

ÚSTAV FYZIKÁLNÍ CHEMIE J. HEYROVSKÉHO AV ČR 's FOREIGN EMPLOYEES TAX HANDBOOK

Updated version to 1.2. 2019

I. Purpose

The purpose of this handbook is to provide foreign employees of Ústav fyzikální chemie J. Heyrovského AV ČR, v.v.i., („UFCH“) with general and basic information on the rules for the taxing of income from their employment with UFCH in the Czech Republic. Foreign employees of UFCH are further indicated as “Employees”. This handbook is not tax advice. Any individual situation has to be consulted with the Employer’s human resources department and/or a tax expert.

II. Definitions (in alphabetical order)

Centre of vital interest: is determined with regard to the Employee’s personal and economic ties to one of the Contracting States. A number of factors are considered in this respect, such as the location of the Employee’s family, the possession of property in the Contracting State and the place where the Employee performs their work, professional or economic activities etc.

Czech tax non-resident under the Czech Income Taxes Act (the “ITA”): an individual who does not stay in the Czech Republic for 183 days in a calendar year **and** does not have their Permanent Home in this country. Each commenced day of the stay is included.

Czech tax non-resident under a Double Tax Treaty is an individual who is:

- a Czech tax non-resident under the ITA (i.e. he/she does not satisfy any of the criteria for being the Czech tax resident under the ITA), or
- a Czech tax resident under the ITA (at least one of the criteria for the Czech tax residency has been satisfied) who is, under the relevant Double Tax Treaty, considered a tax resident of the other Contracting State.
- Generally, we can say, that the individual who meets criteria in both Contracting States for being considered there tax resident based on local legislation who continues to live in another Contracting State than the Czech Republic, where he returns regularly to be with his family, even if he works temporarily in the Czech Republic, is usually tax non-resident in the Czech Republic. However, it is always necessary to proceed in accordance with the relevant wording of the particular double tax treaty and take into account also the wording of the local income tax act of second contracting State.

Czech tax resident under the ITA: an individual who stays in the Czech Republic for a minimum of 183 days in a calendar year **or** has their Permanent Home in the Czech Republic. Each commenced day of the stay is included.

Czech tax resident under Double Tax Treaty is generally as follows, the criteria are evaluated successively (the particular Double Tax Treaty has to be taken into account):

- an individual who satisfies one of the criteria for the Czech tax residency under the ITA and is not considered a tax resident under the local tax legislation of the other Contracting State;
- an individual who is, under the local tax legislation, considered a tax resident of both Contracting States and has their Permanent Home only in the Czech Republic;
- an individual who has Permanent Home in both Contracting States and whose Centre of vital interest is only in one Contracting State, i.e. in the Czech Republic;
- an individual whose Centre of vital interest cannot be determined in any of the Contracting States, or if he has not Permanent Home available to him in either Contracting State, is the Czech tax resident if he has the Habitual Abode in the Czech Republic;
- an individual who has the Habitual Abode in both Contracting States, is the Czech tax resident if he is the Czech national;
- if the individual is both the Czech national and the national of the other Contracting State, the Ministries of Finance of the Contracting States should reach an agreement on the matter.

The Czech tax resident taxpayer status is generally confirmed by a special certificate issued by the Czech tax authority (in Czech "*Potvrzení o daňovém domicilu v České republice*"). The certificate is issued based on written request sent to the Czech tax authority with the tax stamp of 100 CZK.

Contracting State: the State which is the party to the Double Tax Treaty concluded with the Czech Republic.

Coordination Regulation: Regulation (EC) No. 883/2004 of the European Parliament and of the Council on the coordination of social security systems as amended by Regulation (EC) No. 465/2012 of the European Parliament and of the Council. This Regulations states where social security contributions (including health insurance) should be paid where the work is performed in one or more Member States. There should be always only one Member state where the insurance is paid from all employments even if performed in different Member States.

Double Tax Treaty: Convention on the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. The Czech Republic concluded approximately 90 Double Tax Treaties.

Employee: any foreign person who has entered into an employment relationship with the Employer.

