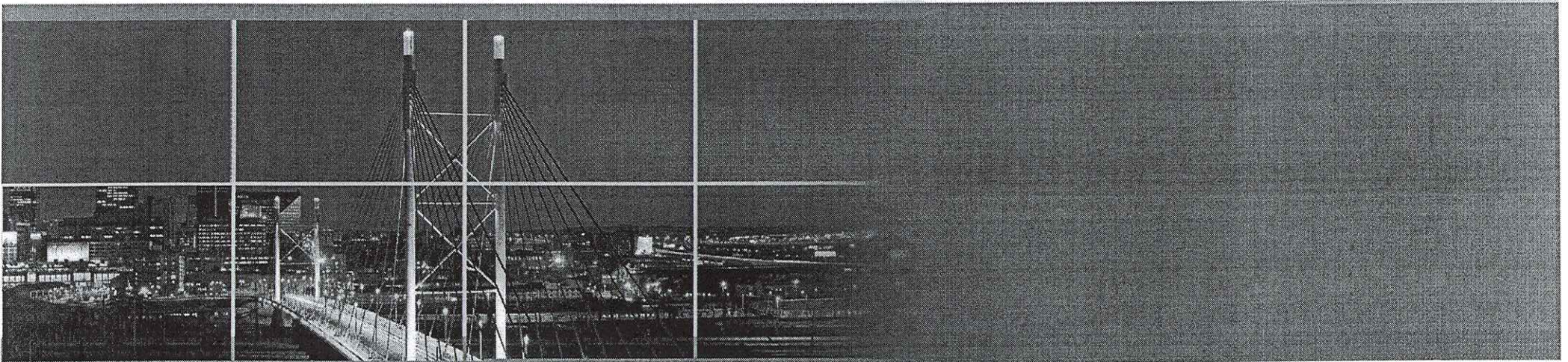


CITY OF JOHANNESBURG



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Municipal Property Rates Amendment Bill Presentation to Portfolio Committee on Cooperative Governance and Traditional Affairs

Introduction

The City of Johannesburg (COJ) appreciates the opportunity to make and submit comments on the Municipal Property Rates Amendment Bill to the Portfolio Committee.

The COJ welcomes the development of the Bill insofar it enhances the service level of municipalities and does not unfairly impact on the resident ratepayer.

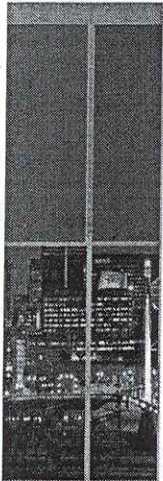
The COJ's comments and submissions are premised on various engagements with officials of the National Department and the following considerations:

➤ That the government of the Republic is constituted of three spheres of government which are distinctive, interdependent and interrelated.

➤ *“The power of a municipality to impose a rate on property or a surcharge on user fees stems from the Constitution and can thus be described as an ‘original’ power. The National and Provincial Government are authorised by the Constitution to regulate the municipality’s power to impose a rate on property through national and provincial legislation subject to section 151(4) of the Constitution which specifically provides that national or provincial government may not compromise or impede a municipality’s ability or right to exercise its powers or perform its functions.*

- The Constitution, and national legislation establishes and recognises different categories of municipalities with different legislative and executive powers. Further the various municipality's social, political, economic and administrative capacities differ, therefore that a "one size fits all" approach is not suitable for local government and that a differentiated approach with regard to municipalities.
- Municipalities generally generate their revenue from three different sources being:
 Property rates;
 services charges; and
 grants from national and provincial governments.
- Rates as a tax present are large portion of municipal resourcing and used to meet various service delivery commitments and operations of a municipality it is therefore imperative that this source of funding should be certain, predictable and reliable.
- The COJ's comments are limited to areas of the Bill where it has concerns and difficulties.

