

14/8 RATES AND TAXES POLICY**DATE : 14/08/2012****AGENDA : COUNCIL MEETING: 23/08/2012**

REPORT : ACTING CHIEF FINANCIAL OFFICER**1. PURPOSE**

The Policy is tabled to Council for adoption.

2. BACKGROUND:

In terms of section 3(1) of Municipal Property Rates Act 6 of 2004, the council of the municipality must adopt a policy consistent with the Act on the levying of rates on rate able property in the municipality. The Policy was tabled to Council on the 30th May 2012 and it was resolved that the policy be accepted as a Draft and that all necessary processes in line MFMA requirements be followed to ensure that a final policy can be tabled for adoption prior to the start of new financial year.

Copies of the Draft Policies were made available in all four units and an advertisement was made whereby public comments were invited. No written comments were received from the community regarding the Draft Policy.

3. STAKEHOLDERS CONSULTED:

Management
Council
Community

4. LEGAL IMPLICATION:

Municipal Property Rates Act.
Compliance

5. STAFF IMPLICATION:

None

6. FINANCIAL IMPLICATIONS:

Levying of Property Rates according the Policy, Bylaws and Municipal Property Rates Act.

7. RISK:

Possible loss of Income to Council.

8. ANNEXURE:

Draft Rates and Taxes Policy

9. RECOMMENDATION

1. That the Draft Rates and Taxes Policy be adopted for implementation

(FOR RECOMMENDATION)

Minutes: Council Meeting: 23/08/2012

Cllr Du Toit proposed that the matter be resolved as follows and was seconded by Cllr Jakobo.

RESOLVED:

1. That the Draft Rates and Taxes Policy be adopted for implementation
 2. That the Policy be workshopped to Councillors.
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SETSOTO MUNICIPALITY



PROPERTY RATES POLICY

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SECTION A: INTRODUCTION, DEFINITIONS AND PRINCIPLES

1. Introduction

The Local Government: Municipal Property Rates Act (2004) requires municipalities to develop and adopt a rates policy which is consistent with the Act on the levying of rates on rateable property in the municipality.

The municipality needs a reliable source of revenue to provide basic services and perform its functions. Property rates are the most important source of general revenue for the municipality. Revenue from property rates is used to fund services that benefit the community as a whole as opposed to individual households. These include building and maintaining streets, roads, sidewalks, street lighting, storm drainage facilities and building and operating of parks and recreational facilities.

Property rates revenue is also used to fund municipal administration, such as computer equipment and stationery, costs of governance, such as council and community meetings, which facilitate community participation on issues of Integrated Development Plans (IDPs) and municipal budgets.

Municipal property rates are set, collected, and used locally. Revenue from property rates is spent within a municipality, where the citizens and voters have a voice in decisions on how the revenue is spent as part of the Integrated Development Plans (IDPs) and budget processes, which a municipality invites communities to input prior municipal council adoption of the budget.

2. Definitions

"Act" means the Local Government: Municipal Property Rates Act, 2004 (Act NO.6 of 2004);

"Agricultural Purposes" in relation to the use of a property, excludes the use of a property for the purpose of eco-tourism or for the trading in or hunting of game,

"Business" means the activity of buying, selling or trade in goods or services and includes any office or other accommodation on the same erf, the use of which is incidental to such business, with the exclusion of the business of mining, agriculture, farming, or inter alia, any other business consisting of cultivation of soils, the gathering in of crops or the rearing of livestock or consisting of the propagation and harvesting of fish or other aquatic organisms.

"Establishment Costs" means the inclusion of the initial property purchase price, bulk and internal service installation costs and the initial sales and marketing costs, but exclude maintenance costs, finance charges and deemed costs that do not reflect the spirit of the investment concessions.

"Industrial" means a branch of trade or manufacturing, production assembling or processing of finished or partially finished products from raw materials or fabricated part, on so large scale that capital and labour are significantly involved.

"Mining" means any operation or activity for the purpose of extracting any mineral on, in or under the earth, water or any residue deposit, whether by underground or open working or otherwise and includes any operation or activity incidental thereto;

"Multiple use properties" means properties that cannot be assigned to a single category due to different uses.

"Municipal properties" means those properties of which the municipality is the owner.

"Newly rateable property" means any rateable property on which property rates were not levied by 30 June 2005, excluding a property that was incorrectly omitted from a valuation roll and for that reason was not rated before that date.

"Protected area" means an area that is or has to be listed in the register referred to in section 10 of the National Environmental Management: Protected Areas Act, 2003.

"Public Benefits Organization" means an organization conducting specified public benefit activities as defined in the Act and registered in terms of the Income Tax Act for tax reductions because of those activities.

"Public Service Infrastructure" means publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
- (b) water or sewer pipes, ducts or other conduits, dams and water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;
- (c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges or lines forming part of a communications system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) breakwater, sea walls, channels, basin, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising light houses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;

- (i) any other publicly controlled area as may be prescribed; or
- (j) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i);

"Residential" means a suite of rooms which forms a living unit that is exclusively used for human habitation purposes, or a multiple number of such units on a property, excluding a hotel, commune, boarding and undertaking, hostel and place of instruction.

