

A second batch of the draft **Revenue Laws Amendment Bill, 2006**, is hereby released for public comment.

It would be appreciated if comments on the draft legislation could be furnished by 17 October 2006. Please submit policy and technical comments separately. Due to time constraints, it will not be possible to respond individually to comments received. However, receipt of comments will be acknowledged and fully considered by the National Treasury and SARS.

Comments must be submitted to either:

**Mark Preiss**

Email: [pearl.malumane@treasury.gov.za](mailto:pearl.malumane@treasury.gov.za)

Fax: +27 12 315 5516

And

**Adele Collins**

Email: [acollins@sars.gov.za](mailto:acollins@sars.gov.za)

Fax: +27 12 422 4035

DRAFT

REPUBLIC OF SOUTH AFRICA

---

# REVENUE LAWS AMENDMENT BILL

---

*(As introduced in the National Assembly as a money Bill)*

*(The English text of the Bill is the official text of the Bill)*

---

(MINISTER OF FINANCE)

[B – 2006]

**GENERAL EXPLANATORY NOTE:**

[            ]        Words in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_        Words underlined by a solid line indicate insertions in existing enactments.

---

**BILL**

**Amendment of section 4 of Act 58 of 1962**

1.        Section 4 of the Income Tax Act, 1962, is hereby amended by the substitution in the proviso to subsection (1) for subparagraph (i) of paragraph (e) of the following subparagraph:  
      “(i)    any taxpayer which is an **[public entity]** institution contemplated in section 3(1)**[(b)]** of the Public Finance Management Act, 1999 (Act No. 1 of 1999), or an entity contemplated in section 3 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), to the extent necessary for performing the functions and exercising the powers of the National Treasury in terms of those Acts; or”.

**Amendment of section 11 of Act 58 of 1962**

2.        (1)        Section 11 of the Income Tax Act, 1962, is hereby amended by the insertion after subsection (hA) of the following subsection:  
      “(hB) expenditure actually incurred and paid in the production of income (which is not otherwise allowable as a deduction under this Act) to discharge all consideration or royalties otherwise payable to a community as

DRAFT

contemplated in Item 11 of Schedule II of the Mineral and Petroleum Resources Development Act, 2002 (Act. No 28 of 2002): Provided that for any year of assessment, the amount to be deducted for that year in respect of such expenditure shall not exceed an amount equal to the total expenditure paid divided by the period (calculated in years) stipulated in the agreement to which the expenditure relates, and provided further that the duration of that deduction taken for any year of assessment shall not exceed that period;”.

- (2) Subsection (1) shall be deemed to come into operation on the 31 December 2006 and shall apply in respect of any year of assessment ending on or after that date.

**Amendment of section 24I of Act 58 of 1962**

3. (1) Section 24I of the Income Tax Act, 1962, is hereby amended by the insertion after subsection (11) of the following subsection:

“(11A) An amount shall not be included in or deducted from the income of a resident in terms of this section in respect of any exchange difference arising from any forward exchange contract or foreign currency option contract entered into by that resident to hedge the acquisition of the equity share capital of a company by that resident or by any other resident forming part of the same group of companies as that resident, to the extent—

(a) that resident, or that other resident, as the case may be, acquires or is entitled to acquire, no less than 20 per cent of that equity share capital;

(b) that company will, after that acquisition, be a controlled foreign company (as defined in section 9D(1)) in relation to that resident or that other resident, as the case may be; and

DRAFT

(c) that amount is not required to be included in the income statement of that resident, or in the income statement of that group of companies, as the case may be, in terms of South African generally accepted accounting practice.”.

- (2) Subsection (1) shall be deemed to come into operation on the 31 December 2006 and shall apply in respect of any year of assessment ending on or after that date.

**Amendment of paragraph 20 of the Eighth Schedule to Act 58 of 1962**

4. (1) Paragraph 20 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the insertion after subparagraph (3) of the following subparagraph:

“(4) Expenditure incurred by a person in respect of the acquisition of an asset shall be reduced by the amount of any foreign exchange gain, or increased by the amount of any foreign exchange loss, if that gain or loss is not included in or deducted from the income of that person in terms of section 24I(11A).”.

