

Legal Event of Death and Collected Taxes in the Czech Republic: Comparative Study

Petra Hrubá Smržová

PhD, Faculty of Law, University of West Bohemia in Pilsen, Czech Republic; correspondence address: sady Pětatřicátníků 14, 301 00 Plzeň, Czech Republic; e-mail: smrzova@kfp.zcu.cz

 <https://orcid.org/0000-0002-2151-1956>

Jakub Hablovič

PhD, Faculty of Law, University of West Bohemia in Pilsen, Czech Republic; correspondence address: sady Pětatřicátníků 14, 301 00 Plzeň, Czech Republic; e-mail: hablovic@kfp.zcu.cz

 <https://orcid.org/0009-0004-2247-3906>

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Abstract: Taxes certainly belong amongst the biggest social phenomena. They affect all residents of the state and are constantly in the focus of interest of the general public. They include legal, economic, social, sociological, psychological, and political aspects. Death as a legal event is connected with settlement of legal actions of the deceased. This article focuses on settlement of tax obligations *stricto sensu* of natural persons in the Czech Republic in connection with their death from a legal perspective.

1. Introduction

American statesman, diplomat, natural scientist, publisher, writer, and inventor Benjamin Franklin (1706–1790) once said that there are only two certain things in human life: taxes and death. He saw both as a form of justice and equality of everyone in the order of the world and existence. Paying taxes is one of the civic virtues and a sign of belonging to one's community. This statement represents a powerful philosophical metaphor reflecting the idea of inevitability of both phenomena. However, in a legal context, this parallel is misleading. While death is in fact biologically inevitable, tax liability can be moderated, minimized, or even completely eliminated in various ways, either legal (e.g., tax credits, exemptions), or illegal (e.g., income

concealment). The actual inevitability of taxes is therefore a rather statist statement than precise legal judgment.

It is interesting to compare taxes and death in a different context, namely, whether tax liability elapses with death. The tax liability is overwhelmingly tied to a certain property value that, after one's death, passes to another person through inheritance proceedings. Subsequently, it is possible to deduce the hypothesis that the tax liability ends with the death of a person. Even though this conclusion seems to be absolutely correct by common logic, legal issues of this topic offer other alternatives. The aim of this article is to review the hypothesis that tax liability ends with death and create a comparative study that will verify this hypothesis in different taxes.

To properly verify the main hypothesis, selected types of taxes with differing characteristics that may, in connection with death, affect the verification of the main hypothesis will be described in general terms. By examining income tax, real estate tax, value added tax, and gambling tax (which collectively represent a broad spectrum of taxes – personal, property-based, etc.), a comprehensive picture can thus be obtained.

The authors base their research primarily on substantive and procedural primary legal regulations. The bibliography in the researched area only offers texts of a general or theoretical nature and does not explore the topic to an appropriate depth. With regard to certain issues, it even does not exist at all. From a territory point of view, the subject of research is the Czech Republic. From a methodology point of view, the research mainly applies methods of description and legal analysis, and comparative methods. The text covers the legal status as of September 1, 2025.

2. Death as a Legal Event

In human life, death is an event associated with a number of consequences by law, on both a private law, as well as a public law level. The legal definition of death, from a medical point of view, is regulated by the Transplantation Act, where death is defined as “irreversible loss of function of the entire brain, including the brainstem, or irreversible cessation of blood circulation.”¹ Death limits actions of a human as a natural person, and is

¹ Act No. 285/2002 Coll., as subsequently amended, Section 2, lit. e.

associated with the settlement of their elapsing liabilities. For legal entities, such “death” is represented, in a figurative sense, by their dissolution.

According to the Civil Code (hereinafter referred to as “CC”),² Section 23, a person has a personality from birth to death. Pursuant to Section 26 of the CC, the death of a person is proven by a public document issued after examining the body of the deceased. If the body of a deceased person cannot be examined, the court shall declare the person dead *ex officio* if the person was involved in an event that, given the circumstances, makes their death appear certain. The court shall establish the day of death in its decision. For the resolution of legal situations resulting from death, the basic prerequisite is merely biological death, but also, in particular, its proof. The following table shows the development of the population in the Czech Republic over the last five years.³

3. Taxes in the Czech Republic

To collect its revenues, the Czech Republic does not apply only one, but several types of taxes – a tax system with various, mutual internal linkages, collected on its territory.⁴ As of September 1, 2025, the following monetary payments flowing into public budgets are considered taxes from a legal point of view: income tax of natural persons and legal entities (hereinafter referred to as the “ITA”),⁵ additional taxes for large multinational groups and large domestic groups,⁶ real estate tax (hereinafter referred to as the “RETA”),⁷ road tax,⁸ value added tax (hereinafter referred to as the “VATA”),⁹ excise taxes: mineral oils, alcohol, beer, wine, and intermediate products, tobacco

² Act No. 89/2012 Coll., as subsequently amended.