"State-owned properties" means properties owned by the State, which are not included in the definition of public service infrastructure in the Act. These state-owned properties are classified as follows:

- (a) State properties that provide local services.
- (b) State properties that provide regional/municipal district-wide/metro- wide service.
- (c) State properties that provide provincial/national service.

"Vacant land" means a land where no immovable improvements have been erected.

3. Principles

The following principles will ensure that the municipality treats persons liable for rates equitably:

- **Equity**
The municipality will treat ratepayers with similar properties the same.
- **Affordability**
The ability of a person to pay rates will be taken into account by the municipality. In dealing with the poor/indigent ratepayers the municipality will provide relief measures through exemptions, reductions or rebates. In order to minimize major shocks to ratepayers the market values in the new valuation roll will be phased in over the entire period of the valuation cycle.

SECTION B: CATEGORIES OF PROPERTY

4. Criteria for categories of property for the purpose of levying different rates.

The municipality has determined categories of properties based on the following criteria:

- Use of the property

The following are the determined categories of properties by the municipality:

- Residential properties
- Business properties

- Industrial properties
- Mining properties
- Public service infrastructure
- Public Benefits Organization
- Agricultural properties used for agricultural purposes
- Agricultural properties used for eco-tourism or conversation
- Agricultural properties used for the trading in or hunting of game
- State-owned properties:
 - (i) State properties that provide local services.
 - (ii) State properties that provide regional/municipal district/metro-wide service,
 - (iii) State properties that provide provincial/national service.
- Municipal properties
- Protected areas
- Multiple use properties
- Vacant land

5. Criteria for rating multiple use property

The following criteria is implemented by the municipality:

- By apportioning the market value of a property to the different purposes for which the property is used for,
- Applying the relevant cent amount in the Rand to the corresponding apportioned market value,

SECTION C: DIFFERENTIAL RATING

6. Criteria for differential rating on different categories of properties

The following has been taken into consideration for the purpose of differential rating:

- The nature of the property including its sensitivity to rating e.g. agricultural properties used for agricultural purposes.
- Promotion of sustainable social and economic development and investments within the municipal region.
- Differential rating among the various property categories will be done by way of setting different Cent amount in the Rand for each property category rather than by way of reductions and rebates. This is much simpler for citizens to understand and thus promotes the principle of transparency.

SECTION D: RELIEF MEASURES RELATED TO CATEGORIES OF PROPERTIES AND CATEGORIES OF OWNERS OF PROPERTIES

6.1 Categories of Properties not liable for the purpose of levying taxes

The categories of properties not liable for the purpose of levying taxes include:

- (a) Public Sport and Recreation Facilities;
- (b) Public and Private Open Spaces.

6.2 Criteria for exemptions, rebates and reduction

The following is taken into consideration for the purpose of granting exemptions, rebates and reductions:

- Indigent status of the owner of a property.
- Sources of income of the owner of a property.
- Market value of residential property below a determined threshold
- Social or economic conditions of the area where the owners of property is located e.g. an area declared by the national or provincial government to be a disaster area within the meaning of
- Disaster Management Act, 2002, to the extent that the significantly negatively affected.

7. Granting of exemptions, rebates and reductions

Granting of exemptions, rebates and deduction in terms of the promotion of sustainable social and economic development of the Municipal Region and subject to paragraph 12 of this Policy will form part of the service agreement between the Municipality and the prospective investor/developer.

8. Effect of rates to the poor and municipalities' measures to alleviate rates burden

In order to alleviate rates burden on the poor, the following exemptions and rebates are effected:

Exemptions:

- Indigent owners
- Owners dependent on pensions or social grant for their livelihood.
- All residential property's first R 15 000.00.

Rebates:

- All owners of Residential property to receive a rebate as approved in annual budget.

- All owners of Business and Industrial property to receive a rebate approved in annual budget.

9. Effect of rates on Public Benefit Organisations.

Taking into account the effects of rates on Public Benefit Organisations performing a specific public benefit activity and registered in terms of the Income Tax Act for tax reduction because of those activities, the Public Benefit Organisations (POBs) performing the following' specified public benefits activities will be exempted from rating

- Welfare and humanitarian, for example POBs providing disaster relief.
- Health Care, for example POBs providing counseling and treatment of persons afflicted with HIV and AIDS including the care of their families and dependents in this regard.
- Education and development, for example a POB's providing early childhood development.

10. Effect of rates on Public Service Infrastructure.

All components of Public Service Infrastructure receives a rebate of 30%.

11. Effect of rates on properties for agricultural purposes

All agricultural properties to receive a rebate as per annual budget.

12. Other exemptions

12.1 On a property registered in the name of and used primarily as a place of public worship by a religious community, including an official residence registered in the name of that community which is occupied by an office-bearer of that community who officiates at services at that place of worship in terms of section 17(1)(i) of the Act.

12.2 The exemption is applicable also on a property registered in the name of and used primarily as a place of public worship by a religious community that do not erect buildings.

