

Property Rates Act in operation

After some delays, the Municipal Property Rates Act of 2004 (the Act) was finally brought into operation on 1 July 2005. This comprehensive Act institutes a uniform structure to the levying of property rates, which was previously governed by a number of old provincial ordinances. This article highlights only a number of key features of the Act. Subsequent articles will provide more detailed analyses of its specific aspects.

Constitutional mandate

Section 229 of the Constitution empowers a municipality to impose rates on property. This power may not be exercised in a way that materially or unreasonably prejudices national economic policies, economic activities across municipal boundaries, or the national mobility of goods, services, capital or labour. It may also be regulated by national legislation. The Act gives effect to the latter provision.

Category municipality

Only metropolitan and local municipalities may levy rates. District municipalities may do so only in district management areas (DMAs) (see article on DMAs on page 4).

Rateable property

A municipality may levy a rate on property in its area. Property is defined as all immovable property registered in the name of a person, including sectional title units, communal land and public service infrastructure.

Excluded from the levying of rates are, among others:

- the first 30% of the market value of public service infrastructure;
- nature reserves, national parks and national botanical gardens;
- mineral rights;
- property belonging to land reform beneficiaries or their heirs, provided that this exclusion lapses after 10 years from the date the beneficiaries' titles were registered;
- the first R15 000 of the market value of property used for residential purposes; and
- places of public worship by a religious community, including an official residence occupied by an office-bearer of that community who officiates at services at that place of worship.

A municipality may, however, apply to the minister responsible for local government to be exempted from the exclusion of these categories of properties (excluding mineral rights and places of worship) if it can show that such exclusion is compromising or impeding its ability or right to exercise its powers and functions.

Where property has not been subject to property rates before the commencement of this Act – so-called newly rateable property – the rates must be phased in over a period of three financial years.

Special rating areas

Additional rates may continue to be levied in improvement or development areas.

Rates policy

Rates must be levied in terms of a rates policy. Each municipal council must thus adopt a rates policy that determines, among other things, the criteria to be applied if it:

- levies different rates applicable to different categories of properties;
- exempts a specific category of property owners from payment of rates;

- grants a rebate or reduction in the rate payable to a specific category of owner; or
- increases rates.

In determining its policy, the council must take into account the effect of rates on:

- the poor, and must include measures to alleviate the rates burden on them;
- public benefit organisations;
- public service infrastructure; and
- the rates policy must also allow the municipality to promote local, social and economic development.

This policy must be adopted after consultation with the community. Once adopted, the council must pass a by-law to give effect to the rates policy.

With regard to agricultural land, the municipal rates policy on exemptions, rebates and reductions must take into account the extent of the services provided to such properties, the agricultural contribution to the local economy and the social and economic welfare of farm workers.

Differential rates

The rates policy may differentiate between different categories of rateable properties, depending on how properties are used, how they are permitted to be used and their geographical area. These categories include properties that are residential, industrial, business, agricultural, state-owned, as well as formal and informal settlements, protected areas and the like.

Determining rates

A rate levied on property must be an amount in Rands based on the market value of the property and applies for a year at a time. It forms part of a municipality's annual budget process. The rate is determined by a resolution

key points

- The Act sets a broad framework in terms of which municipalities can develop policies that suit their needs.
- The Act sets up an elaborate system of how rateable property is to be valued, including what the valuation criteria are, and makes provision for valuation rolls, valuation appeal boards and the updating of valuation rolls.
- Where property has not been subject to property rates before the commencement of the Act, rates must be phased in over a period of three financial years.
- Rates must be levied in terms of a rates policy. Each municipal council must therefore adopt a rates policy after consultation with the community. Once adopted, the council must pass a by-law to give effect to the rates policy.

passed by the council with the supporting vote of a majority of its members.

The minister responsible for local government may set an upper limit on the percentage by which rates may be increased.

Percentage of rates on property value

The minister responsible for local government may set an upper limit on the percentage by which rates may be increased.

Exemptions, reductions and rebates

The municipality may, in terms of its policy, grant exemptions, rebates or reductions to categories of property owners, which may include:

- indigent owners;
- pensioners;
- owners temporarily without income;
- owners of property affected by a disaster; and
- bona fide farmers.

Administration of rates

The Act sets up an elaborate system of how rateable property is to be valued, including what the valuation criteria are, and makes provision for valuation rolls, valuation appeal boards and the updating of valuation rolls.

Comment

Property rates are, after surcharges on electricity service fees, the most important revenue source

for municipalities and account for approximately 20% of municipal revenue. They must therefore be administered with great care and diligence. The Act sets a broad framework in terms of which municipalities can develop policies that suit their needs. The Act brings stability and certainty to a much contested area. With the proper application of the Act, municipalities should be able to levy property rates in an equitable and fair manner.

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