

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: **2025-078807**

In the matter between:

ECONOMIC FREEDOM FIGHTERS

Plaintiff / Applicant / Appellant

and

MINISTER OF FINANCE

Defendant / Respondent

Annexure 01

NOTE: This document was filed electronically by the Registrar on 2/6/2025 at 12:27:05 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTRONICALLY SIGNED
BY:

**Registrar of The High Court,
Western Cape Division, Cape
Town**

From: EFF Chief Whip <chiefwhip@effonline.org>

Sent: Monday, May 26, 2025 21:00

To: Ministry Registry <MINREG@Treasury.gov.za>; Mfuneko Toyana <Mfuneko.Toyana@treasury.gov.za>; Mary Marumo <Mary.Marumo@treasury.gov.za>; DGRegistry <DGRegistry@treasury.gov.za>

Cc: Ftr Omphile Maotwe <omaotwe@gmail.com>; sinawotambo1@gmail.com <sinawotambo1@gmail.com>; Nontando Nolutshungu <nolutshungunontando@gmail.com>

Subject: Re: EFF LETTER TO THE MINISTER OF FINANCE W.R.T FUEL LEVY INCREASE

Important: This email originated from an external sender. Please do not click on email links or open attachments you did not expect. When in doubt, please contact the ICT Service Desk.

Dear Minister,

We kindly request that you disregard the correspondence sent on **Monday, 26 May 2025** with the subject line "EFF LETTER TO THE MINISTER OF FINANCE W.R.T FUEL LEVY INCREASE."

Upon internal review, we have identified a **technical and computational material error** in the content of the originally submitted letter, specifically relating to the figures cited on the proposed fuel levy increase.

Please find attached the **updated and corrected version** of the letter from the **Economic Freedom Fighters Treasurer General and Member of the Standing Committee on Finance, Hon. Omphile Maotwe**, regarding the fuel levy increase announced during the May 2025 Budget Speech.

We apologise for any inconvenience caused and appreciate your understanding in this matter.

Kind regards,

Dr. Gumani Tshimomola



From: EFF Chief Whip <chiefwhip@effonline.org>

Date: Monday, 26 May 2025 at 19:09

To: Ministry Registry <minreg@treasury.gov.za>, Mfuneko.Toyana@treasury.gov.za <Mfuneko.Toyana@treasury.gov.za>, Mary.Marumo@treasury.gov.za <Mary.Marumo@treasury.gov.za>, DGRegistry@treasury.gov.za <DGRegistry@treasury.gov.za>

Cc: Ftr Omphile Maotwe <omaotwe@gmail.com>, sinawotambo1@gmail.com <sinawotambo1@gmail.com>, Nontando Nolutshungu <nolutshungunontando@gmail.com>

Subject: Re: EFF LETTER TO THE MINISTER OF FINANCE W.R.T FUEL LEVY INCREASE

Dear Minister,

Please disregard the earlier correspondence sent with the subject line concerning the fuel levy increase.

The letter attached to that message contained a **date error**. Kindly find attached the **updated and corrected version** of the letter from the Economic Freedom Fighters Treasurer General and member of the Standing Committee on Finance, Hon. Omphile Maotwe, regarding the fuel levy increase announced during the budget speech.

We apologise for any inconvenience caused.

From: EFF Chief Whip <chiefwhip@effonline.org>

Date: Monday, 26 May 2025 at 18:29

To: Ministry Registry <minreg@treasury.gov.za>,

Mfuneko.Toyana@treasury.gov.za <Mfuneko.Toyana@treasury.gov.za>,
Mary.Marumo@treasury.gov.za <Mary.Marumo@treasury.gov.za>,
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Cc: Ftr Omphile Maotwe <omaotwe@gmail.com>,
sinawotambo1@gmail.com <sinawotambo1@gmail.com>, Nontando Nolutshungu
<nolutshungunontando@gmail.com>

Subject: EFF LETTER TO THE MINISTER OF FINANCE W.R.T FUEL LEVY INCREASE

Dear Minister,

Please find attached a letter from the Economic Freedom Fighters Treasurer General and a member of the Standing Committee on Finance Hon. Omphile Maotwe with regards to the fuel levy increase announced during the budget speech.