³ Český Statistický Úřad [Czech Statistical Office], “Základní údaje o stavu a pohybu obyvatel – roční údaje, absolutní hodnoty,” 2025, accessed September 17, 2025, https://csu.gov.cz/zakladni-udaje?pocet=10&start=0&podskupiny=131&razeni=-datumVydani#data-a-casove-rady___zakladni-udaje-o-stavu-a-pohybu-obyvatel-rocni-udaje-absolutni-hodnoty.

⁴ Anna Outlá, *Veřejnoprávní aspekty podnikání* (Plzeň: Aleš Čeněk, 2012), 81.

⁵ Czech Collection of Laws, Act No. 586/1992 Coll., on Income Tax, as subsequently amended.

⁶ Czech Collection of Laws, Act No. 416/2023 Coll., as subsequently amended.

⁷ Czech Collection of Laws, Act No. 338/1992 Coll., on Real Estate Tax, as subsequently amended.

⁸ Czech Collection of Laws, Act No. 16/1993 Coll., on Road Tax, as subsequently amended.

⁹ Czech Collection of Laws, Act No. 235/2004 Coll., on Value Added Tax, as subsequently amended.

products, heated tobacco products, and raw tobacco,¹⁰ energy taxes: on coal, natural gas, electricity,¹¹ gambling tax.¹²

The tax system also includes other public budget revenues that represent taxes from an economic point of view, or are very close to them, such as customs duties, social security contributions, and contributions to state employment policy, as well as public health insurance contributions.¹³ The tax system usually also includes fees. The issue of tax revenues of public budgets was addressed by Boháč.¹⁴ However, the theme chosen refers only to the issue of taxes.

From a legal perspective, tax is one of the means of power of the state, regulated by legal norms of the highest legal force.¹⁵ The Charter of Fundamental Rights and Freedoms, which is part of the constitutional order of the Czech Republic, in general provisions of Article 4(1) of the Resolution of the Presidium of the Czech National Council No. 2/1993 Coll., as subsequently amended, on the proclamation of the Charter of Fundamental Rights and Freedoms as part of the constitutional order of the Czech Republic, stipulates that obligations may only be imposed on the basis of and within the limits of law and only under the condition of preserving fundamental rights and freedoms. Article 11 specifies and explicitly regulates that taxes and fees may only be imposed based on the law. From a legislative point of view, the tax is defined by Act No. 280/2009 Coll., Tax Code, as subsequently amended (hereinafter referred to as the “TC”), in its Section 2(3), as

a monetary payment that the law designates as a tax, duty, or fee; a monetary performance if the law stipulates that its administration shall be carried out in

¹⁰ Czech Collection of Laws, Act No. 353/2003 Coll., on Excise Taxes, as subsequently amended.

¹¹ Czech Collection of Laws, Act No. 261/2007 Coll., on Stabilisation of Public Budgets, as subsequently amended.

¹² Czech Collection of Laws, Act No. 187/2016 Coll., on Gambling Tax, as subsequently amended.

¹³ Petra Jánošíková, “Daňová soustava jako nástroj finančního plánování státu,” in *Minulost, současnost a budoucnost finančního plánování státu*, ed. Kristýna Rezníčková (Olomouc: Iuridicum Olomucense, o.p.s., 2018), 7–22.

¹⁴ Radim Boháč, *Daňové příjmy veřejných rozpočtů v České republice* (Praha: Wolters Kluwer ČR, 2013), 332.

¹⁵ Petr Mrkvýka, *Determinace a diverzifikace finančního práva* (Brno: Masarykova univerzita, 2012), 174.

accordance with the Tax Code, and a monetary performance within the framework of divided governance.

This is the definition of tax *sensu largo*. For the purposes of this article, the authors work with this narrower concept of tax.

From the population statistics set out below,¹⁶ together with data on tax collection in the Czech Republic and on active taxable entities,¹⁷ it is possible to infer, at least in outline, the potential frequency of tax collections relating to death for the selected representative taxes.

Table 1. Population development in the Czech Republic in 2020–2024

Year	Population	Death	Birth	Difference
2024	10,909,500	112,211	84,311	-27,900
2023	10,900,555	112,795	91,149	-21,646
2022	10,827,529	120,219	101,299	-18,920
2021	10,516,707	139,891	111,793	-28,098
2020	10,701,777	129,289	110,200	-19,089

Source: “Výroční zpráva o činnosti Finanční správy ČR” [“Annual Reports on the Activities of the Czech Financial Administration”], 2020–2024.

¹⁶ Český Statistický Úřad [Czech Statistical Office], “Základní údaje o stavu a pohybu obyvatel – roční údaje, absolutní hodnoty,” 2025, accessed September 17, 2025, https://csu.gov.cz/zakladni-udaje?pocet=10&start=0&podskupiny=131&razeni=-datumVydani#data-a-casove-rady___zakladni-udaje-o-stavu-a-pohybu-obyvatel-rocni-udaje-absolutni-hodnoty.

