



MASARYK UNIVERSITY
FACULTY OF LAW

Property Law and Tax Law: Czech Republic Reforms

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Legal Basis for Taxation

Act no. 338/1992 Sb., Act on Tax on Immovable Property (Real Estate Tax Act), as amended

New Civil code Act no. 89/2012 Sb. brought some changes also for taxation in legal act mentioned above

Main change - superficies solo cedit principle



Objects of Taxation

Even the Act on Tax on Immovable Property divides this tax de iure into two parts (land tax and building/flat tax), according to specifics of the structural items it is better to divide the tax into three, respectively four parts - land tax, building tax, flat tax and very similar to the last one non-residential premises tax.

It is necessary to count every tax for every real estate separately. The total sum of these taxes is the final real estate tax written down in one tax return.



Land Tax

- The object of land tax is created by the lands in the territory of the Czech Republic registered in the land register.
 - Agricultural lands like arable land, hop-fields, vineyards, gardens, orchards and permanent grass growth;
 - Commercial forests;
 - Ponds used for fish-farming;
 - Built-up areas and courtyards;
 - Development lands;
 - Flat structures (new in 2012!!!);
 - Other areas (playing fields, bathing places, cemeteries, etc).



Building Tax

- The objects of taxation are the **buildings** and a **civil engineering structure** (listed in the Annex to the Act on Tax on Immovable Property) and **dwelling units** in the territory of the Czech Republic connected to the land with fixed foundations. These buildings must have an acceptance certificate. There is a group of several more buildings that are liable to tax:
 - Buildings that are used even if there is no acceptance certificate (but it should be);
 - Buildings that are used even if there is no acceptance certificate but the building owner has a permission to use them;
 - Buildings for which the acceptance permission was not necessary but now it is.



Flats and Non-Residential Premises Tax

Only flats and non-residential premises registered in the Real Estate Cadastre are **liable to tax**. Buildings, in which flats and non-residential premises are objects of taxation, are not liable to buildings tax.



Major Exemptions

- Public interest, ecological aspects and international treaties
- Real estate owned by state, municipalities, regions and diplomatic representatives
- Real estate owned by churches, schools and universities, museums and galleries, hospitals, etc.
- Agricultural lands for five years and woodlands for 25 years after recultivation
- Real estate affected by a natural disaster for a period up to five years (depends on opinion of municipality)
- Structures used in public passenger transport
- Agricultural lands except gardens, if the municipality decides so
- Newly-constructed residential buildings and flats in newly-constructed residential buildings owned by individuals for 15 years after the issue of an acceptance certificate; abolished in 2009
- Cultural monuments for eight years after the year following the year when a building permit was issued for alterations undertaken by the owner
- Structures where the heating system was converted from use of solid fuels to more ecological fuel for five years; abolished in 2009, but to be used in 2012 for the last time



Taxpayers

- In most cases the taxpayer of the land tax is the **owner of the land.**
- **Leaseholder**
- **User**
- **Builder (while taxing civil engineering structure)**

- **Problems of legal liability**
- **Problems of co-ownership was basically solved -**
Newly tax administrator assess TAX ex officio in an amount corresponding to the proportion of the co-owners of real property without a prior call for filing tax returns.



Tax Base

■ Land Tax:

- **Agricultural lands** - the price of land determined as a multiple of the actual area of the land in square meters and the average price per square meter of the land laid down in a decree.
- **Commercial forests and ponds used for fish-farming** - the taxpayer can choose, what is better for him: whether to use the price of the land as determined pursuant to the price regulations valid on 1 January of the taxable period or the actual area in square meters multiplied by 3,80 CZK.
- **Other lands (built-up areas and courtyards, development lands, flat structures and other areas)** - the actual area of the land in square meters, as ascertained on 1 January of the taxable period.

■ Building Tax:

- Built-up area in square meters as on 1 January of the taxable period.

■ Flats and Non-Residential Premises Tax:

- So called adjusted floor area - the floor area of the flat or non residential premise in square meters as on 1 January of the taxable period, multiplied by a coefficient of 1,22.