Employer: Ústav fyzikální chemie J. Heyrovského AV ČR, v.v.i

Habitual Abode: an individual has their habitual abode in the Czech Republic if he is, consecutively or in several periods, present in the Czech Republic for at least 183 days in a calendar year. Each commenced day of the stay is included.

Implementing coordination regulation: Regulation (EC) No. 987/2009 of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No. 883/2004 of the European Parliament and of the Council as amended by the Regulation 465/2012.

Income from employment from Czech sources taxable in the Czech Republic is namely: Employment income received for work performed in the Czech Republic, irrespective of the Employer's registered office.

ITA: Act No. 586/1992 Sb., on Income Taxes

Member State: Member State of the EU, EEA or Switzerland

Permanent Home: (for the purpose of taxation) it is the place where the taxpayer has their home, and the circumstances indicate their intention to permanently dwell there. Any form of home may be taken into account (house or apartment or furnished room owned or rented by or at the disposal of the taxpayer) even if it is not recently used by the Employee.

Taxable period: calendar year

III. Basic principles of taxation in the Czech Republic

The Czech **tax year** is the calendar year.

The **extent of taxation** in the Czech Republic depends on the Employee's **tax residency status**.

Czech tax residents are taxed on their worldwide income, i.e. their income from Czech sources as well from other than Czech sources has to be declared in the Czech Republic. If the foreign income has been generated in a State which is a party to the Double Tax Treaty concluded with the Czech Republic, the method of avoidance of double taxation applies.

Czech tax non-residents are taxed on their income from Czech sources only. The income from employment from Czech sources is the income for the work performed physically on the Czech territory.

Czech tax non-residents have to declare their worldwide income in the State where they are tax residents (including the one that was already subject of taxation in the Czech Republic). If the State of the tax residency is the State with which the Czech Republic concluded the Double Tax Treaty, the relevant method of avoidance of double taxation in accordance with the Double Tax Treaty applies and the income will not be taxed twice.

Spouses are taxed separately.

The aggregate tax base is subject to a **rate of rate is 15 percent**. The **tax base** from employment corresponds to gross income increased (i) by taxable benefits (**taxable income**) and (ii) by social security and health insurance contributions paid (or to be paid) by the Employer in accordance with Czech legislation (**so called supergross tax base**). **For the purpose of taxation, the income from employment is increased by the amount corresponding to the social security and health insurance contributions that would be paid by the Czech employer in accordance with Czech legislation, even if the employee is subject to foreign legislation in the matter of social security (except of the EU, EEC and Switzerland where special rule applies).**

As of 1. 1. 2019, if the employee is provably submitted to the social security legislation of another Member State (i.e. EU, EEC or Switzerland), the amount of compulsory contributions by which is increased the taxable income (the supergross tax base), correspond´s to the Employer´s compulsory part of contributions to the social security and health insurance contributions in another Member State. Thus, it is very important that the Employee undertakes all necessary steps to obtain the form A1 proving that he is submitted to the legislation of another Member State from the respective social security institution as soon as possible.

The part of the aggregate income from employment and business and professional activities (if any) which exceeds the multiple of 48 of the average salary (CZK, 1,438,992 in 2018 and CZK 1,569,552 in 2019) is subject to the additional **7 percent solidarity surcharge**. The solidarity surcharge prepayment has to be withheld by the Employer from the positive difference between the taxable employment income and 1/12 of the above threshold. If the aggregate income from employment and business and professional activities (if any) does not exceed the annual threshold, the prepayment on the solidarity surcharge is reimbursed by the Employer in the annual account or by the competent Czech tax authority based on the income tax return, depending on the situation of the Employee.

IV. Obligations of the Employee upon commencement of the employment with the Employer

Each Employee is obliged to:

- complete and sign the “Entry form” and submit it to the Employer;
- provide the Employer with the A1 certificate if the social security legislation of other Member State applies based on the Regulation and the Implementing Regulation; generally it concerns the situation when the Employee does not work exclusively for UFCH, but also for another employer in another Member State, or he works exclusively for UFCH but not only in the Czech Republic, but also in another Member State which is generally the State of his permanent home).
- provide the Employer with a copy of the document authorizing the Employee to work and reside in the Czech Republic if necessary (this applies to citizens of countries **other than the Member States**).