- (2) Subsection (1) shall be deemed to have come into operation on 31 December 2006 and shall apply in respect of any year of assessment ending on or after that date.

**Amendment of section 1 of Act 91 of 1964**

5. (1) Section 1 of the Customs and Excise Act, 1964, is hereby amended -

(a) by the insertion in subsection (1) after the definition of “container depot operator” as inserted by this Act of the following definition:

“**customs controlled area**” means any customs controlled area contemplated in section 6(1)(aA);”

DRAFT

(b) by the insertion after subsection (4)(c) of the following subsection:

- “(5) The expression “goods under customs control”, “goods subject to customs control” or “goods under control of the Commissioner” and any cognate expression shall, unless the context otherwise indicates, be deemed to include, but is not limited to, any goods to which this Act relates or any ship, vehicle or container contemplated in section 1(2) that -
- (a) enter or leave the Republic;
  - (b) are in, or at any premises licensed, registered or approved for any purpose in terms of this Act;
  - (c) are in, on or at any premises or at any place appointed, prescribed or designated in terms of section 6;
  - (d) are in transit within or through the Republic or conveyed for transshipment to any place outside the Republic as may be specified by rule;
  - (e) are deemed in terms of any provision of this Act to be under customs control.”.

**Amendment of section 6 of Act 91 of 1964**

6. (1) Section 6 of the Customs and Excise Act, 1964, is hereby amended –

(a) by the substitution for the heading of the following heading:

**“[Appointment of] Power to appoint, prescribe or designate [Places] places of entry, ports, customs and excise airports, customs controlled areas, secure premises, authorized roads and routes, entrances and exits, etc.-**

(b) by the substitution in subsection (1) of the following words preceding paragraph (a):

(1) The Commissioner may, notwithstanding the provisions of any other Act and subject to such conditions as he or she may specify, by rule, [-] appoint, prescribe or designate -

(c) by the insertion in subsection (1) after paragraph (a) of the following paragraph:

DRAFT

“(aA) the area of any place including the area of any port, customs and excise airport or land border or any part or parts thereof or any other place through or from which goods or persons enter or leave the Republic as a customs controlled area;

(d) by the substitution in subsection (1) for paragraph (h) of the following paragraph:

(h) entrances and exits, general or special, to or from any dock or wharf area or any other place in any port, customs and excise airport, land border, customs controlled area [dock, wharf area] or any other place through or from which goods or persons may enter or leave the Republic;

(2) Subsection (1) shall come into operation on a date fixed by the President by Proclamation in the *Gazette*.

**Insertion of section 6A of Act 91 of 1964**

7. (1) Section 6A of the Customs and Excise Act, 1964, is hereby inserted after section 6 as follows:

**“6A Special provisions in respect of customs controlled areas**

(a) The Commissioner may control the importation, exportation, manufacture or use of goods and the movement of persons or goods in a customs controlled area.

(b) The Commissioner may in consultation with any person or authority determine the manner in which any customs controlled area –

(i) must be secured;

(ii) must be signposted so as to give persons present in the area a clear indication that it is an area under customs control.

(c) (i) An officer stationed at an entrance or exit contemplated in section 6(1)(h) may stop any person from entering or leaving a customs

DRAFT

- controlled area and he or she may search such person or vehicle under the control of such person.
- (ii) If such person fails to stop, the officer may take such action, including the use of force, as he or she may deem necessary to stop such person or vehicle.
- (e) Any person entering, leaving or present in a customs controlled area must comply with such controls and procedures as the Commissioner may prescribe by rule.
- (f) The Commissioner may by rule -
- (i) specify the limits of any customs controlled area;
- (ii) prescribe –
- (aa) any conditions relating to the entry of goods and persons into and from a customs controlled area;
- (bb) measures relating to the appropriate identification of persons entering, present in or leaving a customs controlled area;
- (cc) any other matter which is necessary to prescribe or useful to achieve the efficient and effective control of goods and persons in a customs controlled area.”