Regards

Dr. Gumani Tshimomola

Cell No: 061 506 8196

National Treasury EMail Disclaimer





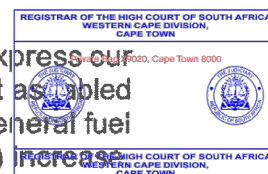
OFFICE OF THE TREASURER GENERAL

Mr. Enoch Godongwana
MINISTER OF FINANCE
 Private Bag X115
 Pretoria
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BY EMAIL

REJECTION OF FUEL LEVY INCREASE AND REQUEST FOR WITHDRAWAL IN LINE WITH CONSTITUTIONAL AND LEGISLATIVE OBLIGATIONS

1. We write to you on behalf of the Economic Freedom Fighters (EFF) to express our profound disappointment in the conduct and content of the 2025 Budget as tabled on 21 May 2025, specifically regarding your proposal to increase the general fuel levy as a revenue replacement for the withdrawn value-added tax (VAT) increase.
2. It is deeply concerning that despite the unambiguous political and legal rejection of the VAT increase—first introduced as a 2 percentage point increase (from 15% to 17%) in the February 2025 Budget and subsequently revised to 0.5 percentage points (from 15% to 15.5%) in the March 2025 Budget—your Ministry continues to pursue regressive taxation measures with similarly devastating effects on the working class and the poor.
3. Following successful legal challenge by the EFF, the VAT increase was declared invalid and withdrawn. This was not a procedural technicality—it was a substantive rejection of a tax that would have exacerbated the cost-of-living crisis and placed undue pressure on households already struggling with rising food and transport prices, stagnating incomes, and unemployment.
4. Regrettably, instead of pursuing progressive alternative revenue sources or introducing a fiscal stimulus, the National Treasury now proposes to increase the general fuel levy by 16 cents per litre on petrol and 15 cents per litre on diesel, as outlined in the May 2025 Budget Review and confirmed in the Minister's budget speech. These increases are scheduled to come into effect on the 4th of June 2025. This would bring the general fuel levy on petrol to R4.01 per litre and on diesel to R3.85 per litre, reversing the welcome policy stance of the previous two years in which no fuel levy increases were implemented in 2023 and 2024. That freeze served as a critical relief measure for low-income households and transport-reliant workers, offering partial protection from inflationary pressures and fuel price volatility.



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5. This sudden reversal—now couched in the language of regulatory adjustment—constitutes a calculated attempt to bypass parliamentary scrutiny and public consultation. It is a regressive move that replicates the impact of VAT increases under a different label, targeting the same vulnerable segments of society under the false pretext of administrative authority. We therefore reject, with the contempt it deserves, the proposed increase in the fuel levy.

REGRESSIVE ECONOMIC IMPACT ON THE POOR AND WORKING CLASS

6. The decision to increase the general fuel levy by 16 cents per litre for petrol and 15 cents per litre for diesel must be understood not in isolation, but within the broader context of South Africa's worsening socio-economic crisis. This crisis is characterised by record levels of unemployment, stagnating household incomes, rising food inflation, collapsing public transport infrastructure, and deepening poverty. The proposed fuel levy increases—though seemingly modest in nominal terms—will have disproportionate effects on the working class and poor, as they cascade through transport, food, and essential goods pricing.

7. In a society where over 18.2 million people are recipients of social grants and nearly 45% of the population lives below the upper-bound poverty line, the increase in the fuel levy will have an immediate and cascading effect on the cost of living. Unlike income taxes, the fuel levy is a consumption-based tax. It is not linked to income or wealth, and therefore applies uniformly across all income groups, regardless of ability to pay. This makes it structurally regressive, as it absorbs a greater share of income from poor households than it does from the wealthy.