¹⁷ Výroční zpráva o činnosti Finanční správy ČR” [“Annual Reports on the Activities of the Czech Financial Administration”], 2024, accessed September 15, 2025, https://financnisprava.gov.cz/assets/cs/prilohy/fs-financni-sprava-cr/vyrocní_zprava-financni-spravy-2024.pdf; “Výroční zpráva o činnosti Finanční správy ČR” [“Annual Reports on the Activities of the Czech Financial Administration”], 2023, accessed September 15, 2025, <https://financnisprava.gov.cz/assets/cs/prilohy/fs-financni-sprava-cr/vyrocní-zprava-o-cinnosti-financni-spravy-2023.pdf>; “Výroční zpráva o činnosti Finanční správy ČR” [“Annual Reports on the Activities of the Czech Financial Administration”], 2022, accessed September 15, 2025, https://financnisprava.gov.cz/assets/cs/prilohy/fs-financni-sprava-cr/Vyrocní_zprava_o_cinnosti_FS_CR_za_rok_2022.pdf; “Výroční zpráva o činnosti Finanční správy ČR” [“Annual Reports on the Activities of the Czech Financial Administration”], 2021, accessed September 15, 2025, https://financnisprava.gov.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace_o_cinnosti_FS_CR_za_rok_2021.pdf; “Výroční zpráva o činnosti Finanční správy ČR” [“Annual Reports on the Activities of the Czech Financial Administration”], 2020, accessed September 15, 2025, https://financnisprava.gov.cz/assets/cs/prilohy/fs-financni-sprava-cr/Informace_o_cinnosti_FS_CR_za_rok_2020.pdf.

Table 2. Tax collection in the Czech Republic in 2020–2024 (CZK million)

Year	Tax liability	Collection	Difference	Yield rate (%)
2024	1,216,840.5	1,222,521.6	24,318.9	100.5
2023	1,211,564.2	1,209,395.1	- 2,229.1	99.8
2022	999,696.4	1,002,948.7	3,252.4	100.3
2021	883,851.4	865,971.0	-17,880.4	98
2020	832,353.7	850,732.3	18,378.6	102.2

Source: Výroční zpráva o činnosti Finanční správy ČR” [“Annual Reports on the Activities of the Czech Financial Administration”], 2020–2024.

Table 3. Number of registered and active tax entities in the Czech Republic in the 2024

Tax type	Registered	Active
VAT	1,039,593	658,774
Legal Entity Income Tax – tax returns	750,755	745,737
Natural Person Income Tax – tax returns	3,029,443	2,088,331
Natural Person Income Tax – flat rate regimen	165,798	108,402
Natural Person Income Tax – income from employment	764,162	609,701
Withheld income tax based on special rate	626,822	522,939
Real Estate Tax	5,102,488	4,278,890
Road Tax	1,017,759	21,619
Gambling Tax	1,209	83

Source: Výroční zpráva o činnosti Finanční správy ČR” [“Annual Reports on the Activities of the Czech Financial Administration”], 2024.

4. Death and Taxes – Procedural View

The TC stipulates that, for tax administration purposes, the death of a natural person is governed by the legal fiction that the testator is alive until the day preceding the date of the closing of the inheritance proceedings, regardless of when the testator died or how far apart these two points are in time. In contrast, similar fiction does not apply to the inheritance law system. According to the provisions of Section 1479 of the CC, the right of inheritance arises upon the death of the testator, and the decision on inheritance has merely declaratory effects. Therefore, for inheritance law, the decisive point in time is the death.

The legal fiction established in the TC represents an exception in the Czech legal system, and its *raison d'être* is the effort to avoid ambiguities in tax issues arising in the period between the death of the testator and the decision on the inheritance.¹⁸ For tax administration purposes, the testator is therefore considered alive and having tax liabilities until the heir is confirmed by a court decision. According to the provisions of Section 239a(1) of the TC, at the above mentioned moment, the tax liability passes from the testator to the heir, who takes the testator's position, and the continuity of the tax liability is preserved. Due to the legal fiction, a number of questions related to the application of this system arise.

By its very nature, the testator can no longer fulfill the tax declaration obligation. After the death of the testator, their tax obligations under Section 239b(1) of the TC are fulfilled by the person managing the estate, in their own name and on the estate's behalf.¹⁹ The person managing the estate is the person appointed by the testator to manage the estate. If the testator failed to appoint any person as an administrator, such role pertains, under the provisions of Section 1554(2) and Section 1556(1) of the CC, to the executor of the will, potential heir, or liquidator, or the court may pass a different resolution. If tax liability on behalf of the testator arises for several persons, they shall fulfil it jointly and severally, according to the principle of solidarity expressed in the provision of Section 239b(1) of the TC. The liability is fulfilled in the name of the person managing the estate, e.g., a signature on a tax return, as it is inherently no longer possible for the testator to sign it themselves, and is fulfilled on behalf of the estate. In practice, the system works in such a way that the tax declaration is drafted by the person managing the estate, stating the testator's first and last name, their birth certificate number, as well as their tax identification number. The tax will still be recorded in the testator's tax account.²⁰ For practical reasons, in addition to the signature, the identification data of the person managing the estate are also included in the tax declaration filing.²¹ If there are several persons managing the estate, communication between

¹⁸ Ondřej Lichnovský et al., *Daňový řád: komentář*, 5th ed. (Praha: C.H. Beck, 2024), 1012.