**Amendment of section 80 of Act 91 of 1964**

8. (2) Subsection (1) shall come into operation on a date fixed by the President by Proclamation in the *Gazette*.

**Amendment of Schedule 4 to Act 91 of 1964**

9. (1) Schedule No. 4 to the Customs and Excise Act, 1964, is hereby amended as set out in Schedule 2 to this Act.
- (2) Subsection (1) shall be deemed to come into operation with retrospective effect to 1 April 2006.

**Amendment of section 6 of Act 89 of 1991**

10. Section 6 of the Value-added Tax Act, 1991, is hereby amended by the substitution in subsection (1) for subparagraph (aa) of paragraph (ii) of the proviso of the following subparagraph:

“(aa) any person which is an [public entity] institution contemplated in section 3(1)~~[(b)]~~ of the Public Finance Management Act, 1999 (Act No.1 of 1999), or an entity contemplated in section 3 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), to the extent necessary for performing the functions and exercising the powers of the National Treasury in terms of those Acts; or”.

**Amendment of Schedule 1 to Act 89 of 1991**

11. Schedule 1 to the Value-Added Tax Act, No. 89 of 1991, is hereby amended—

(a) by the insertion in paragraph 8 after Item No. 412.27/00.00/01.00 of the following Item No.:

**413.00 IMPORTED GOODS FOR SALE, CONSUMPTION OR USE IN THE 2010 FIFA WORLD CUP SOUTH AFRICA WHEN IMPORTED AND ENTERED BY QUALIFYING PERSONS AND EMPLOYEES OF QUALIFYING PERSONS**

**NOTES:**

For the purposes of this item no. 413.00—

1. (a) the definitions in Schedule 1 of the Revenue Laws Amendment Act, 2006 shall, as may be applicable, apply in respect of any item no. or Note provided for in this item no.; and

(b) “qualifying person” means—

(i) FIFA and FIFA subsidiaries;

(ii) FIFA National Associations;

(iii) FIFA Confederations;

DRAFT

- (iv) Media Representatives;
  - (v) Commercial Affiliates;
  - (vi) Merchandising Partners;
  - (vii) Licensees;
  - (viii) FIFA Flagship Store Operator;
  - (ix) FIFA Designated Service Providers including the pitch importer, Concession Operators, Hospitality Service Providers, design servicers, event management and marketing operations servicers and office suppliers; and
  - (x) The Host Broadcaster, Broadcasters and Broadcast Rights Agencies; and
- (c) the FIFA Flagship Store operator may only import consumable, semi-durable or promotional Championship related goods under item 413.01, 413.02 and 413.03, excluding tobacco products and cosmetics, and only from a date six months before the 2009 Confederations Cup until one month after the date of the closing ceremony of the 2010 FIFA World Cup South Africa.

2. (a) Any goods imported under—

- (i) item no. 413.01 that have not been sold as contemplated in that item no.;
- (ii) item no. 413.02 that have not been consumed or distributed as contemplated in that item no.;
- (iii) item 413.03 that have not been used as contemplated in that item no.; or
- (iv) item no. 413.04 that have not been consumed during the secondment,

shall be—

- (aa) entered for home consumption and payment of tax;

DRAFT

(bb) abandoned or destroyed under item no. 413.05;

(cc) donated under item no. 413.06;

(dd) exported within any period contemplated in paragraph (b); or

(ee) otherwise dealt with as the Commissioner may determine.

(b) The goods contemplated in subparagraph (dd) of Note no. 2(a) shall be exported in the case of—

(i) goods imported by—

(aa) FIFA and FIFA subsidiaries under item no.s 413.01, 413.02 or 413.03 within a period of 24 months after the date of the Championship closing ceremony;

(bb) qualifying persons, other than FIFA and FIFA subsidiaries, under item no.'s 413.01, 413.02 or 413.03, within a period of 12 months after the date of the Championship closing ceremony;

(ii) goods imported under item no.'s 413.01 and 413.03 within a period of 12 months after the date of the Championship closing ceremony;

Provided that the Commissioner may, on good cause shown, and subject to such conditions as he or she may impose, extend such periods.