MR1



Slide 3

MR1

Let us remember how got here:

(1) Before the implementation of the MPRA and under the Local Government Ordinances the COJ had:

(a) only one applicable tariff;

(b) tariff was charged on the value of the land;

((c) a rebate was given to all residential properties to the value 58% of the tariff charged. This meant residents contributed less than business to the rates base.

(d) No categories existed

In terms of the above business contributed approximately 44% of the rates base of the municipality. With move to the MPRA the COJ took a decision to be revenue neutral in that the contribution of business and residents to the rates base shall not change

Mbulelo Ruda, 2014/01/28

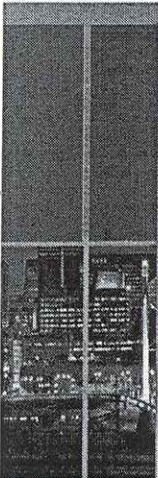
Comments on the Property Rates Amendment Bill



Property Rates Bill	Comments
<p>Amendment of section 1 of Act 6 of 2004, as amended by section 24 of Act 19 of 2008</p> <p>“Agricultural Property”</p>	<p>The City has the following questions with regards to the definition of Agricultural Property-</p> <p>1.The City disagrees with the inclusion of rearing, trading and hunting of game in the definition of agricultural property. The MPRA had excluded these from being viewed as an agricultural activity. The rearing, trading and hunting of game is a business activity and should not be defined as agricultural, as there is no justification for a lucrative business activity to be afforded the benefit of the agricultural ratio and rebate. The rebate provided by this inclusion will have to be transferred and therefore prejudicing the remaining ratepayers.</p>
<p>“Multiple Purposes”</p>	<p>The City has the following suggestions:</p> <p>1.That inclusion of rearing, trading and hunting of game as being agricultural activities should be removed from the Bill;</p> <p>2.It is suggested that within the definition the requirement that the property owner must be registered with SARS as a bona fide farmer certificate, proving that the owner is in fact using the property for agricultural purposes.</p>
<p>“Office Bearer ” read with “official residence”</p>	<p>The substitution of the definition of “multiple purposes” .</p> <p>1.This definition may have the unintended consequence of limiting the municipalities discretionary power in terms of Section 8 which allows Municipalities to categorizes in terms of use or permitted use (zoning), in that it only speaks to use</p> <p>2.The City recommends that the definition must comply with section 8 and allow for permitted use.</p> <p>The insertion of the definition of “office bearer” we seek the clarity on the following:</p> <p>1. Many Churches have more than one person who officiates. Is the intention to rate all the other houses registered in the name of the</p>

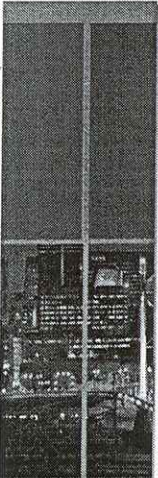
Comments on the Property Rates Amendment Bill

Property Rates Bill	Comments
<p data-bbox="291 343 963 422">Amendment of section 1 of Act 6 of 2004, as amended by section 24 of Act 19 of 2008</p> <p data-bbox="291 470 683 502">“Public Service Purpose”</p> <p data-bbox="291 909 403 941">“Ratio”</p>	<p data-bbox="1052 319 1982 351">The insertion of the definition of “ public service purposes”:</p> <p data-bbox="1052 359 2016 853">1.The introduction of this definition, and the inclusion of same as a specific category and various technical discussion to date indicate that a rate-ratio may be contemplated in future. The impact of a reduced rate-in-the-rand for government properties to the residential-rate-in-the-rand will have a significant impact on municipalities. For example the income of COJ will decrease by 4.1%, this decrease will have to then be borne and subsidized by the business and residential rate payers. Does national government intend on providing a grant or extra budget to municipalities to recover this loss in order reduce impact on service delivery?. The COJ’s view it will be incorrect for government not to pay tax whilst it charges municipalities tax on the provision of services like water and electricity.</p> <p data-bbox="1052 893 1680 925">The insertion in the definition of “ratio”:</p> <p data-bbox="1052 933 2016 1157">1.In insertion of the definition of ratio has the effect of limiting to only 2 tariffs/ categories; this conflicts section 3 and 8 of the MPRA as these section refer to more that two categories with each category having its own tariff. 2.Tariffs do not include relief measures or rebates. These are given per categories and not per tariff.</p>