¹⁹ Miloslav Kopřiva, Jan Breburda, and Jaroslav Novotný, *Manuál k daňovému řádu*, 3rd ed. (Ostrava: Sagit, 2022), 1087–88.

²⁰ Lichnovský et al., *Daňový řád: komentář*, 1013.

²¹ *Ibid.*, 1015.

them and the tax administrator will run through a joint attorney or representative. Pursuant to the provisions of Section 30(1) of the TC, if several tax entities have a common tax liability, they shall establish their common representative. Should they fail to do so, even after being invited by the tax administrator, the tax administrator shall appoint a joint representative for them. In the case of the death of a natural person, this procedure shall apply to the filing of income tax and real estate tax returns in particular. Due to the nature of the legal event of death, this does not apply to legal entities that are not alive.

The tax after the testator's death is paid from their estate by the person managing it. Regarding the payment of tax, the heir is liable for the testator's debts only up to the amount of their share of the inheritance,²² and if the testator left only assets of little or no value, the tax debts will remain unpaid.²³ Pursuant to the provisions of Section 239b(3) of the TC, the tax administrator who was competent on the day of the testator's death shall remain competent for the testator's tax liability.

In the case of the death of a natural person-entrepreneur, it is necessary to file an income tax return and all other tax returns related to business activities, in particular VAT returns, road tax returns, tax statements for employees, reports for the Social Security Administration, the health insurance company, etc. There are exceptional situations when an established business continues to operate under the leadership of a legal successor, designated either based on a will or an agreement with other heirs. Upon the death of an entrepreneur, their business ends, but under certain conditions specified in the Trade Licencing Act, the heir may proceed with it. Such heir then assumes tax obligations, namely, as of the date of the court's decision on the inheritance. Until then, the estate administrator settles tax obligations on behalf of the deceased, from their estate. The heirs' tax obligations only begin upon conclusion of the inheritance proceedings. Within three months of the death of an entrepreneur, pursuant to Section 13(2) of the Trade Licencing Act,²⁴ their successor shall inform the Trade Licencing

²² Supreme Court of the Czech Republic, Judgment of 29 October 2002, File No. 33 Odo 593/2002.

²³ Supreme Court of the Czech Republic, Judgment of 18 February 2015, File No. 29 Cdo 1074/2013.

²⁴ Czech Collection of Laws, Act No. 455/1991 Coll., as subsequently amended.

Office about the continuation of the activity. If this period expires in vain, the deceased entrepreneur's trade license expires as of the day of their death.

The above rules are established and are being finalized by case law rather in terms of application technical aspects. In the Resolution of the Regional Court in Ostrava,²⁵ it is stated that the power of attorney of an authorized representative terminates upon the death of the principal (i.e., the tax subject), because the Tax Code does not provide for a different regulation of the termination of representation in such a situation, the general rule according to the provisions of Section 28 of Act No. 99/1963 Coll. of the Code of Civil Procedure will apply. Furthermore, in the judgment of the Supreme Administrative Court, it is stated that the provisions of Section 239a of the TC apply entirely to the tax obligations of the testator and their performance in the period before the decision on the estate, and not to tax obligations from the sale of property.²⁶

Jurisprudence that interferes with the legal fiction is absent, according to the provisions of Section 239a(1) TC, which means that the current regulation is already established and legislative changes are not expected.

It is an interesting fact that Polish legislation contains several interesting features in relation to the transfer of tax rights and obligations upon death. Issues connected with the continuation of business activities after the death of an entrepreneur are regulated in Poland by the Act on the management of a successive enterprise of a person's enterprise,²⁷ which lays down the rules for the temporary management of an enterprise following the entrepreneur's death. This Act also amended the relevant tax statutes. The duration of succession management under the Act may last for two years after the entrepreneur's death and may be extended by a court for up to five years. For tax obligations, the principle of the enterprise's uninterrupted operation is of key importance.²⁸ An enterprise under succession

²⁵ April 27, 2023 file no. 25 Af 13/2023.

²⁶ Supreme Administrative Court of the Czech Republic, Judgment of 25 November 2025, File No. 4 Afs 34/2025.

²⁷ Ustawa z dnia 5 lipca 2018 r. o zarządzie sukcesyjnym przedsiębiorstwem osoby fizycznej, Journal of Laws 2018, item 1629, as amended.