8. The economic reality is simple: an increase in fuel levies raises transport costs, which are passed directly onto the prices of goods and services—especially food, electricity, and public transport. In the case of low-income households, these categories constitute the bulk of monthly expenditure:

8.1. Transport inflation is already disproportionately affecting the poor. In rural areas, where workers and schoolchildren rely on minibus taxis that cover long distances, fuel costs determine fare increases directly. Taxi associations have already indicated that fare hikes may be unavoidable if this fuel levy increase proceeds.

8.2. Food prices, particularly staples such as maize meal, bread, cooking oil, and fresh produce, are extremely sensitive to fuel prices, due to the long distances between farms, processing centres, and retailers. The Competition Commission's own Essential Food Pricing Monitoring reports have warned that input cost shocks such as fuel increases lead to "non-transparent, inelastic pricing" that disproportionately harms consumers.

8.3. The impact is particularly severe in areas where household expenditure on transport and food exceeds 50% of income—a situation affecting the vast majority of social grant recipients and informal workers.



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9. We must also remind you, Minister, that your own macroeconomic assumptions in the 2025 Budget show household consumption growing by only 1.8%, while real GDP growth remains projected at 1.4%, far below the level required for poverty reduction and employment absorption. Introducing a regressive tax in the form of a fuel levy increase in this context undermines even the modest growth projections of your budget and contradicts your stated intention of stimulating demand-led recovery.
10. Moreover, the fuel levy applies not only to private vehicle owners, but to all logistical systems—from food distribution to ambulance and emergency services, from informal traders using delivery vans to public sector service vehicles. Every litre of petrol and diesel carries a built-in cost burden, and that burden is now being deliberately increased, without any protection for the most vulnerable.
11. This is, simply put, an attack on the working class disguised as fiscal recovery. There is nothing progressive, efficient, or redistributive about it.

CONSTITUTIONAL AND LEGAL INVALIDITY OF FUEL LEVY INCREASE BY EXECUTIVE NOTICE



12. Beyond its economic injustice, the proposed fuel levy increase also suffers from a fatal constitutional flaw: it seeks to impose a national tax through executive regulation rather than through a legislative process governed by the Constitution and relevant statutes. This amounts to taxation without representation, an act that undermines the very foundation of South Africa's democratic order.
13. Section 77(1) of the Constitution is unequivocal:

"A Money Bill is a Bill that—(b) imposes national taxes, levies, duties or surcharges..."
14. Section 77(2) further provides that only the National Assembly may pass a Money Bill, and such a Bill may only be introduced by the Minister of Finance, not by executive notice or administrative regulation.
15. There is no legal ambiguity here: any new or increased national tax, including fuel levies, must be introduced by way of a Money Bill and subjected to the full process of parliamentary oversight in terms of the Money Bills Amendment Procedure and Related Matters Act, 2009 (the "Money Bills Act"). This includes public hearings, committee deliberations, and National Assembly and NCOP approval.
16. The attempt to raise R1.3 billion in 2025/26 through the fuel levy—according to your own May 2025 Budget Overview—is in essence a tax policy shift, not a regulatory adjustment. In fact, the Budget Review document explicitly refers to the levy as part of "fuel taxes on petrol and diesel", thereby admitting its nature as a tax, not an administrative fee or technical correction. While the amount may appear negligible in macroeconomic terms, the danger lies in the precedent it sets.