The Employee who is a **tax non-resident is obliged** to provide the Employer with the following information and document it:

- tax residency status (inform the Employer in which State the Employee is tax resident);
- tax or other number used in communication with the tax authority of the State whose tax resident the Employee is;
- information from the identification card or passport (ID number, code of the state which issued the ID card or the passport);
- address of the Permanent Home in the State whose tax resident the Employee is.

V. **Taxation of the Czech tax non-resident's employment income in the Czech Republic**

Income of the Czech tax non-resident earned for **work physically performed in the Czech Republic** for the Employer is subject to tax in the Czech Republic from the first day of the work performance. The tax is deducted by the Employer in the form of a prepayment or withholding, depending on the type of income.

Income of the Czech tax non-resident earned for **work physically performed outside the Czech Republic** is not subject to tax in the Czech Republic. The tax is even not deducted in the form of a prepayment if the Employee sufficiently proves to the Employer their non-resident taxpayer status (i.e. the Employee is not the Czech tax resident). Generally, a certificate of tax residency (tax domicile) issued by the tax authority of the State, whose tax resident the Employee is, is a sufficient proof for no withholding of the income tax advance when the Employee performs the work outside of the Czech Republic.

Some of Double Tax Treaties include a special article "**Professors and Researchers**" that has to be considered. Based on some of these articles in a particular Double Tax Treaty the income of the researcher working in the Czech Republic might be exempt from taxation in the Czech Republic. If the particular Double Tax Treaty contains such article and the Employee meets and documents the conditions indicated in this Article, his remuneration is not subject of taxation in the Czech Republic. Such income has to be fully taxed by the Employee in the state of his tax residence.

The Employer has the obligation to report detailed information on the taxable income of any tax non-resident to the Czech tax authority. This authority provides this information to the tax authority of the State of tax residency of the Employee according to the rules for international exchange of information.

VI. **Taxation of the Czech tax resident's employment income in the Czech Republic**

Income of the Czech tax resident earned for work performed in the Czech Republic and also short-term work abroad (with some exceptions) is subject to tax in the Czech Republic from the first day of the work performance. The Czech tax resident is moreover obliged to declare their

worldwide income in the Czech Republic (it concerns all types of income). If income from abroad has been already taxed in other Contracting State based on the applicable Double Tax Treaty, the relevant method of avoidance of double taxation applies.

VII. Entitlement to the basic tax credit (deducted up to the Employee's tax liability)

The Czech tax non-resident and the Czech tax resident who perform work **exclusively for the Employer in the Czech Republic** are entitled to the basic tax credit if they sign the **Declaration of the taxpayer liable to personal income tax from employment** (in Czech "*Prohlášení poplatníka daně z příjmů fyzických osob ze závislé činnosti*") in compliance with the ITA by the stipulated deadline (generally immediately after the employment commences). This does not apply to income subject to the withholding tax where the taxpayer is not entitled to the basic tax credit.

The monthly tax credit in 2018 and 2019 is **CZK 2,070, i.e. CZK 24,840 per year.**

Czech tax non-residents and Czech tax residents **of the maximum age of 26 years** (28 years in case of doctoral programme of study) who **are students at qualifying universities** are entitled to the special tax credit for students if they submit to the Employer a certificate proving their student status. This does not apply to income subject to the withholding tax. **The monthly tax credit for students in 2018 and 2019 is CZK 335, i.e. CZK 4,020 annually.**

Under the ITA the Czech tax non-resident **is not entitled to any other tax credits**, child allowances or deductible items.

However, **tax residents of the Member States of the European Union and the European Economic Area** may, under special conditions, **apply** other tax credits, child allowances and/or deductible items **only in the income tax return but** not through the yearly settlement with the employer that should not be requested in such a case (for details see Chapter IX).

VIII. Entitlement of Czech tax residents to apply deductible items, other tax credits and child allowances

Under the conditions stipulated in the ITA the **Czech tax resident** may apply the following deductible items from the tax base, tax credits and child allowances to decrease their tax liability.