Comments on the Property Rates Amendment Bill

Property Rates Bill	Comments
<p>3. Section 3 of the principal Act is hereby amended— (a) by the substitution in subsection (3)(b) for subparagraph (i) of the following subparagraph: “(i) levies different rates for different categories of properties <u>determined in terms of section 8</u>”; (b) by the substitution in subsection (3)(b) for subparagraph (iv) of the following subparagraph: “(iv) increases or decreases rates.”; and (c) by the deletion in subsection (4) of paragraphs (a) and (b).</p>	<p>Clause 3 – Amendment of section 3 of Act 6 of 2004</p> <p>1. The insertion of the words “determined in terms of section 8” limits municipalities from categorizing in terms of permitted use (zoning) of the properties, thus usurping and/or limiting the municipalities powers .</p>



Comments on the Property Rates Amendment Bill

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Property Rates Bill

Substitution of section 8 of Act 6 of 2004

6. The following section is hereby substituted for section 8 of the principal Act:

"Differential rates

8. (1) Subject to section 19, a municipality may, in terms of the criteria set out in its rates policy, levy different rates for different categories of rateable property, determined in subsection (2) and (3), which must be determined according to the—

- (a) use of the property;
- (b) permitted use of the property; or
- (c) a combination of (a) and (b).

(2) A municipality must determine the following categories of rateable property in terms of subsection (1): Provided such property category exists within the municipal jurisdiction:

- (a) Residential properties;
- (b) industrial properties;
- (c) business and commercial properties;
- (d) agricultural properties;
- (e) mining properties;
- (f) properties owned by an organ of state and used for public service purposes;
- (g) public service infrastructure;
- (h) properties owned by public benefit organisations and used for specified public benefit activities;
- (i) Properties used for multiple purposes, subject to section 9; or
- (j) Any other category of property as may be determined by the Minister with the concurrence of the Minister of Finance, by notice in the *Government Gazette*

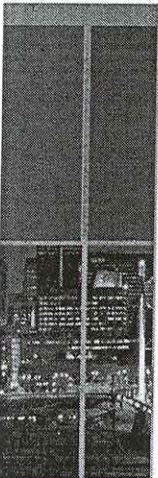
Comments/Financial implication

Clause 6 – Amendment of section 8 of Act 6 of 2004

1. The effect of this section may have the unintended consequence of taking away a municipality's right to determine a categories of properties in their rates policy.
2. Section 8(2) now restricts a municipality to using those categories, with the use of the words "Only" and "must" which impedes the municipalities from categorizing in terms of permitted use which is in conflict with 8(1).
3. We also note that there is no category for vacant land, even though they have been defined in the definitions clause, within 8(2) please advise if municipalities are now not allowed to use this as a category.
4. Section 8(3) is confirmation that no other categories exist other than those listed in 8(2) and the way it is written leads to uncertainty and possible litigation.
5. Clause 8(4) creates panic as Municipalities have now just approved new rolls and policies, when will this clause come into effect and will Municipalities be given time to phase these changes in?
6. Clause 8(2)(j) may create the perception that that the Minister may determine other categories without public participation and consultation with Municipalities. The effect may be an uncertain policy framework and rates base. Municipalities best know their environment

Comments on the Property Rates Amendment Bill

Property Rates Bill	Comments
<p>Amendment of section 11 of Act 6 of 2004</p> <p>8. Section 11 of the principal Act is hereby amended—</p> <p>(a) by the substitution for subsection (2) of the following subsection:</p> <p>“(2) A rate levied by a municipality on residential properties with a market value below a prescribed valuation level may, instead of a rate determined in terms of subsection (1), be a uniform fixed amount per property.”; and</p> <p>(b) by the deletion of subsection (3).</p>	<p>Clause 8 – Amendment of section 11 of Act 6 of 2004</p> <p>In clause 11(2) the insertion of the words “residential” why is the municipality restricted from applying this provision to other categories of properties i.e. properties owned by public benefit organisations should the municipalities not have this discretion. If this provision stays in municipalities must be allowed to do banding.</p>