(c) Goods not exported must be entered for payment of tax, abandoned, donated or otherwise dealt with as contemplated in paragraph (a), within such time as the Commissioner may determine.

3. (a) Whenever goods are sold, distributed, donated, used contrary to the provisions of this item no. or not re-

DRAFT

exported within the periods contemplated in Note 2(b), tax shall be payable upon demand by the Commissioner.

(b) The value for tax purposes in respect of goods contemplated in paragraph (a), shall be—

(i) the lower of the cost or market value on the earlier of the—

(aa) date upon which such goods are sold, donated or used contrary to the relevant item no.'s,

(bb) date of expiry of the applicable period for re- exportation,

as if the goods were imported on that date;

(ii) if donated otherwise than contemplated in item no.413.06, the lower of the cost or market value on the date of that donation as if the goods were imported by the donee (recipient) on that date;

(iii) if disposed of by a person to whom donated in terms of item no. 413.06 within five years after the date of acquiring the donation, the lower of the cost or market value at the date of the donation as if the goods were imported on that date;

(c) Whenever tax is payable, the rate of tax shall be the rate applicable on the date contemplated in paragraph (b).

4. Any import under item no. 413.04 shall be supported by an inventory of all household goods and by the particulars of any motor vehicle imported for own use which shall include its colour, make, model, chassis number and engine number.

DRAFT

5. For the purposes of item no. 413.05 any offer to abandon or any application to destroy goods shall be made in writing by, or on behalf of, the qualifying person, employee or donee contemplated in the items concerned and shall—

(a) include the bill of entry and all applicable invoices and other documents relating to the importation of the goods; and

(b) state the identifying particulars of the goods.

6. Notwithstanding, other paragraphs or item no.'s provided for in this Schedule, goods may only be imported and entered for sale, consumption or use in the 2010 FIFA World Cup South Africa under item no. 413.00.

413.01/00.00/01.00 Consumable or semi-durable goods imported by qualifying persons for sale at any site during the Championship.

413.02/00.00/01.00 Goods, including consumable goods and promotional material individually of little value imported by qualifying persons not for sale but for consumption or distribution in connection with the Championship.

413.03/00.00/01.00 Samples of consumable and semi-durable goods imported by a qualifying person not for sale, but for distribution at any site during the Championship.

413.04/00.00/01.00 Household furniture, other household effects and other removable articles, excluding alcoholic beverages and tobacco goods, including equipment necessary for the exercise of his or her calling, trade or profession and one motor vehicle, the *bona fide* property of any employee, not resident in the Republic for

DRAFT

income tax purposes, of any qualifying person and members of his or her family, imported for own use on his or her temporary secondment to the Republic for purposes of the 2010 FIFA World Cup South Africa.

413.05/00.00/01.00 Goods of any description cleared under item no.'s 413.01, 413.02, 413.03 and 413.04 unconditionally abandoned to the Commissioner or goods destroyed with the permission of the Commissioner: Provided that the Commissioner may decline to accept abandonment or grant permission for destruction.

413.06/00.00/01.00 Goods of any description cleared under item no.'s 413.01, 413.02, 413.03 and 413.04 unconditionally donated to a person exempt from income tax in terms of section 10 of the Income Tax Act, or any public benefit organisation as contemplated in paragraph (a) of the definition of "public benefit organisation" in section 30(1) that has been approved by the Commissioner in terms of section 30(3) of that Act: Provided that if the goods are disposed of by that person or public benefit organisation within five years from the date of acquiring such donation, tax shall be payable as contemplated in Note no. 3.

**Amendment of section 62 of Act 32 of 2004**

12. Section 62 of the Revenue Laws Amendment Act, 2004, is hereby amended by the substitution for subsection (2) of the following subsection:

DRAFT

“(2) Subsection (1) shall come into operation on 1 September 2007 [a date to be determined by the President by proclamation in the Gazette].”

**Special tax measures relating to 2010 FIFA World Cup South Africa**

**13.** (1) Special tax measures relating to the 2010 FIFA World Cup South Africa are set out in Schedule 1 to this Act.

(2) Subsection (1) and the Schedule are deemed to have come into operation on 1 April 2006.