Items deductible from the tax base are as follows (if the relevant conditions indicated in ITA are met):

- maximum annual interest of CZK 300,000 on mortgage paid by taxpayer for the taxpayer's main residence, as defined by the ITA;
- maximum total annual private life insurance premiums of CZK 24,000 paid by taxpayer are deductible from the tax base if the insurance contract stipulates that the benefits will only be paid after 60 months, not before the insured person reaches the age of 60 years and if the insurance contract it does not allow premature withdrawals before the insured person reaches the age of 60 years;

- maximum total annual premiums of CZK 24,000 paid by the taxpayer to a state-contributory supplementary pension fund or to a voluntary pension saving scheme if the taxpayer contributes at least CZK 36,000 .
- qualifying donations to social, scientific, cultural, educational and sport organisations with the seat in the Czech Republic, including those established in other EU Member State or EEA State, and to municipalities if they correspond to a minimum of two percent from the taxable base or CZK 1,000. The total amount of deductible donations may not exceed 15 percent from the taxable base.

Other applicable tax credits up to the taxpayer's tax liability:

- o CZK 24,840 for a spouse living in the taxpayer's household if the spouse's annual income does not exceed CZK 68,000 (the tax credit is doubled if the spouse is severely disabled);
- o CZK 2,520 if the taxpayer is entitled to a partial disability pension;
- o CZK 5,040 if the taxpayer is entitled to a full disability pension;
- o CZK 16,140 if the taxpayer is severely disabled; and
- o CZK 12 200 in 2018 and CZK 13 350 for preschool childcare costs per child (e.g. costs of a day-care establishment).

Child allowances may be deducted up to the limit exceeding the taxpayer's tax liability as follows:

- o the taxpayer who has taxable income from employment and has at least one dependent child living in their household on the territory of the Czech Republic, other Member State of the European Union or the European Economic Area is entitled to the annual tax credit of:
 - CZK CZK 15 204 in 2018 and 2019 for the first child
 - CZK 19 404 in 2018 and 2019 for the second child
 - CZK CZK 24 204 in 2018 as well as in 2019 for every following child.
- o If the amount of the tax credit for child allowances exceeds the taxpayer's tax liability based on income from employment, business, capital and rentals, the difference is refunded up to the limit of CZK 60,300. This refund is granted if the taxpayer's minimum income from employment and business is CZK CZK 73 200 in 2018 and CZK 80 100 in 2019.

Tax deductible items and most of the other tax credits (other than basic ones indicated in the Chapter VII) may be generally applied in the annual account of tax advances and tax credits prepared by the Employer under the conditions indicated in Chapter X if the Employee proves their entitlement to them as well as their Czech tax residency. 1/12 of tax credits for disabled persons and child allowances may be deducted during the current year **if the Employee sufficiently proves the entitlement to such deductions and their Czech tax residency. However, very often, the tax status of the Employee from abroad (i.e. if he is or is not a Czech tax resident) may not be fully evaluated before the tax year ends and thus the Employer may not make the deductions in the course of the tax year.**

We recommend that new Employees who consider themselves to have been Czech tax residents based on the above criteria, apply to the Czech tax authority for the tax residence (tax domicile) certificate always immediately at the beginning of the following year for which they intends to apply for tax credits and allowances (other than the basic ones). The application, accompanied by relevant documents proving the status of the taxpayer, is currently subject to a fee of CZK 100 to be paid to the tax authority simultaneously. The tax authority has generally 30 days to issue the certificate which has to be presented to the Employer not later than 15 February of the following year. The certificate is not issued for future periods.

Czech tax residents may apply tax deductible items, other tax credits and child allowances **in the annual account of tax advances and tax credits prepared by the Employer or in their income tax return.**

However, if the Employee is obliged to file the income tax return based on ITA provisions (even if he/she is Czech tax resident) or fails to provide the Employer with sufficient proof of Czech tax residency in the past tax year **before 15 February of the following year**, the Employee, Czech tax resident, has the possibility to apply deductible items, tax credits and child allowances in the income tax return. For deadline see Chapter XI.