²⁸ Paulina Pałach and Błażej Pezda, "Zarząd sukcesyjny – zmiany w prawie gospodarczym w zakresie działalności reglamentowanej i prawie podatkowym," *Gubernaculum et Administratio* 20, no. 2 (2019): 31–46.

management is regarded as a taxable entity that continues the business activities of the deceased entrepreneur, rather than an entity commencing a new business activity. The principle of uninterrupted continuation of the enterprise is likewise reflected in the Tax Ordinance. The same principle applies to value added tax. The temporary form of enterprise management after the entrepreneur's death undoubtedly contributes positively to ensuring continuity of business operations and, consequently, to the certainty of economic transactions, including from the perspective of tax law.²⁹

5. Comparative Analysis of Selected Taxes and Death

This chapter undertakes a comparative analysis of a selected set of direct and indirect taxes in relation to the specific legal and factual event of death. For the purposes of comparison, the authors selected from the Czech tax system representatives of each tax category, namely: direct taxes of the income type (personal income tax); direct taxes of the property type (real estate tax); other direct taxes (gambling tax); and indirect taxes (value added tax).

A detailed analysis of the procedural dimension of the issue clearly refutes the hypothesis that a person's tax liability terminates upon death. The mechanism of the legal fiction, established in Section 239a(1) of the TC, together with the principles of inheritance law, demonstrates unequivocally that tax liability persists even after death. The remaining question is whether this fiction is relevant for all types of taxes.

The aim of this chapter is to explain how the heterogeneous nature of individual types of taxes is reflected in the determination of tax liability, the fate of which is, as a consequence of death, transformed, modified, or, in certain cases, entirely extinguished.

Each of the taxes examined has unique criteria (a link to the person, a link to property, a link to a transaction, or a link to an activity), and each of them may, by virtue of the occurrence of death, potentially be governed by a different mechanism. Their combined examination provides a comprehensive view of the functioning of the legal fiction created by the Tax Procedure Code, according to which the deceased person is deemed to be alive until the day preceding the conclusion of the probate proceedings,

²⁹ Tomasz Janicki, "Przedsiębiorstwo w spadku – problemy interpretacyjne," *Przegląd Podatkowy*, no. 12 (2025): 14–16.

irrespective of the actual date of death. Given their differing characteristics, this chapter first outlines the individual types of taxes in general terms and identifies the specific issues associated with death.

The purpose of the comparative examination of the selected types of taxes is to verify whether the legal fiction, under which the deceased is deemed to be alive until the day preceding the conclusion of the probate proceedings, is applicable to all categories of taxes in the Czech Republic.

5.1. Income Tax

Income tax is regulated by the ITA, which establishes the legal framework for the taxation of income of natural persons and legal entities in the Czech Republic, distinguishing between individual categories of income and establishing conditions for their taxation.

According to the provisions of Section 2 of the ITA, every natural person earning taxable income is subject to income tax, namely, both for tax residents in the Czech Republic (from worldwide income) and for non-residents (only from income from sources in the Czech Republic). The key factor for the resulting tax is the tax base, which, according to the provisions of Section 5 of the ITA, is the amount by which the income accruing to the taxpayer in the tax period exceeds the expenses demonstrably incurred to achieve, secure, and maintain it.³⁰ The tax base is composed of the sum of partial tax bases from individual types of income, according to the provisions of Sections 6 to 10 of the ITA, which include income from employment, entrepreneurship, capital assets, rental, and other income, while some income is exempt from tax and is added to the tax base, e.g., occasional (irregular) income up to the limit of CZK 50,000 per year (e.g., sale of redundant apples from the garden), gifts, inheritances, etc. The ITA further regulates deductible items in the provisions of Section 34, which can be subtracted from the tax base, e.g., interest on a loan for housing needs.³¹ The tax rate is progressive and, according to the provisions of Section 16 of the ITA, it is established at 15% for up to 36 times the average wage, and at

³⁰ Ondřej Dráb et al., *Zákon o daních z příjmů: komentář*, 2nd ed. (Prague: Wolters Kluwer, 2024), 75.

³¹ Vladimír Pelc and Vladimír Pelc ml., *Daně z příjmů s komentářem*, 19th rev. ed. (Olomouc: ANAG, 2024), 500.

23% above this limit. For natural persons, this tax is assessed once a year, for the entire tax period, which, according to the provisions of Section 16b of the ITA, is a calendar year. The obligation to file a tax return arises when income exceeds the legal limit of CZK 50,000, according to Section 38g of the ITA.³² Every taxpayer who achieves taxable income during the tax period is obliged to file a tax return (basic deadline: April 1) and pay the resulting tax. The ITA contains a number of exceptions, e.g., according to the provisions of Section 2a, the possibility of paying tax in a lump sum if the conditions are met. Tax administration is provided by the locally competent tax administrator. According to the provisions of Section 13 of the TC, the criterion for a natural person is the address of the place of permanent residence of a citizen of the Czech Republic, or the address of the registered place of residence of a foreigner, or the place where the natural person primarily stays.

In the case of the death of a natural person-taxpayer, it is inherently impossible for them to carry out any further activity that would lead to taxable income and new tax obligations. An unfulfilled tax liability can only exist for the period when the person was still alive and did not fulfill its tax liability. After the death of the testator, such liabilities are fulfilled, pursuant to the provisions of Section 239b(1) of the TC, by the person managing the estate, in their own name and on behalf of the estate. Given the above, two situations may arise. If the taxpayer dies during the tax period, e.g., on December 1, the person managing the estate shall file a tax return for the deceased for the part of the tax period in which they lived, i.e., from January 1 to December 1. If the taxpayer dies, for example, on February 1, and has not yet fulfilled the tax obligation, the person managing the estate shall file two tax returns for the deceased, for the previous tax period and for the part of the tax period in which they lived. The legal fiction under Section 239a(1) of the TC applies to this type of tax.