Comments on the Property Rates Amendment Bill

Property Rates Bill

Amendment of section 15 of Act 6 of 2004, as amended by section 28 of Act 19 of 2008

11. Section 15 of the principal Act is hereby amended—
(a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:—

When granting in terms of subsection (1) exemptions, rebates or reductions in respect of owners of categories of properties, a municipality may determine such categories in accordance with section 8(2) and subsection (2A), and when granting exemptions, rebates or reductions in respect of categories of owners of properties, such categories may include—”;
(b) by the insertion after subsection (2) of the following subsection:

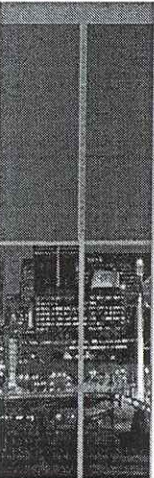
“(2A) In addition to the categories of rateable property determined in terms of section 8(2), a municipality may, subject to any ratio determined in terms of section 19, for the purposes of granting exemptions, rebates and reductions, determine such property categories based on—

- (a) properties used for public service purposes;
 - (b) properties to which a land tenure right applies and on which no industrial, commercial, business, mining or commercial agricultural activities are conducted;
- and

Comments/

Clause 11 – Amendment of section 15 of Act 6 of 2004

The amendments to this clause were dealt with in the definition of ratio. However the insertion of the amendments will cripple pensioners, BPO's and the poorest of the poor. As this section restricts rebates and exemption to the two categories. We urge you to reconsider the amendments.



Comments on the Property Rates Amendment Bill



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Property Rates Bill

Comments/

Amendment of section 16 of Act 6 of 2004

12. Section 16 of the principal Act is hereby amended—
(a) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) If a rate on a specific category of properties, or a rate on a specific category of properties above a specific amount in the Rand, is materially and unreasonably prejudicing any of the matters listed in subsection (1), the Minister, [after notifying] with the concurrence of the Minister of Finance, must, by notice in the *Gazette*, give notice to the relevant municipality or municipalities that the rate must be limited to an amount in the Rand specified in the notice.”; and
(b) by the insertion in subsection (3) after paragraph (a) of the following paragraph:

“(aA) A request contemplated in paragraph (a) must be submitted to the Minister within 24 months from the date of imposition of the applicable rate.”

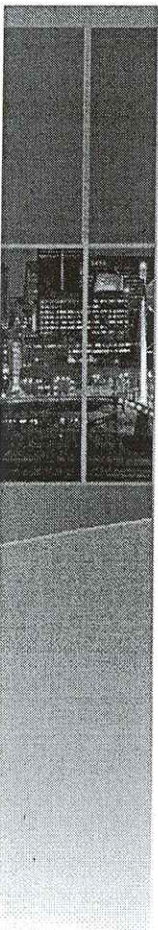
Clause 12: The amendment of Section 16 of Act 6 of 2004

The amendments makes the municipality's rates base uncertain until that period has elapsed, because it gives the Minister the power to limit the amount in the Rand which the municipality may impose. Furthermore, no provision is made for the submission of representatives by an affected municipality to rebut the notice made by the Minister

Our recommendation is that the Minister must call for and receive and consider representation from the affected Municipality. We further recommend that the time period should be limited to 3 months.

