



Purcell McQuillan

TAX PARTNERS

Residential Zoned Land Tax

3% ANNUAL TAX ON THE MARKET VALUE OF THE SITE



Residential Zoned Land Tax

The government's **Housing for All Plan** contained a proposal to introduce a new tax in order to incentivise the development of land that is serviced and zoned for residential use or mixed use to facilitate the increase of new housing supply. This tax was subsequently enacted and is known as the Residential Zoned Land Tax ("RZLT").

What land falls within its scope?

In order to fall within the scope of RZLT, the land must be zoned as suitable for residential development and also be serviced. According to the Revenue guidelines, serviced land means *"having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed"*.

Land can also be zoned mixed use and fall within the scope of RZLT.

However, there are **certain exclusions** from the scope of RZLT to be aware of as follows:-

- Existing residential property and the garden and yards usually enjoyed with it,
- Land which is zoned for residential use, but is used by a business to provide services to residents of adjacent residential areas such as a local shop or café.
- Land that is zoned for a mixture of residential and other uses, where it is reasonable to consider the land is integral to the operation of a business carried out on or beside it.
- Land where residential development is precluded because of the physical condition of the site due to contamination or where historic or archaeological artifacts are present,
- Land used for certain infrastructure or facilities including utilities, transport and facilities for social, community or recreational purposes.
- Sites subject to the Derelict Sites levy.

Since 1 November 2022, each Local Authority will have published a **Draft Map** identifying all sites within the scope of RZLT. It is important that every landowner has reviewed this map to ensure the relevant sites have been captured correctly by the Local Authority as immediate action may be required where sites have been incorrectly included or excluded (See further details below). A **Supplemental Map** will be published by the local authority website by 1 May 2023 with a **Final Map** intended to be available no later than 1 December 2023. The Final Map will be revised each year by 31 January commencing in 2025 with certain timelines to be adhered to in the context of submissions/appeals.

Please contact Purcell McQuillan if you require additional information in relation to further rights of appeal.

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Rate of Tax

RZLT will be an annual tax calculated based on 3% of the market value of all sites within its scope. Landowners should take note of the first RZLT return and payment date (i.e. 23 May 2024) which will apply to all land which has been zoned as suitable for residential development and serviced on 1 January 2022, and where development has not commenced before 1 February 2024. The relevant valuation date is 1 February 2024 for these existing landbanks.

Any lands banks which are zoned after 1 January 2022, will have a different first tax return filing and payment date. In this scenario, the RZLT will become first due in the third year after the landbank comes within its scope. For example, land which is zoned on 1 June 2023, the first pay and file deadline will be 23 May 2026. The first valuation date of this landbank will be 1 February in the year RZLT first applies i.e. 1 February 2026.

RZLT will continue to be payable every year in respect of the land unless landowners can avail of a deferral or the land ceases to be liable to the tax. The market value of the sites falling within scope are revalued every three years on 1 February of that year. Any unpaid RZLT will form a charge on the land.

What Action is required?

All landowners should have reviewed their local authority maps to ensure that all sites or landbanks have been included or excluded correctly. If you identified sites that should not have been included in the Draft Map published by the Local Authority, an appeal should have been made by making a written submission to the Local Authority by **1 January 2023**.

Any submission relating to a draft map must relate to the inclusion in or exclusion from the final map or the date on which the land first meets the criteria for inclusion on a local authority map. The submission must include the name and address of the person making the submission. It must also include an Ordnance Survey Ireland map at a scale at which their site can be accurately identified. It should be noted that any submissions received by the local authority will be published on the local authority website (excluding personal data). The local authority may require proof of ownership in order to respond and make a determination on a submission so this should be readily available in order to progress the appeal process. A landowner should expect a determination by **1 April 2023**. Further rights of appeal exist to An Bord Pleanála. Such appeals must be made in writing to An Bord Pleanála by **1 May 2023**.

In addition, landowners are also afforded the opportunity to request that the current zoning of their land be amended. Such submissions must also have been made to the relevant local authority by **1 January 2023**. It is up to the local authority to evaluate this submission and consider whether a variation of the development plan is appropriate.