Tax Rates - Land Tax

- **Agricultural lands - 0,25 % / 0,75 %.**
- **Commercial forests and ponds used for fish-farming - 0,25 %.**
- **Other lands (built-up areas and courtyards, development lands and other areas) - fixed up to 5 CZK/m².**
- **The final tax (excl. arable land, hop-fields, vineyards, orchards and permanent grass growth) can be multiplied by the local coefficient at 2, 3, 4 or 5 assessed by a generally binding ordinance. This resolution depends on the municipality.**



Tax Rates - Building Tax

- **Residential buildings** - 2 CZK per square meter.
- **Other structures that provide facilities for residential buildings** - 2 CZK per square meter.
- **Houses and family houses used for individual recreation** - 6 CZK per square meter.
- **Other structures that provide facilities for houses and family houses used for individual recreation** - 2 CZK per square meter.
- **Garages** constructed separately from residential buildings - 8 CZK per square meter.
- **Structures for business activities** - depends on the type of business activities: 2 - 10 CZK per square meter.
- **Other structures** - 6 CZK per square meter .
- The final tax can be multiplied by the local coefficient at 2, 3, 4 or 5 assessed by a generally binding ordinance. This resolution depends on the municipality.



Tax Rates - Flats and Non-Residential Premises Tax

- **Flats** - 2 CZK per square meter.
- **Non-residential premises for business activities:** 2 - 10 CZK per square meter.
- **Non-residential premise is used as a garage** - 8 CZK per square meter.
- **Non-residential premise is used for anything else** - 2 CZK per square meter.

- The final tax can be multiplied by the local coefficient at 2, 3, 4 or 5 assessed by a generally binding ordinance. This resolution depends on the municipality.



Budget Revenue

The revenue from the real estate tax is the income of the municipality in whose district is the real estate situated.

- Real Estate Tax revenue aprox. 400 mil. EUR
- Real Estate Tax revenue as percentage of local tax revenue aprox. 5 %
- Real Estate Tax revenue as percentage of total tax revenue to central and local government aprox. 1,5 %



Tax Administration

- So-called autoapplication is used.
- It means that taxpayer calculates the tax using correct tax base and tax rate, he must file the tax return by 31 January of the taxable period and write there all the information about the taxpayer and about the real estate (kind of real estate, its location, legal relationship, area of real estate, way of its use, possible exemption etc.). In fact, the tax return is not necessary to be filed every year; usually if the tax return was filed in any of the previous taxable period and there are no changes, the taxpayer does not have this duty. Even if there are changes in the tax rate, in the average price of land, in the coefficients, etc., there is no duty to file the tax return.
- The real estate tax is assessed according to the situation as on 1 January of the calendar year of which it is assessed (no matter if there was a duty to file the tax return or not in that calendar year).



Control

- In case of disposing with the real property, the contract must be sent to the cadastre office and real estate transfer tax must be paid to the financial office. It means that the cadastre office knows all the details about the real estate and the taxpayer and both the cadastre office and the financial office know the price of the property.



Tax Payments

After assessing the tax, the financial sends a post money order with the amount of tax to every taxpayer - natural person.

If the annual real estate tax does not exceed 5 000 CZK, it shall be payable in one payment no later than 31 May of the current taxable period. If the tax exceeds 5 000 CZK, it shall be payable in two equal installments no later than 31 May and 30 November. The taxpayers engaged in farming and fish-farming have to pay the tax in two installments no later than 31 August and 30 November.



Conclusion?

