

REPUBLIC OF SOUTH AFRICA

(DRAFT) INTERACTIVE GAMBLING TAX BILL

(As introduced in the National Assembly (proposed money Bill))
(The English text is the official text of the Bill)

(Minister of Finance)

9 June 2008

DRAFT

BILL

To impose a tax on interactive providers and to provide for matters connected thereto.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. (1) In this Act, unless the context indicates otherwise—

“**Administration Act**” means the Interactive Gambling Tax (Administration) Act, 2008;

“**interactive gambling tax**” means the interactive gambling tax imposed by this Act;

“**interactive game**” means an interactive game as defined in section 1 of the National Gambling Act;

“**interactive provider**” means—

(a) an interactive provider as defined in section 1 of the National Gambling Act; or

(b) a person providing an interactive game to be played by any other person;

“**National Gambling Act**” means the National Gambling Act, 2004 (Act No. 7 of 2004);

“**nominated account**” means a nominated account as defined in section 1 of the National Gambling Act; and

“**player account**” means a player account as defined in section 1 of the National Gambling Act.

(2) Unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Administration Act bears that meaning for purposes of this Act.

Imposition of tax

2. An interactive provider must in respect of each assessment period pay for the benefit of the National Revenue Fund an interactive gambling tax in respect of the gross gambling revenue of that interactive provider as mentioned in section 4.

Rate of tax

3. The rate of tax is 6 per cent of gross gambling revenue for each assessment period.

Gross gambling revenue

4. (1) Gross gambling revenue is the aggregate amount debited to player accounts as mentioned in section 5A(a) of the National Gambling Act, less the aggregate—

- (a) amount credited to the nominated accounts of those player accounts;
- (b) amount of any prize mentioned in section 6A(2) of that Act collected by the winner of that prize;
- (c) amount paid to the State as mentioned in section 6A(3)(b) of that Act; and
- (d) amount carried forward as mention in subsection 3.

(2) For purposes of subsection (1), gross gambling revenue is determined without regard to any input tax or output tax as defined in section 1 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).

(3) If gross gambling revenue for an assessment period is a negative amount, that amount must be deducted as mentioned in subsection (1)(d) for

purposes of determining gross gambling revenue for the succeeding assessment period.

General anti-avoidance rule

5. (1) Notwithstanding any provision of this Act or the Administration Act, if the board is satisfied that a scheme—
- (a) has been entered into or carried out in a manner that has the effect of providing a tax benefit to a person; and
 - (b) having regard to the substance of the scheme—
 - (i) was entered into or carried out by any means or in a manner which would not normally be employed for genuine business purposes other than the obtaining of a tax benefit;
 - (ii) has created rights or obligations which would not normally be created between persons dealing at arm's length; and
 - (iii) was entered into or carried out solely or mainly for the purpose of obtaining a tax benefit,

the board will determine the liability for tax imposed under this Act and the amount thereof as if the scheme had not been entered into or carried out, or in such manner as in the circumstances of the case the board deems appropriate for the prevention or diminution of that tax benefit.

- (2) For purposes of this section—
- (a) **“dealing at arm's length”** means a transaction in the open market in which two or more independent persons acting in good faith (without regard to the interactive gambling tax) would freely and without conflict of interest agree to transact in the ordinary course of business;
 - (b) **“scheme”** includes any transaction, operation, scheme or understanding (whether enforceable or not), including all steps and transactions by which it is carried into effect; and

- (c) **“tax benefit”** includes—
- (i) any reduction in the liability of any person to pay any tax or other amount imposed by this Act;
 - (ii) any increase in the entitlement of any person to a refund of any tax or other amount imposed by this Act; and
 - (iii) any other avoidance or postponement of liability for the payment of any tax or other amount imposed by this Act.

Short title and commencement

6. This Act is called the Interactive Gambling Tax Act, 2008, and comes into operation on a date to be fixed by the Minister of Finance by notice in the Gazette.