

# **Notes for Guidance - Taxes Consolidation Act 1997**

**Finance Act 2023 edition**

## **Part 22A Residential Zoned Land Tax**

**December 2023**



The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.

<b>Notes for Guidance - Taxes Consolidation Act 1997</b> .....	0
<b>Finance Act 2023 edition</b> .....	0
<b>Part 22A Residential Zoned Land Tax</b> .....	0
Chapter 1 .....	3
<i>Interpretation</i> .....	3
Section 653A – Interpretation (Part 22A).....	3
Chapter 2 .....	5
<i>Zoned serviced residential development land</i> .....	5
Section 653B – Criteria for inclusion in map .....	5
Section 653C – Draft map – preparation .....	6
Section 653D – Draft map – submissions .....	7
Section 653E – Draft map – determinations on exclusions and date .....	7
Section 653F – supplemental map – preparation.....	8
Section 653G – Supplemental map – submission .....	9
Section 653H – Supplemental map – determinations on exclusions and date .....	9
Section 653I – Zoning submissions.....	10
Section 653J – Appeal .....	10
Section 653K – Final map .....	11
Section 653L – Effect of appeal or judicial review .....	12
Section 653M – Revision of final maps .....	12
Section 653N – Receipt of information by Revenue Commissioners .....	13
Section 653O – Relevant site.....	13
Section 653P – Liable persons.....	13
Chapter 3 .....	14
<i>Residential zoned land tax</i> .....	14
Section 653Q – Charge to residential zoned land tax.....	14
Section 653R – Amount of residential zoned land tax .....	14
Chapter 4 .....	15
<i>Pay and file obligations</i> .....	15
Section 653S – Obligation to register.....	15
Section 653T – Obligation on liable person to prepare and deliver return.....	15
Section 653U – One return in respect of jointly owned relevant site.....	16
Section 653V – Designated liable person.....	16
Section 653W – Preparation and delivery of return by person acting under authority .....	17
Section 653X – Assessments, enquiries and appeals .....	17
Section 653Y – Interest on overdue tax.....	18
Section 653Z – Transfer of relevant site .....	19
Section 653AA – Appointment of an expert .....	19

Section 653AB – Surcharge for undervaluation of the relevant site .....	21
Section 653AC – Surcharge for late return of the relevant site.....	21
Chapter 5 .....	22
<i>Abatements</i> .....	22
Section 653AD – Repayment of tax on site not suitable for development.....	22
Section 653AE – Deferral of tax on appeals under section 653J .....	23
Section 653AF – Deferral of tax during appeals .....	24
Section 653AFA - Deferral of tax during application to retain unauthorised development or for substitute consent.....	25
Section 653AFB - Deferral of tax during appeals in respect of applications to retain unauthorised development or for substitute consent .....	26
Section 653AG – Sites developed wholly or partly for purpose other than residential development	28
Section 653AH – Deferral of residential zoned land tax in certain circumstances .....	29
Section 653AHA - Sites subject to a relevant contract .....	31
Chapter 6 .....	32
<i>Death cases</i> .....	32
Section 653AI – Death .....	33
Chapter 7 .....	34
<i>Miscellaneous</i> .....	35
Section 653AJ – Obligation to keep certain records .....	35
Section 653AK – Restriction of deduction.....	35
Section 653AL – Care and management of residential zoned land tax.....	36
Section 653AM – Where no owner registered .....	36

## **PART 22A**

### **RESIDENTIAL ZONED LAND TAX**

#### **Overview**

This Part provides for the introduction of a Residential Zoned Land Tax. The tax is calculated at 3% of the market value of land that is zoned as being suitable for residential development and is serviced. Each local authority will prepare and publish a map identifying land within the scope of the tax. The legislation provides that the owner of land included on a local authority map may appeal its inclusion to the local authority. Landowners may also apply to the relevant local authority to amend the zoning of their land, should it appear on maps published as part of the initial mapping cycle in 2022/2023, or on the draft revised final map for 2025. The tax may be deferred in certain circumstances, including where residential development is commenced or where planning permission granted is subject to appeal. Provisions dealing with the valuation of land, the payment of the tax and the penalties that may be imposed when land is undervalued in calculating the residential zoned land tax due are contained in this Part. Certain provisions contained in Chapter 5, Part 41A, including the making and amending of assessments and the right of a Revenue officer to make enquiries, also have application for the purposes of this Part.

#### Chapter 1 *Interpretation*

##### **Summary**

Chapter 1 is the interpretation chapter and sets out the meaning of various concepts used in this Part.

##### **Section 653A – Interpretation (Part 22A)**

##### **Summary**

This section gives the meaning of certain terms and provides rules for the construction of certain references used in this Part by reference to provisions, inter alia, in the Taxes Acts and the Planning and Development Act 2000. Some of the terms are, in fact, defined elsewhere in the Part but are listed in this section so as to give them general application throughout the Part.

##### **Details**

##### **Definitions**

(1)

‘**Act of 1990**’ means the Building Control Act 1990.

‘**Act of 2000**’ means the Planning and Development Act 2000.

‘**building**’ includes part of a building and any class or classes of structure which are prescribed by the Minister to be a building for the purposes of the Act of 1990.

‘**certificate of compliance on completion**’ means certificate of compliance provided for under section 6(2)(a)(i) of the Act of 1990 relating to the completion of a building.

‘**commencement notice**’ means a notice referred to in section 6(2)(k) of the Act of 1990.

‘**designated liable person**’ has the meaning given to it in section 653V of this Part.

‘**development**’ is the construction of new buildings and the extension, alteration or demolition of existing buildings. It also covers engineering operations such as levelling, construction of roads, and the laying of sewers, or water or gas mains which adapt the land for materially altered use.

‘**draft map**’ is the initial map prepared and published by a local authority indicating land within its functional area which meets the relevant criteria to be within the scope of the tax.

‘**final map**’ is the final map prepared and published by a local authority identifying land within its functional area that is within the scope of the tax.

‘**gross floor space**’ in relation to a building, means the area ascertained by the internal measurement of the floor space on each floor of the building, including internal walls and partitions.

‘**land which satisfies the relevant criteria**’ is land that meets the criteria provided for in section 653B.

‘**liability date**’, in respect of a year, means 1 February in that year.

‘**liable person**’ is the owner or the person entitled to develop the relevant site.

‘**local authority**’ means a local authority for the purposes of the Local Government Act 2001.

‘**local authority consent**’ is consent provided for a local authority’s own development.

‘**market value**’ in relation to any assets means the price which those assets might reasonably be expected to fetch on a sale in the open market.

‘**Minister**’ means the Minister for Finance.

‘**permission regulations**’ means regulations made under section 33, 37I, 43, 172(2), 174, 177N or 177AD of the Planning and Development Act 2000.

‘**personal data**’ has the same meaning as it has in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016.

‘**planning application**’ means an application for permission for the development of land made in accordance with, and required by, permission regulations.

‘**planning permission**’ means a permission granted under section 34, 37, 37G, 170 or 177K of the Planning and Development Act 2000.

‘**planning permission period**’ means, in relation to a grant of planning permission, the appropriate period as per section 40 of the Planning and Development Act 2000, including where that period is extended under section 42 of that Act.

‘**residential property**’ is any building which is in use as, or is suitable for use as, a dwelling including sheds or garages and yards or gardens not exceeding 0.4047 hectares usually enjoyed with the residential property, as defined in the Finance (Local Property Tax) Act 2012.

‘**relevant site**’ is a site included in the final map most recently published under section 653K or 653N but excluding existing habitable homes and gardens.

‘**residential development**’ includes developments which are ancillary to the development and which are necessary for the proper planning and development of the area in question.

‘**residential zoned land tax**’ is an annual tax, calculated at 3% of the market value of land within its scope.

‘**return date**’ in respect of a year means 23 May in that year.

‘**revised map**’ is a map to be prepared and published by a local authority annually by 31 January, commencing in 2025 identifying land within its functional area that is within the scope of the tax.

‘**self-assessment**’ means an assessment by or on behalf of a liable person of the amount of residential zoned land tax payable by the liable person in respect of a relevant site in relation to a liability date.

‘**site**’ means any area of land identified on a map by a local authority.

‘**supplemental map**’ is a map prepared and published by a local authority, subsequent to the draft map, updated for land in respect of which submissions under section 653D have been made or for land which meets the relevant criteria for inclusion on the map 1 month prior to the publication of the supplemental map.

‘**TIN**’ means a tax reference number (within the meaning of section 891B) or a TIN within the meaning of section 891F.

‘**vacant or idle land**’ is land that, having regard only to authorised development under the Planning and Development Act 2000, is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land.

‘**valuation date**’ shall be construed in accordance with section 653R, which in general means the date on which a relevant site is to be valued for the purposes of calculating the charge to residential zoned land tax, subject to sections 653AG and 653AH.

Local authority consent will have the same meaning as planning permission in this Part apart from in subsection (1) of this section and in section 653AF(1)(a) which deals with the deferral of residential zoned land tax where there is an appeal of a grant of planning permission to An Bord Pleanála. (2)

## Chapter 2

### *Zoned serviced residential development land*

#### Summary

Chapter 2 identifies land within the scope of residential zoned land tax and outlines the process for the preparation and publication of local authority maps. Appeal mechanisms available to landowners regarding inclusion on a local authority map and the variation of land zoning are included in this Chapter. This Chapter also provides a definition of ‘relevant site’ and ‘liable person’ for the purposes of residential zoned land tax.

#### Section 653B – Criteria for inclusion in map

##### Summary

This section sets out the criteria to be satisfied for land to be included in a local authority map. It also sets out land that is excluded from the scope of the tax.