- Legal regulation of real estate taxation in the Czech Republic is not perfect. The most discussed thing is whether to change the tax base - to replace existing unit taxation to ad valorem taxation. The tax base should correspond with the market value of the real estate. The value should be set by municipalities that have the best knowledge about the prices in their territory without any experts or assessors. The value can be used for transfer taxes or inheritance proceedings, too. The municipalities can create the map of value zones for the purpose of the real estate tax base. If anybody is not satisfied with the price of his real estate set by the municipality, he should have the possibility to appeal to the local financial office.
- The municipalities should have the right to set the tax rate but in the act there should be some interval (for example 0,05 - 0,5 %). The other (usually higher) tax rate should be applied on development lands and the real estates serving for running business. Lower tax rates can be used for the real estates like family houses and flats for living.
- The municipalities should be the only real estate tax administrators.
- The taxpayer should in his tax return complete just identification data necessary to set the tax base. The tax administrator's task should be to control the information through the real estate cadastre, set the tax base, calculate the tax and assess it.

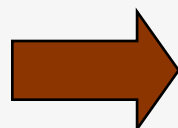
Everything mentioned above would fill one of the most important principles of the tax law - principle of effectiveness: the tax administration would not trouble the taxpayers too much but it should reach the aim of the proceedings, it means assess and collect the taxes not to cut the tax incomes.

→ fiscal autonomy and information to taxpayers



Aims of Reform (using materials of Mrs Holmes, Ministry of Finance)

- More transparent and easier system of tax base
- More fair system
- Possibility for municipalities
- Cost minimalization



Tax bases map



Tax bases map - land

- Combined system
 - process and updating Municipality
 - procedures and supervision M. of Finance
- Tax bases map has two parts - graphic and text part



Tax bases map

Graphic part

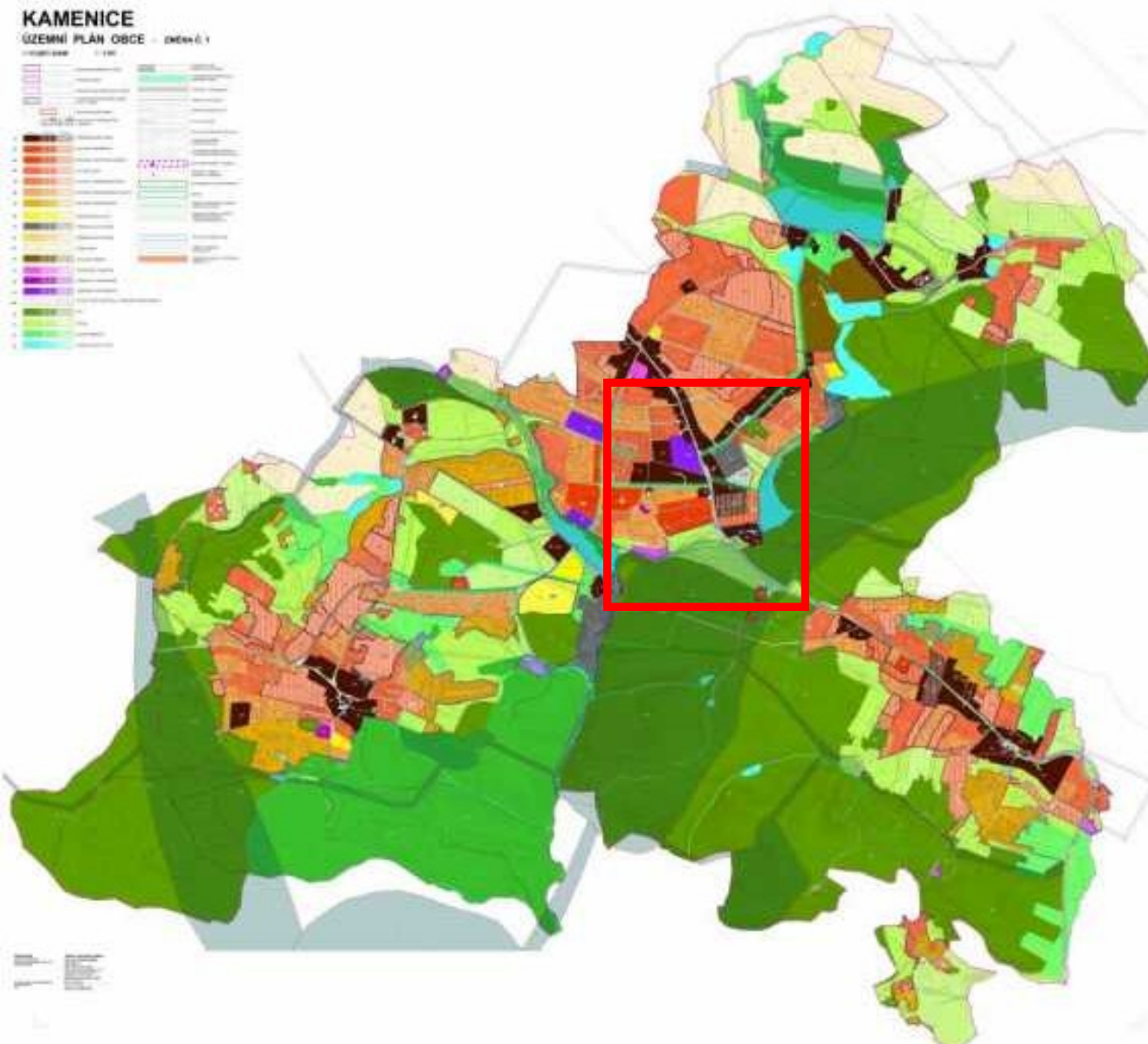
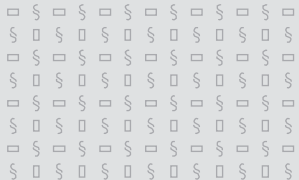
- the bases are the copies of cadastral maps
- the aim is to unify the real and legal status
 - starting point » real situation
 - definition of land zones
 - land zones distinguished by colours