DRAFT

**SCHEDULE 1**

**SPECIAL TAX MEASURES RELATING TO 2010 FIFA WORLD CUP SOUTH AFRICA**

***Part I***

***Interpretation***

**Definitions**

1. (1) In this Schedule, any word or expression to which a meaning has been assigned in the Marketable Securities Tax Act, 1948 (Act No.32 of 1948), Transfer Duty Act, 1949 (Act No.40 of 1949), Income Tax Act, 1962 (Act No. 58 of 1962), Customs and Excise Act, 1964 (Act No. 91 of 1964), Stamp Duties Act, 1968 (Act No. 77 of 1968), Value-Added Tax Act, 1991 (Act No. 89 of 1991), Skills Development Levies Act, 1999 (Act No.9 of 1999) or Unemployment Insurance Contribution Act, 2002 (Act No.4 of 2002), bears (having regard to the context within which such word or expression is used) the meaning so assigned, unless the context indicates otherwise, and—

**“Broadcast Rights Agency”** means an entity appointed by *FIFA* as *FIFA*’s representative for the solicitation and appointment of prospective *Broadcasters* in a particular territory;

**“Broadcaster”** means an entity which acquires the right to broadcast or transmit the basic audiovisual feed (or any supplemental feed), or to broadcast live radio commentary, of any match of the *Championship* in any media;

**“Championship”** means all matches and ceremonies of the 2009 *FIFA Confederations Cup* and the 2010 *FIFA World Cup* and such other directly related official events, including draws, galas, conferences and cultural events, as may be agreed in good faith between *FIFA* and the *Commissioner*,

DRAFT

**“Championship duration”** means with respect to the 2009 *FIFA Confederations Cup* and the 2010 *FIFA World Cup* respectively, the period commencing one week prior to the opening ceremony and terminating immediately after the closing ceremony;

**“Championship site”** means—

- (a) any official *FIFA* stadium and the entire premises of such a stadium inside the perimeter fence and the aerial space above such stadium premises;
- (b) any exclusion zone, being the area surrounding or adjacent to the stadium perimeter which *FIFA* notifies to the *Local Organising Committee* as comprising an exclusion zone in which certain commercial activities are prohibited by entities other than *Commercial Affiliates*, the *Broadcasters*, the *Licensees* and official *FIFA* approved entities;
- (c) any official *Championship* related parking areas, *Championship* press and television centres (including the International Broadcast Centres, VIP areas and any other areas or facilities as may be agreed in good faith by *FIFA* and the *Commissioner* utilised for official events;
- (d) any training sites (other than sites contemplated in paragraph (a)), being any venues selected to host any official *Championship*-related training sessions for the *team* of any *Participating National Association* in the *Republic*;
- (e) any official host city public viewing venues, limited to a maximum of two public viewing venues per city; and
- (f) the *nominated FIFA flagship store*;

**“Commercial Affiliate”** means—

- (a) any *FIFA* Partner, being an entity to which *FIFA* grants the most comprehensive package of global advertising, promotional and marketing rights in relation to *FIFA*, *FIFA*'s activities and the *Championship*;
- (b) any *FIFA* World Cup Sponsor, being an entity to which *FIFA* grants the second most comprehensive level of global advertising, promotional and marketing rights in relation to the *Championship*;

DRAFT

- (c) any National Supporter, being an entity whose principal place of business and principal operations are situated in the *Republic* and which is granted a third tier package of advertising, promotional and marketing rights in relation to the *Championship*, which rights are exercisable only in the *Republic*; and
- (d) any Branded Licensee, being an entity (other than an entity contemplated in paragraph (a), (b) or (c)) to which *FIFA* grants the right to place any *official emblem* on products (including related product packaging and product advertising materials) or in connection with the provisions of services which also bear the corporate identification or trademark of that entity;

**“Commissioner”** means the Commissioner for the South African Revenue Service;

**“Concession operator”** means any entity appointed to operate on-site concessions at the *Championship*, including food and beverage concessions and merchandise concessions;

