



FFC Recommendations on the Application from West
Rand District Municipality for Approval/Authorisation
of a Firefighting Levy

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1 Introduction and Background

Section 156 (1) (a) of the South African Constitution, 1996, (Act 108 of 1996) assigns executive authority to local government to administer firefighting services, with provincial and national government having concurrent legislative competence. Whereas the Constitution does not differentiate between district and local municipalities in the provision of firefighting services, Section 84 (1), (j) of the Local government Municipal Structures Act, (Act 117 of 1998), mandates the provision of firefighting services to District Municipalities. However, the same Act provides for the MEC for Local Government powers to adjust the allocation of this function to either a district or Local Municipalities. In many municipalities this function is shared between district and local municipalities. The sharing of this function has often caused challenges in terms of funding for firefighting services as some municipalities have failed to remit funds (from transfers) to municipalities that actually provide the services.

The West Rand District Municipality (hereinafter called the WRDM) has applied to the Minister of Finance for approval and authorisation to introduce a fire levy as set out in Section 5 of the Municipal Fiscal Powers and Functions Act (MFPFA) of 2007. As part of its application, the WRDM provided Prior to responding to the municipality, the Minister of Finance is required to consult stakeholders, including the Financial and Fiscal Commission (hereinafter the Commission or FFC). The Minister of Finance has written to the Commission seeking its recommendations on the merits or demerits of the WRDM application. This submission outlines the Commission's recommendations on the WRDM's application for a fire fighting levy. The Commission is also making this submission in terms of both Section 3 (1) and (2) b (i) and (ii) of the Financial and Fiscal Commission Act of 1997 as amended¹, and Section 5 of the Municipal Fiscal Powers and Functions Act, 2007 (Act No. 12 of 2007).

2 Background:

2.1 Financing Fire Fighting in South Africa

According to the Fire Protection Association of Southern Africa (FPASA) the cost of fire losses in South Africa was estimated at R3.144 billion in 2016 (Fire Protection Association of Southern Africa, 2017). The provision of firefighting services is not supposed to be free of charge, as costs for doing so could be recovered from the beneficiaries. According to the Fire Brigade Services Act 99 of 1987 (the Act) Section 10(1) controlling authorities are allowed to determine the fees payable by a person on whose behalf firefighting services were rendered. However, in South Africa, the firefighting services are funded mainly through the Community Services (CS) component of the local government equitable share (LGES). It is, nevertheless, important to note that the firefighting services component is not ringfenced within the LGES, leaving each municipality to use its discretion on how much to budget for firefighting services. The firefighting services component is not specified in the formula simple because there is no data on the costs or expenditures associated with firefighting services. It is also to allow municipalities some level of flexibility on how they distribute and prioritise spending within the CS component. It is therefore critical for government to collate data that would approximate costs/expenditures of firefighting services by municipality to inform allocations to this service.

¹ The Financial and Fiscal Commission Act of 1997 (as amended) allows the Commission to act as a consultative body for, and to make recommendations, and give advice to any organ of state in the national, provincial and local spheres of government on financial and fiscal matters.

For DMs, the RSC levy grant is also a possible funding source for firefighting services. The RSC levy grant is meant to provide basic infrastructure, which could possibly include fire services.

For the WRDM firefighting services consumed about R93.6 million or 41% of the municipality’s 2019/20 budget.

2.2 Financing Fire Fighting Elsewhere in the World

Financing of firefighting varies from country to country. A brief scan of what is happening in other countries is shown in Table 1 below. Unlike South Africa where municipalities rely on transfers, it would seem levies/taxation are common in other local government jurisdiction across the world. In addition, in some cases the private sector is involved.

Table 1 Financing Fire Fighting Elsewhere in the World

Local Government Jurisdiction	Fire Fighting Services Financing Mechanism	Key Features of the Fire Fighting Services Financing Mechanism
New Zealand:	Mixed funding model for firefighting	levies on the rateable value of commercial property and flat fees on the rateable value of domestic property
City of Huffington, West Virginia, USA	Fire Service Fee	based on the square footage of property owned
Municipality of the District of Lunenburg, Nova Scotia, Canada:	Fire area rate forwards to the fire service providers	Fire services are provided by fire service providers
North Carolina, United States of America	Fire protection tax	The fire tax rate is tied to the value of property
State of Victoria, Australia	Fire Services Property Levy	Property owners pay this through their council rates. levy rate varies for residential, industrial, commercial, vacant, public benefit and primary production (farms) properties

Source: FFC own analysis

3 An Evaluation of WRDM Application

The Financial and Fiscal Commission (hereinafter called the Commission or FFC) approached the evaluation of the WRDM application from two angles, namely.