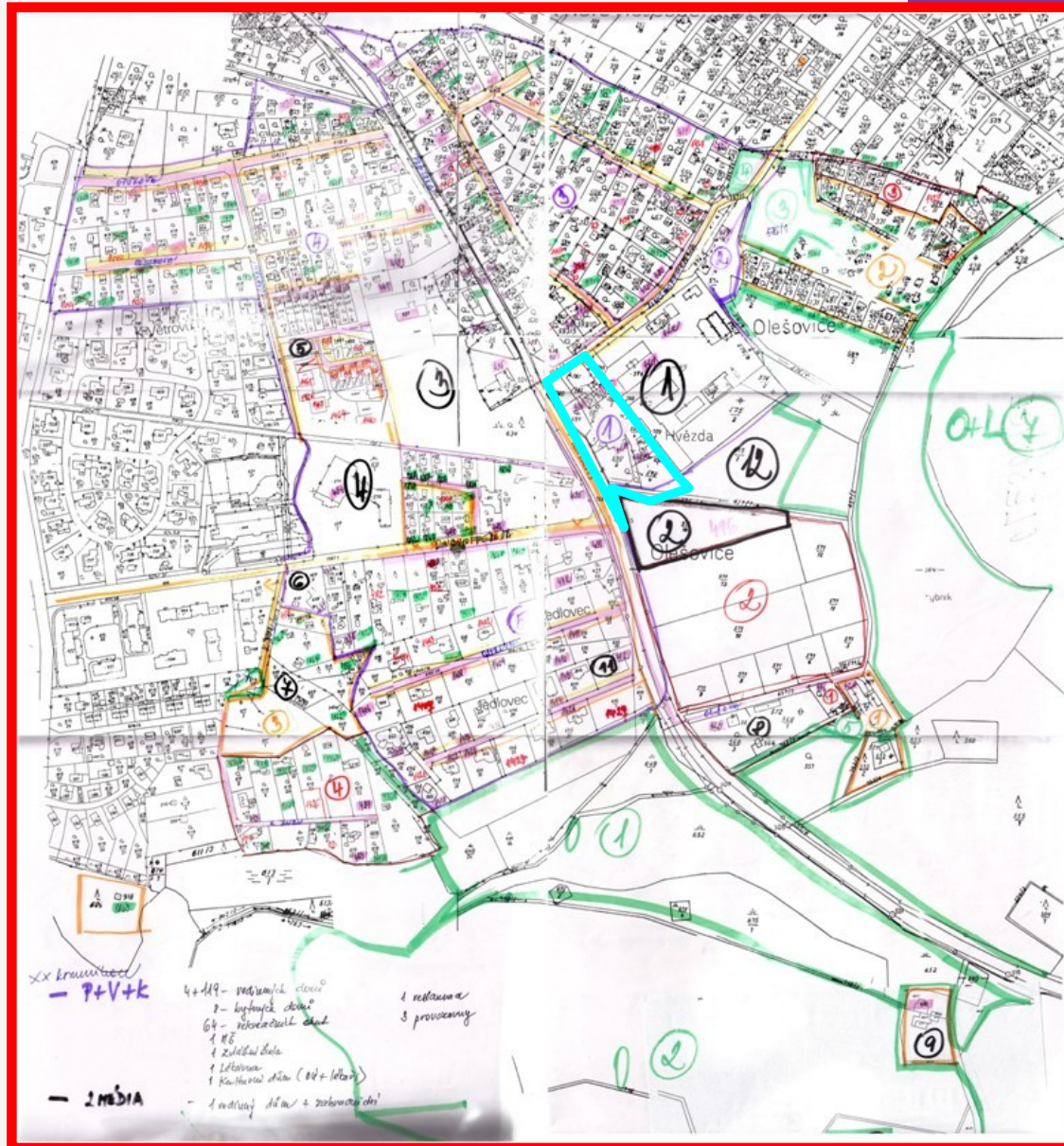
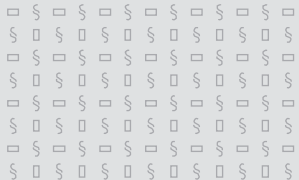