**“Customs and Excise Act, 1964”** means the Customs and Excise Act, 1964 (Act No.91 of 1964).

**“FIFA”** means the Fédération Internationale de Football Association (FIFA);

**“FIFA Confederations”** means the continental confederations officially affiliated to *FIFA*, being the AFC, OFC, UEFA, Conmebol, CAF and Concacaf;

**“FIFA Delegation”** means with respect to the *Championship* the following individuals:

- (a) *FIFA* staff and the staff of all *FIFA Subsidiaries*;
- (b) members of *FIFA*’s internal official committees;
- (c) VVIP, VIP and other guests of *FIFA*; and
- (d) all other individuals who are nominated by *FIFA* as being members of its delegation;

**“FIFA Designated Service Provider”** means with respect to the *Championship*—

- (a) the officially appointed sole service provider rendering the ticketing, on-site information technology and accommodation solutions; and
- (b) any officially appointed service provider providing signage;

DRAFT

**“FIFA Subsidiaries”** means all entities wholly owned and controlled by *FIFA*;

**“Hospitality Service Provider”** means any entity appointed to conduct or operate the official hospitality program for the *Championship* and any entity appointed to provide the core services relating to security, infrastructure and catering for the official hospitality program;

**“Host Broadcaster”** means the organisation appointed by *FIFA*, or *FIFA*’s Rights Agency, to ensure and provide the production of the broadcast signals of the matches and other events of the *Championship*, and the provision of all related services

**“Income Tax Act, 1962”** means the Income Tax Act, 1962 (Act No. 58 of 1962);

**“Licensee”** means any entity (other than a *Commercial Affiliate*) to which *FIFA* grants the right to use any *official emblem* on items of merchandise and in its marketing and advertising activities in relation to the sale of those items of merchandise, but to which it does not otherwise grant any advertising, marketing or promotional rights related to *FIFA* of the *Championship*;

**“Local Organising Committee”** means the official *FIFA* accredited body in the *Republic* responsible for the entire organisation, staging and hosting of the *Championship*;

**“Media Representative”** means a member of the written press or photographer to whom *FIFA* and the *Local Organising Committee* grants press and photographer accreditation to access any *Championship site*;

**“Merchandising Partner”** means any entity appointed by *FIFA* as its representative for the solicitation and appointment of prospective *Licensees*, or any entity entitled to conduct *FIFA* or *Championship* related retail merchandise operations;

**“nominated FIFA flagship store”** means the single retail store nominated by *FIFA* for *FIFA*’s retail concept and which only retails consumable and semi-durable *Championship*-related goods and, in *FIFA*’s discretion, meals and beverages sold for consumption within the confines of an in-store restaurant but excluding cosmetics and tobacco products;.

**“official emblem”** means any of the official *Championship* Emblems;

**“Organising Association Agreement”** means the Organising Association Agreement entered into by *FIFA* and *SAFA* in terms of which *SAFA* will host the *Championship*;

DRAFT

“**Participating National Association**” means any National Association affiliated tot *FIFA*, qualified to enter a *team* in the final tournament of the *Championship* and any representative of the National Association excluding any member of the *team*;

“**Republic**” means the Republic of South Africa;

“**resident of the Republic**” means a “resident” as defined in section 1 of the *Income Tax Act, 1962*;

“**SAFA**” means the South African Football Association or its successors-in-title;

“**semi-durable**” with respect to trading stock means any goods (including clothing, footwear, textiles and glassware) that have a limited economic lifespan (usually longer than one year but less than three years) and where the unit selling price thereof does not exceed R2000;

“**team**” means any team representing a *Participating National Association* which has qualified to participate in the *Championship* and includes all squad members, coaches as stipulated in the *Championship* regulations, medical personnel and other auxiliary staff;

“**value-added tax**” means the tax levied in terms of the *Value-Added Tax Act, 1991*;

“**Value-Added Tax Act, 1991**” means the Value-Added Tax Act, 1991 (Act No. 89 of 1991).