##### Details

Land that meets the criteria set out in this section is land that –

- is included in a development plan or local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development. (a)
- is serviced, or it is reasonable to consider may have access to services. Serviced 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. (b)

- is 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 archaeological or historic remains. (c)

but which is not –

- land that, while zoned residential, is an authorised development used to carry on a trade or profession by a business liable to pay commercial rates, and which provides services to residents of adjacent residential areas. (i)
- land that is zoned for a mixed used purpose (including residential) unless it is reasonable to consider that such land is vacant or idle. (ii)
- land that is zoned for residential use or zoned for a mixture of uses, that includes residential use, but which is also subject to a written and mapped objective within a development plan or local area plan requiring that the land be developed on a phased basis, where, as a consequence of the application of such objectives to the land, it is reasonable to consider that it is not available for development. (iia)
- land that is required for, or occupied by, other uses such as social, community or governmental infrastructure, including education and healthcare facilities, facilities used for the purposes of public administration, transport facilities and infrastructure, utilities, energy or telecommunications infrastructure and facilities; water and wastewater infrastructure and facilities, waste management and disposal infrastructure, recreational infrastructure including sports facilities and playgrounds. (iii)
- land that is subject to a statutory designation that may preclude development. (iv)
- land in respect of which the Derelict Sites Levy is payable. (v)

## Section 653C – Draft map – preparation

### Summary

This section sets out the process by which a local authority prepares and publishes a draft map.

### Details

A local authority will prepare a draft map in respect of its functional area – (1)

- identifying land that, based on the information available to it, it considers meets the relevant criteria one month prior to the date of publication of the draft map and (a)
- specifying the date on which the land first met those criteria where that date is after 1 January 2022 and the area in hectares of land referred to in paragraph (a). (b)

A local authority will publish a draft map on its website and make a copy of the map available for inspection at its offices by 1 November 2022. (2)

The local authority must publish a notice in a local newspaper containing the information set out in subsection (4) by 1 November 2022. (3)

The information to be included in this notice is: (4)

- notification that a draft map prepared for the purposes of identifying land that is to be subject to residential zoned land tax has been published on the local authority website and is available for inspection at the local authority offices, (a) & (b)
- the relevant criteria for land to be included on the map, as set out in section 653B, (c)
- a statement that residential properties, while included on the draft map, are excluded from the tax, (d)

- confirmation that written submissions on the inclusion or exclusion of specific sites from the final map, or the date on which a site met the criteria for inclusion on a local authority map, must be made to the local authority by 1 January 2023. The local authority will publish all submissions on its website, excluding any personal data, by 11 January 2023 (e)
- notification that the owner of land included in a development plan or local area plan, that is zoned for residential development or zoned for a mixed use that includes residential development, may make a submission to their local authority to request that the current zoning of that land be amended. (f)

The Minister for Housing, Local Government and Heritage in consultation with the Minister for Finance will prescribe the form of the notice to be given. (5)

### **Section 653D – Draft map – submissions**

#### **Summary**

This section provides for the making of submissions in relation to a draft map.

#### **Details**

Submissions to a local authority on a draft map must be made in writing by 1 January 2023 and include the person's name and address. A submission should relate to the inclusion in, or exclusion from, the final map or the date on which a site first met the criteria for inclusion on a local authority map. (1)

A local authority will publish all submissions received by it on its website by 11 January 2023. Personal data contained in a submission will not be published. (2)

A landowner must include an Ordnance Survey Ireland map at a scale at which the site can be accurately identified when making a submission on a draft map. (3)

This subsection requires a landowner to have proof of ownership of a site available if making a submission to their local authority under this section. The local authority may request proof of ownership in determining if it is a submission in respect of which it is obligated to respond to the landowner in accordance with section 653E. (4)

### **Section 653E – Draft map – determinations on exclusions and date**

#### **Summary**

This section places an obligation on a local authority to respond to a landowner's submission under section 653D when it relates to the exclusion of a site from the final map or the date on which a site first met the criteria for inclusion on a local authority map.

#### **Details**

A local authority that receives a submission from a landowner relating to the draft map will assess the submission and issue a written determination, by 1 April 2023, where the submission relates to: - (1)

- the exclusion of a site from a final map on the basis that it does not meet the relevant criteria, or (a)
- an amendment to the date on which a site first met the conditions for inclusion on the local authority map. (b)

In arriving at its determination, a local authority may, no later than 21 days from the deadline for receipt of submissions under section 653D, consult with the owner, Irish Water, the National Road Authority or other persons referred to in article 28 of the Planning and Development Regulations 2001, so as to obtain further information to inform their decision. (2)



Any person consulted with under subsection (3) will provide the requested information to the local authority within 21 days. (3)

A local authority may, in exceptional circumstances, accept submissions relating to a draft map after 1 January 2023. (4)

In notifying the landowner of its decision under subsection (1), the local authority will provide an explanation for its decision and advise the owner that they have one month from receipt of the notification to appeal the determination to An Bord Pleanála, specifying the grounds for appeal. (5)

### **Section 653F – supplemental map – preparation**

#### **Summary**

This section sets out the process by which a local authority prepares and publishes a supplemental map and allows for the inclusion of additional sites that meet the relevant criteria.

A local authority will assess submissions made under section 653D seeking to include a site on a final map that was not included on the draft map, on the basis that the site meets the relevant criteria for inclusion. (1)

A local authority will prepare a further draft map, referred to as a supplemental map, where – (2)

- it is in receipt of submission(s) as provided for in subsection (1) requesting the inclusion of a site on a final map, or (a)
- based on information available 1 month prior to the publication of the supplemental map, additional sites not included on an earlier draft map, exist (b)

and these constitute lands that should be included on a local authority map.

The supplemental map will indicate that, based on the information available to the local authority, the lands constituting such sites are considered by the local authority to be lands satisfying the relevant criteria and specify the date on which such lands first met those criteria where that date is after 1 January 2022. The supplemental map will also quantify the area of such land in hectares.

The local authority will publish a supplemental map on its website and make a copy of the map available for inspection at its offices by 1 May 2023. (3)

The local authority will publish a notice in a local newspaper containing the information set out in subsection (5) by 1 May 2023. (4)

The information to be included in this notice is: (5)

- notification that a supplemental map identifying additional sites to those included on a previous draft map, has been published on the local authority website and is available for inspection at the local authority offices; (a)
- a statement that the map has been prepared for the purposes of identifying land that is subject to residential zoned land tax; (b)
- the relevant criteria for land to be included on the map, as set out in section 653B; (c)
- a statement that residential properties, while included on the supplemental map, are excluded from the tax; (d)
- confirmation that written submissions on the exclusion of specific sites from the final map, or the date on which a site met the criteria for inclusion on a local authority map, must be made to the local authority by 1 June 2023. The local authority will publish all submissions on its website, excluding any personal data, by 11 June 2023. (e)

The Minister for Housing, Local Government and Heritage in consultation with the Minister for Finance will prescribe the form of the notice to be given. (6)

### **Section 653G – Supplemental map – submission**

#### **Summary**

This section provides for the making of submissions in relation to a supplemental map.

#### **Details**

Submissions to a local authority on a supplemental map must be made in writing by 1 June 2023 and include the person's name and address. A submission should relate to the exclusion from the final map of a site or the date on which a site first met the criteria for inclusion on a local authority map. (1)

A local authority will publish submissions received by it on its website by 11 June 2023. Personal data contained in a submission will not be published. (2)

A landowner must include an Ordnance Survey Ireland map at a scale at which the site can be accurately identified when making a submission in respect of a supplemental map. (3)

This subsection requires a landowner to have proof of ownership of a site available if making a submission to their local authority under this section. The local authority may request proof of ownership in determining if it is a submission in respect of which it is obligated to respond to the landowner in accordance with section 653H. (4)

### **Section 653H – Supplemental map – determinations on exclusions and date**

#### **Summary**

A local authority will notify a landowner of its determination in respect of a submission in relation to a supplemental map.

#### **Details**

This section applies where the owner of a site makes a submission regarding the supplemental map requesting – (1)

- exclusion of a site from the final map on the basis that the site does not meet the relevant criteria, or (a)
- amendment of the date on which a site first met the relevant criteria to be included on a local authority map. (b)

The local authority will assess the submission and decide on whether the site meets the criteria for inclusion on the map, or assess if the date on which the site met the criteria should be changed and provide a written response of its determination by 1 August 2023.

In arriving at its determination, a local authority may consult with the owner, Irish Water, the National Road Authority or other persons referred to in article 28 of the Planning and Development Regulations 2001, within 21 days of receipt of the submission, so as to obtain further information to inform their determination. (2)

Any person consulted with under subsection (2) will provide the requested information to the local authority within 21 days. (3)

A local authority may, in exceptional circumstances, accept submissions relating to a supplemental map after 1 June 2023. (4)

In notifying the landowner of its decision under subsection (1), the local authority will provide an explanation for its decision and advise the owner that they have one month (5)

from receipt of the notification to appeal the determination to An Bord Pleanála, specifying the grounds for appeal.

### **Section 653I – Zoning submissions**

#### **Summary**

This section deals with requests to amend the zoning status of land.

#### **Details**

A landowner can make a written submission to their local authority requesting the zoning of land included in a draft or supplemental map be amended. A submission relating to a draft map must be made by 1 January 2023; a submission relating to a supplemental map must be made by 1 June 2023; a submission relating to a draft revised final map for 2025 must be made by 31 May 2024. (1)

The local authority will publish on its website submissions received by it requesting changes to the zoning status of land on draft or supplemental maps. (2)

Section 13(3A) of the Planning and Development Act 2000 will apply in relation to the publication of a submission on land zoning amendments. This provision provides that written submissions or observations received by a local authority to vary land zoning will be published on the website of the local authority within 10 working days of receipt subject to certain exceptions, including where the local authority is of the opinion that it is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not consented to its disclosure; where the local authority has received legal advice not to publish all, or part of the submissions or observations concerned; and where the submission or observation relates to matters prescribed by the Minister for the Environment and Local Government for the purpose of section 13 of the Planning and Development Act 2000. (3)

The local authority will evaluate a submission received under subsection (1), consider whether a variation under section 13 of the Planning and Development Act 2000, as amended, is appropriate and, in the case of a submission relating to the draft revised final map for 2025, notify the owner of its decision to reject the request or to propose to make a variation under section 13 of the Planning and Development Act 2000. The local authority will issue this notification by 31 July 2024. (4)

Landowners making a request in accordance with this section must have evidence of their ownership of the land in question and provide such evidence to the relevant local authority upon request. (5)

### **Section 653J – Appeal**

#### **Summary**

This section sets out the appeal process open to a landowner dissatisfied with a local authority determination on their submission in respect of a draft or supplemental map.

