

## Tax on the purchase of real estate will be paid by the buyer

### Prague Building Code

From 1 August 2016, the new Prague Building Code, i.e. Decree of the City of Prague No. 10/2016, laying down the general requirements for land use and technical requirements for buildings in Prague, will come into effect. It will replace Decree No. 11/2014, whose effectiveness was suspended in January 2015 by the Ministry of Regional Development.

In addition to basic territorial organisation and placement of buildings, the Prague Building Code also regulates the width of streets, the number of parking spots and the planting of greenery. However, it also contains requirements for the construction of new housing (lighting, height and area of rooms, total area of windows, staircase dimensions), etc.

The part of the Prague Building Code that has inspired the most public discussion is the highly detailed regulation of the placement of billboards. In the original draft of the Code, all billboards larger than six square metres were to be banned from the developable area of Prague. The approved version permits only a limited number of billboards in historically protected areas and monument zones. In these locations it will not be possible to place billboards larger than four square metres, whereas the billboards must be at least 100 metres distant from each other.

A point of criticism by experts is the fact that the Prague Building Code lays down building requirements that are different from those in the Building Act applicable to the rest of the Czech Republic. The government is currently discussing an amendment to the Building Act that would, among other things, abolish the ability of the Capital City of Prague to create its own building code.

Peter Perniš

The Czech Parliament has approved an amendment to the statutory measure of the Senate on tax on the acquisition of immovable property (no. 340/2013 Coll.). The most important innovation that the amendment will introduce is that the buyer of the real estate will now be the taxpayer in the transaction. It will no longer be possible to agree in the purchase contract or contract of exchange that the seller will be the taxpayer.

Although this change restricts the contractual freedom of the parties, in general it is to be welcomed. Besides eliminating difficulties arising from the current legislation, the need to negotiate about who the taxpayer will be will disappear. The amendment also abolishes the statutory liability of the other party to the transaction for the payment of the tax that previously applied in cases where the taxpayer was the seller.

Another change involves the rule on the tax exemption for first purchase of new buildings and units. The exemption will now apply only to finished or occupied buildings and units, but not to buildings and units under construction. In fact, it is difficult in practice for tax authorities to determine whether a particular case entails the first purchase of the real estate (note: unfinished buildings are not recorded in the Land Register).

The amendment also simplifies the determination of the tax base for exchanges of immovable property and frees regions, municipalities and their voluntary unions from paying tax on the purchase of real estate. Local government bodies will therefore not have to submit tax returns at all.

Contrary to the expectations of some, the tax rate will remain at four percent.

The amendment must also be signed by the President. The change will come into effect from the first day of the third month following its publication in the Collection of Laws.

Dominika Veselá



**(Un)important consequences of defects in the statement of the building owner**

One of the basic ways in which ownership to apartment units is established is the depositing of the statement of the building owner in the Land Register.

According to the legislation effective until the end of 2013, the owner's statement could be invalid if the units were not clearly identified and the statement was therefore not sufficiently definite.

As a consequence, purchase contracts under which title to a unit was transferred to a third party were also invalid.

In judgment ref. no. 29 Cdo 34/2015, the Supreme Court confirmed that as at 1 January 2014, ownership of units established on the basis of prior legislation passes to the legislation of the New Civil Code. Thus if title to a unit is recorded in a public list, the statement cannot be declared invalid and it cannot be stipulated that the ownership of the unit was not established if it was acquired by a third party.

Under the current legislation, possible defects in the statement can also be removed (i) by the originator of the statement; (ii) by mutual declaration of the owners of the affected units; or (iii) by court decision on the removal of the defects (at the proposal of someone who demonstrates their legal interest in this decision).

The above-stated decision of the Supreme Court thus significantly strengthens the legal certainty of the owners of apartment units.

Jakub Verlík

**Occupational safety and health in the construction sector – new obligations**

With effect from 1 May of this year, the Act on Securing Other Conditions for Occupational Safety and Health (Act No. 309/2006 Coll.) was amended. The amendment, which will affect many relationships among entities active in construction, is prompted by the need to ensure a higher level of occupational safety and health at construction sites.

The legislator has introduced, among others, the following changes:

- The employer is obliged to ensure and carry out risk assessment and prevention in all of the activities it ensures (until now it only had this obligation in relation to the subject of its activities);
- The qualifications for occupational safety and health coordinators who work at construction sites will become stricter (the "coordinator"). In particular, they will now be required to have at least secondary (with school-leaving exam) or university education in a technical field and it is expressly forbidden for the coordinator to be the contractor of the construction or its employee;
- The obligation to designate the coordinator in writing in the preparatory phase of the construction (from the commencement of construction works to the drafting of project documentation for building management to its submission to the project owner) as well as during the implementation of the construction (from the takeover of the construction site by the first contractor to the delivery of the finished building to the project owner) is introduced;
- The requirements for the content of the occupational safety and health plan at the construction site are specified and it is clearly specified that the plan is drawn up by the coordinator.

We recommend paying close attention to all of these changes. Besides their significance for improving safety at construction sites, the new standard is of course accompanied by the addition of a statutory catalogue of related offences and administrative delicts in the area of occupational safety and health.

Tomáš Mls

**Dvořák Hager & Partners  
Czech Republic**

Oasis Florenc, Pobřežní 394/12  
186 00 Prague 8  
Czech Republic

tel.: +420 255 706 500  
fax: +420 255 706 550  
e-mail: praha@dhplegal.com

**Dvořák Hager & Partners  
Slovakia**

Cintorínska ul. 3/a  
811 08 Bratislava  
Slovakia

tel.: +421 2 32 78 64 – 11  
fax: +421 2 32 78 64 – 41  
e-mail: bratislava@dhplegal.com