(2) Any reference in this Schedule to a specific entity, means that entity so specified and includes any affiliated entity in which that specified entity holds at least a 20 per cent interest, if the activities or services rendered by the affiliated entity are directly connected to the *Championship*.

DRAFT

**Part II**

***Provisions relating to entities generally exempt from taxes, duties and levies***

**Application of this Part**

2. (1) This Part applies in respect of *FIFA*, the *FIFA Subsidiaries* and all *Participating National Associations* (other than *SAFA*).

(2) This Part applies only to the extent that the activities of the entities contemplated in subparagraph (1) relate to the *Championship*.

**Entities exempt from all taxes, duties and levies**

3. (1) Notwithstanding anything to the contrary contained in any other Act, an entity contemplated in paragraph 2 is, unless expressly otherwise stated in this Schedule,—

- (a) exempt from all taxes, duties, levies and other amounts which may be imposed in terms of any Act administered by the *Commissioner*; and
- (b) deemed not to have a permanent establishment in the *Republic* by virtue of any activities carried on in the *Republic* which relate to the *Championship*.

(2) A person who is liable to pay any amount to an entity contemplated in paragraph 2, is not required to withhold any amount from that payment in terms of section 35, 35A or Part IIIA of Chapter II of the *Income Tax Act, 1962*.

(3) Subparagraph (1) does not apply in respect of—

- (a) any taxes and duties in respect of which paragraph 4(2), 5(1)(b) or Part VI apply;

DRAFT

- (b) fuel taxes;
- (c) excise duties;
- (d) the plastic bag levy;
- (e) air passenger departure tax;
- (f) provincial taxes (gambling taxes and motor vehicle license fees); and
- (g) local government taxes, including property rates.

**Treatment of entities for value-added tax purposes**

4. (1) An entity contemplated in paragraph 2 must be regarded as a diplomatic or consular mission as contemplated in section 68(1)(b) of the *Value-Added Tax Act, 1991*, for purposes of obtaining a refund of *value-added tax* paid relating to transactions concluded for the official purposes of the *Championship*.

(2) Notwithstanding the provisions of paragraph 3(1)(a) or any other provision of this Schedule, *FIFA* must ensure that an entity contemplated in paragraph 2, 6 or the Local Organising Committee must furnish the *Commissioner* with a return as contemplated in section 30 of the *Value-Added Tax Act, 1991*, in respect of output tax due as a result of the supply by that entity of—

- (a) *Championship* tickets, including all matches and official events
- (b) accommodation as contemplated in Clause 19 of the *Organising Association Agreement*, and
- (c) hospitality provided at venues outside of a *Championship site*

and pay the amount of output tax to the *Commissioner* within the period prescribed by the *Commissioner*.

**Registration of entity as employer for purposes of certain taxes**

5. (1) An entity contemplated in paragraph 2—

- (a) is not required to register with the *Commissioner* as an employer in terms of the Fourth Schedule to the *Income Tax Act, 1962*, or to deduct or withhold any employees' tax from its employees in terms of that Schedule; and
- (b) must comply with the provisions of the Unemployment Insurance Contributions Act, 2002 (Act No. 4 of 2002), and the Skills Development Levies Act, 1999 (Act No. 9 of 1999), to the extent that those Acts apply in respect of any employees of that entity.

(2) Notwithstanding subparagraph (1)(a), an entity must provide to the *Commissioner* a list containing the names, identification numbers and addresses of all its employees who are *residents of the Republic* and in respect of whom the provisions of the Fourth Schedule to the *Income Tax Act, 1962*, would, but for the provisions of this Schedule, apply.

(3) An employee contemplated in subparagraph (2) is deemed to be a provisional taxpayer for purposes of the Fourth Schedule to the *Income Tax Act, 1962*.

**Part III**

***Tax treatment of certain other entities***

**Application of this Part**

6. This Part applies in respect of an entity which is—

- (a) a *Commercial Affiliate*;
- (b) a *Licensee*;

DRAFT

- (c) the *Host Broadcaster*, a *Broadcaster* or a *Broadcast Rights Agency*;
- (d) a *Merchandising Partner*;
- (e) a *FIFA Designated Service Provider*;
- (f) a *Concession operator*;
- (g) a *Hospitality Service Provider*, or
- (h) the *nominated FIFA flagship store operator*.