According to the provisions of Section 17 of the ITA, a taxpayer is any legal entity that has its registered office or place of effective management in the Czech Republic (all their income is subject to taxes), or that receives income from sources in the Czech Republic (only income from sources in the Czech Republic is subject to taxes). Since a legal entity is not alive, the

³² Dráb et al., *Zákon o daních z příjmů: komentář*, 75.

legal event of death cannot affect its tax obligations. The legal fiction under Section 239a(1) of the TC is excluded for this type of tax.

5.2. Real Estate Tax

Real estate tax in the Czech legal system is regulated by the RETA. This tax comprises two categories: land tax and building and unit tax, as established by the provisions of Section 1 of the RETA. The subject of the tax is real estate registered in the Real Estate Register in the Czech Republic, which is the only official real estate database. According to Section 3 of the RETA, the taxpayer is the property owner, tenant, or, if applicable, the user (e.g., state property). The amount of the tax depends on the type of property, its area, location, and other coefficients provided in the provisions of Sections 5 to 12ab of the RETA. For example, the local coefficient is established by municipalities in the form of a sub-statutory legal regulation—generally binding decree.

Tax administration is provided by the locally competent tax office, with local jurisdiction being established based on the property location. If the taxpayer owns multiple properties and different local tax offices are locally competent for each of them, the tax will consist of individual parts. The tax is assessed in accordance with the provisions of Section 12b(1) of the RETA, for a tax period of one year, and always as from January 1 of the relevant year. The obligation to file a tax return arises upon acquisition or change of decisive facts, typically when purchasing real estate, by January 31 of the tax period. If there is no acquisition or change in the decisive facts, the tax is assessed at the same amount as in the previous tax period, without the obligation to file a tax return. For example, if a person buys a property in December, the tax on this property will be assessed only for the following tax period, from January 1, and the person is obliged to file a tax return.³³ The tax is usually paid in a single payment by May 31 of the tax period.

In the case of the taxpayer's death, tax liabilities pass, according to the principle of universal succession expressed in Section 239 of the TC, to another taxpayer, namely, the person who inherited the property. The moment of transfer of tax liability and ownership rights to the subject of the tax

³³ Petr Koubovský and Monika Novotná, *Zákon o dani z nemovitých věcí: komentář*, 2nd ed. (Prague: Wolters Kluwer, 2022), 84.

is the day of the legally binding inheritance decision and the registration of the heir in the Real Estate Register. Given the above, several different situations may arise. If the taxpayer duly paid the tax, died, and the inheritance proceedings were concluded (or the ownership rights were transferred to the heirs) in the same tax period, the procedure is the same as, for example, when selling real estate. The new owner files a tax return and pays tax for the next tax period. Furthermore, if the taxpayer duly paid the tax and died in a certain tax period, and the ownership right was transferred to the heirs only in the next tax period, the tax liability still pertains to the deceased, and the real estate tax will be paid from the estate. The same procedure will be followed in cases when the inheritance proceedings extend over multiple tax periods.³⁴ Filing a tax return on behalf of the deceased person is governed by the procedural rules of Section 239a of the TC. For the case of death, the RETA determines a special moderation of the statutory deadline, such that the deadline for filing a tax return is extended by two months if the taxpayer dies during that period, or if the inheritance proceedings end during that period.³⁵ The legal fiction under Section 239a(1) of the TC is clearly applicable to this type of tax. The Real Estate Tax Act even introduces a special provision for cases of death.

5.3. Value Added Tax

Value Added Tax (VAT) is an indirect, universal, mandatory, central, object-based, neutral, non-purpose, and rate-based tax.³⁶ It has been collected in the Czech Republic since 1992, when it replaced the turnover tax. The most important feature of value added tax is its multi-phase nature. Added value increases at individual stages of turnover and is subject to taxation for VAT purposes. VAT is collected at individual stages of production and distribution, when selling, purchasing, or providing a service. The taxpayer is entitled to deduct from their tax liability the amount of tax they paid as input tax to their suppliers. Subsequently, the tax is borne by the final consumer within the sales price of the purchased goods and services, who is

³⁴ Tomáš Rozehnal, *Daňový řád. Praktický komentář*, 2nd ed. (Prague: Wolters Kluwer ČR, 2021), 449.

³⁵ Koubovský and Novotná, *Zákon o dani z nemovitých věcí*, 86–87.

³⁶ Petra Hrubá Smržová and Petr Mrkývka, *Finanční a daňové právo*, 4th ed. (Pilsen: Aleš Čeněk, 2024), 380.

not entitled to deduct input value added tax. Goods are subject to VAT even when imported into the Czech Republic, in which case the tax is paid upon import by business entities, and by other legal entities and citizens, provided that the value of the goods imported by them exceeds the legally established limit. The tax entity liable for the tax to the public budget is the payer.

