

A GUIDE TO THE DRAFT MUNICIPAL PROPERTY RATES ACT AMENDMENTS

INTRODUCTION

Following public objections to aspects of the Municipal Property Rates Act and some practical difficulties in implementing parts of the Act, the Department of Cooperative Governance and Traditional Affairs has decided to have public hearings on the Act to consider amending it. We are very keen to hear from members of the public in terms of what you think of our proposed amendments and what further amendments you think we should make.

Property rates are a crucial part of raising revenue for municipalities, and it is important therefore that the residents of a municipality, particularly ratepayers, understand the rates system and express their views on it. It is to encourage this that public hearings are being held, and you are urged to fully participate in them.

The Department intends to take the amendments to Parliament in the second half of this year. We hope that Parliament will process the amendments by the end of the year.

Please feel free to participate. We are keen to hear from you!

(1) WHAT ARE PROPERTY RATES?

Property rates are a tax imposed on the market value of land and buildings (i.e. improvements) and is payable by the owner of that land and buildings. Property rates are imposed in terms of the MUNICIPAL PROPERTY RATES ACT.

(2) WHAT IS THE MARKET VALUE AND HOW IS IT DETERMINED?

The market value of land and buildings is the amount the property may be sold for in the open market by a willing seller to a willing buyer.

(3) WHAT DOES THE MUNICIPAL PROPERTY RATES ACT AIM TO ACHIEVE?

The main aims of the Municipal Property Rates Act are:

- To provide for a transparent, fair system of rating, and
- To provide for a process for ratepayers to lodge objections and appeals in respect of the values of their properties

(4) WHAT IS PROPERTY RATES INCOME USED FOR?

Property rates are used to fund services that benefit the community as a whole. These services need not be directly linked to a specific household and needn't be directly accessible in terms of proximity to each household, e.g. access roads. Rates are not meant to fund the provision of water and sanitation, electricity and refuse removal which are funded from the tariffs (user service charges) charged for consumption of these services.

(5) WHY ARE WE HERE TODAY?

We have identified weaknesses in the Municipal Property Rates Act that we seek to address. The key ones are:

- (5.1) The poor have not been adequately protected from paying rates as they should be. Currently, the exemption from rates of poor (or indigent) households is a municipal decision, as a result the poor may be subjected to paying rates in municipalities that do not make provision in their rates policies to protect them. We propose to amend the Act to allow for the poor to be excluded from paying property rates by determining an income threshold that identifies poor households using the income tax threshold as determined by the Minister of Finance every year thereby excluding all poor households regardless of where they are (whether in rural or urban areas) from rates.
- (5.2) Certain types of public service infrastructure (PSI) serve a developmental role by providing road infrastructure, dams, railway lines and conduits for international trade and travel. When such PSI is rated, such imposition of rates may serve to prevent or undermine the attainment of developmental goals, e.g. the building of roads or the extension of water and sanitation to all. We propose to amend the Act to exclude roads, railways, airport aprons and runways, breakwaters and dams from rating.
- (5.3) The exclusion of communal areas from rating. To date the vast majority of the municipalities have not rated communal areas, excluding KZN where some municipalities may be rating certain properties within communal areas. Are you satisfied about the treatment of communal areas in terms of the Act? If not what amendments do you propose?
- (5.4) Places of public worship and related residences are excluded from rating in the Act. However, it has been established that there is inconsistency from municipality to municipality in the way these places, which include churches, mosques, temples, synagogues among others are treated. This is because of differing interpretations of the Act with respect to what is a place of public worship or the properties linked to it. Therefore, it is proposed that the Act be amended to define all issues related to places of public worship so that clarity prevails and that all such properties are treated appropriately and in the same manner by all municipalities.
- (5.5) The basis for the determination of property categories is open ended and does not allow for appropriate regulation of rating by the Minister. Therefore it is proposed that the Act be amended to provide for a determination of property categories that allows for regulation of rating by the Minister. Otherwise regulations may amount to guidelines as opposed to them being legally enforceable.
- (5.6) The provisions for the role of provinces in monitoring and supporting municipalities with critical aspects of the Act are very broad, and without detail, hence it is felt that the MEC responsible for local government in a province was not provided with sufficient tools with which to exercise the envisaged monitoring and support role. Therefore amendments are proposed to provide more detail in the Act for the critical aspects of the Act that the MEC

must monitor, support and where necessary intervene in a municipality where critical milestones are not realised by municipalities.

- (5.7) The valuation and rating of mining properties has proven to be difficult to implement because of inconsistencies with whether above surface improvements related to mining activities should be valued, and who is responsible for paying such rates between the holder of the mining right and the owner of the land in instances where the two are different parties. Therefore, it is proposed that the Act be amended to provide clarity with respect to whether above surface improvements related to mining activities should be valued, as well as who is liable for paying rates for mining properties.
- (5.8) The Act allows for sectors of the economy to seek relief (by application) from the Minister in cases where they can demonstrate with concrete evidence that a municipality's or a group of municipalities' imposition of rates unreasonably prejudices national economic policies, economic activities across municipal boundaries or the national mobility of goods, services, capital or labour. However, the Act does not provide for a cut-off date by which such an application should reach the Minister, and this is problematic because it can allow for such applications to be made years after the date on which the rates in question were imposed, which in our view is unfavourable for all affected parties. In addition, it appears that the terms "sector of the economy" and "organised structures" in relation to sectors of the economy are not entirely understood. Therefore, it is proposed that to address these matters the Act be amended to:
- Provide for a cut-off date by which applications to the Minister by sectors of the economy in terms of the imposition by a municipality or a group of municipalities of alleged prejudicial rates to be not more than 12 months after the rates in question were imposed by the said municipality(ies).
 - Provide for definitions for "sector of the economy" and "organised structures" in relation to sector of the economy to clarify matters in this regard.

5.9 In several municipalities there have been significant inconsistencies in the valuation of properties. Consideration needs to be given to whether there is a need for amendments to the Act to deal with the quality of valuations.

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