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**SOLICITORS**

**RESIDENTIAL  
ZONED LAND  
TAX – HAVE  
YOU BEEN  
ZONED**

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# RESIDENTIAL ZONED LAND TAX HAVE YOU BEEN ZONED

The Gov.ie website [gov.ie - Residential Zoned Land Tax \(www.gov.ie\)](http://www.gov.ie) states that the Residential Zoned Land Tax is a new tax aimed at increasing housing supply by activating zoned, serviced residential development lands (including mixed-use lands) for housing. It records also that the Tax aims to incentivise landowners to use existing planning permissions for housing. The Tax is being introduced as part of *Housing for All*, the government's housing plan to 2030.

The annual Tax will apply at a rate of 3% of the land's market value. The Tax will operate on a self-assessment basis.

## THE FAR-REACHING CONSEQUENCES OF THIS LEGISLATION

I believe that many do not realize the consequences of this far-reaching legislation. Despite the fact that you are not a Developer and have never had any intention of developing your property for speculative purposes, if you are unlucky enough to have your plot of property zoned under this new Act and do not manage to have it taken out the zoned area **you will be liable from 2024 onwards to a 3% Annual Tax on the value of the property**. You might be a farmer who just happens to have land on the town boundary.

## SELF-ASSESSMENT TAX WITH PENALTIES AND SURCHARGES

This will be a Self-Assessment Tax with penalties and surcharges for late Returns and under-values. Underpayment of the Tax will also constitute a Charge (akin to a Mortgage) on your property, which could effectively

prevent you from selling or even gifting the property. And once your land is zoned there is the possibility that it will be over-valued by the Revenue Commissioners - on the assumption that you could get Planning Permission for development, despite the fact that the legislation expressly states that being zoned is no guarantee of Planning!

This Tax should not be confused with the *Derelict Sites Levy*, where under the *Derelict Sites Act 1990* your derelict property can be registered by the Local Authority on the *Derelict Sites Register*, leaving you as owner of the property liable to the *Derelict Sites Levy* of 7% per annum.

You only have up to the end of December to make your Submission to your Council as to why your property should be removed from the zoned area; and bear in mind that most professional offices will close for Christmas at the end of next week!

### **SO, WHAT SHOULD YOU DO?**

First, go to your Local Authority website. If you look at the text on the gov.ie weblink, referred to above, it explains how you can view your Council's draft Map and make comments. Links are given to each of the Council websites and to the specific RZLT page.

For instance, if you go to the Monaghan County Council website Residential Zoned Land Tax (RZLT) - Planning (monaghan.ie), you will be given the Criteria, under Section 653B of the Taxes Consolidation Act 1997 (as amended by the Finance Act 2021), upon which your property has been zoned. Further down, you will be given the link to the RZLT Draft Map Viewer and in turn you can zone in: to the town where your property is based.

## IF YOU ARE IN THE ZONED AREA?

If you establish that your property is within the zoned area and you disagree with the Council's assessment that your property is serviced and should be zoned for residential or mixed-use development, then it is important that you **immediately** file a Submission with the Local Authority, stating why your property should not be zoned.

## BY WAY OF EXAMPLE

By reference to the Criteria as described on the Monaghan County Council website, by way of example, I have detailed in the first column below (to the left) the Criteria as recited on the website. To the right-hand column below I have recited my comments, which you should read to assist you in ascertaining whether your property does in fact fit in to the Criteria as recorded in the Act. If your property does not fit in with those Criteria then you should use these comments to assist you in your objection.

<b>Criteria</b>	<b>Do they apply to your property?</b>
(a) is included and zoned in a development plan as:-  (i) solely or primarily for residential use, or  (ii) for a mixture of uses, including residential use,	What Section 653B actually records is that the property is included in a Development Plan in accordance with Section 10 (2) (a) of the <i>Planning and Development Act 2000</i> , or a <i>Local Area Plan</i> in accordance with Section 19 (2) (a) of the 2000 Act and is zoned (as referred to in the left hand column) . You therefore need to go to the County Council website Development Plan to ascertain if in fact the land has



	<p>been so zoned. To take the example of Monaghan County Council again, I have copied below the relevant weblink to the County Council Development Plan 2019/2025.</p> <p><a href="#">Monaghan County Development Plan 2019-2025 - Planning</a></p> <p>and, by way of example, I have copied the weblink to the Clones Town Map on the County Development Plan:</p> <p><a href="#">Map-CDP1-Clones-1.pdf (monaghan.ie)</a></p> <p>Does your property come within this Plan, zoned as solely or primarily for residential use or for a mixture of uses, including residential use? If not, you should therefore submit that it is not so zoned and therefore does not come within the Criteria.</p>
<p>(b) is considered may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public</p>	<p>These are very important Criteria. Section 653B actually states that “<i>it is reasonable to consider</i>” that it may have access etc. However, it is also very important to bear in mind that these two paragraphs are conjunctive and not exclusive of each</p>

<p>lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development,</p> <p><b>and</b></p> <p>(c) is considered not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of known archaeological or historic remains,</p>	<p>other and therefore, to satisfy the Criteria, not only must it be reasonable to consider that the lands may have access to such public infrastructure <b>but also</b> that it is reasonable to consider that it is not affected in terms of its physical condition to preclude the provision of dwellings.</p>
<p><b>but which is not land—</b></p>	<p>This is where the text on the Monaghan County Council website is very confusing: as this phrase runs as part of the previous paragraph, whereas in Section 653B, it is a separate paragraph by reference to the sub paragraphs below (as recorded on the left-hand column of this table).</p>