According to Section 6 of the VATA, a taxpayer is a person liable for tax who has its registered office, place of business, or establishment in the country, whose turnover in 12 calendar months exceeds CZK 2,000,000, and who becomes a taxpayer as of the first day of the calendar year immediately following the year in which the specified turnover was exceeded. The person becomes a payer as of the day following the day the amount is exceeded, in the case of timely registration and notification that they want to become a payer as of that day, or after the day when domestic turnover exceeded CZK 2,536,500 in the relevant calendar year. Furthermore, a taxpayer is also a person liable to pay tax, with a registered office, place of business, or establishment in the country, who carries out taxable or tax-exempt transactions with the right to deduct tax, and purchases goods from another Member State; they become a taxpayer as to the day when the value of the purchased goods (tax excluded) in the current calendar year exceeds CZK 326,000. Further details about taxpayers are provided in Section 6b of the VATA. The taxpayer is obliged to provide the tax identification number in the structure: country code “CZ,” and a main part consisting of a general identifier according to a special legal regulation, which is the birth registration number for a natural person and the identification number for a legal entity. It can be stated that, for legal registration, monitoring the amount of domestic turnover is required. Reaching the limit of CZK 2,000,000 or CZK 2,536,500 will cause the relevant tax entity to become a VAT payer by law. The only difference is as to which day they become a VAT payer, whether on January 1 of the following year or the day after the turnover is exceeded. The obligation to file an application for registration for value added tax arises for entities when the turnover exceeds the specified threshold of CZK 2,000,000. The deadline for filing an application is 10 days as of the date the specified limits are exceeded.

The tax administrator may cancel the value added tax registration, based on the taxpayer’s request or *ex officio*, pursuant to Section 106 of the VATA. In this case, it is completely irrelevant whether the person is

a self-registered taxpayer or a statutory taxpayer. In the case of registration cancellation, the taxpayer shall meet the conditions established by law – the taxpayer may ask for registration cancellation no earlier than one year after the effective date stated on the registration certificate, if their turnover did not exceed CZK 2,000,000 in the preceding 12 consecutive calendar months.

Section 106 of the VATA sets out the conditions for the cancellation of registration *ex officio*. If the conditions provided in paragraphs 2 and 3 are met, the tax administrator shall cancel the payer's registration. If a VAT payer dies, their registration ends as of the day preceding the date of transfer of tax liability (court decision on inheritance). The reason for it is that, according to Section 6e of the VATA, the heir who continues to carry out economic activities becomes a payer. If the heir does not proceed with the economic activity after the deceased payer, the person managing the estate is obliged to reduce the deduction under the conditions set out in Sections 79a–79e of the VATA for assets for which the claim for tax deduction was filed. Section 79a of the VATA sets out general rules, and the following Sections 79b–79e of the VATA establish certain specific rules. The basic general principle applies that, upon registration cancellation, the payer is obliged to reduce the tax deduction applied to assets that represent their business assets as of the date of cancellation of registration and for which they still claimed a tax deduction as a payer (Section 79a(1) of the VATA). Specific rules for tax settlement upon cancellation of registration due to the death of the payer are set out in Section 79b of the VATA. The obligation to reduce the applied tax deduction arises for the person managing the estate, who must assess, before drafting the final tax return, whether the heir who acquires the business assets of the deceased payer intends to proceed with carrying out economic activities with such assets, or not. The legal fiction under Section 239a(1) of the TC is clearly applicable to this type of tax. The Value Added Tax Act contains a partial special regulation for cases of death.

5.4. Gambling Tax

Gambling tax became part of the Czech tax system on January 1, 2017. This tax was adopted as part of the regulation of gambling operations, when, in addition to Act No. 187/2016 Coll., on Gambling Tax, other laws were also

adopted, namely Act No. 186/2016 Coll., on Gambling, and the so-called Amending Act, Act No. 188/2016 Coll. From a system perspective, this tax is classified as a direct tax due to the subject of taxation, which taxes a specific activity – the operation of games of chance.³⁷

The subject of the tax is the operation of a game of chance in the territory of the Czech Republic for a participant of this game, for which a permit or notification is required under the Gambling Act.

According to this Act, operating a game of chance means performing activities necessary for the actual implementation of such a game, with the intention of making a profit, in particular: accepting bets and deposits into a game of chance, paying out winnings, other activities of an organizational, financial, and technical nature related to putting this game into operation and ensuring this operation, as well as activities necessary for the termination and settlement of such a game.

The tax also applies to games operated on the Internet, where the condition of operation in the Czech Republic is met if the game of chance is aimed at, or targeted, at least in part, at persons residing in its territory. The Gambling Act establishes the rebuttable legal presumption that every natural person who participates in a game of chance in this way is resident in the territory of the Czech Republic.