Tax bases map

Text part

- **lists of individual zones**
 - **incl. kind, use and area of the land**
- **tax base: price for square meter of the land**
 - **description of starting points incl. variations and limitations**
- **differences btw. real and legal status**





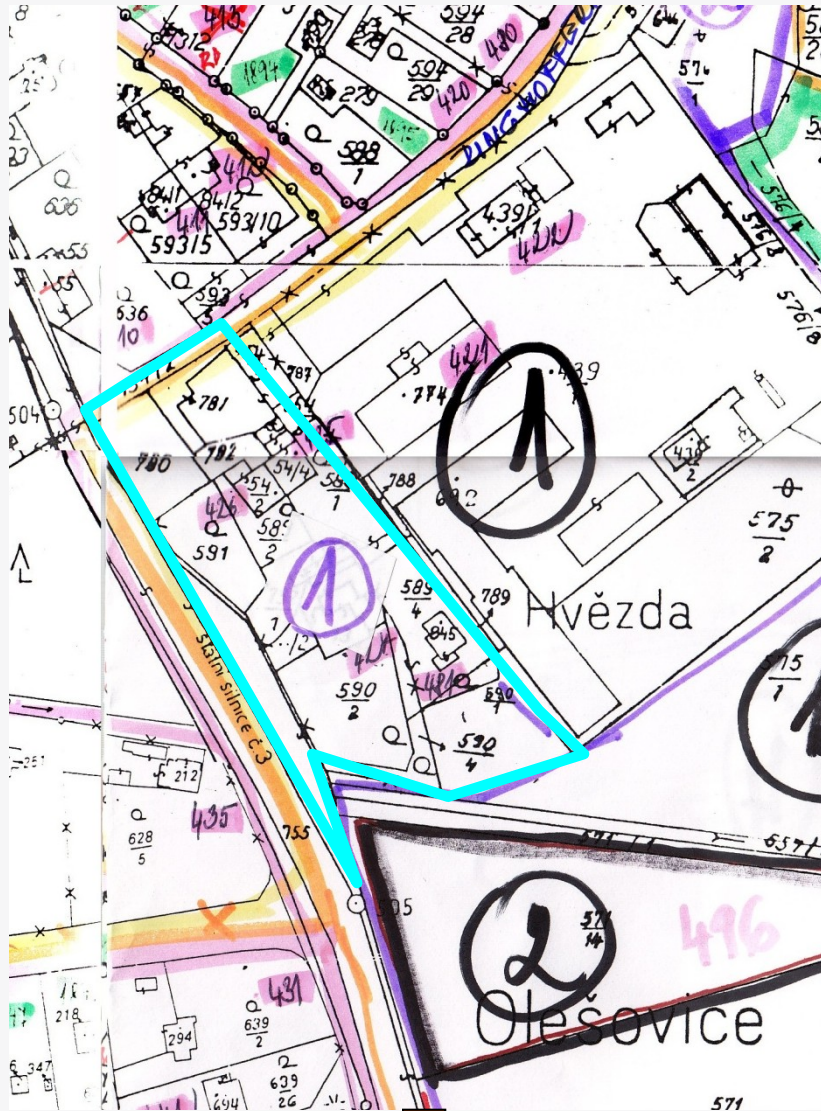


Part of the municipality Olešovice

Violet zone 1

Black zone 2

**depends on number of medias (gas, water
conduit, surgery, electricity, etc.)**



MISYS

Page 1 of 1

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MISYS-Katastr..Určeno pouze pro vnitřní potřebu!

PARCELY VYBRANÉ V MAPĚ

OKRES: CZ0209 Praha-východ,3209

Data ke dni: 1.06.2009

OBEC: 538299 Kamenice

KAT.ÚZEMÍ: 662445 Ládvi

SOUPIS PARCEL

původ: Katastr nemovitostí (KN)

Parcela	Výměra [m ²]	Druh	Využití	LV
KN st.54/2	208	zast. pl.	Olešovice,č.p.426 LV 1440	1440
KN st.54/3	86	zast. pl.	budova bez čp/če LV 2942	2942
KN st.54/4	241	zast. pl.	Olešovice,č.p.425 LV 1111	1111
KN st.54/5	837	zast. pl.	budova bez čp/če LV 2942	2942
KN st.73	563	zast. pl.	Olešovice,č.p.427 LV 3345	3345
KN st.845	134	zast. pl.	Olešovice,č.p.481 LV 2946	2946
KN st.957	61	zast. pl.	budova bez čp/če LV 3448	3448
KN st.960	61	zast. pl.	budova bez čp/če LV 3535	1111
KN 575/4	1104	orná půda	-	3448
KN 589/1	821	zahrada	-	1111
KN 589/2	376	zahrada	-	1440
KN 589/4	897	zahrada	-	2946
