

THE INSIDE STORY ON WORLD CUP TAX BREAKS

The 2010 FIFA World Cup will set South Africa's economy alight in the next three years. Tax analysts and economists predict the event should bring in more than R20-billion and create as many as 159 000 new jobs.

The hospitality industry is one of the South African industries that stands to benefit most from the 2010 FIFA World Cup. Amongst the many benefits are tax concessions for service providers.

As part of the bid to host the event, the South African Government issued guarantees to FIFA. Included in them are tax measures that create the concept of a "tax-free bubble" for income tax and value-added tax. A new rebate item has also been inserted into the Customs & Excise Act to deal with the World Cup. With the passing of the 2006 Revenue Laws Amendment Act, the guarantees were given effect and the special tax measures deemed to come into operation from 1 April 2006.

Features of the 2010 World Cup tax legislation include:

THE TAX TREATMENT OF 'SPECIAL EXEMPT ENTITIES'

A general exemption from tax, duties and levies applies to FIFA, its subsidiaries and participating national associations, other than the South African Football Association (SAFA). The exemption will apply to the extent that activities of entities are related to the championship. Any person who is liable to pay any amount to these "special entities" will not be required to deduct withholding taxes in respect of royalty payments, payments to non-resident sellers of immovable property and payments to foreign entertainers and sportspersons.

These entities will not be required to register as employers for tax purposes or deduct employees' tax. They will be deemed to be provisional taxpayers and must comply with the provisions of the Unemployment Insurance Contribution Act and Skills Development Levies Act.



THE TAX TREATMENT OF 'OTHER ENTITIES'

Of great significance to the hospitality industry are tax measures that will apply to entities referred to as "other entities". In all likelihood, many hotels, B&Bs, guesthouses, restaurants and other hospitality providers will qualify as "other entities", and be afforded special tax treatment.

Provision has been made for a "tax-free bubble" in terms of income tax and value added tax (VAT), but not other taxes. To the extent the "tax-free bubble" applies, the profit on goods sold or services rendered will not be subject to any form of income tax and VAT will be applied at a zero rate. Expenses incurred in the production of this exempt income will not be permitted as a deduction and a reasonable allocation of expenses attributable to the exempt income will need to be made.

To qualify for these concessions, goods must be consumable and semi-durable (not capital) and the services rendered must be intrinsic to the staging of the championship, enjoyed or used at a championship site and paid for by individual members of the public, FIFA or the Local Organising Committee. The exclusion only applies where the sale of goods and services rendered takes place at official FIFA Sites. Those sites include official FIFA stadiums, exclusion zones and parking areas (during the championship), championship press and TV centres, certain VIP areas and facilities agreed upon by FIFA, training sites (on training days), public viewing venues (on match days) and the nominated FIFA flagship store.

While tax relief within the "tax-free bubble" will apply to both non-residents and residents, the tax concessions will only apply to those entities earmarked as "other entities". Entities that fall within this group include "commercial affiliates", "licensees", "broadcasters", "merchandising partners", "FIFA-designated service providers", "concession operators" and "hospitality service providers".



“Commercial affiliates” refer to those entities granted specified advertising, promotional and marketing rights in relation to the championship. A “licensee” means any entity (other than a commercial affiliate) to which FIFA grants the rights to use any official emblem on items of merchandise and in its marketing and advertising activities in relation to the production of the broadcast signals of the matches and other events of the championship, and the provision of related services.

A “broadcaster” refers to any entity that acquires the right to broadcast or transmit the basic audiovisual feed (or supplemental feed), or to broadcast live radio commentary, of any match of the championship in any media.

“Merchandising partners” include any entities appointed by FIFA as its representative for soliciting and appointing prospective licensees, or any entity entitled to conduct FIFA or championship retail merchandise operations.

A “FIFA-designated service provider” refers to officially appointed sole-service providers that render ticketing, on-site IT and accommodation solutions, and any officially appointed service provider providing signage.

A “concession operator” is the term used to describe entities appointed to operate on-site F&B and merchandise concessions.

A “hospitality service provider” refers to an entity appointed to conduct or operate the official hospitality program or to provide core services relating to security, infrastructure and catering for the program.

Match has been appointed as an official “FIFA-designated service provider” to the hospitality industry for the World Cup. Its activities will include providing accommodation. In contracting with the hotel and restaurant industry, Match will act as a middleman between hospitality providers and end-users or customers.

With Match qualifying for tax treatment as an “other entity”, its receipts and accruals will be excluded from “gross income” to the extent that they are derived from the sale of any goods or rendering of services to the championship. While FIFA has stipulated that hotels and non-hotel accommodation providers are not compelled to contract rooms to Match, they are advised to do so as this will secure tax relief in the “tax-free bubble”.

As indicated, where entities qualify for tax treatment under the “tax-free bubble”, VAT on supplies of goods and services will be zero-rated and input credits will be claimable by the vendors. The VAT Act has also been amended to cater for an exemption from VAT on goods imported for sale, consumption or use during the World Cup.

While VAT relief applies within the “tax-free bubble”, where goods and services are sold off-site or entities provide those goods or services (including accommodation) as the principal seller or as one of the principal sellers; a standard rate of 14% will be applied.

A NEW REBATE ITEM FOR CUSTOMS AND EXCISE DUTY

A new rebate item has been inserted into the Customs and Excise Act to deal with the World Cup. The rebate results in no customs duty being paid on goods imported for sale, consumption or use in the World Cup by qualifying persons or their employees. Qualifying persons include FIFA-designated service providers, FIFA and FIFA subsidiaries, licensees, commercial affiliates and hospitality service providers.

THE TAX TREATMENT OF CERTAIN NON-RESIDENT INDIVIDUALS

The tax treatment of certain non-resident individuals will also interest hospitality providers. Where hospitality providers qualify as “other entities” (commercial affiliates, merchandising partners, FIFA-designated service providers or broadcasters, etc) and enjoy tax relief in the “tax-free bubble”; a tax exemption in respect of receipts and accruals of non-resident staff will apply. Excluded from the

exemption are SAFA officials, members of a team and LOC directors and staff. A withholding tax in respect of non-resident team members will remain in place.

A CAUTIONARY PROVISION

The regulations for hospitality providers to the World Cup were presented to the industry last October. FIFA has indicated that where persons do not comply with, or abuse, rules agreed to, rights to favourable tax treatment may be withdrawn.

The 2010 World Cup tax measures will also apply to the 2009 FIFA Confederations Cup and for a week before the start of the events and week after the closing ceremonies.

With the economy expected to soar ahead of the World Cup, South Africa's hospitality industry is in for exciting times and the tax breaks will add extra spice.

EXPERT ADVICE

This article was written for Hotel & Restaurant by Moray Wilson, a senior manager in Deloitte's Cape Town tax practice. He specialises in advising tourism, hospitality and leisure companies on taxation-related matters and is a member of Deloitte's South African Tourism, Hospitality and Leisure Industry (THL) group. Deloitte's THL group in Southern Africa has a specific focus on value creation for the tourism industry toward and beyond the 2010 FIFA World Cup