

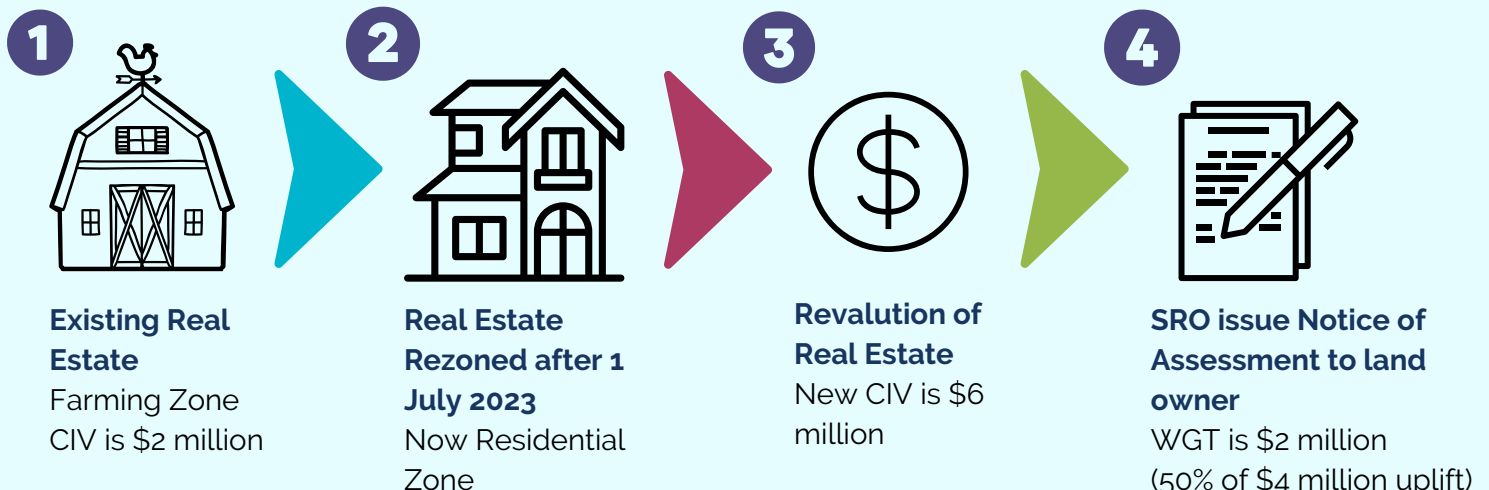
The Windfall Gains Tax (WGT) is a new tax for land owners on the 'uplift' in value of land in Victoria that is rezoned from 1 July 2023.

Understand and alert your clients now to the potential WGT implications of their real estate transactions.

WGT basics

- WGT commences on 1 July 2023 but relates to contracts entered into after 15 May 2021 and commercial decisions made **now**.
- WGT applies to all rezoned land in Victoria with limited exemptions.
- The land owner at the date of rezoning is liable to pay the tax.
- The date of rezoning is determined under the Planning and Environment Act 1987 (Vic) and is not within the client's control.
- The tax is applied to the 'value uplift' which is the increase in the land's Capital Improved Value (CIV) resulting from its rezoning. The revaluation is completed by the Valuer-General.
- For an uplift of more than \$100,000 but less than \$500,000: the tax will apply at a rate of 62.5% on the uplift above \$100,000. For uplifts of \$500,000 or more: a tax rate of 50% will apply to the total uplift.
- WGT is payable by the date set out in the notice of assessment but can be deferred (subject to conditions) with interest for up to 30 years.
- A subsequent dutiable transaction, such as the sale of land, will usually end the deferral and trigger payment of the tax.
- Unpaid WGT sits as a first charge against the land.
- There is a strict, two month time limit to object to a WGT assessment.

Example



Land Owner's options following Notice of Assessment

1. Pay the WGT liability by the due date **OR**
2. Give notice before the due date for payment to defer the WGT liability within 30 days (noting interest will accrue and the deferred WGT will constitute a first charge over the land) **AND/OR**
3. Object to the WGT assessment within two months.

Risk Management Actions

Raise awareness and keep records

- Raise WGT risks and implications with your clients in their transactions now.
- Ask clients specific questions about rezoning and WGT when obtaining instructions.
- Update precedent letters and instruction checklists to inform clients about WGT.
- Review precedent contracts of sale, options and development agreements to ensure WGT is dealt with.
- Always take file notes of your advice and confirm any advice in writing.

Things to consider in real estate transactions

- The land owner at the date of rezoning (not sale) is liable to pay WGT.
- Determine if WGT may apply, the potential cost and which party will be responsible for payment.
- If land is being transferred clarify in the contract who is responsible and how any WGT is paid.
- Ensure the client understands the risks and consequences of variables beyond their control such as the date of rezoning and the revaluation amount. A rezoning prior to a settlement will give a different outcome to a rezoning post settlement.
- Don't alter an existing contract or option entered into prior to 15 May 2021 without first checking the consequences.
- Always obtain a WGT property clearance certificate from the SRO to identify any deferred WGT liability.
- Consider outsourcing specialist legal advice on ways to manage the risk.

The SRO Assessment and strict time limits

- Ensure clients are aware that they must take action within strict time limits of receiving the WGT Notice of Assessment by:
 - Making payment by the due date
 - Electing (by notice before the due date for payment) to defer payment
 - Objecting to the Assessment within two months from the date of the notice of assessment. The SRO has no discretion to allow late objections.
- Be clear about who will be responsible for lodging any objection and the client's obligation to keep you informed.
- Understand the objection process or refer the client to a specialist practising in the area.

Deferred obligations

- Ensure clients understand what dutiable transactions may end the deferral of WGT, for example the sale of land.

For more information and resources about WGT go to lplc.com.au/wgt