#### **Details**

An appeal of a local authority determination issued under section 653E in respect of submissions on a draft map must be made in writing to An Bord Pleanála by 1 May 2023. (1)

An appeal of a local authority determination issued under section 653H in respect of submissions on a supplemental map must be made in writing to An Bord Pleanála by 1 September 2023. (2)

In its deliberations, An Bord Pleanála will consider the local authority determination subject to the appeal and the grounds for appeal. It may consult with the owner, the local authority, Irish Water, the National Road Authority or other persons specified in article 28 of the Planning and Development Regulations 2001 within 21 days of the receipt of the appeal to obtain further information. (3)

A person consulted with under subsection (3) will provide the requested information within 21 days of receipt of the request. (4)

Having considered the determination made, the grounds for appeal and any information provided under subsection (3), An Bord Pleanála will make a decision on the matter under appeal. An appeal under section 653E will be decided upon by An Bord Pleanála not later than 16 weeks from the date of the notice of appeal. An appeal under section 653H will be decided upon by not later than 8 weeks from the date of the notice of appeal. (5)

An Bord Pleanála may:

- confirm the local authority's determination,
- set aside the local authority's determination and allow the appeal, or
- partially confirm the local authority's determination and set aside part of the local authority's determination and allow the appeal in part.

An Bord Pleanála will notify the owner and the local authority of its decision as soon as practicable after making its decision. (6)

## **Section 653K – Final map**

### **Summary**

A local authority will publish, no later than 1 December 2023, a final map for the purposes of the identifying land within the scope of residential zoned land tax.

### **Details**

A local authority will update the draft map previously published and, no later than 1 December 2023, publish a final map for the purposes of the tax. In preparing a final map a local authority will have regard to and reflect, as appropriate, the following in the final map:

- sites included in the supplemental map, (a)
- submissions made under section 653D in respect of a draft map and 653G in respect of a supplemental map regarding the date on which land first satisfied the relevant criteria, (b)
- determination of a submission made under section 653E (draft map) and 653H (supplemental map) or where a determination has been made under one of these sections has been appealed to An Bord Pleanála under section 653J, the outcome of the appeal, (c)
- changes made to the zoning of land as a result of a review of a development plan, a variation of a development plan or the amendment of a local area plan by a local authority as a result of which land no longer meets the relevant criteria, and (d)
- the regularisation of unauthorised development, either by way of an application to retain unauthorised development or an application for substitute consent, (e)
- the most recent capacity registers published by Uisce Eireann where they indicate that land no longer has sufficient capacity available to be considered 'serviced' for the purpose of meeting the relevant criteria. (f)

The final map will quantify in hectares land satisfying the relevant criteria for inclusion on a map and will specify the date on which land identified on a map first met the criteria for inclusion, when this date is after 1 January 2022. **(I) & (II)**

### **Section 653L – Effect of appeal or judicial review**

#### **Summary**

This section provides for situations where the outcome of an appeal to An Bord Pleanála, or judicial review proceedings, is unknown prior to the publication of the final map.

#### **Details**

Where the outcome of an appeal to An Bord Pleanála, the outcome of judicial review proceedings taken against a determination of a local authority under section 653E (draft map) or section 653H (supplemental map) or the outcome of judicial review proceedings taken against a decision of An Bord Pleanála, is not known within 30 days of the publication of a final map, the area of land subject to the appeal or judicial review will be included on the final map.

### **Section 653M – Revision of final maps**

#### **Summary**

This section requires a local authority to update a final map published by it under Chapter 2, Part 22A on an annual basis from January 2025.

#### **Details**

A local authority will revise and publish the final map previously published for the purposes of residential zoned land tax by 31 January annually, beginning in 2025. The updated map is referred to in Part 22A as a ‘revised final map’. **(1)**

The process for the preparation and publication of a draft map, the making of submissions in relation to a draft map and the issuing of determinations by a local authority in relation to a draft map, apply for the purpose of making revisions to the revised final map, subject to certain adaptations: **(2)**

- the references in subsections (2) and (3) of section 653C to 1 November 2022 are to be construed as a reference to 1 February in the year prior to the year concerned, **(a)**
- the notice published under section 653C(4) shall include a statement that the proposed inclusions and proposed exclusions are subject to submissions received, and that owners who support the proposed exclusion of their land should make a submission in support of such exclusion, **(b)**
- the reference in section 653C(4)(e)(i) to 1 January 2023 shall refer to 1 April in the year prior to the year concerned for the purpose of this section, **(c)**
- the reference in section 653C(4)(e)(ii) to 11 January 2023 shall refer to 11 April in the year prior to the year concerned for the purpose of this section, **(d)**
- section 653C(4)(f) shall not apply, **(e)**
- the reference in section 653D(1) to 1 January 2023 shall refer to 1 April in the year prior to the year concerned for the purpose of this section, **(f)**
- the reference in section 653D(2) to 11 January 2023 shall refer to 11 April in the year prior to the year concerned for the purpose of this section, **(g)**
- the draft map shall identify any land which was on the final map previously published by the local authority that it is proposed to include or exclude from the revised map, **(h)**

- the reference in section 653E(1)(iii) to 1 April 2023 shall refer to 1 July in the year prior to the year concerned for the purpose of this section, (i)
- the reference in section 653J(1) to 1 May 2023 shall refer to 1 August in the year prior to the year concerned for the purpose of this section. (j)

### **Section 653N – Receipt of information by Revenue Commissioners**

#### **Summary**

This section requires the Revenue Commissioners to inform a local authority where land, satisfying the relevant criteria, is not included on a map.

#### **Details**

The Revenue Commissioners is required to notify a local authority when it is made aware that zoned serviced residential development land in the local authority's functional area has not been included on the most recent local authority map published under Chapter 2, Part 22A. The local authority will assess the information provided to it and take this information into account when revising the final map.

### **Section 653O – Relevant site**

#### **Summary**

This section defines 'relevant site' for the purposes of Part 22A.

#### **Details**

A relevant site is a site included on a revised final map published by a local authority in accordance with section 653M, with the exclusion of residential properties. A residential property is any building or part of a building which is used as, or is suitable for use as, a dwelling including sheds or garages and yards or gardens not exceeding 0.4047 hectares usually enjoyed with the residential property, as defined in the Finance (Local Property Tax) Act 2012. (1)

This subsection extends the exclusion from a relevant site, as it applies to residential property, to include curtilage in excess of 0.4047 hectares. (2)

Where a portion of a relevant site subject to the tax may be separately identified on the basis of a grant of planning permission in respect of that portion of the site, then that portion of the site may itself be considered a relevant site for the purpose of the tax from the date of the grant of the planning permission and is referred to as a 'new relevant site' (3)

All new relevant sites, apart from sites which are developed wholly or partly for non-residential purposes and sites in respect of which the payment of tax has been deferred, will have the same liability date and valuation date as the original site. The market value of the original site and any amount of residential zoned land tax and interest charged on the original site under section 653Q(4) is to be apportioned between the original site and the new relevant site, or sites, on a just and reasonable basis. (4)

A site in respect of which tax has been deferred in accordance with section 653AH, and the development of which is fully completed within the life of the planning permission relating to the site, will cease to be a relevant site on the lodging of the certificate of compliance. Where only part of the site has been fully developed within the lifetime of the planning permission, the provisions of subsection (3) and (4) will apply to treat the part of the site that is fully developed as a new relevant site. On completion of the development of the new relevant site, the site will cease to be a site to which residential zoned tax applies. (5)

### **Section 653P – Liable persons**

## Summary

This section defines ‘liable person’ for the purposes of Part 22A.

## Details

A liable person, other than in the case of death and subject to the provision relating to designated liable persons, is the owner of the land on the liability date. (1)

An owner is defined as –

- the registered, or deemed registered, owner under the Registration of Title Act 1964; (a)
- a person, other than a mortgagee not in possession, who, whether in his or her own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land, or would be so entitled if the land was so let; (b)
- any other person whose interest in the land entitles them to develop the land. (c)

The absence of documentary evidence of title to the relevant site shall not preclude an assessment to residential zoned land tax being made, nor shall it preclude a person being found to be liable person in relation to the relevant site. This allows the raising of assessments in respect of land within the scope of the tax where the owner is unknown and/or disputed. (2)

## Chapter 3 *Residential zoned land tax*

## Summary

The charging of a relevant site to residential zoned land tax together with the calculation of tax due is provided for in Chapter 3.

## **Section 653Q – Charge to residential zoned land tax**

### Summary

This section provides that a tax to be known as ‘residential zoned land tax’ shall be charged, levied and paid annually on the liability date by the liable person.

### Details

Residential zoned land tax will be charged and levied annually on a relevant site on the liability date. Sites which meet the relevant criteria set out in section 653B on 1 January 2022 will be chargeable for each year from 1 January 2025 onwards. Where a site becomes a relevant site after 1 January 2022, it will be chargeable for each year beginning with the third year following the year it becomes a relevant site. (1)

Residential zoned land tax in respect of a site subject to the tax is payable on the return date of the year in which the tax is charged, by the liable person, where there is a liable person in respect of the relevant site. (2)

Where there is more than one liable person in relation to a relevant site, joint and several liability will apply to all liable persons in respect residential zoned land tax payable in respect of that relevant site. (3)

Any residential zoned land tax and interest referred to in section 653Y that remains unpaid after it is due and owing, becomes and remains a charge on the land to which it relates. (4)

## **Section 653R – Amount of residential zoned land tax**

### Summary

This section provides for the calculation of the amount of residential zoned land tax due annually.

#### Details

Subject to the provisions of sections 653AG and 653AH, in the first year in which residential zoned land tax is charged on a liable person, the relevant site should be valued on the liability date, being 1 February in that year. Thereafter, the relevant site is to be valued on 1 February every three years following the first valuation. (1)

The amount of residential zoned land tax due is calculated by multiplying the market value of a relevant site on the valuation date by the residential zoned land tax rate of 3%. (2)

### Chapter 4 *Pay and file obligations*

#### Summary

This Chapter contains provisions on the requirement for the owner of a relevant site to register for residential zoned land tax and deliver a return. In addition it applies certain provisions contained in Chapter 5, Part 41A including the making and amending of assessments and the right of a Revenue officer to make enquiries, to the tax.