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17. If this goes unchallenged, it gives the false impression that the Minister of Finance can unilaterally impose or amend national taxes without parliamentary approval, despite the Constitution clearly reserving that power for the Legislature. Once such overreach is normalised, there will be nothing to prevent the Minister from returning tomorrow with even steeper increases—R2.00, R3.00 or more—without debate, public input, or democratic consent. This not only erodes the legitimacy of the budget process, but fundamentally undermines the rule of law and the constitutional architecture of fiscal governance in South Africa.
18. National Treasury has sought to rely on two Constitutional Court decisions—*Mark Shuttleworth v SARB* and *Nu Africa Duty Free v Minister of Finance*—to justify the regulatory route. This is a misreading of both the legal context and the findings of the Court.
- 18.1. In the *Shuttleworth* case, the Court upheld a 10% exit levy imposed on capital transfers abroad. However, it emphasised that this was a regulatory measure to control capital outflows, not a tax of general application. The levy targeted a small group of high-net-worth individuals for financial stability purposes and was not part of the general revenue framework.
- 18.2. In the *Nu Africa* case, the Court upheld the Minister's power to regulate duty free shops at border posts, ruling that it was an operational decision under the Customs and Excise Act—not a tax measure. It had nothing to do with the imposition or amendment of taxes.
19. In both instances, the Court made it clear that where the effect of a measure is to raise general revenue, and where it applies across the economy or population, such a measure is a tax and must be introduced through legislation. The Court explicitly warned against the abuse of delegated powers to circumvent constitutional processes.
20. Minister, the fuel levy is a national tax, paid by every South African—directly or indirectly. It cannot be increased through a government gazette notice or regulation. To do so is to arrogate unto the Executive powers that are reserved for the Legislature alone. Moreover, the Money Bills Act, which governs the tabling and amendment of money bills, makes no provision for increasing fuel levies through regulation. Any such act will be in direct contravention of this legislation and open to constitutional review.
21. The decision to increase the fuel levy by 16 cents per litre for petrol and 15 cents per litre for diesel without tabling a money bill is therefore unconstitutional, unlawful, and procedurally defective. Regardless of the nominal value of the increase, its nature as a tax of general application means it must be subjected to the legislative process in terms of section 77 of the Constitution. Proceeding via regulation rather than a money bill invites legal challenge, creates fiscal uncertainty, and may render the entire fiscal framework invalid if allowed to proceed.



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POLITICAL CONSEQUENCES AND PROCEDURAL SABOTAGE OF THE 2025 BUDGET PROCESS

22. Minister, it is imperative to highlight that the consequences of this fuel levy increase go beyond its economic regressiveness and legal invalidity. The political and procedural implications are equally severe. By introducing a new tax instrument through administrative means—after the public rejection and legal defeat of the VAT proposal—you have placed the entire 2025 budget process in jeopardy once again.
23. Let us recall the chronology. The original 2025 Budget tabled in February included a 2 percentage point VAT increase. Due to massive public outcry and multiparty opposition, including formal objections by the EFF, the Democratic Alliance, and members of the Standing Committee on Finance, the Minister revised the increase down to 0.5 percentage points in the March Budget Review. Yet that too failed, both politically and legally. The Western Cape High Court declared the adoption of the 2025 Fiscal Framework procedurally unlawful, and the VAT increase was suspended as part of the judicial remedy.
24. Your response—tabling a third budget in May—was an opportunity to correct these missteps and restore public trust in the fiscal process. However, by introducing a fuel levy increase through regulatory notice rather than a money bill, you have repeated the very same error that led to the court's intervention: attempting to impose a nationally binding fiscal measure without legal foundation and without parliamentary scrutiny.
25. This approach threatens to sabotage the already fragile process of passing the 2025 Budget. The Standing Committee on Finance is currently considering the revised Fiscal Framework and Revenue Proposals. Any attempt to enforce a tax increase outside that framework will:
- 25.1. Compromises the integrity of the revenue proposals under consideration;
 - 25.2. Violates section 27 of the Public Finance Management Act, which requires alignment of spending and revenue measures in a coherent fiscal plan;
 - 25.3. Risks fresh litigation from opposition parties, civil society, and labour organisations;
 - 25.4. Jeopardises the Parliamentary programme, which must adopt the Appropriation Bill, Division of Revenue Bill, and Revenue Bills by 31 July 2025 to ensure that government departments and provinces continue to function lawfully;
 - 25.5. Invites rejection of the fiscal framework again, either in the Standing Committee or in the National Assembly plenary, creating a political crisis of fiscal legitimacy.



