METGOVIS™
INTEGRATED PROPERTY SOLUTIONS

COMMENTARY ABOUT THE MPRA AMENDMENTS WITH REFERENCE TO THE IMPLICATIONS FOR PUBLIC SERVICE INFRASTRUCTURE

INTRODUCTION

The Local Government: Municipal Property Rates Act, 2004, Act No. 6 of 2004, (MPRA), was amended with effect from 1 July 2015. There were certain provisions which affected Public Service Infrastructure, (PSI).

PSI is already protected in terms of the provisions of section 17, Other Impermissible Rates, which says that a municipality may not levy a rate on the first 30% of the market value of PSI.

The MPRA Amendments say that certain classes of PSI are being removed from the tax base with effect from 1 July 2015.

The legal reference is to any property referred to in paragraphs (a), (b), (e), (g) and (h) of the definition of "public service infrastructure" in section 1 of the MPRA. The provision says that this removal is subject to a phasing out provision over five municipal financial years, in terms of section 93A of the MPRA.

So what are the classes of PSI being affected?

(a) Roads;

(b) Water infrastructure

(e) Rail infrastructure;

(g) *Airports; and

(h) Harbour infrastructure, breakwaters, quays etc.

* In terms of the Amendments airports include:

1) Aprons and air traffic control units at national and provincial airports, and

2) The obstacle free surrounds as required by the Civil Aviation Authority.

HOW TO ACHIEVE COMPLIANCE

It is a complicated arithmetic calculation to achieve compliance.

Step 1: A municipality must first consider the impermissible provision, first 30% of the market value;

Step 2: Deduct the first 30% of the market value;

Step 3: Apply the phasing out calculation over 5 financial years.

Year	Impermissible provision	Phasing out percentage
1	**-30%**	20
2	**-30%**	40
3	**-30%**	60
4	**-30%**	80
5		100

A CASE STUDY TO ASSIST YOU

We have prepared a case study is to assist with understanding the process of phasing out:

Property:	ERF 77 Bishopstowe No 2587
Current Value:	R 28 000.00
Impermissible value (30%):	R 8 400.00

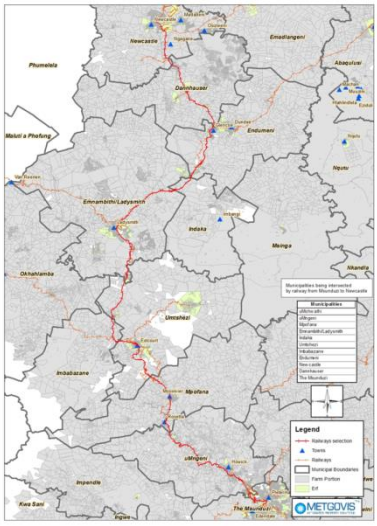
Base	Year	Remaining rateable percentage	Annual Rand Value	Monthly rates
		100%	R 19 600.00	R 1 633.33
1	2015/16	80%	R 15 680.00	R 1 306.67
2	2016/17	60%	R 11 760.00	R 980.00
3	2017/18	40%	R 7 840.00	R 653.33
4	2018/19	20%	R 3 920.00	R 326.67
5	2019/20	0%	R -	R -

SOME MORE CHALLENGES

There are a couple of other considerations: PSI has been valued using different methodologies across municipalities. In certain instances the municipal valuer has determined the value based on the premise that the land is vacant and can only be used for this purpose. In others the actual PSI has been valued including the different layers of road surface for example.

Let's look at the railway network to highlight some of these challenges. The MPRA defines PSI as railway lines forming part of the national railway system. Between Newcastle and Msunduzi, KwaZulu Natal, the national railway system traverses 8 different municipalities. In the worst case scenario the appointed Municipal Valuers within each municipality will have applied a different valuation approach. The municipalities will have determined 8 different tariffs for PSI. Now along comes the next puzzle piece: the phasing out calculation. On top of this it is alleged that certain municipalities are changing the categories of properties within PSI to avoid the phasing out implications.

RAILWAY - MSUNDUZI TO NEWCASTLE



If a railway system traverses agricultural land the PSI corridor is categorised as PSI. It cannot suddenly revert to being farmland. Yet by the same principle if a goods yard is un-used it is no longer part of the railway system.

The MPRA provides for the municipal valuer to determine the actual use of the property for municipal rating purposes. Now here's another aspect which we need to be aware of: There is an apparent dis-connect between Section 78 which enables 'real time' reviews of valuations during the roll maintenance period and Section 49 which provides for the publication of supplementary rolls at least annually. Section 23 says a municipality must publish Part B of the Municipal Register of Properties at least annually. Nowhere is there a provision for the value reviews to be displayed within the public domain. The legislation provides for the review notices to be posted by ordinary mail. That is high risk in South Africa. It is probable that the registered owner may not receive a review notice. The next municipal account will raise a query. The Transnet official will try to find out why the value and the rates payable have changed. Their obvious recourse is to access the published roll where their amended value will NOT be reflected. What now? Chaos and confusion, a lot of wasted time while the registered owner seeks clarification from the municipality.

There are 2 options: Send the review notice by registered mail so it is received or publish the consolidated valuation roll monthly on the municipal website. Neither is provided for in the legislation but the options are worth considering.

There is another way out:
Section 7: A municipality is not obliged to levy rates on PSI.

Summing it up
Certain municipalities have decided not to implement the administrative nightmare of phasing out. They have resolved that all phasing out will happen in Year 1. This is their discretion.

Other municipalities, especially the smaller ones, who rely on the major roads for substantial revenue are not able to do this. It's their call. Our responsibility is to ensure that we support compliance with the phasing out and the impermissible

By Janet Channing, Manager Director, MetGovis, Professional Property Valuer.

For any further queries please do not hesitate to contact us on Tel 033 3432868 or info@metgovis.co.za