#### **Section 653S – Obligation to register**

##### Summary

This section places an obligation on owners to register a relevant site.

##### Details

An owner of a site will register with the Revenue Commissioners, providing such particulars relating to the person and the site as the Revenue Commissioners prescribe, where – (1)

- the site is a relevant site or (a)
- the site is a residential property, excluded from residential zoned land tax but having a curtilage greater than 0.4047 hectares. While owners of residential property with curtilage greater than 0.4047 hectares are required to register their property as a relevant site, they are not liable to pay tax in respect of the site. (b)

The Revenue Commissioners will establish and maintain a register of sites from the information provided to them by owners of sites specified in subsection (1). (2)

The Revenue Commissioners may assign a unique identification number to each site on the register. (3)

Where a unique identification number is assigned to a site, this number will be notified to the owner by the Revenue Commissioners. (4)

Failure to comply with the provisions of this section may result in a penalty of €3,000. (5)

#### **Section 653T – Obligation on liable person to prepare and deliver return**

##### Summary

This section sets out the obligation on a liable person to prepare and deliver a return to the Revenue Commissioners in respect of a relevant site.

##### Details



A liable person shall prepare and deliver to the Revenue Commissioners a return, along with a self-assessment to residential zoned land tax, on or before the return date each year, in respect of the relevant site, or sites in respect of which they are liable persons. (1)

The information that may be prescribed by the Revenue Commissioners in a residential zoned land tax return includes: (2)

in respect of a relevant site – (a)

- the address, the folio number, the market value, the valuation date that is relevant for the purposes of the return and the size in hectares of the relevant site,

the name of the local authority of the area within which the relevant site is located, (b)

in respect of a liable person or designated liable person: (c)

- the person's name, Tax Identification Number (TIN), the person's ownership interest in the relevant site(s) and their address. Where there is more than one liable person, this information must be provided in respect of all liable persons,

the site identification number issued by the Revenue Commissioners, (d)

details of any claim for an exemption from, deferral of, or repayment of tax made under Chapters 5 and 6 of Part 22A. (e)

Notwithstanding the provisions set out in section 851A with respect to the confidentiality of taxpayer information, the Revenue Commissioners shall publish the information referred to in paragraph (a) and (b) of subsection (2). The publication of this information is subject to a commencement order to be made by the Minister for Finance. (3)

### **Section 653U – One return in respect of jointly owned relevant site**

#### **Summary**

This section provides that in the case of joint owners of a relevant site, only one return is required.

#### **Details**

Where there is more than one liable person in relation to a relevant site only one return is required to be prepared and delivered. The return will be prepared and delivered by the liable person who is identified as the designated liable person by the process outlined in section 653V. (1)

Where there is more than one liable person in relation to a relevant site, one return will satisfy the obligations of all liable persons in respect of that site and shall bind all the other liable person(s). (2)

Where more than one return is delivered in relation to a relevant site and one of those returns is delivered by the designated liable person, then the Revenue Commissioners shall notify the person(s) who are not the designated liable person that a return has been delivered by the designated liable person. (3)

Where more than one return is delivered in respect of a relevant site and there is no designated liable person, the Revenue Commissioners shall designate a liable person in accordance with subsection 653V for the purposes of subsection (2). (4)

### **Section 653V – Designated liable person**

#### **Summary**

This section outlines how a designated liable person is identified as such.

#### **Details**

A ‘specified class of person’ means a class of person in the Table to this section. (1)

A designated liable person within the meaning of section 653U(1) is determined by this section. (2)

Subject to subsections (4) and (5), the designated liable person is the person who falls into that specified class, where only one of the specified classes are applicable. If several classes of specified persons apply, then the designated liable person is the person who falls into the first specified class as it appears in the Table to this section. (3)

Notwithstanding subsection (3), the designated liable person shall be the person designated by the Revenue Commissioners, should the Revenue Commissioners choose to exercise the power provided for in subsection (5). (4)

Where the Revenue Commissioners are of the opinion that one liable person is more appropriately the designated liable person over another, or the operation of subsection (3) does not result in the determination of a liable person, the Revenue Commissioners may specify in writing who the designated liable person shall be. (5)

Table 1

Table 1 sets out who will be the designated person in differing circumstances –

Class 1: the liable person who is nominated by joint election of all liable persons in respect of a relevant site and being a person whose name, address and tax identification number (including a personal public service number) are notified in writing to the Revenue Commissioners.

Class 2: if the relevant site is jointly owned by a married couple or civil partners, the assessable spouse or civil partner.

Class 3: if the relevant site is jointly owned and those joint owners are partners, the precedent partner.

Class 4: the liable person with the highest total income.

Class 5: if the relevant site is jointly owned and any of the joint owners are not resident or ordinarily resident in the State, a liable person who is resident or ordinarily resident in the State.

### **Section 653W – Preparation and delivery of return by person acting under authority**

#### **Summary**

This section provides for the preparation and delivery of a return by a person acting under the authority of a liable person.

#### **Details**

Notwithstanding section 653T, a residential zoned land tax return can be delivered by a person acting under the authority of a liable person. (1)

The provisions of Chapter 4 of Part 22A apply to the return by a person acting under the authority of a liable person as if it was filed by the liable person. (2)

Anything that a liable person is required or permitted to do under Chapter 4 of Part 22A can be done by a person acting under their authority (3)

### **Section 653X – Assessments, enquiries and appeals**

## Summary

This section adapts certain provisions of Chapter 5 of Part 41A relating to assessments, enquiries and appeals for the purposes of residential zoned land tax.

## Details

Sections 959Y, 959Z, 959AA, 959AC, 959AD and 959AE apply to residential zoned land tax subject to the following modifications: (1)

a reference to a ‘person’ or a ‘chargeable person’ shall include a reference to a ‘liable person’, (a)

a reference to a ‘chargeable period’ shall include a reference to a ‘year’, (b)

a reference to ‘amount of income, profits or gains, or, as the case may be, chargeable gains’ shall include a reference to the market value of a relevant site, (c)

a reference to a ‘return’ includes a return required under Part 22A, (d)

for the purposes of section 653AH (deferral of residential zoned land in certain circumstances), in section 959AA(1), ‘after the end of 4 years commencing at the end of the year in which a certificate of completion is lodged’ shall be substituted for ‘after the end of a period of 4 years commencing at the end of the chargeable period for which the return is delivered’ and, in paragraph (ii) ‘after the end of 4 years commencing at the end of the year in which a certificate of completion is lodged’ shall be substituted for ‘after the end of a period of 4 years commencing at the end of the chargeable period for which the return is delivered’, (e)

for the purposes of section 653AHA (sites subject to a relevant contract), in section 959AA(1), ‘after the end of 4 years commencing at the end of the year in which the relevant contract (within the meaning of 653AHA) expires’ shall be substituted for ‘after the end of 4 years commencing at the end of the chargeable period in which the return is delivered’ and, in paragraph (ii) ‘after the end of 4 years commencing at the end of the year in which the relevant contract (within the meaning of section 653AHA) expires’ shall be substituted for ‘after the end of a period of 4 years commencing at the end of the chargeable period for which the return is delivered’. (f)

A liable person aggrieved by a Revenue assessment or amended assessment has a right of appeal. An appeal must be lodged within 30 days of the notice of assessment or amended assessment. An appeal relating to the market value of a relevant site should be made to the Land Value References Committee, as prescribed by section 33 of the Finance (1909-10) Act 1910, (as amended by the Property Values (Arbitration and Appeals) Act 1960. An appeal in relation to any other matter must be made to the Tax Appeal Commissioners in accordance with section 949I. (2)

## Section 653Y – Interest on overdue tax

### Summary

This section provides for interest to be charged on underpaid residential zoned land tax.

### Details

This section provides that interest applies at a rate of 0.0219 per cent per day from the date on which the tax becomes due and payable until payment is made. (1)

This section provides that subsections (3) to (5) of section 1080, which relate to interest on overdue tax, apply to residential zoned land tax as they apply to income tax, corporation tax and capital gains tax. (2)

## **Section 653Z – Transfer of relevant site**

### **Summary**

This section applies where site subject to residential zoned land tax is sold or transferred.

### **Details**

A ‘sale’ for the purposes of Part 22A is where a relevant site is transferred from the liable person to another person including: - (1)

- as a result of, or as a result of the giving of notice of intention, to exercise a compulsory purchase order, (a)
- where a site is transferred for less than market value (b)
- where a lease is entered into for more than 35 years, or indefinitely. (c)

Prior to the sale of a relevant site, the liable person will pay all tax and interest due under this Part in respect of the site to the Revenue Commissioners. (2)

A liable person shall, prior to the completion of the sale of a relevant site, seek to agree and pay any penalty so agreed, or pay any penalty as determined by the courts in accordance with the Taxes Consolidation Act, which is due in respect of residential zoned land tax. (3)

The Revenue Commissioners will provide the liable person, or a person acting on their behalf, with confirmation of any unpaid residential zoned land tax, interest, or penalties due in respect of a relevant site or confirmation that there are no amounts outstanding (4)

A liable person who intends selling a relevant site will file a return, or have a return filed on their behalf, before the sale is completed. The form of this return will be prescribed by the Revenue Commissioners. (5)

The information to be provided in a return required under subsection (5) may include in respect of a relevant site – (6)

- the date of acquisition, the market value at the date of acquisition, the market value at the most recent valuation date if one has occurred since acquisition and the proposed date of sale and the proposed consideration for the site. (a)

in respect of a liable person or the designated liable person – (b)

- the person’s name, the person’s tax identification number (including personal public services number), the ownership interest of that person, the address for correspondence and confirmation of whether the liable person and the purchaser are connected. Where there is more than one owner this information is to be provided for all owners.

in respect of the purchaser of a relevant site – (c)

- the person’s name, the person’s tax identification number (including personal public services number) and address for correspondence. Where there is more than one owner this information is to be provided for all owners.

