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## ALL ATTORNEYS AND CONVEYANCERS

The present financial year for local authorities will end 30 June 2011. The problem of General Rates not paid during the transfer of properties registered over the passage into the new financial year, will therefore again present itself. In order to assist attorneys in this regard, this business unit would like to draw your attention to the following facts and suggest the following safeguards to ensure trouble free transfers of properties over the passage into the new financial year.

General Rates is an annual charge that is raised on the 1<sup>st</sup> of July every year. Because the amount payable is in most cases fairly large, the municipality allows ratepayers to pay it off in 12 monthly instalments. The debt, however, remains one undivided debt and is payable as such. This is also spelt out in the municipality's Customer Care and Revenue Management By-Law. The owner of a property on the 1<sup>st</sup> of July of a particular calendar year, is therefore liable for the General Rates in respect of that property, for the entire financial year.

When the transfer of a property is registered early in the new financial year (e.g. 5 July) the seller is therefore still liable for the General Rates for that entire financial year. This creates a problem, as the old owner is usually under the impression that such rates will be charged to the account of the new owner.

It has been suggested by attorneys that the municipality should request payment of the new year's rates when clearances is applied for. This can however, not be done if clearances is applied for towards the end of one financial year and the property is registered early in the next financial year, as Section 118 of the Local Government Municipal Systems Act requires that a local authority certify in a clearance certificate, that all outstanding monies in connection with the property being transferred, have been paid in full for a period not exceeding two years prior to the date on which clearance is applied for. Clearly the rates for the next financial year would then fall into the period of two years prior to clearance being issued. In addition the Act prescribes that a clearance certificate remain valid for at least **60 days**, which means the municipality can issue a clearance certificate in June and the attorney then has until October to register the property.