

The objective of this thesis is to place trust fund into the system of tax law and the analyse of this position from different angles. The main objective is to describe, how are trust funds and the persons connected with them, taxed. One of the aims of this thesis is to show trust funds within a broader context and therefore it describes the tax aspects of English common law trust as well. Common law trust can be considered as a role model for institute like the Czech trust fund. The thesis therefore consists of two parts – trust and trust fund.

The first chapter describes historical development of trusts and illustrate how was this development influenced by then tax legislature. Also, this chapter explains some aspects of English law, with focus on difference between common law and equity. The grasp of the difference between these parallel systems is essential for the understanding of trust.

The second chapter deals mainly with substantive aspects of trust. It strives to answer the question, what is trust and how can we definite it. It also shows, how the tax legislature defines trust and connected person for tax purposes. It is also briefly mentioned the duty of trust to register into newly established trust register.

The third chapter deals with taxation of trust itself. Different types of trusts and different models of trust taxation are explained and distinguished. The specific mechanism of tax imposed on trustee and beneficiary is explained. Two subchapters are dedicated to inheritance tax and taxation of settlor interest trust.

In the last chapter of the first part, the tax avoidance function, which is often connected with trusts, is discussed. Some of the methods which used trusts as tools for more advantageous tax regime are described. Also, the topic of offshore trusts is briefly mentioned, and it is explained why their function in tax planning is diminishing.

The second part of the thesis is concerned exclusively with trust fund under Czech Civil code. The fifth chapter describes trust fund from the perspective of substantive law, because it is important to explain basic terminology and principles of operating the trust fund. Reader can learn, how to set up trust fund, at which moment is the trust fund created and what rights and duties the settlor, trustee and beneficiary have.

In the next chapter, the legal frame of taxation of trust fund is described in detail. The ability of trust fund to be a taxable entity under various tax laws is thoroughly discussed. The duty to registrate to tax administrator and the topic of trust with charitable purpose is mentioned. Further, the income tax, value-added tax and tax on the acquisition of property in relation to trust fund is explained.

The penultimate chapter explores the taxes imposed on beneficiaries, when they receive distribution from the trust fund. It is stressed out that the tax is different for distribution of income and distribution of capital. Also, the rules for taxation of legal and natural entities are different.

Last chapter attempts to answer the question, whether it is profitable to use trust fund primarily for tax avoidance purposes. To find out, model situation is presented, which examines taxation of hypothetical persons in cases where they transfer their property to trust, to business corporation or when they keep the property themselves.

The conclusion of the thesis is, that the laws on taxation of trust funds relatively well reflect the purpose of trusts funds, the long-term and flexible asset management. It is difficult to compare Czech tax laws with the English tax laws in relation to trust fund and trust, because each has originated in completely different legal jurisdiction and the national tax laws reflect these differences.