KN 590/1	106	zahrada	-	3448
KN 590/2	1175	zahrada	-	3345
KN 590/4	274	zahrada	-	10001
KN 591	670	zahrada	-	1440
KN 757/1	376	ostat.pl.	jiná plocha	1440
KN 757/2	166	ostat.pl.	ostat.komunikace	
KN 780	763	ostat.pl.	zeleň	10001
KN 781	270	ostat.pl.	ostat.komunikace	10001
KN 782/1	147	ostat.pl.	ostat.komunikace	10001
KN 782/2	11	ostat.pl.	ostat.komunikace	1440
KN 782/3	28	ostat.pl.	ostat.komunikace	2942

V katastru nemovitostí celkem 23 parcel o výměře 9375 m²

Vyhotoveno systémem MISYS (rev.12666), 21.07.2009 11:02:20.



Basic tax base for m² of the land

- Violet - gas, water conduit, surgery- 100 %
- Black - two medias - 60 %



Possible problems

- Agricultural lands will be taxed in different (old) way
- Higher administrative costs means higher tax???
- Historical consequences (restitution, status quo in real estate market, rent regulation)
- Possibilities to appeal against the tax base
- Competence of municipalities (6300 municipalities)



Solution for buildings

- Up to date status with partial changes
- Set in % using the land values
- Appraisal by standard methods (comparative, reventual, cost)



Solution for the Czech Republic

- unit system
- maximal rates in act according to type of property
- basic rates for those municipalities who are not able to adopt own ordinance
- administered by state



Thank you for your attention