

We need to design a workable land tax

The government's proposed 80% tax on land as part of Nama is doomed to be withdrawn in due course because it will produce no revenue, writes Bill Nowlan



John Gormley: the Green Party is proposing a new 'site development tax'

The 80% levy on land will significantly delay the recovery of the land market, reduce current market values even more and act as a significant obstacle to Nama selling land.

In addition to this tax, the Green Party now has a proposal for a 'site development tax' – whatever that means. I fully support the concept of a tax on the windfall gain in the value of land, but such tax must be fair and practical in the way that it works.

What is required in Ireland is carefully crafted comprehensive legislation to tax the betterment (an increase in value) in land rather than to bolt on ad-hoc changes to our current piecemeal system. We need to stand back and work out comprehensively how to integrate a land tax system with our urban planning system and stop applying ad-hoc and expedient sticking plasters to what is a very complex issue.

Over several decades, many countries have tried various approaches to capturing this betterment with greater or lesser degrees of success. We should learn from their experiences and choose a system for Ireland that is appropriate and workable.

The Dutch have a system whereby no land is rezoned unless it is firstly acquired by the planning authority. The betterment accrues to the planning authority and is used to pay for services and other infrastructure, including schools and so on. However, the Dutch have, in parallel with their planning system, an elaborate land management process for subdividing and servicing the land and then parcelling it out to developers which includes CPO powers.

Some American states have a system whereby the developer has to prepare an 'economic impact analysis' when he proposes a scheme of development and then has to pay all the community's costs relating to his new scheme, including schools, policing etc.

The British have had several attempts at capturing betterment. The world-recognised bible of betterment theory is the British Uthwatt Report of 1942. This proposed that all betterment created by development would go to the state through taxation linked to the granting of planning permission. This proposal was incorporated in the UK's 1947 Planning Act but was found to be unworkable in practice and was withdrawn seven years later.

The British returned to the Uthwatt principles in 1967 and introduced a central land authority known as the 'Land Commission' that was supposed to acquire all development land at existing use value and then pass it on for developing at a price that included most of the betterment. The theory was great but the execution was awful.

After three years the scheme was scrapped because it was creating a shortage of new housing. Various other land taxation attempts were tried in the 1970s (Development Gain Tax in 1974, the Community Land Act in 1975 and the Development Land Tax Act in 1976). The British now have an ad-hoc negotiated betterment system called Section 106, with agreements attached to the granting of planning permission whereby part of the 'development gain' is captured so long as it is related to 'infrastructure' and affordable housing costs directly related to the development. They are currently looking at modifying and regularising this under a community infrastructure levy following on from proposals in the Barker Report.

Our own Kenny Report of the 1970s proposed that all development land would be acquired by local authorities at existing use value plus 25%. This was again wonderful in theory but was recognised as being impractical. The Kenny concept was re-examined in 2005 by a select committee of the Dáil, which re-confirmed its impracticality. The argument for value capture / betterment was accepted by the committee but a mechanism was not decided upon.

Part of the detail of any new comprehensive taxation system is that it must integrate with our development levy system currently in operation under our planning laws.

Levies are a form of betterment tax but aim solely at recovering the actual costs of providing services. These do work and work well. We currently have a second betterment tax in the form of Part V of our Planning Act which requires developers to give up to 20% of their land for social housing at existing use value.

This is now becoming a bit of a monster, requiring the state to purchase houses from developers at above market value.

I am advocating that instead of introducing an 80% CGT tax which would just halt the land market and make Nama's problem bigger, that a properly structured and comprehensive betterment tax system be introduced.

A properly structured betterment tax of 30% to 50% on the increase in land values and integrated with or replacing a levy system would be a reasonable balance that would achieve the following:

- * Ensure a supply of land but not stop the market working
- * Capture not just the betterment in land that is the subject of new rezoning but also land that may already be zoned.
- * Ensure that the funds secured by this tax go to provide local services including schools and other social infrastructure
- * Create a system that is accepted as being fair by landowners, developers, politicians and the public and which will stand the test of time.

However, the detail designing a system will take thorough research. My suggestion is that the 80% tax proposal is suspended and that a Peter Bacon-type report on the options, permutations and combinations for a workable system of taxation of development land is commissioned and then quickly implemented.

Now is the time to do it while the speculation in land is at its nadir and minds are open for fundamental change.

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