The site identification number issued by the Revenue Commissioners may also be required. (d)

## **Section 653AA – Appointment of an expert**

### **Summary**

This section grants Revenue certain powers in relation to the appointment of experts in the operation of residential zoned land tax.

### Details

The Revenue Commissioners may appoint experts to assist in ascertaining certain matters in relation to any amount of tax or exemption, deferral or abatement of tax included in a return required under this Part. The matters which an expert may assist in ascertaining are: (1)

-

- the market value of a relevant site, (a)
- whether a building is a residential property, (b)
- whether the grounds and buildings adjoining a residential property are appropriate to residential use, (c)
- whether works have permanently ceased on a relevant site, (d)
- the total area of a relevant site and the area of such a site which is being developed for residential purposes, (e)
- the proportion of a site which has been completed on the last day of planning permission relating to the site and (f)
- the total gross floor space of buildings in a development for which planning permission has been granted, and the total gross floor space of dwellings within such a development. (g)

The Revenue Commissioners may, in writing, authorise its officers to exercise powers conferred under this section. (2)

An ‘authorised officer’ is a Revenue officer so authorised by virtue of subsection (2) (3)

This subsection confirms that, subject to the notification procedure in subsection (5), any obligation as to secrecy, or restriction on the disclosure of information under the Tax Acts or any other statute, is not to apply so as to preclude the disclosure by the authorised officer to the expert any information in the liable person’s return which is necessary for the expert to form an opinion.. (4)

Prior to disclosing information under subsection (4), the authorised officer must give the liable person written notice of their intention to disclose information to the expert, the information they intend to disclose to the expert and the identity of the expert. (5)

The liable person has 30 days to object to the disclosure of information to an expert under subsection (5), on the basis it would prejudice their trade or business. Where this is demonstrated, the authorised officer will not disclose the information to the expert. (6)

Where, after the period allowed for in subsection (6) has elapsed, the authorised officer is not satisfied that the disclosure would prejudice the liable person’s trade or business, they may disclose the information to the expert, a further 30 days after giving notice of their intention to the liable person to disclose the information. (7)

Where a liable person is dissatisfied with an authorised officer’s decision under subsection (7), they may appeal the decision to the Tax Appeal Commissioners within 30 days of the date of the decision. (8)

This subsection adapts section 911 (Valuation of assets) for the purposes of residential zoned land tax by introducing the following modifications – (9)

- a reference to an authorised person shall include references to an expert or an authorised officer. (a)
- a reference to ascertaining the value of an asset shall include references to ascertaining the matters outlined in subsection (1), and (b)
- a reference to reporting the value of an asset shall include references to reporting the matters specified in subsection (1) (c)

## Section 653AB – Surcharge for undervaluation of the relevant site

### Summary

This section imposes a surcharge on undervaluation of a relevant site.

### Details

‘Ascertained value’ in relation to a relevant site means the site’s market value. (1)

Should the market value of a relevant site as included in a residential zoned land tax return when expressed as a percentage of its ascertained value, be within the range indicated in the percentage bands in column (1) of the Table to this section, the residential zoned land tax due will be increased by a surcharge. The amount of the surcharge is also determined by the Table to this section; column (2) details the surcharge to apply in respect of each of the percentage bands in column (1). (2)

Interest is payable on the surcharge as if the surcharge were residential zoned land tax and both the surcharge and interest are chargeable and recoverable in the same manner as the tax. (3)

Where the amount of residential zoned land tax due is increased by the imposition of a surcharge under subsection (2), the Revenue Commissioners will notify the liable person in writing of the amount of the surcharge (4)

The imposition of a surcharge for undervaluing a relevant site can be appealed to the Tax Appeals Commissioners within 30 days of the issue of the notice under subsection (4). The amount of the surcharge and the imposition of a surcharge can be appealed on the basis that there were sufficient grounds on which the appellant might reasonably have based their estimate of market value on. (5)

Table

Estimate of the ratio of the market value of the relevant site, as stated in the return, to the ascertained value of the relevant site expressed as a percentage. (1)	Surcharge (2)
Equal to or greater than 0 per cent but less than 40 per cent	30 per cent
Equal to or greater than 40 per cent but less than 50 per cent	20 per cent
Equal to or greater than 50 per cent but less than 67 per cent	10 per cent

## Section 653AC – Surcharge for late return of the relevant site

### Summary

This section imposes a surcharge for the late filing of residential zoned land tax returns.

### Details

Where a liable person does not file an annual return in respect of relevant site by the due date, a surcharge will apply. The surcharge is calculated as a percentage of the tax due and will vary depending on the length of the delay in filing. The surcharge is determined by reference to a Table which sets out in column (1) the timing of the delivery of the return relative to the return date and in column (2), the surcharge to apply. (1)

Interest is payable on the surcharge as if the surcharge were residential zoned land tax and both the surcharge and interest is chargeable and recoverable in the same manner as the tax. (2)

Table

Timing of delivery of return relative to return date (1)	Surcharge (2)
Return not delivered within 6 months from the return date	30 per cent
Return delivered between 4 and 6 months from the return date	20 per cent
Return delivered between 0 and 3 months from the return date	10 per cent

Where a person deliberately or carelessly files an incorrect return in relation to a relevant site on or before the return date, they shall be deemed to have failed to deliver the return on time, unless the error in the return is corrected before the return date. (3)

Subsection (3) shall not apply where a person, having either carelessly or deliberately filed an incorrect return, pays the full amount of any penalty due as a result of the application of section 1077F. (4)

A person who neither carelessly nor deliberately files an incorrect return on or before the return date, shall be deemed to have failed to deliver the return on time unless they correct the error in the return without unreasonable delay. (5)

## Chapter 5 *Abatements*

### Summary

This Chapter deals with the deferral of residential zoned land tax where an appeal against inclusion on the map prepared by the local authority is ongoing, where certain legal proceedings delay the commencement of construction and while construction of housing is in progress within the timeframe set out in the planning permission granted in respect of a relevant site.

### **Section 653AD – Repayment of tax on site not suitable for development**

#### Summary

This section provides for a situation where, following the publication of a final map, it is determined that the site or part of the site cannot be developed due to its physical condition.

#### Details

This section applies where, following publication of a final map, the local authority, in consultation with any person referred to in article 28 of the Planning and Development Regulations 2001, determines that the site or part of the site is affected in terms of its physical condition to the extent that it precludes development of the site or part of the site. The impediment to development may include contamination or the presence of archaeological or historic remains. (1)

A determination made by a local authority under subsection (1) will be notified to the liable person in writing as soon as practicable thereafter. (2)

The written notification will specify the date from which the site or part of the site concerned is determined to have been affected to such an extent that precludes development. (3)

A site, or part of a site, so affected to the extent that it precludes its development, will not be considered a relevant site from the date specified in subsection (3). (4)

Where residential zoned land tax has been paid in respect of a site which is later determined to be unsuitable for development due to its physical condition, a claim for a repayment of that tax can be made. (5)

Where only part of a site is affected and a person makes a claim for a repayment of tax paid in respect of that part, the amount to be claimed is determined by the following formula: (6)

$$C = T \times (A_{\text{part}}/A_{\text{total}})$$

where—

C is the amount of tax which can be claimed in accordance with this subsection,

T is the total amount of residential zoned land tax paid in respect of the site,

$A_{\text{part}}$  is the area of the site, in square metres, which is affected to the extent that development of same is precluded, and

$A_{\text{total}}$  is the total area of the site in square metres.

Where tax has been deferred on the commencement of residential development, in accordance with section 653AH, and it is subsequently determined that the site, or part thereof, cannot be developed due to matters that affected its physical condition from a date prior to the date on which the deferral commenced, this subsection applies. (7)

Where subsection (7) applies, on the making of a claim, the deferred residential zoned land tax in respect of the site, or part thereof so affected, shall not be due and payable. (8)

Where only part of a site is so affected, the amount of deferred residential zoned land tax that is no longer due and payable is determined by the formula in subsection (6), subject to the following modifications: (9)

C shall be the amount of deferred tax which is not due and payable

T shall be the total amount of deferred residential zoned land tax in respect of the site,

$A_{\text{part}}$  shall be the area, in square metres, of the part of the site affected in the manner described in subsection (1), and

$A_{\text{total}}$  shall be the total area, in square metres, of the site.

## **Section 653AE – Deferral of tax on appeals under section 653J**

### **Summary**

This section deals with situations where an appeal or judicial review process in relation to the inclusion of a site on a local authority map, or a request for the variation of the zoning status of a site, is not concluded one month prior to publication of a final or revised map.

### **Details**

This section applies where, one month prior to the publication of a final or revised map on which a site is included, an appeal relating to the inclusion of the site on the map has not been determined. Appeals and legal proceedings provided for under this section include – (1)



- an appeal to An Bord Pleanála against a local authority determination made under sections 653E and 653H, (a)
- an application for judicial review in respect of a local authority determination made under sections 653E and 653H or a decision of An Bord Pleanála made under section 653J, or (b)
- where a submission requesting an amendment to an owner’s land zoning has been made and the local authority has notified the owner concerned of its decision to propose to make a variation but no variation to the land zoning has been made on foot of the submission. (c)

When an appeal or judicial review proceedings taken in relation to the inclusion of a site on a final or revised map, or a submission in relation to the amendment of a site’s zoning, are determined in favour of the owner by 1 February in the year the final map or revised map is published, the site will not be a relevant site for the purposes of residential zoned land tax with effect from the date the appeal or judicial review proceedings were lodged, or a submission to amend land zoning was made, as the case may be. (2)

Where a site ceases to be a relevant site for the purposes of residential zoned land tax as a result of an appeal, judicial review or variation of a development plan, the owner of the site can make a claim for a refund of tax paid from the date the appeal or judicial review proceedings were lodged, or a submission to amend land zoning was made, to the date the site ceased to be a relevant site. (3)

If an appeal or judicial review taken in relation to the inclusion of a site on a final or revised map, or a submission in relation to the amendment of a site’s zoning, are unresolved by a return date, the liable person can, in their residential zoned land tax return defer payment of any tax due pending the outcome of the appeal, judicial review or the process to vary a local authority’s development plan. (4)

Where a liable person defers payment under subsection (4), and the appeal is found in favour of the owner of the site or the site is no longer a site to which the tax applies arising from the variation of the local authority development plan, any tax so deferred will not be due and payable. (5)

Where a liable person defers payment under subsection (4), and the appeal or judicial review is not found in favour of the owner of the site or a variation of the local authority development plan is not made to amend a site’s zoning, the liable person must amend any return in which a deferral was claimed and pay any tax and interest due. (6)

Where a liable person defers payment under subsection (4) pending the outcome of an appeal or judicial review application, or the outcome of a process in relation to the variation of a local authority development plan, but sells their interest in the relevant site before the appeal or judicial review is determined, or before the variation process in respect of the local authority development plan is concluded, the liable person must amend any return in which a deferral was claimed and pay any tax and interest due. (7)

## **Section 653AF – Deferral of tax during appeals**

### **Summary**

This section deals with situations where a person cannot commence development because planning permission granted in respect of the relevant site is under appeal or is subject to judicial review.