IX. Entitlement of tax residents of the other Member States of the European Union and the European Economic Area to apply other tax credits, child allowances and tax deductible items stated in Chapter VIII

The Czech tax non-resident, who is the **tax resident of any Member State of the European Union or the European Economic Area (not Switzerland)**, may apply other tax credits, child allowances and deductible items exclusively in the income tax return filed with the local tax office **if the following statutory conditions are met:**

- taxable income derived from sources in the Czech Republic represents **at least 90 percent of their worldwide income** (income that is exempt or subject to the withholding tax is not considered) **and**
- this fact (i.e. that income from sources abroad does not exceed 10 percent) is proven to the Czech tax administrator by a special certificate issued by the tax authority of the State whose tax resident the taxpayer is.

X. **Entitlement of the Czech tax resident and the Czech tax non-resident to request that the Employer proceeds to the annual account of tax advances and tax credits**

The Czech tax resident and the Czech tax non-resident have the right to ask the Employer for the annual account of tax advances and tax credits under the ITA (*in Czech Roční zúčtování*) **except as follows:**

- the Employee has failed to sign the Declaration of the tax payer liable to personal income tax from employment by the additional **deadline which is 15 February following the end of the taxable period,**
- the Employee has failed to submit the relevant documents to the Employer **by 15 February following the end of the taxable period,**
- the Employee must file the income tax return under s38g of the ITA (e.g. the annual income of the Employee is subject to the solidarity surcharge, i.e. the yearly income from dependent activity exceeded the threshold indicated in the Chapter III, or the Employee has income from several simultaneous employments in the taxable period, the Czech tax resident has income from sources abroad), or
- income of the Czech tax non-resident is subject to the withholding tax.

XI. **Deadline for filing the income tax return**

The income tax return must be filed by the end of the third month following the end of the taxable period (1st April). The deadline for filing of the income tax return for income 2018 is 1st April 2018. If the tax payer is represented by a certified tax advisor based on a written power of attorney and the power of attorney is filed with the tax authority by the end of the third month following the end of the taxable period, the income tax return must be filed by the end of the sixth month following the end of the taxable period (1st July). If the taxpayer is a Czech tax resident and has income from abroad, the taxpayer may apply with the tax authority for the extension of the deadline to 1st November, such extension of deadline being subject to approval of the tax authority.

The taxpayer **is obliged** to file the income tax return namely when:

- the taxpayer failed to sign the Declaration for the Employer under Chapter VII;
- the taxpayer's annual income exceeds the annual threshold for solidarity surcharge (please see limits in Chapter III);
- the taxpayer has income from several simultaneous employments in the taxable period;

- in addition to income from employment with the Employer, the taxpayer has additional income of CZK 6,000 (from sources in the Czech Republic in case of Czech tax non-residents and from worldwide sources in case of Czech tax residents).

Penalties are imposed for failure to file the income tax return.

The optional filing of the income tax return is also possible. Below indicated situations are the most common cases of optional filings of the income tax return.

The Czech tax resident may file the income tax return, **change the withholding** tax to the advance tax and apply tax deductible items, tax credits and child allowances if the conditions stipulated by the ITA are met.

Czech tax non-residents, who are tax residents of the Member States of the European Union and the European Economic Area (not Switzerland) may also file the income tax return, **change the withholding tax** to the advance tax and apply the basic annual tax credit of CZK 24,840 and the tax credit for students of CZK 4,020. Tax deductible items, **other tax credits and child allowances** may be deducted only under the **conditions** indicated in Chapter IX.

The Czech tax non-resident is entitled to file the income tax return when the Czech tax non-resident **needs the certificate of tax payment in the Czech Republic** from the Czech tax authority to prove the payment of taxes to the tax authority of the state of their tax residency.

XII. Compulsory notification of exempt income

Taxpayers who received an individual income that is exempt from tax in accordance with the ITA and value which exceeds CZK 5 million must notify the Czech tax authority such exemption by the deadline for filing the tax return. Czech tax residents have this duty in respect of their income from Czech sources and worldwide income, Czech tax non-residents have this duty if their income from sources in the Czech Republic exempt from tax exceeds this threshold. Such exemption and notification can concern qualifying sale of real estate in the Czech Republic and securities, inheritance etc.

Severe penalties are imposed if the taxpayer fails to file this notification.

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This document is intended exclusively for the internal use of UFCH' Employees.