<p>(i) that is zoned solely or primarily for residential use and which is not unauthorised development (within the meaning of the Planning and Development Act 2000), is in use as premises, in which a trade or profession is being carried on, that is liable to commercial rates, that it is reasonable to consider is being used to provides services to residents of adjacent residential areas,</p>	<p>Again, the text of the Monaghan County Council website does not follow exactly the text of Section 653B. This particular paragraph only applies to property which is described in paragraph (a)(i) above; namely land which has been zoned in the Development Plan solely or primarily for residential use. Therefore, if part of your property which has been zoned for the RZL Tax is in use as premises, in which a trade or profession is being carried on that is liable to commercial rates and that it is reasonable to consider it being used to provide services to residents of adjacent Residential areas, then it should not be liable to RZLT.</p>
<p>(ii) that is zoned for a mixture of uses, including residential use, unless it is reasonable to consider that the land is vacant or idle,</p>	<p>Likewise, this does not repeat the exact text of Section 653B; although it does confirm that it applies to land that has been zoned for a mixture of uses, including Residential use, but here is where you should specifically check each of these paragraphs to ascertain whether it is likely that any part of your lands could be used for any of the purposes recorded in the left-hand column below.</p>

<p>(iii) that it is reasonable to consider is required for, or is integral to, occupation by—</p> <p>(I) social, community or governmental infrastructure and facilities, including infrastructure and facilities used for the purposes of public administration or the provision of education or healthcare,</p> <p>(II) transport facilities and infrastructure,</p> <p>(III) energy infrastructure and facilities,</p> <p>(IV) telecommunications infrastructure and facilities,</p> <p>(V) water and wastewater infrastructure and facilities,</p>	<p>For instance, with reference to “<i>social, community or governmental infrastructure and facilities</i>”, is there any possibility that recently you have leased or that you are in negotiations with a government body to lease part of that property for social, community or governmental infrastructure; such as a Community Centre or a playground? If so, then it is submitted that this property should not be included in the RZLT area.</p> <p>The same grounds would apply to any of the other paragraphs (11) to (IV) recorded in the left column.</p>



<p>(VI) waste management and disposal infrastructure, or</p> <p>(VII) recreational infrastructure, including sports facilities and playgrounds,</p> <p>(iv) that is subject to a statutory designation that may preclude development,</p>	
<p>or</p> <p>(v) on which the derelict sites levy is payable in accordance with the Derelict Sites Act 1990.</p>	<p>Finally, if your property is already registered on the <i>Derelict Sites Register</i> by the Local Authority and you are already liable to the 7% <i>Derelict Sites Levy</i>, you should not be also liable to the RZLT Tax.</p> <p>There is no point in paying 2 different Taxes on the plot!</p>

### **TIME LIMIT TO DELIVER YOUR SUBMISSION**

If you establish that your property is within the zoned area and you disagree with the Council's Most importantly, the Submission must be delivered to the Local Authority either by email or physically by post (hand delivery) **on or before the 1<sup>st</sup> January next**. If it is out of time, the Local

Authority will not be obliged to accept your Submission and accordingly your property will be liable to the levy.

## **WHAT IF YOU ARE UNSUCCESSFUL IN YOUR SUBMISSION?**

All is not lost if you are unsuccessful in your Submission. If this occurs, you will have up until the 1<sup>st</sup> May 2023 to appeal the Local Authority decision regarding the Submission to An Bord Pleanála.

The Appeal must be in writing setting out the grounds of the Appeal.

## **SUBMISSION PROCESS**

It is very important to review in detail your Local Authority website for assistance as to what information you should provide with your Submission. Again, referring to the Monaghan County Council website, under the Title "*Landowner Submission*", you should provide your name and address and an Ordnance Survey Map showing the property at the appropriate scale. You should also provide information (for example, photographs) which demonstrates that the land should not be zoned. Most importantly, your Submission should deal with the Criteria, as detailed above, as set out in Section 653B, and why your land does not come within those Criteria.

## **SUPPLEMENTAL MAP**

Again, you should read your Local Authority website for further information on the *Supplemental Map* which will be issued after January 2023 by the Local Authority. Where there is the possibility for Third Parties to make Submissions to the Local Authority in advance of the 1<sup>st</sup> January 2023,

you could find that your land is included in the *Supplemental Map* issued by the Local Authority, where it may not have been included previously in the original Draft Map!

Again, it is up to you as landowner to check the *Supplemental Map* and to make appropriate Submissions, as advised above and within the time limit advised on the Local Authority website.

## **DATA PROTECTION LEGISLATION**

One final matter needs to be stated with regard to the process. The Local Authority website will explain that Submissions received in respect of the first Draft Map will be published on the Local Authority website by the 11<sup>th</sup> January 2023. Personal Data within the Submission will be redacted, **but the location of the lands to which the Submission relates will be published along with the grounds of the Submission.** It is respectfully submitted by the writer that this could be in breach of the Data Protection Legislation where the requirement to file Submissions in the first instance could often involve commercially sensitive information which could be of use to competitors.

The process is not going to be simple by any means!

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