### **Details**

A ‘relevant appeal’ includes – (1)

- an appeal to An Bord Pleanála in respect of a grant of planning permission (planning permission in this paragraph does not include a local authority consent), (a)

- an application for judicial review of a decision of a local authority or An Bord Pleanála in respect of a grant of planning permission, or (b)
- an appeal of a determination of a judicial review of a decision of a local authority or An Bord Pleanála in respect of a grant of planning permission (c)

taken by a party other than the planning permission applicant or the owner of the land in question, and who is unconnected to the applicant or owner.

This section applies where development cannot commence due to an appeal in relation to the grant of planning permission which is undetermined at a liability date. (2)

Where a relevant appeal is determined in favour of the liable person, such that development can commence, then the liable person can apply for a repayment of all residential zoned land tax paid from the date on which the appeal was first made to the date on which the grant of planning permission was upheld. (3)

Where an appeal has not been determined by the next return date, the liable person may include in their return a claim to defer payment of the residential zoned land tax due on the site in respect of which the grant of planning permission has been appealed, that has arisen from the date on which the relevant appeal was made. This deferral may continue until the appeal is determined and if: - (4)

- the appeal upholds the grant of planning permission, the tax so deferred is no longer due and payable,
- the appeal overturns the grant of planning permission the liable person must amend the returns in which a deferral was claimed and pay any tax and interest due.

Should the liable person dispose of the land while the relevant appeal is pending, they must amend any residential zoned land tax returns in which a claim to defer payment was made, and pay any tax and interest due.

### **Section 653AFA - Deferral of tax during application to retain unauthorised development or for substitute consent**

#### **Summary**

This section deals with situations where land is currently subject to an unauthorised use, but where all other conditions for exclusion from residential zoned land tax, as set out in section 653B(i) and (ii), have been met. The section provides for a deferral of tax where a person applies for a retrospective authorisation of the development, pending the decision of the relevant local authority or An Bord Pleanála.

#### **Details**

This subsection provides that this section applies where a landowner makes an application for retention of unauthorised development under section 34(12C) of the Planning and Development Act 2000 or they make an application for substitute consent under section 177E of that Act, in circumstances where the land would be outside of the scope of residential zoned land tax if the development in question was authorised. (1)

Where the application referred to in subsection (1) results in the grant of retention planning permission or substitute consent, the land in respect of which the application was made will not be a relevant site for the purposes of residential zoned land tax with effect from the date of making the application. (2)

Where a site ceases to be a relevant site for the purposes of residential zoned land tax as a result of the grant of retention planning permission or substitute consent, the liable person may make a claim for the repayment of any residential zoned land tax paid in respect of that site from the date of making the application for retention planning permission or substitute consent. (3)

The liable person may make a claim to defer payment of residential zoned land tax that has arisen since the making of the application for retention planning permission or substitute consent, pending the outcome of that application. (4)

Where a deferral of residential zoned land tax is claimed under subsection (4), and the application in question results in the grant of retention planning permission or substitute consent, the tax so deferred is no longer due and payable. (5)

Where the application for retention planning permission or substitute consent is unsuccessful, the liable person must amend each return in which a claim to defer payment of residential zoned land tax under subsection (4) was made and pay any tax and interest due. (6)

Where a claim for deferral of residential zoned land tax is made pending the outcome of an application for retention planning permission or substitute consent, and the owner sells the land concerned before the application in question is determined, the liable person must amend each return in which a claim to defer payment of the tax in accordance with subsection (4) was made and pay any tax and interest due. (7)

### **Section 653AFB - Deferral of tax during appeals in respect of applications to retain unauthorised development or for substitute consent**

#### **Summary**

This section provides for situations where land is only within the scope of residential zoned land tax because it is subject to an unauthorised use, and where an application to regularise the planning status of the land has been denied and the landowner has brought an appeal against, or requested a judicial review of, that decision.

#### **Details**

This subsection defines ‘relevant appeal’ and ‘relevant petition’ for the purpose of this section.

- A relevant appeal is an appeal to An Bord Pleanála brought by a landowner in respect of an application to retain unauthorised development which has been denied by a local authority, where the land would not be within the scope of residential zoned land tax if it was authorised development. (1)
- a relevant petition includes an application for the judicial review of a decision of a local authority or An Bord Pleanála not to approve a landowner’s application to retain an unauthorised development, or an appeal of a determination of a judicial review of a decision of a local authority or An Bord Pleanála not to approve a landowner’s application to retain an unauthorised development, where the land would not be within the scope of residential zoned land tax if it was authorised development, or (a)
- a relevant petition also includes an application for judicial review of a decision of An Bord Pleanála brought by a landowner in respect of an application for substitute consent which has been denied, or an appeal of a determination of a judicial review of a decision of An Bord Pleanála in respect of an application for substitute consent which has been denied, where the land would not be within the scope of residential zoned land tax if it was authorised development. (b)

This section applies where the land would not be within the scope of residential zoned land tax if it was subject to an authorised development at the time that the application to (2)

retain unauthorised development, or the application for substitute consent, was made, and a relevant appeal or petition is brought in respect of that land.

This subsection applies where this section applies and a relevant appeal is determined in favour of the landowner such that permission to retain the unauthorised development is granted. (3)

Where a relevant appeal is determined in favour of the landowner such that permission to retain the unauthorised development is granted, the site will not be a relevant site for the purposes of residential zoned land tax with effect from the date the application to retain the unauthorised development was made. (4)

Where a site ceases to be a relevant site for the purposes of residential zoned land tax as a result of a relevant appeal being determined in favour of the landowner such that permission to retain the unauthorised development is granted, the owner of the site can make a claim for a refund of residential zoned land tax paid from the date the application to retain the unauthorised development was made. (5)

Where a liable person chose, in accordance with section 653AFA, to defer payment of residential zoned land tax during the determination of the application to which the relevant appeal or petition relates, they may continue to defer the tax which was deferred in the course of the determination of that application until the relevant appeal or petition is determined. (6)

A liable person may make a claim under this section to defer residential zoned land tax for the period from the date on which they make the relevant appeal or petition until it is determined. (7)

A claim to defer residential zoned land tax for the duration of a relevant appeal or petition may be made by a liable person at a return date which falls during the period of the relevant appeal or petition. (8)

Where a liable person defers payment under subsection (6) (i.e. continues to defer the residential zoned land tax to which section 653AFA relates) or subsection (7) (i.e. defers residential zoned land tax arising in the course of a relevant appeal or petition), and the relevant appeal is found in favour of the owner of the site such that permission to retain the unauthorised development is granted and the site is no longer a site to which the tax applies, any tax so deferred will not be due and payable. (9)

Where a liable person defers payment under subsection (6) or (7), and the appeal is *not* found in favour of the owner of the site such that permission to retain the unauthorised development is not granted, the liable person must amend any return in which a deferral was claimed and pay any tax and interest due. (10)

Where a relevant petition results in an owner making a further application to retain unauthorised development, or a further application for substitute consent, within three months of the court's determination of the relevant petition, section 653AFA applies in respect of that application, subject to subsections (12) and (13) of this section. (11)

Where a liable person makes a further application as set out in subsection (11), and that application is not successful, such that permission to retain the unauthorised development is not granted, or substitute consent is not granted, the liable person must amend any return in which a deferral was claimed under section 653AFA(4) or subsection (7) from the date of the original application to retain unauthorised development, or for substitute consent, and pay any tax and interest due. (12)

Where a liable person makes a further application as set out in subsection (11), and that application is successful, such that permission to retain the unauthorised development or substitute consent is granted, then: (13)

- the site will not be a relevant site for the purposes of residential zoned land tax with effect from the date the original application to retain the unauthorised development, or for substitute consent, was made, (i)

- the owner of the site can make a claim for a refund of residential zoned land tax paid from the date the original application to retain the unauthorised development, or for substitute consent, was made, and (ii)
- where a liable person deferred payment of residential zoned land tax under subsection (6) or (7) of this section, any tax so deferred is no longer due and payable. (iii)

Where a person defers payment under subsection (6) or (7) of this section for the duration of a relevant petition, and the court remits the application to the local authority or An Bord Pleanála for further consideration, section 653AFA applies in respect of that application, subject to subsections (15) and (16) of this section. (14)

Where the court remits the application to the local authority or An Bord Pleanála for further consideration and permission to retain the unauthorised development is not granted or substitute consent is not granted, the liable person must amend any return in which a deferral was claimed and pay any tax and interest due. (15)

Where the court remits the application to the local authority or An Bord Pleanála, and permission to retain unauthorised development is granted, or substitute consent is granted, tax deferred under subsection (6) or (7) is not due and payable. (16)

Where a relevant petition is determined and subsections (11) to (16) do not apply, the liable person must amend any return in which a deferral was claimed and pay any tax and interest due. (17)

Where the liable person disposes of the land in question while the relevant appeal or petition is pending, they must amend any residential zoned land tax in which a claim to defer payment was made under this section and pay any tax and interest due. (18)

### **Section 653AG – Sites developed wholly or partly for purpose other than residential development**

#### **Summary**

This section sets out how the tax applies to sites which are zoned suitable for mixed use purposes, including residential use. In such sites, where non-residential development has commenced, the part of the site that is being developed for non-residential purposes shall not be a relevant site.