- (a) evaluating the application against the standard public finance principles of a “good” tax
- (b) evaluating the WRDM application against the Section 5(1) MFPFA requirements

In addition, this evaluation discusses other areas for consideration such as the timing of the application, and possible incentives that can be embedded in the whole levy structure.

3.1 The WRDM application vs the principles of a “good” tax

In its 2020/21 Submission to the Division of Revenue, the Commission assessed several possible supplementary revenue streams for local government. This study evaluated the potential of each alternative revenue source against each of the “good” revenue criteria. Specific to firefighting levies, the study found that such levies are a sound revenue alternative

for District Municipalities and should be included in the basket of allowable taxes for local government. In the same study, a survey of practitioners in the sphere further confirmed that firefighting levies could be a viable alternative revenue source for municipalities.

Below we evaluate the WRDM application against 15 principles for a “good” tax instrument. The results are presented in Table 2.

Table 2: Principles of a Good Tax

	Principle	Explanation of the Principle	Assessment Result	Details of the FFC evaluation of the WRDM application for a “good” tax instrument
1	Revenue adequacy and collectability	The administrative burden of the revenue source should not outweigh revenue generated.	Good	The WRDM Submission and calculations done suggest that the proposed rates will ensure revenue adequacy. Being levied as part of the rates bill, it would not impose an extra administrative burden.
2	Certainty/yield	Certainty in a revenue system is essential as without it, municipality and levy payers can neither budget nor plan effectively. Spending plans by municipality and levy payers should be based on realistic assessments of expected revenue flows.	Good	If rates are known and tax base identified, then there will be budgeting certainty. The levy will contribute R52 million or about 55% of the 2019/20 fire services budget,
3	Economic Efficiency	Local taxes should not promote economic inefficiencies whereby taxpayers adjust their economic decisions away from the most optimal towards areas where taxation is minimised	Good	A flat fee is efficient
4	Correspondence	The revenue instrument should not be levied on citizens who are not part of the local community or the burden of the revenue should not overlap to adjacent jurisdictions whose citizens do not benefit from the expenditure of the funds	Good	This is guaranteed as the proposed levy targets rate payers of WRDM only. The tax does not spill to other jurisdictions.
5	Fairness	The local tax should ensure that the burden is equitably shared, vertically and horizontally, among the taxpayers (be it households, companies, etc);	Poor	Being a flat fee for households and agriculture holdings does not ensure fairness. In fact, a flat fee means the burden is not equally shared. This can be improved by designing the levy structure in such a way that it considers the property values.
6	Transparency	All aspects of the tax, including the purpose, legal basis, revenue, expenditure, base and rate of the tax, should be clear and liable to	Good	Like any Local Government tax, this should not be an issue

		public scrutiny at any time; and		
7	Accountability	The tax authority should be accountable on how much is collected from the local tax and how much and the areas where the revenues from the tax are being spent.	Good	Should not be a problem as WRDM intends ring-fencing the revenues generated from the levy
8	Revenue buoyancy	The tax base should be stable during economic cycles. Revenues from a local tax should be buoyant at times of economic growth and less vulnerable to negative turns in the economy.	Poor	A flat fee inherently leads to difficulties for the low-income households (not indigents as they are exempt) to pay when there are economic downturns, and same fee will be paid when economic booms occur
9	Politically acceptable	The revenue system should be sensitive to the historical and institutional framework in the country.	Good	By exempting indigent households, it makes the proposed levy progressive and sensitive to poor households-households that are more vulnerable to fire risks. However, the proposal is not clear on informal settlement dwellers.
10	Balance and reliability	An effective revenue system should be broad-based, avoid special exemptions and utilize a low overall tax rate with few loopholes.	Good	The exemptions are understandable considering the high inequalities in South Africa
11	Complementary	The tax systems should recognise the complementary roles of different orders of government and assist in maintaining a healthy relationship between different spheres of government. Each organ of state should be mindful of how its tax decisions impact on another sphere of government.	Good	This levy seeks to complement transfers. In its research for the 2020/21 DoR the Commission noted that the fire levy should be included in the basket of allowable taxes to complement transfers and other own revenues for municipalities.
12	Competitive	The tax system should be responsive to the global competitiveness of a country and its goods and services. It should be used to attract investment and foster economic development	Good	The cost of firefighting is extremely high and if the WRDM is spending 41% of its budget, it means massive resources for development are foregone. The proposed fire levy will not distort the DM/country's competitiveness, but instead, an area with adequate fire safeguards can be a source of attraction for investors and ultimately local economic development.
13	Enhances local fiscal autonomy	The sub national government should have as much control over all aspects of the revenue source or	Good	Being levied as part of the rates bill, lines of accountability are already established. The levy will be controlled by municipalities within the WRDM