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Deferrals and Abatements

Certain circumstances exist whereby RZLT may be deferred and/or abated. For example, if development has commenced on the site, or where development cannot commence due to an ongoing appeal in relation to the planning by an unconnected person, a deferral and/or repayment of RZLT may be granted. Similarly, where the owner of the land is in the process of appealing the site's inclusion on the local authority map, a deferral and/or repayment of RZLT paid may also be possible.

Finance Act 2022 also introduced another two scenarios whereby RZLT may be exempted. The first exemption caters for scenarios where unauthorised development has been carried out on the land and an application has been made to retrospectively correct the unauthorised use. The status of the deferral/abatement and/or repayment of the RZLT will depend on the success of the application. The second exemption applies to land which is the subject of a lease and where it is reasonable to consider that the lease precludes the owner from carrying out any development of the land. However to qualify, the term of the lease must not exceed 35 years, must be evidenced in writing and have been entered into prior to 1 January 2022. Any connected party leases are excluded from this exemption. The lease must also have been entered into for bona fide commercial reasons.



The most typical example of where a landowner may avail of a deferral of RZLT is where planning permission has been granted in respect of the development of a site, the development to be carried out is wholly or partly residential and the development in question has commenced i.e. a commencement notice has been lodged with the relevant local authority. In this scenario, provided the deferral is claimed in the annual RZLT return, no RZLT is payable while the development is ongoing. Furthermore, if the residential development is fully completed prior to expiry of planning permission, no RZLT will ultimately become payable. However, where the development is not fully complete prior to the expiry of planning permission, then a tapering relief may be available. It will be necessary for the landowner to amend all RZLT returns in which a deferral was claimed in this scenario and interest will apply to the amount of deferred RZLT now payable.

Existing Residential Property

While existing residential property is excluded from the scope of RZLT, such residential property can appear on local authority maps. In this scenario, owners are required to register for RZLT and file a RZLT return if their garden and yards are greater than 0.4047 hectares. However, no RZLT is payable.

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Compliance

As RZLT will operate on a self-assessment basis, landowners will need to register for RZLT to satisfy their obligations of filing an annual RZLT return and paying the relevant liability owing. Even if a landowner qualifies for an abatement or deferral of RZLT, a RZLT return is still required to be filed. In fact, the Revenue guidance on RZLT suggests that such exemptions or deferrals cannot be availed of if a RZLT return has not been filed.

It is intended that landowners will register for RZLT via the Revenue On-Line System (ROS). This facility should be available from Quarter 4 2023 with further guidance to be issued by the Revenue in relation to process and timing for registering for RZLT.

Where a landowner fails to register and pay the RZLT on time, interest of 8% per annum will accrue and form part of a charge on the land. This means that the land cannot be sold or transferred without any outstanding RZLT and interest being paid. Furthermore, a surcharge of up to 30% can be applied where a landowner significantly undervalues the land for the purposes of RZLT. There will also be a fixed penalty of €3,000 where a landowner fails to register for RZLT.

Finally, in terms of normal tax compliance, landowners should also be aware that RZLT as a tax will not be regarded as deductible against income tax, corporation tax, capital gains tax and more recently (Finance Act 2022) against the USC or the domicile levy.

Summary

It is clear from the above that the new RZLT will represent a significant additional financial cost and administrative burden for landowners and/or developers alike. While exemptions and deferral provisions are built into the RZLT legislation, care must be taken to correctly avail of these reliefs/exemptions in a timely manner. Similarly, there will be a cost involved in valuing the relevant sites and additional pressure to complete residential developments prior to the expiry of planning permission. The timely delivery of residential housing may not always be possible due to external market factors outside the control of developers which could result in an additional tax bill in the form of RZLT. Developers will also need to factor in the RZLT when pricing future acquisitions of landbanks (zoned or unzoned) to determine when the RZLT tax could kick in and whether planning permission/development timelines could facilitate a deferral of RZLT.

Finally, the above does not purport to be an exhaustive analysis of the new RZLT provisions and therefore we would recommend professional advice is taken in relation to any proposed transactions involving the purchase or sale of landbanks which fall within the scope of RZLT.