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GENERAL NOTICE

NOTICE 289 OF 2011

NATIONAL TREASURY

Municipal Fiscal Powers and Functions Act, 2007 (Act No. 12 of 2007)

Draft Approval of Municipal Taxes Regulation

I, Pravin J. Gordhan, Minister of Finance, hereby give notice in terms of sections 5, 6, 10 and 12 of the Municipal Fiscal Powers and Functions Act, 2007 (Act No. 12 of 2007), as follows:

1. The Draft Approval of Municipal Taxes Regulation, 2010, which are set out in the attached Schedule, are hereby published for public comment with effect from date of publication to 20 May 2011.
2. The Draft Approval of Municipal Taxes Regulation, 2010, provide for the approval of the continued imposition of certain municipal taxes which were imposed prior to the commencement of the Municipal Fiscal Powers and Functions Act, 2007 (Act No. 12 of 2007), in respect of which municipalities submitted an application in terms of section 12 of the Act.
3. Members of the public are hereby requested to send their comments to Jeannine Bednar-Giyose at jeannine.bednar-giyose@treasury.gov.za or Fax (012) 395-6551.
4. Comments received after 20 May 2011 will not be considered.



P.J. GORDHAN
MINISTER OF FINANCE
Date: 19 – 04 – 2011

SCHEDULE**NATIONAL TREASURY****MUNICIPAL FISCAL POWERS AND FUNCTIONS ACT, 2007 (Act No. 12 of 2007)****APPROVAL OF MUNICIPAL TAXES REGULATION****ARRANGEMENT OF REGULATION****Regulation No:****Page No:****CHAPTER I****Interpretation****1. Definitions****CHAPTER II****Object and Application of Regulation****2. Object of Regulation****3. Application of Regulation****CHAPTER III****Approval of Municipal Taxes****4. Approval of Municipal Taxes****CHAPTER IV****Short Title and Commencement****5. Short tile and Commencement****ANNEXURE****Approved municipal taxes**

CHAPTER I

Interpretation

Definitions

1. In this regulation, a word or expression to which a meaning has been assigned in the principal Act has the same meaning as in the principal Act, unless the context indicates otherwise, and—

“municipal tax” means a tax, levy or duty that a municipality may impose in terms of section 229(1)(b) of the Constitution;

“property rates” means property rates imposed in terms of Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), as amended; and

“the principal Act” means the Municipal Fiscal Powers and Functions Act, 2007 (Act No. 12 of 2007), as amended.

CHAPTER II

Object and Application of Regulation

Object of Regulation

2. The object of this regulation is to approve the continuation of municipal taxes, other than property rates, in terms of section 12 of the principle Act that existed before the promulgation of the principle Act.

Application of Regulation

3. This Regulation applies only to the municipalities in respect of which specific municipal taxes are hereby approved, and only in respect of the specific taxes which are approved in terms of regulation 4, and no other municipality shall charge, levy or impose such taxes on the basis of this Regulation.

CHAPTER III

Approval of Municipal Taxes

Approval of municipal taxes

4. (1) In terms of sections 5, 6, 10 and 12 of the Municipal Fiscal Powers and Functions Act, 2007 (Act No. 12 of 2007), the municipalities listed in Column "A" of the Annexure to this Regulation are hereby authorised to impose the municipal tax identified in Column "B" of the Annexure to this Regulation, subject to the conditions set out in the indicated Columns in the Annexure to this Regulation:

- (a) The date from which the municipal tax may be imposed, as specified in Column "C";
- (b) The collecting agent for the municipal tax, as specified in Column "D";
- (c) The tax base on which the municipal tax will be imposed, including—
 - (i) where the tax is not a specific purpose tax or a tax levied on the same tax base as that of national taxes—
 - (aa) the rate expressed as a ratio, a percentage of the municipal tax base or a Rand value at which a municipality may impose that tax; or
 - (bb) the banks or ranges within which that municipal tax may be imposed;
 - (ii) Any exclusions from tax base; and
 - (iii) The basis upon and the intervals at which the rates may be increased, as specified in Column "E";
- (d) Any limitation on the period during which the municipal tax may be imposed, as specified in Column "F"; and
- (e) In respect of a specific purpose tax—
 - (ii) the purpose for which revenue derived from the collection of the municipal tax may be utilised; and
 - (iii) any specified percentage of the revenue derived from the collection of the specific purpose tax that must be utilised for a specific purpose, as specified in Column "G".

Short title and commencement

22. This Regulation is called the Approval of Municipal Taxes Regulation, and takes effect on the date of publication in the *Government Gazette*.

ANNEXURE

Taxes approved that existed prior to Municipal Fiscal Powers and Functions Act that may be continued

ANNEXURE A

PROPOSED FINAL RULINGS ON MUNICIPAL TAXES THAT EXISTED PRIOR TO THE MUNICIPAL FISCAL POWERS AND FUNCTIONS ACT (MFPFA)(SECTION 12)

Existing Municipal Tax/Taxes	Applied in municipalities listed	Preliminary (original) determination by Minister of Finance	Reasons for adjusting preliminary determination	Proposed new (final) determination by Minister of Finance
Taxes supported for continuation				
a. Waterways Riparian Levy b. St Francis Bay c. Community Levy c. Fire Levy	a. Kouga b. Lukhanji c. Greater Kokstad	Although supported, such costs best recouped through property rates system	These are well established taxes and most stakeholders supported the continuation of these taxes. Lukhanji Municipality indicated that once final approval has been obtained, this tax will be levied as part of property rates.	Taxes in present format supported for continuation.
Urban Development Charges (used for infrastructure supporting new developments)	a. Breede Valley b. Knysna c. City of Cape Town d. George e. Overstrand f. Kouga g. Ilembe	Application be supported until appropriate policy has been developed on how to deal with this charge in the longer-term	No adjustment	
Rural Based Development Levies (levied in areas where property valuations not feasible)	a. Blouberg b. Thulamela	Application not supported	Extends ability of poorly resourced municipalities to collect own revenues and improves accountability link with communities	Application be supported until appropriate policy has been developed on how to deal with this charge in the longer-term
Taxes not supported for continuation				
Royalties on mineral lease agreement levy	Msukalingwa	Not supported	These levies were levied i.t.o a lease agreement which has since expired and tax has therefore lapsed	Not supported
Social fees	Richtersveld	Although supported, such costs best recouped through the property rates system	These fees are linked to a service that falls outside the mandate of local government (rendering of a provincial function)	Not supported
Residential levy and Assessment rates	Aganang	Supported	Municipality requested that these levies not be approved as they were discontinued when the Municipal Property Rates Act was introduced	Not supported

ANNEXURE A

Existing Municipal Tax/Taxes	Applied in municipalities listed	Preliminary (original) determination by Minister of Finance	Reasons for adjusting preliminary determination	Proposed new (final) determination by Minister of Finance
Charges other than taxes (may accordingly be continued)				
a. Electricity fixed charge	a. Mogale City	Various (not supported, be levied as part of tariff levied for service and/or more information to be obtained to inform ruling)	Municipalities confirmed that these charges are linked to costs of providing municipal services and/or form part of surcharges on such services	These are tariffs and/or surcharges fall outside ambit of section 12 of Act (and may accordingly be continued)
b. Surcharges on electricity, water and sanitation	b. City of Johannesburg			
c. Maintenance Levy	c. Ekurhuleni			
d. Energy Efficiency Levy	d. Ekurhuleni			
e. Capital Contribution: Streets and Storm Water	e. George			

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