12.3 Municipal properties

SECTION E: RATES INCREASE/DECREASE

13. Criteria for increasing of rates

The following will be taken into account for the purpose of increasing/decreasing rates:

- Priorities of a municipality reflected in its Integrated Development Plan.

- The revenue needs of the municipality.
- A need for management of rates shocks.
- Affordability of rates to ratepayers.

SECTION F: LIABILITY FOR RATES

14. Liability for rates by property owners

a) Property rates payable by owners

In a case of agricultural property owned by more than one owner in undivided shares where the holding of such undivided shares was allowed before the commencement of the subdivision of the Agricultural land Act, 1970 the municipality will treat the owner of such property for the purpose of liability for rates in the following manner:

The municipality has considered the following three scenarios:

Scenario 1

If the joint property owners are all available and are traceable, the issue of who is liable for rates will be dealt with in the context of whether they have entered into an agreement or not regarding payment of rates liabilities.

In a circumstance where joint owners of the agricultural property have an agreement among themselves that a specific joint owner is liable for all rates levied in respect of that agricultural property, a municipality will hold such a specific joint owner liable for all rates levied in respect of the agricultural property. Such an agreement must be in writing and signed by all affected parties, and a certified copy thereof must be submitted to the municipality.

In a circumstance where joint owners of the agricultural property have an agreement among themselves that each joint owner is liable for that portion of rates on that property that represent that joint owner's undivided share in the agricultural property, a municipality will hold each joint owner liable for their portion of rate levied on the agriculture property. Such an agreement must be in writing and signed by all affected parties, and a certified copy thereof must be submitted to the municipality.

In a circumstance where joint owners of the agricultural property have not informed a municipality in writing as to who is liable for rates regarding agricultural property, a municipality will apply either 24(2)(b)(i) or (ii) of the Act.

Scenario 2

If the joint property owners are not traceable with the exception of one joint owner and such joint owner is occupying or using the entire property or a significant larger portion of the entire property (e.g. 80%), the municipality will hold that joint owner liable for the total rates bill for that entire property.

Scenario 3

If the joint property owners are not traceable with the exception of one joint owner and such joint owner is occupying or using a small portion of the entire property, the municipality will hold that joint owner liable for that portion of rates levied on the entire property that represents that joint owner's undivided share in that property.

b) Method and time of payment.

- The municipality will recover rates on a monthly basis.
- Annual rates must be paid in monthly installments to the municipality at the end of each month.
- A municipality makes provision for the recovery of rates on a monthly basis, subject to conditions outlined in the credit control and debt collection policy of the municipality.
- The municipality may recover the rates and taxes payable by the owner from the tenant or occupier if not paid, limited to the amount of rent or other amounts due by the tenant to the owner. (MPRA 4/2008 Section 28.)

c) Deferral of payment of rates liabilities

The municipality will consider each and every application for deferral of rates, taking into account the merits and demerits of each and the financial implications thereof in so far as the cash-flow of the municipality is concerned.

15. Amount due for rates

A rate will be reflected in the budget.

16. Review of rates policy

The municipality must annually review, and if necessary amend its rates policy taking into accounts public comments and inputs in the annual budget process. The Municipality will recognizes interest groups and acknowledged in the principle of the Property Rates Policy Review.

17. The effective dates of the rates policy

The rates policy takes effect on the effective date of the first valuation roll prepared by the municipality in terms of the Act and thereafter from the start of the municipal financial year.

ANNEXURE "B"

LEGAL REQUIREMENTS THAT ALL MUNICIPALITIES MUST COMPLY WITH IN TERMS OF THE MUNICIPAL PROPERTY RATES ACT, 2004 (ACT NO.6 OF 2004) WITH REGARD TO RATES POLICY DEVELOPMENT

This addendum does not contain all provisions of the Act that must be complied with in the development of rates policy, but list just a few provisions key provisions that the municipality deems it necessary for residents/ratepayers to be aware so that they get a full picture of rating issues that will affect them.

1. Impermissible rate

A municipality may not levy a rate on the following in terms of section 17(1) of the Act:

- On the first 30% of the market value of public service infrastructure.
- Any part of the seashore in terms of section (17(1)(b) of the Act.
- Any part of the territorial waters of the Republic in terms of section 17(1)(c) of the Act.
- Any island of which the state is the owner in terms of section 17(1)(d) of the Act.
- Protected areas in terms of section 17(1)(e) of the Act.
- Mineral rights in terms of section 17(1)(f) of the Act.
- Properties belonging to land reform beneficiaries in terms of section 17(1)(g) of the Act.
- On the first R15 000.00 of the market value of residential in terms of section 17(1)(h) of the Act.
- Religious institutions in terms of section 17(1)(i) of the Act.

2. Prescribed ratios

The municipality will comply with the ratios set by the Minister of Provincial and Local Government in concurrence with the Minister of Finance in terms of section 19 of the Act. These are determined by National Government and are published in the relevant Government Gazette.

3. Limits on annual increases of rates

The municipality will comply with the notice issued by the Minister of Provincial and Local Government in concurrence with the Minister of Finance regarding the set upper limit on the percentage by which rates on properties or a rate on a specific property may be increased in terms of section 20 of the Act. These set upper limits are as follows: 10%.