		tax to improve the lines of accountability with its citizens		
14	Immobility of Base	A local tax should be based upon assets or activities that are not easily transferrable or movable to another municipal jurisdiction. This would ensure that the economic efficiency principle is also maintained where the activity remains at its economically optimal location as opposed to moving to a less optimal location in order to minimise tax;	Good	Satisfies this principle as it's unlikely that the base will move.
15	Limits imbalances horizontal fiscal	The revenue source should not create large imbalances between municipalities	Moderate	It will create some imbalances as such a levy is not common in SA. It will set a precedent and possibly open flood gates for similar applications.

Source: FFC own analysis

Obviously, no levy can perfectly match the above criteria. The most desirable revenue instrument is therefore the one that closely approximates most of the principles. The application by WRDM performs well against all the principles, save for fairness and revenue buoyancy. Considering that fairness is a critical principle when assigning tax handles to a municipality, the Commission is averse to accepting an application lacking in this core principle. The Commission will therefore recommend redesigning the levy structure in such a way that property values are considered. Despite this gap on “fairness”, the firefighting levy approximates a “good” tax as it approximates most of the standard criteria for a good tax.

3.2 The WRDM application vs MFPFA Requirements

According to Section 5(1) of the MFPFA an application to the Minister of Finance should fulfil a set of requirements as listed in Table 3 (first column). The Commission evaluated the WRDM application against each of these requirements.

Table 3: MFPFA Requirements

MFPFA Requirements	Assessment Result	Explanation
Reasons for the imposition of the proposed municipal tax;	Yes	The municipality anticipates an increase in the demand for firefighting services, due to inter alia the increase in formal and informal structures, population growth and associated new infrastructure. Without additional sources of revenue, the DM will be unable to sustain the rendering of fire services on its own, as it relies on LES allocations and RSC levy replacement grant.
The purposes for which revenue derived from the collection of the municipal tax will be utilised.	Yes	The levy will be ringfenced for firefighting services.
Particulars on the proposed municipal tax's compliance with section 229(2)(a) of the Constitution;	Yes	The DM has indicated that the levy will not have negative economic effects on individuals, businesses, and economic development, instead it may accelerate

		local economic development and enable the district to react faster to fire hazards.
Particulars on the proposed municipal tax compliance with the prohibition contained in section 229(1) (b) of the Constitution;	Yes	The proposed levy complies with the prohibition contained in section 229(1) (b) of the Constitution, as it is not a value added tax, general sales tax, or customs duty.
Identification and description of:		
(i) the tax base;	Yes	The tax base consists of non-indigent households, agricultural holdings, and businesses with the WRDM jurisdiction
(ii) the desired tax rate;	Yes	The desired rate is a flat rate of R17 for non-indigent households and agriculture holdings, and R70 for formal businesses
(iii) the persons liable for the tax; and	Yes	Yes, the levy will be applied to all rate payers in the jurisdictions of West Rand district municipality
(iv) any tax relief measures or exemptions;	Yes	All registered indigents will be exempted from the payment of the fire levy
Specification of:		
(i) the tax-collecting authority;	Yes	Local municipalities within WRDM will act as agents for the district in terms of collecting the levy.
(ii) the persons responsible for remitting the tax;	Yes	Yes, the municipal managers of the local municipalities will be responsible for the remission of the levy
(iii) the methods and likely costs of enforcing compliance with that tax;	Yes	It is indicated that the levy will be integrated into the billing systems of local municipalities, therefore the cost of enforcement will be minimal.
(iv) the compliance burden on taxpayers; and	Yes	It is stated that there will be no compliance burden to taxpayer, as the levy will be included in the existing billing system
(v) procedures for taxpayer assistance;	No	Not necessary
Particulars of, and description of the estimation methods and assumptions used to determine:		
(i) the amount of revenue to be collected on an annual basis over the three municipal financial years following the introduction of the municipal tax;	Yes	The amount of revenue to be collected on annual basis over the three municipal financial years following the introduction of the municipal tax is estimated to be R52 million. This is with the assumption of a 0% increase over the specified period.
(ii) the economic impact on individuals and businesses	Yes	The district states that the levy will not distort economic activity
(iii) the impact on economic development	Yes	By reacting to fires quickly, it means the damage to the economy is minimised.
Particulars of any consultations conducted, including consultations with, where applicable, provincial government, organised local government and municipalities, and the outcomes of such consultations;	Yes-partially	They have agreements with LMs. However, there is no evidence that provincial governments. There is no evidence of rate payers being consulted specifically on this application save for the fact that stakeholders have been informed through the IDP process of the need for alternative revenue sources.
Particulars of any consultations with the South African Revenue Service and any other collecting agent contemplated in section 7, regarding the administration of the proposed municipal tax;	Yes	They have agreements with LMs on the collection of the levy.