Comments on the Property Rates Amendment Bill

Property Rates Bill	Comments/
<p>Amendment of section 34 of Act 6 of 2004</p> <p>20. Section 34 of the principal Act is hereby amended by the insertion after paragraph (a) of the following paragraph:</p> <p>“(aA) subject to section 81(1C), as part of the process towards submitting a valuation roll contemplated in paragraph (b), after appointment and until submission of the certified valuation roll, submit a monthly progress report to the municipal manager on the valuation of properties, regardless of whether properties are valued in terms of section 45(2)(a) or in terms of a combination of section 45(2)(a) and (b); Amendment of section 46 of Act 6 of 2004, as amended by section 32 of Act 19 of 2008</p> <p>22. Section 46 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:</p> <p>“(a) The value of any licence, permission or other privilege granted in terms of legislation in relation to the property, but not a mining right or mining permit granted in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002)”. </p> <p>24. Amendment of section 56 of Act 6 of 2004</p> <p>27. Amendment of section 78 of Act 6 of 2004</p>	<p>Clause 20 – Amendment of section 34 of Act 6 of 2004</p> <p>The City submits that this is an internal administrative action and should not be regulated.</p> <p>Clause 22 – Amendment of section 46 of Act 6 of 2004</p> <p>1. Municipalities require clarity as to whether the value of a licence can and must be taken into account when valuing a property. The section is not clear whether this must be done. For example gambling licenses which are given in terms of a specific property.</p> <p>Clause 24- Amendment of section 56 of Act 6 of 2004</p> <p>This section creates an unnecessary financial burden on municipalities, it also affects the City’s budgeting process. The appeal board should be reimbursed by the entity that establishes them</p> <p>Clause 27- Amendment of section 78 of Act 6 of 2004</p> <p>The amendment is not clear on the process to follow once the review has been completed. We suggest that a similar process to section 52 be followed.</p>



Comments on the Property Rates Amendment Bill

Property Rates Bill	Comments
<p>Insertion of sections 82A and 82B in Act 6 of 2004 30. The following sections are hereby inserted in the principal Act after section 82:</p> <p>“Reporting to Minister by municipalities 82A. A municipality must submit reports, in such form and at such intervals as may be prescribed by the Minister on the implementation of provisions of the Act relating to the following matters:</p> <p>Reporting to MEC’s by municipalities</p>	<p>Clause 30: Insertion of sections 82A and 82B</p> <p>The information is the same as provided to the Minister of Finance with the municipalities budgeting processes.</p> <p>The insertion of these clauses deals with administrative internal issues and should not be regulated in terms of the act. It impedes municipality’s ability to function.</p> <p>The proposed amendment which requires the valuer to submit monthly reports seems to us to be unnecessary and merely adding to the paper work. This should be a case where the Municipal Manager should be able to call for progress reports as and when he requires them and the reporting must follow the municipalities reporting cycle.</p>

Financial implication to City of Johannesburg if the Property Rates amendment bill is implemented as it is.

	Financial implication	Cost
1	Billing for 6650 Government accounts/ Public service Infrastructure for six months	R200 million
2	Reduction of a Business ratio from 3.5 to 3.0 cost revenue forgone of	R600 million
3	For each drop of .1 in the ratio it translates in revenue foregone	R120million

To maintain the current revenue the City of Joburg would have to request additional funding from National Treasury or increase revenue from other categories that are available.

- Financial implication to the Residents and constituents City of Johannesburg if the Property Rates Amendment Bill is implemented with the concerns stated above
- If there is a loss of income for Public Service Purpose (if zero rated) the City would loose an income of Loss of R220 million
- Which constitutes 3.44% of its yearly rates revenue. In order to recoup the loss of revenue the City has 2 option:
 - 1 Option 1 is to raise the tariff for all the Categories or
 - 2 Option 2 the removal of rebates which will affect the following constituents:
 - a) 7006 Pensioners will be affected;
 - b) 112 000 Extended Social Package Beneficiaries
 - c) 695 000 Residential Properties
 - d) 116 00 Property owners that fall below the R185 000 threshold;
 - e) 175 000 Public Benefit Organisations, Heritage Sites, High density and multipurpose
 - In the event that the intended decrease in the ratio of business is implemented at 1:2 and the loss of PSP the financial implication is R1.4 billion which will be borne by the above constituents.

Thank You

