of real estate acquisition tax

As of 30 April 2020, the Government approved a draft law to abolish the real estate acquisition tax. The draft law is obliged to go through the standard legislative process. However, regarding the fact that it is a government law proposal, its relatively fast approval and adoption can be expected.

The abolition of this tax shall be effective retrospectively and shall apply (i) to all real estate acquisition for which registration in cadastre of real estate (completion of the registration proceedings) was made in December 2019 and later, and (ii) to all real estate not registered in the real estate cadastre if the agreement on their transfer entered into force in December 2019 and later. The tax due date has been already postponed by government measures. Those, who have already paid the tax, shall be entitled to claim a refund.

The related tax deductions of interest on housing loans shall be abolished with the effect from the beginning of January 2022. Thus, persons who acquire ownership of real estate in the meantime (from December 2019 to the end of the year 2021) shall not be obliged to pay the acquisition tax, but at the same time the possibility to reduce the tax base through respective deductions shall be maintained for them.

Abolition of the legal pre-emptive right between co-owners

The statutory pre-emptive right in case of a transfer of co-ownership share on the real estate has been returned into Czech legal order in 2018. However, with the effect from 1 July 2020, the current form of this institute will be abolished and the respective provisions of the Civil Code will be restored to their original form.

In practice it above all entails that the statutory pre-emptive right applies only in situations where the so-called undivided co-ownership has been established by a disposition mortis causa (typically testament, inheritance contract) or by another legal fact in a way that made it impossible for the co-owners to affect their rights and obligations from the very beginning. Furthermore, the statutory pre-emptive right to a co-ownership share shall only last 6 months from the establishment of the undivided co-ownership and will not apply to transfers to certain family members or other co-owners.

If you have any questions about real estate transfers, please, do not hesitate to contact us at [tomas.slaby\(at\)randalegal.com](mailto:tomas.slaby@randalegal.com).