Source: FFC own analysis

The proposal by WRDM generally addresses the requirements of the MFPFA fairly well, save for consultation process. It is not clear how the consultation process was done, except for the fact that stakeholders have been engaged on a continuous basis on the need for alternative revenue sources. As far as the consultations on this specific levy, the proposal is silent. Rate payers are more likely to accept the tax burden if it is properly consulted. It is therefore important that rate payers are consulted, and they buy into the process.

4 Other Key Considerations

4.1 Timing of the Application

For any tax, the issue of timing of authorisation/adoption is key. If timing is not good, it may lead to some resentment of an otherwise good revenue instrument. This period is a difficult one for rate payers (both households and business) due to the Covid-19 pandemic. The Covid-19 pandemic has caused unprecedented hardships for ratepayers. Consequently, introducing a new tax instrument during the Covid-19 scourge will most likely elicit resentment. When the pandemic sustainably eases, the Commission will not hesitate to recommend the adoption of a firefighting levy.

4.2 Demonstrate of fully and effective utilisation of current revenue sources

The Commission underscores the point that the Minister of Finance should, as a general principle authorise municipalities supplementary revenue sources only and when the applicant municipality demonstrates fully and effective utilisation of their current revenue sources. Supplementary revenue sources should not be a substitute for poor and inefficient utilisation of existing revenue handles.

4.3 Incentives

Prevention is better than cure. The proposal by WRDM should contain incentives for fire prevention. In other words, the levy should be preventative than a simple revenue raising mechanism. For example, property owners who erect fireguards should be given concessionary rates or at least pay less levies in order to spend more on preventative measures. Thus, the structure of the levy can be improved by incorporating incentives for those who would invest more resources to prevent fires occurring in the first place.

5 Conclusion

The foregoing analysis suggests that firefighting levies are a common revenue source in many municipal jurisdictions across the globe. As noted above, the Commission has also previously recommended firefighting levies to be included in the basket of allowable revenue sources for local government. Assessing the WRDM application against basic principles of a good tax, and MFPFA requirements, the WRDM application performs well. Overall, the foregoing analysis suggest that WRDM is a good candidate for a firefighting service levy, provided it is utilising its current revenue streams effectively. However, in authorising this application the Minister of Finance must contend with the precedent that this application will set. It is important that each application is considered on merit.

6 Recommendations to the Minister of Finance

The Commission sees merit in the WRDM application and is in principle, in favour of the firefighting levy for the following reasons.

- a) The Commission has previously done its own research and recommended (see 2020/21 Division of Revenue annual Submission) including firefighting levies in the basket of allowable local government revenue sources for district municipalities. The application by WRDM is therefore in line with the Commission's previous recommendations.
- b) The proposal is also in line with the Commission's previous recommendations that municipalities should endeavour to find alternative revenue sources especially in the context of a tight and shrinking fiscal space. With fiscal consolidation in place, municipalities cannot count on transfers for long, as these are also under severe pressure. The shrinking fiscal space is hitting district municipalities very hard as they depend largely on transfers. Thus, the need for revenue diversification cannot be overemphasised.
- c) The WRDM application fulfils the basic principles of a "good" tax and MFPFA requirements.
- d) There are many precedents from elsewhere in the world of fire levies that have been used to supplement transfers and other local government own revenue sources.

The Commission is also of the view that, before acquiescing to the request, the Minister of Finance should note.

- a) The need to collect accurate information on the true costs of fire services nationally and WRDM. This will inform future discourses on the levy. This is also in line with key policy "o" in the new White Paper on Firefighting Services.
- b) The WRDM should explore the possibility of a levy that is fair. A flat rate levy may not augur well with the fairness principle. The proposed levy should ideally incorporate an element on the value of the property.
- c) The WRDM should provide concrete evidence of consultations with key stakeholders on the proposed levy.
- d) The proposal by WRDM should contain incentives for fire protection/prevention.
- e) The Minister should also consider the (i) timing of the application considering the Covid-19 pandemic and (ii) that WRDM is fully and effectively utilising its current revenue stream.