The payer of gambling tax is the holder of an elementary permit under the Gambling Act, or the person who operates a game of chance for which such a permit is required, or the person who notifies a game of chance, or the person who operates such a game for which notification is required. The wording of the law implies that the taxpayers of gambling tax are all those who operate these games in the Czech Republic, whether the operation is legal or illegal. Taxpayers file tax returns, or additional tax returns, only electronically, i.e., with a data message (in Czech: *datová zpráva*), signed in a manner associated with the effects of a handwritten signature under another legal regulation, or with the verified identity of the filer, in a manner that allows logging into their data mailbox (in Czech: *datová schránka*). The tax is due by the 25th day after the end of the tax period, which is a calendar quarter, to the appropriate account of the Financial Administration of the Czech Republic. Tax administration is provided by

³⁷ Petra Hrubá Smržová et al., *Daňové právo de lege lata*, 3rd rev. ed. (Pilsen: Aleš Čeněk, 2022), 126.

the Financial Administration of the Czech Republic. The nationwide gross revenue from gambling taxes is shared and it represents both the state budget and municipal budgets.

The Gambling Tax Act establishes the institution of self-assessment and additional self-assessment in its Section 11. This is a special provision to the general legal regulation. The idea is to assess the tax without issuing a decision by the tax administrator, reducing its administrative burden. Another advantage is the legal certainty of taxpayers, who are familiar with the amount of the last known tax, without having to review the file.³⁸ If the taxpayer does not file a tax return within the deadline established by law, the tax assessed as of the date of the deadline is zero by law (*ex lege*). The fiction is established here that the taxpayer claimed the zero tax. The taxpayer's last known tax under Section 10 of the Gambling Tax Act will therefore be zero. In the case of any further claim or additional assessment *ex officio*, it will always be assessed based on the zero baseline. If the taxpayer dies without filing a tax return, the legal fiction of zero value will apply. The legal fiction under Section 239a(1) of the TC is, in theory, applicable to this type of tax. In practice, however, it is superseded by a zero tax return, which effectively negates it.

6. Conclusion

The aim of this article was to review the hypothesis that tax liability ends with the death of a natural person. However, based on examination of the subject matter in general, and by also focusing on individual types of taxes, this hypothesis was not confirmed.

The death of a natural person does not mean the elapse of their tax obligations. The TC explicitly establishes that the testator is considered to be alive for tax administration purposes until the day preceding the date on which the inheritance decision becomes legally binding. This legal fiction allows the tax administrator to complete tax proceedings initiated during the taxpayer's lifetime, and at the same time, ensure that any tax arrears are settled within the framework of the inheritance proceedings. In this way, tax administration ensures the protection of public budgets,

³⁸ Vladimír Pelc, *Daň z hazardních her: s komentářem* (Olomouc: ANAG, 2016), 46.

without the suspension or termination of tax proceedings due to the death of the taxpayer.

The heirs assume the rights and obligations of the testator, to the extent of the acquired assets. Their liability is therefore limited to the value of their inheritance, which ensures a certain degree of protection. The estate administrator plays a key role in ensuring the proper settlement of tax obligations – they are not only obliged to notify the tax administrator of the death, but must also ensure cooperation in ongoing proceedings. At the moment the inheritance decision becomes legally binding, the heirs assume not only the assets, but also the obligations, including taxes. Such a system provides legal certainty to all parties involved – the tax administrator, heirs, and other creditors. However, in practice, it can still raise not only practical, but also ethical questions.

The comparative analysis of the selected set of taxes has confirmed that the legal fiction under Section 239a(1) of the TC is, with varying degrees of adaptability, applicable to most components of the Czech tax system, particularly to taxes linked to a person or to property.

In the case of income tax, the fiction is clearly applicable. The tax liability relates to that part of the taxable period during which the taxpayer was alive. The fiction enables the person administering the estate to file the necessary tax returns (for the previous, as well as the incomplete, taxable period) on behalf of the deceased, but under their own identification, thereby preserving procedural continuity. However, the application of this fiction is limited solely to natural persons, as it does not extend to legal persons, which are not “alive.”

For real property tax, the application of the fiction under Section 239a(1) of the TC is likewise indisputable and is even supplemented by a special provision in the Real Property Tax Act, which extends the deadline for filing a tax return in the event of the taxpayer’s death or the conclusion of probate proceedings. The fiction is essential for determining who bears the tax liability during the transitional period, in which ownership of the property has not yet passed to the heirs.

For an indirect tax, such as value added tax, the legal fiction under Section 239a(1) of the TC is fully applicable. The Value Added Tax Act contains specific, partial provisions for cases of a taxable person’s death. The fiction is indispensable for settling VAT obligations (including the obligation to

adjust the input tax deduction) and for determining the moment at which the taxable person's registration is canceled.

In the case of gambling tax, the application of the fiction is only theoretical. The Gambling Tax Act introduces a special rule of self-assessment and self-determination. If the taxpayer fails to file a tax return within the statutory period (which necessarily occurs upon the taxpayer's death), the tax is assessed *ex lege* at zero, thereby eliminating the need to apply the fiction under Section 239a(1) of the TC.

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