#### **Details**

This section applies to a relevant site that is included in a development plan or local area plan as being zoned for a mixture of uses, including residential use, and which is to be developed wholly or partly for a purpose other than residential development, in accordance with planning permission granted in respect of same. (1)

Subject to subsection (6), where this section applies and a commencement notice (or the first commencement notice where there is or will be more than one) is lodged with a local authority under the grant of planning permission for the site, the portion of the site being developed for non-residential purposes will cease to be a relevant site for the purposes of residential zoned land tax from the date of the first commencement notice in respect of which works comprising substantial activity within the timeframe specified in the notice, commence. (2)

Where a site is being developed partially for residential use and partially for non-residential use, the market value of the relevant site that is developed for residential use is calculated in accordance with the formula set out in subsection (4). In this section, this part of the site is referred to as the ‘liable part of the relevant site’ and its market value, as calculated under subsection (4), is to be used as if it were the market value of the relevant (3)

site for the purposes of calculating the amount of residential zoned land tax on the liability date immediately after the lodgement of the commencement notice in respect of the site, or the first commencement notice, as the case may be.

The formula referred to in subsection (3) to determine the liable part of the relevant site is: (4)

$$A \times (B/C)$$

where:

A is the market value of the relevant site on the day before the (first) commencement notice was lodged,

B is the gross floor space relating to dwellings, in accordance with the grant of planning permission, and

C is the total gross floor space for all of the development.

When subsection (4) is relied upon to determine the market value of the liable part of the relevant site to calculate the amount of residential zoned land tax due, the valuation date in respect of the liable part of the relevant site will be the liability date following the date on which the commencement notice was lodged. (5)

Where there is no substantial activity in relation to non-residential development within a reasonable period of time from the lodgement of the first commencement notice, the site shall not cease to be a relevant site, in accordance with subsection (2). This will remain the case until such time as substantial non-residential development activity commences. (6)

A liable person will make a declaration that this section applies to their relevant site, providing such information as is prescribed by the Revenue Commissioners. The declaration is to be made within 30 days of the lodgement of the (first) commencement notice. A liable person must have records available to show that they have complied with the requirements of this section. (7)

### **Section 653AH – Deferral of residential zoned land tax in certain circumstances**

#### **Summary**

This section provides for the deferral of residential zoned land tax where residential development is commenced within the timeframe set out in the grant of planning permission in respect of the relevant site.

#### **Details**

This section applies when – (1)

- planning permission has been granted in respect of the development of a relevant site, (a)
- the development to be carried out is wholly or partly residential development. The portion of the relevant site relating to residential development is referred to as ‘relevant residential development’ for the purposes of this section, and (b)
- development has commenced, e.g. a commencement notice has been lodged with the appropriate local authority. (c)

Where more than one commencement notice is lodged with the appropriate local authority., the reference in subsection (1)(c) is a reference to the first commencement notice, in respect of which substantial activity in relation to the development has commenced. (2)

Where this section applies, any residential zoned land tax arising in respect of a relevant residential development on liability dates falling after the lodgement of a commencement notice in respect of such a development, shall, notwithstanding the payment date in section 653Q(2), not be due and payable until the happening of the earlier of – (3)

- the date on which works on the relevant site permanently cease, without the lodgement of certificates of compliance in respect of all of the relevant residential development (as defined) with the appropriate local authority, (a)
- the date on which the relevant site is sold or transferred, without the lodgement of certificates of compliance in respect of all of the relevant residential development (as defined) with the appropriate local authority, and (b)
- the date on which the planning permission granted in respect of the development expires, without the lodgement of certificates of compliance in respect of all of the relevant residential development (as defined) with the appropriate local authority. (c)

In this section, residential zoned land tax deferred pending the happening of the events specified in subsection (3) is referred to as ‘deferred residential zoned land tax’. (4)

The residential zoned land tax that can be deferred in accordance with this section is the tax relating to relevant residential development, which arises in respect of a liability date which falls after the lodgement of a commencement notice and up until the occurrence of the first of the events listed in subsection (3).. (5)

The amount of tax deferred shall be –

- all residential zoned land tax due where the development relates to residential development only, or
- an amount of tax based on the portion of the site which has been developed for residential purposes, as determined by ‘A’ in the formula:

$A=BXC$

where –

B is the market value of the part of the relevant site that is being developed for residential use (referred to in this section as the ‘qualifying part of the relevant site’), on the valuation date applicable to the liability date, and

C is the rate of 3 per cent.

Where an apportionment of the tax to be deferred is required in accordance with subsection (5)(ii) – (6)

- the market value of the qualifying part of the relevant site (B in the formula in subsection (5)(ii)) on the first liability date after the lodgement of a commencement notice is calculated using the formula used to calculate the market value of the ‘liable part of the relevant site’ in section 653AG(4), and (a)
- for the purposes of calculating the amount of residential zoned land – (b)
  - i. the part of the relevant site that is being developed for non-residential use will have as its valuation date the next liability date after the lodgement of the (first) commencement notice. The market value on that valuation date will be calculated using the method outlined in subsection (6)(a).
  - ii. the valuation date in subparagraph (i) will continue to apply until 1 February in the year immediately following the first occurrence of any of the events listed in subsection (3).

Notwithstanding the provision in subsection (3) setting out the earliest date on which deferred residential zoned land tax becomes due – (7)

- residential zoned land tax deferred on an account of the commencement of residential development is not due where the liable person makes a claim on the basis that all relevant residential development is completed within the life of the planning permission granted in respect of the planning permission site, or (a)

- that residential zoned land tax deferred on an account of the commencement of residential development on a relevant site may only be partly payable where the relevant residential development is partly completed within the life of the planning permission granted in respect of the site. Where the percentage of the relevant residential development completed, calculated in accordance with subsection (8), is within any of the percentages in column (1) of the Table to this section, then, on the making of a claim by the liable person, the percentage of the deferred residential zoned land tax relating to the relevant site which is due and payable shall be the corresponding percentage, set out in column (2) of the Table. (b)

Where deferred residential zoned land tax becomes due and payable in accordance with subsections (3) or (7)(b), the liable person must amend each return in respect of each liability date to which section 653AH refers and pay any tax and interest due. (7A)

For the purposes of determining the amount of deferred residential zoned land tax due and payable in circumstances where a relevant site is partially completed within the lifetime of the planning permission in subsection (7)(b), the percentage of relevant residential development completed on the expiry of the applicable planning permission is determined by ‘A’ in the following formula: (8)

$$A = (B/C) \times 100$$

where –

B is the total gross floor space of the relevant residential development completed at the expiry of the planning permission and

C is the total gross floor space of the relevant residential development, as set out in the planning permission.

A claim made under subsection (7) will be in form to be specified by the Revenue Commissioners. (9)

A liable person may only rely on the provisions of this section where a return is filed in respect of each annual liability date in the period to which this section applies. (10)

Table

Percentage of completion calculated in accordance with subsection (8) (1)	Percentage of residential zoned land tax due and payable (2)
Equal to or greater than 55 per cent but less than 65 per cent	35 per cent
Equal to or greater than 65 per cent but less than 75 per cent	25 per cent
Equal to or greater than 75 per cent but less than 85 per cent	15 per cent
Equal to or greater than 85 per cent	0 per cent

### Section 653AHA - Sites subject to a relevant contract

#### Summary

This section provides for an exemption from residential zoned land tax for land that is within the scope of the tax, but which is subject to contractual obligations, entered into prior to 1 January 2022 (being the date from which Part 22A, of the Taxes Consolidation



Act 1997 came into effect), the terms of which preclude the owner from developing the land.

### Details

Subsection (1) defines a ‘lease’ and a ‘relevant contract’ for the purposes of the section. (1)

A lease has the same meaning as that within the Capital Gains Tax Acts.

A relevant contract means a written lease which does not exceed 35 years, that was entered into prior to 1 January 2022 and that, it is reasonable to consider prevents the owner from developing the site.

Subject to subsections (3) and (5), on the making of a claim by the liable person, any tax that would otherwise have been payable in respect of the relevant site, or part of the relevant site, to which the contract relates, shall not be due and payable for the duration of the relevant contract. (2)

Where the relevant contract refers to only part of the relevant site, the amount of tax that is due is determined by the following formula: (3)

$$C = T \times (A_{\text{part}}/A_{\text{total}})$$

where—

C is the amount of tax which is due,

T is the total amount of residential zoned land tax in respect of the site that would be due, but for this section,

A<sub>part</sub> is the area of the part of the site, in square metres, site not subject to the relevant contract, and

A<sub>total</sub> is the total area of the site in square metres

A claim referred to in subsection (2) shall be made in such form and contain such particulars as the Revenue Commissioners may prescribe. (4)

A liable person may only rely on the provisions of this section where a return is filed in respect of each annual liability date falling within the period to which this section applies. (5)

This section shall not apply where the parties to the relevant contract include the owner of the relevant site and a person connected (within the meaning of section 10 TCA 1997) with the owner. (6)

This section shall not apply to a relevant site subject to a relevant contract, where it would be reasonable to consider that the relevant contract is not entered into for bona fide commercial reasons and forms part of any arrangement or scheme the main purpose or one of the main purposes of which is the avoidance of a liability to tax. (7)

For the purposes of subsections (2) and (3), where a relevant contract precludes the owner from carrying out development for part only of the term of the contract, the period of the relevant contract is deemed to be the period during which such development is precluded under the contract. (8)

## Chapter 6 *Death cases*

### Summary

Chapter 6 provides that the personal representatives of a deceased liable person effectively take the place of the deceased for the purposes of the application of residential zoned land tax.

## Section 653AI – Death

### Summary

This section provides for when a liable person dies.

