

Windfall Gains Tax

Background

Significant windfall gains can accrue to landholders when the value of their land increases due to the actions of government. This includes government decisions to rezone land.

This was observed in the rezoning of Fishermans Bend. Overnight, land values in the area increased significantly, providing property owners a major windfall.

A tax on windfall gains associated with a rezoning is an efficient and targeted way of capturing a fair share of these value uplifts for the community, contributing to infrastructure and services where the property values increase due to the actions of Government.

Consultation and implementation

After the Windfall gains tax was announced in the *2021-22 Budget*, the Government committed to engaging in targeted consultation on the implementation of the Windfall gains tax.

These discussions with various sectors have informed Government's considerations of how some of the tax mechanisms will operate.

The Government is also conscious of the dynamic public health and economic conditions that are relevant to the timing and form of the Windfall gains tax and proposes some variations to the policy since its announcement.

Key changes to policy parameters

A number of policy parameters are proposed to be varied in response to current conditions as well as stakeholder feedback, including:

- Commencement date postponed by one year to 1 July 2023.
- Transition arrangements to exempt rezonings which meet the following as at 15 May 2021:
 - o certain types of agreements to transact land (or options to transact land) already in place at the time of the rezoning decision.
 - o land with a planning scheme amendment that had obtained a tracking number in the Amendment Tracking System administered by the Department of Environment, Land, Water and Planning, or the Minister for Planning has agreed to prepare the rezoning and where significant costs have been incurred by the landowner to support the amendment, being the lesser of \$100 000 or 1 per cent of the pre-rezoning valuation.

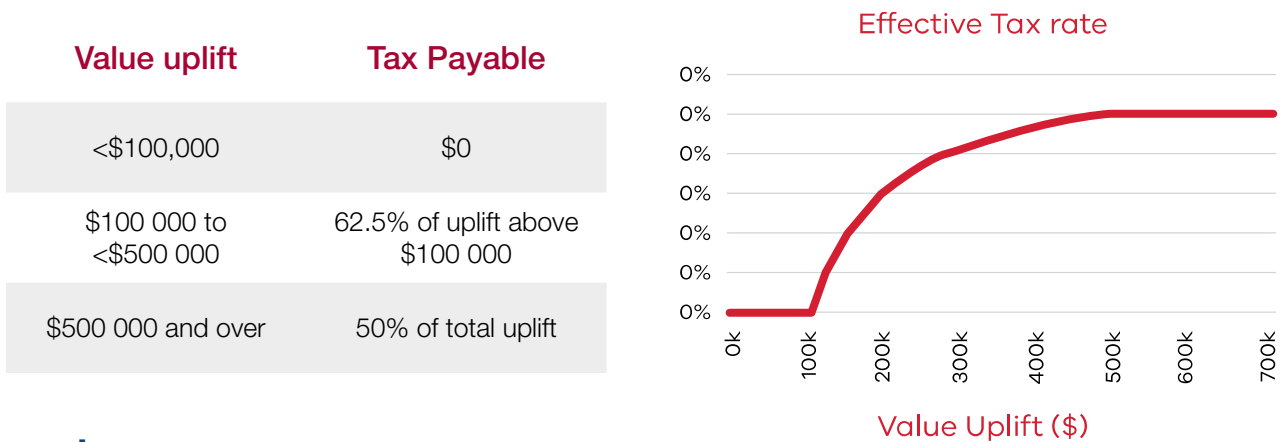
- An exemption for residential land which includes a dwelling fit for occupancy at the time of the rezoning, with the exemption applying for up to two hectares of residential landholdings, regardless of whether the dwelling is the landowner's principal place of residence.
- Charities will not pay any Windfall gains tax liability on their landholdings, so long as the land continues to be used for charitable purposes for a 15-year period after the rezoning event.
- Windfall gains tax liabilities may be deferred until the next dutiable transaction or until 30 years elapses, whichever occurs first. A subdivision of land will not cease deferral arrangements.
- The tax will be based on value uplift measured at the point of the rezoning event on a Capital Improved Value basis rather than a Site Value basis.
- An exemption for land that is rezoned to a Rural Zone, other than the Rural Living Zone.

The rates and thresholds previously announced remain unchanged (see below) as do the rezoning types that remain exempt, which covers rezonings to Public Land Zones and rezonings to and from the Urban Growth Zone within the Growth Areas Infrastructure Contribution area. Landowners will also have the right to object to pre-rezoning and post-rezoning valuations after the tax assessment is made.

The tax will otherwise apply to any change of zone and these zones are set out in the Victorian Planning Provisions, unless a residential property, or a Rural Zone exemption applies. A movement between Schedules within a zone will not constitute a rezoning event for the purposes of the Windfall gains tax.

Tax Rates

A tax-free threshold of \$100 000 will ensure that only landholders experiencing a significant uplift (\$100 000 or greater) will be impacted



Example

Value uplift	Tax Payable	Effective tax rate	How is calculated
\$150,000	\$31,250	20.8%	= (150 000 – 100 000) x 62.5%
\$350,000	\$156,250	44.6%	= (350 000 – 100 000) x 62.5%
\$550,000	\$275,000	50.0%	= 550 000 x 50%

How will tax be calculated

The Windfall gains tax will be calculated based on valuations undertaken by the Valuer-General Victoria on the pre-rezoning value and the post-rezoning value of land, with the difference between the two representing the value uplift of the land. This calculation will be based on the Capital Improved Value of the land.

The pre-rezoning value will be based on the most recent annual general valuation, which is used for other purposes including the calculation of council rates and is calculated as at 1 January.