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26. In a multi-party Parliament operating under the shadow of an unstable Government of National Unity (GNU), your decision to bypass legislative consensus on taxation could fatally undermine the delicate balance of political cooperation required to pass a national budget.
27. We further note that the fuel levy increases are set to take effect on the 4th of June 2025. By this date, neither the Standing Committee on Finance or the National Assembly will have considered, amended or adopted the Fiscal Framework and Revenue Proposals for 2025.
28. This further illustrates how this attempt at framing a tax measure as a regulatory adjustment represents taxation without representation or any legislative support from Parliament.
29. The repeated failure to respect constitutional limits is not a demonstration of fiscal agility; it is an act of institutional vandalism. It places the burden of correction not on National Treasury, but on Parliament, civil society, and the courts—who must once again intervene to restore legal and procedural order.
30. We urge you to act before this matter spirals into another round of procedural breakdowns, budget delays, and governance paralysis.



FORMAL DEMAND FOR WITHDRAWAL AND RESPONSIBLE ALTERNATIVES

31. In light of the foregoing economic, legal, and political arguments, we call on you, Minister, to act with urgency and integrity in safeguarding the legitimacy of South Africa's fiscal process.
32. We hereby formally request that you:
- 32.1. Withdraw the proposed increase of 16 cents per litre for petrol and 15 cents per litre for diesel in the general fuel levy, as announced in the May 2025 Budget, through the submission of a supplementary annexure or erratum to the Standing Committee on Finance;
 - 32.2. Refrain from issuing any Gazette or regulatory notice under the Customs and Excise Act or related instruments for the purpose of implementing this tax measure until it has been lawfully processed via a money bill, in line with section 77 of the Constitution and the Money Bills Amendment Procedure and Related Matters Act, 2009;
 - 32.3. Submit revised revenue proposals that rely on either progressive taxation measures—such as wealth, land, or estate taxes;
33. Appear before the Standing Committee on Finance to provide clarity on the full implications of your revenue strategy and to ensure that no further attempts are made to impose revenue-raising measures through extra-parliamentary means.

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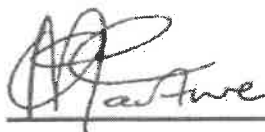
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34. These actions must be undertaken before the Standing Committee finalises its report on the 2025 Fiscal Framework and Revenue Proposals. Failure to do so will not only cast doubt on the legal status of the revenue measures contained in the budget, but will once again provoke necessary parliamentary and legal resistance.
35. We remind you that the constitutional obligation of the Executive is not merely to propose fiscal measures—it is to do so lawfully, transparently, and with full regard for the role of Parliament as the only legitimate law-making authority on taxation. Any deviation from this principle is not only unconstitutional, but a betrayal of democratic governance.
36. Let us be clear: the Economic Freedom Fighters reserves its right to seek appropriate relief before a court of law should the Minister proceed with the implementation of this tax measure outside the bounds of the Constitution and applicable legislation. We will not support any fiscal framework that includes regressive taxation measures imposed without due parliamentary process. As a party committed to constitutionalism and transparent governance, we will continue to use all lawful and parliamentary means available to oppose any attempt to introduce austerity measures through executive overreach or regulatory shortcuts.
37. The constitutional deadlines for passing the 2025 Budget are fast approaching. The country cannot afford another fiscal deadlock, nor can it afford the deepening of inequality and economic suffering through unmandated taxation.
38. Minister, it is not too late to correct course. But it begins with the immediate withdrawal of the unlawful fuel levy increase.
39. We further request that the Minister of Finance be directed to provide a written response within 48 hours of receipt of this correspondence, in view of the impending implementation date of 4 June 2025 and the seriousness of the constitutional issues at stake.

Regards



CMSR. OMPHILE MAOTWE
TREASURER GENERAL

DATE: 26 May 2025

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