### Details

For the purposes of Part 22A, ‘personal representative’ has the meaning given to it in Chapter 1 of Part 32 and is considered a single continuing body of persons. (1)

Section 1047 (liability of parents, guardians, executors and administrators) and 1048 (assessment of executors and administrators) apply for the purposes of the residential zoned land tax subject to the following adaptations: (2)

- a reference to ‘income tax’ means a reference to ‘residential zoned land tax’ (a)
- a reference to ‘profits or gains’ means a reference to the market value of a relevant site; and (b)
- a reference to ‘Income Tax Acts’ means a reference to ‘Part 22A’. (c)

The personal representative will be deemed to be the liable person in relation to a site immediately following the death of the liable person, and will continue to be so until the administration of the estate of the deceased is complete, and another person becomes the new liable person in respect of a site to which this Part applies. (3)

The personal representatives of the deceased person shall be responsible for all obligations under this Part as if: - (4)

- the personal representatives acquired the relevant site at the time it was acquired by the deceased person, (a)
- the transfer of the site to the personal representative will not be treated as a change of ownership for the purposes of Chapter 5, (b)
- a provision of this Part that applied to the site in question prior to the death of the deceased person continues to apply after their death. (c)

Notwithstanding the provisions of section 653Q in relation to the charge to residential zoned land tax, but subject to subsections (6) and (7), tax arising in respect of liability dates in the period after the death of the deceased and before the administration of the estate is completed (referred to as ‘post-death tax’) is due and payable at the earlier of – (5)

- 12 months from the grant of probate or grant of letters of administrations of the deceased persons estate, or (a)
- 24 months from the date of death of the deceased person. (b)

Subject to subsection (7), where the administration of the estate is completed prior to any tax becoming due and payable under subsection (5), then the post-death tax is no longer due and payable. (6)

The provisions of subsections (5) and (6) only apply if a return is filed in respect of each relevant site within the deceased person’s estate in accordance with section 653U for each return date that arises from the date of death to the earlier of the time periods set out in subsection (5). (7)

Where a site that was determined to be unsuitable for development due to its physical condition was owned by the deceased person immediately prior to their death, the personal representatives may make a claim for a refund of tax under section 653AD(5) during the administration period. (8)

Where at the date of death the provisions of section 653AE apply to a site in respect of which the deceased person was the owner, the personal representatives may: (9)

- claim a refund of tax under section 653AE(3) during the administration of the estate if the deceased person would have been so entitled, and (a)
- make a claim to defer residential zoned land tax under section 653AE(4) during the administration period if the deceased person would have been so entitled and tax so deferred that becomes payable during the administration period will become a charge on the land under section 653Q(4). (b)

Where at the date of death the provisions of section 653AF apply to a site in respect of which the deceased person was the owner, the personal representatives may: (10)

- claim a refund of tax under section 653AF during the administration of the estate if the deceased person would have been so entitled, or
- make a claim to defer residential zoned land tax under section 653AF(4) during the administration period if the deceased person would have been so entitled and tax so deferred that becomes payable during the administration period will become a charge on the land under section 653Q(4).

Where at the date of death the provisions of section 653AFA apply to a site in respect of which the deceased person was the owner, the personal representatives may: (10A)

- claim a refund of tax under section 653AFA during the administration of the estate if the deceased person would have been so entitled,
- make a claim to defer residential zoned land tax under section 653AFA(4) during the administration period if the deceased person would have been so entitled and tax so deferred that becomes payable during the administration period will become a charge on the land under section 653Q(4).

Where at the date of death the provisions of section 653AFB apply to a site in respect of which the deceased person was the owner, the personal representative may, during the administration period, make any claim to defer residential zoned land tax under subsection (6) or (7) of 653AFB that the deceased person would have been entitled to make and any tax so deferred that becomes due and payable prior to the end of the administration period shall become a charge on the land concerned. (10B)

If, on the date of death, tax is deferred under section 653AH on a relevant site of which the deceased person was the owner, the personal representative takes the place of the deceased person for the purposes of applying the provisions of section 653AH in respect of a relevant site to which the deceased was the liable person prior to their death. Tax deferred under section 653AH(3) will become a charge on the land, in accordance with section 653Q(4), at the end of the administration period. (11)

Where at the date of death the provisions of section 653AHA apply to a site in respect of which the deceased person was the owner the personal representative may, during the administration period, make any claim under section 653AHA(2) that the deceased person would have been entitled to make. (11A)

Notwithstanding subsections (9)(b), (10)(b), (10A)(b), (10B) or (11)(b), a beneficiary of a site to which section 653AE(4), 653AF(4), 653AFA(4), 653AFB(6) and (7) or 653AH(3) was applicable at the end of administration takes the place of the deceased and may continue to apply those provisions, as if the beneficiary was the liable person in respect of the relevant site at the date of death of the deceased. (12)

Any charge on the land that arises under subsections (9)(b), (10)(b), (10A)(b), (10B) or (11)(b) shall cease to apply if the tax to which the charge relates would not be payable by a beneficiary of the relevant site to which the charge relates, had they been the liable person with respect to that relevant site at the date of death of the deceased person. (13)

## Miscellaneous

### Summary

This Chapter specifies the records to be kept by a liable person under this Part, confirms the treatment of residential zoned land tax for the purpose of calculating other taxes, confirms that residential zoned land tax is under the care and management of the Revenue Commissioners and provides for situations where the no owner is registered in respect of a relevant site..

### Section 653AJ – Obligation to keep certain records

#### Summary

The books and records to be kept by a liable person for the purposes of this Part are set out in this section.

#### Details

A liable person must keep, or have kept on their behalf, records that are required to enable a full and true return to be made. (1)

Records to be retained include but are not limited to books, accounts, documents and any other data maintained manually or by electronic, photographic or other process, relating to – (2)

- a commencement notice, certificate of compliance on completion, planning application and planning permission as they relate to a relevant site,
- the valuation of a relevant site, or part of a relevant site, on the valuation date or other specified date, as obtained by the liable person,
- any claim to an exemption, abatement or deferral of tax under this Part,
- the purchase or sale of a relevant site by the liable person, and
- the liable person’s evidence of title to a site.

The records are to be kept in written form, in either Irish or English or, may, section 887(2), be kept electronically. (3)

The records must be kept for a period of 6 years from the end of each year in which a return is filed. (4)

The liquidator is responsible for keeping records in the case of a winding up of a company by a liquidator, and the directors are responsible for keeping records in the case of a company being dissolved, where no liquidator is appointed. The liquidator or directors, as the case may be, must retain records to which this section applies for 5 years from the date on which the company is wound up or dissolved. (5)

When a liable person dies, the executor or administrator of the estate will retain the records to which this section applies for 5 years from the date of death. (6)

Failure to comply with the provisions of this section may result in a penalty of €3,000. (7)

### Section 653AK – Restriction of deduction

#### Summary

This section confirms the treatment of residential zoned land tax for the purpose of calculating other taxes.

#### Details

Residential zoned land tax is not deductible for the purposes of calculating profits or gains to be charged to income tax, corporation tax or capital gains tax. (1)

Residential zoned land tax is not deductible for the purposes of calculating Universal Social Charge or domicile levy. (2)

### **Section 653AL – Care and management of residential zoned land tax**

#### **Summary**

This section confirms that residential zoned land tax is under the care and management of the Revenue Commissioners.

#### **Details**

Residential zoned land tax is under the “care and management” of the Revenue Commissioners and the Revenue Commissioners may do all such acts as are deemed necessary and expedient to raise, collect, receive and account for residential zoned land tax as they are authorised to do for all other taxes and duties that they are responsible for. Part 37 (Administration) applies to residential zoned land tax as it applies to income tax, corporation tax and capital gains tax. (1) (2)

### **Section 653AM – Where no owner registered**

#### **Summary**

This section outlines the actions that can be taken by the Revenue Commissioners where the owner of a site that is within the scope of this tax has not come forward to meet their obligations under this Part and where the tax and interest accrued on the site exceeds 110 per cent of the market value of the site.

#### **Details**

This section applies where no person has registered as the owner of a site subject to residential zoned land tax, as required under subsection 653S, and unpaid residential zoned land tax and interest that is due has become a charge on the land under section 653Q(4). (1)

Where this section applies, the Revenue Commissioners may publish a notice in Iris Oifigiúil where unpaid residential zoned land tax and interest, which has become a charge on the land, exceeds 110 per cent of the market value of a site on a valuation date. (2)

The details to be included in the notice to be published under subsection (2) are: (3)

- the issue of the notice is the first step in a process that may result in the relevant site becoming the property of the State, (a)
- the address of the relevant site, (b)
- the folio number(s) of the relevant site, if available (c)
- the name of the local authority where the relevant site is located, and (d)
- notification that the Minister for Public Expenditure and Reform may, after 6 months has passed from the date of the publication of the notice, apply to the High Court for an order that the relevant site is the property of the State. (e)

Where a notice in accordance with subsection (3) has been published, the Minister for Public Expenditure and Reform may make an application under subsection (5) to have the site become the property of the State. (4)

An application under this subsection is one made by the Minister for Public Expenditure and Reform to the High Court to have the site concerned become the property of the State. (5)

An application under subsection (4) is made ex parte. The High Court will give direction as regards the serving or publication of notice of the application to have a site become the property of the State. A final determination by the High Court will not be given until the Court’s direction in relation to the serving or publication of notice has been complied with and until such time as the Court considers reasonable has lapsed. (6)

The High Court may order that the relevant site is the property of the State from the date of the order provided it is shown to its satisfaction that – (7)

- the site is a relevant site,
- no person has registered as an owner in respect of the site, and
- unpaid residential zoned land tax and interest, which has become a charge on the site, exceeds 110 per cent of the market value of a site on a valuation date

Subject to an appeal to the Court of Appeal, an order under subsection (7) is conclusive evidence, binding on all persons, that the relevant site is property of the State from the date the order is made. This applies, irrespective of whether a person had notice of an application to have a site become property of the State, or otherwise. (8)

A site that is subject to a High Court order under subsection (7), vests in the Minister for Public Expenditure and Reform. (9)

Following the order, the site concerned is registered land under the Registration of Title Act 1964 and the Minister for Public Expenditure and Reform is the registered owner. (10)