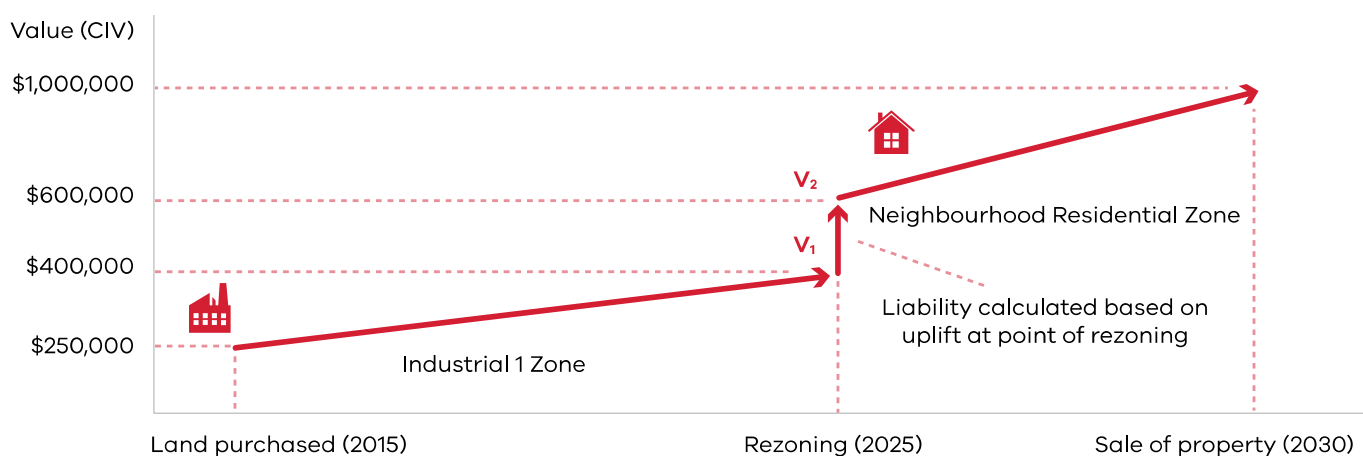
The post-rezoning value will be based on a supplementary valuation of the land based on the new rezoning and will also be valued as at 1 January of the same year.

This approach allows the value uplift to be calculated at a point in time, such that any growth in value before or after the rezoning is not captured in the calculation of the Windfall gains tax.

Example scenario

Company ABC owns industrial land on the outskirts of a regional town which was purchased for \$250,000 in 2015. Over time the town has grown and in anticipation of future residential developments the value of land around the town increases.

ABC's land is rezoned in 2025 from Industrial 1 Zone to Neighbourhood Residential Zone. At the point of rezoning, the pre-rezoning value (V_1) is \$400,000 and the post-rezoning value (V_2) is \$600,000, generating a value uplift of \$200,000 and a Windfall gains tax liability of \$62,500. ABC later sells its property to a developer for \$1,000,000 in 2030. ABC can pay the Windfall gains tax liability of \$62,500 when assessed or defer the liability, accruing interest until the next dutiable transaction (that is not an excluded dutiable transaction) occurs in 2030



Timing of liability and deferral of payment

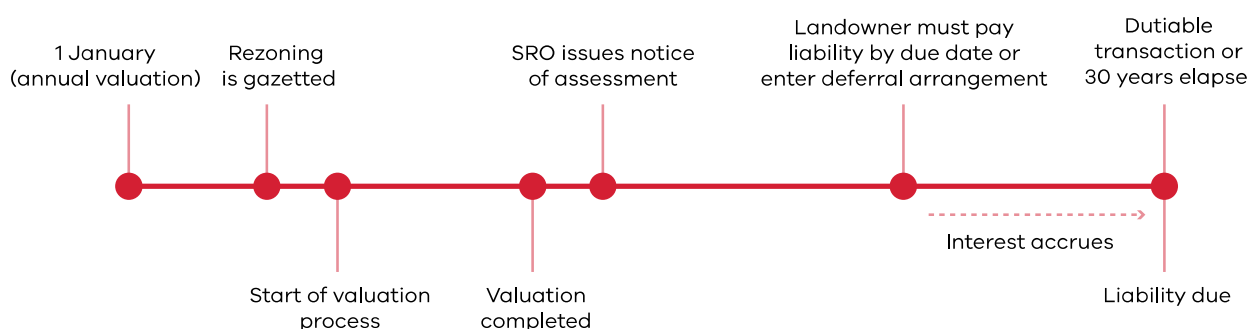
A landowner becomes liable for the Windfall gains tax at the time of the rezoning event but may choose to defer payment of the liability until the next dutiable transaction, when cashflow to meet the liability will be generated.

However, to ensure liabilities are not deferred indefinitely, there will be a 30-year limit on deferrals. This means a deferral will cease on the next dutiable transaction or after 30 years, whichever happens first.

Certain dutiable transactions will be excluded from triggering the cessation of deferral arrangements, including, but not limited to, dutiable transactions for no consideration or that arise because of the operation of the economic entitlement provisions. Where an excluded transfer is made, the deferred tax liability and accrued interest are rolled over to the purchaser.

When a rezoning event occurs, a valuation and assessment of liability will be undertaken. Once the taxpayer receives notice of the assessment of a tax liability, they will have until the due date in the assessment, typically 60 days from the date of assessment, to request that the liability be deferred.

Landowners will have the ability to object to the pre-rezoning and post-rezoning valuations when they receive their notice of assessment if they believe the valuations are not reflective of their property value. Where a deferral arrangement is entered into, the Windfall gains tax liability will accrue interest over time, at the Treasury Corporation of Victoria 10-year bond rate. This rate was 1.52 per cent as at 31 August 2021.



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