**Income tax treatment of receipts and accruals**

7. (1) Notwithstanding anything to the contrary contained in the *Income Tax Act, 1962*, but subject to subparagraph (2), any receipt or accrual of an entity contemplated in paragraph 6 is excluded from “gross income” as defined in that Act, to the extent that it is derived by that person from—

- (a) the sale of any consumable or *semi-durable* goods; or
- (b) any service rendered by that entity which is—
  - (i) intrinsic to the staging of the *Championship*;
  - (ii) enjoyed or partially utilised at a *Championship site*; and
  - (iii) paid for by an individual member of the general public or by *FIFA* or the *Local Organising Committee*.

(2) Subparagraph (1) applies only in respect of the sale of goods or services rendered at a site contemplated in—

- (a) paragraph (a), (b) and (c) of the definition of “*Championship site*” during the *Championship duration*;
- (b) paragraph (d) of the definition of “*Championship site*” on official *FIFA* sanctioned training days;
- (c) paragraph (e) of the definition of “*Championship site*” on match days;

DRAFT

(d) paragraph (f) of the definition of “*Championship site*” during the period commencing six months prior to the opening ceremony of the 2009 Confederations Cup and terminating one month after the closing ceremony of the 2010 FIFA World Cup.

(3) Notwithstanding subparagraph (2), any receipt or accrual of a *FIFA Designated Service Provider* is excluded from “gross income” as defined in that Act, to the extent that it is derived by that entity from the sale of any goods or rendering of services which are directly connected to the *Championship* and those goods are sold or services are rendered within the parameters for which that *FIFA Designated Service Provider* has been accredited by *FIFA*.

**Value-added tax treatment of supply of goods or services**

8. Notwithstanding anything contrary contained in the *Value-Added Tax Act, 1991*, an entity contemplated in paragraph 6 must levy *value-added tax* at the zero rate on all supplies by that entity of goods or services as contemplated in paragraph 7(1)(a) or (b) at a *Championship site*.

**Part IV**

***Tax treatment of certain individuals***

**Application of this Part**

9. (1) This Part applies in respect of any individual who is not a *resident of the Republic* and who is—
- (a) a member of the *FIFA Delegation*;
  - (b) a *Championship* referee or assistant referee;

DRAFT

- (c) an official of any *Participating National Association* (other than officials of SAFA);
  - (d) a *FIFA Confederation Official*;
  - (e) a *Media Representative*;
  - (f) a staff member of a *Commercial Affiliate*;
  - (g) a staff member of a *Merchandising Partner*;
  - (h) a staff member of a *FIFA Designated Service Provider*, or
  - (i) a staff member of the *Host Broadcaster*, the *Broadcast Rights Agency* or a *Broadcaster*.
- (2) Subparagraph (1) does not include—
- (a) any officials of SAFA;
  - (b) members of a *team*; or
  - (c) any directors and staff members of the *Local Organising Committee*.

**Income tax treatment of receipts and accruals**

**10.** Notwithstanding anything to the contrary contained in the *Income Tax Act, 1962*, any receipt or accrual of an individual contemplated in paragraph 9 is excluded from “gross income” as defined in that Act, to the extent that it is derived from activities connected with the *Championship*.

DRAFT

**Part V**

**General provisions relating to taxes**

**Disallowance of deductions relating to amounts exempt from income tax**

11. (1) No deduction or allowance shall be allowed in respect of any expenses or costs incurred in respect of amounts which are in terms of this Schedule not subject to tax.

(2) If any cost or expense is incurred in respect of both amounts contemplated in subparagraph (1) and amounts which are subject to tax, that cost or expense must be allocated proportionately to those amounts for purposes of determining the deductible portion of that cost or expense.

**Certain receipts and accruals deemed not to be from source in Republic**

12. An amount received by or accrued to a person who is not a *resident of the Republic* is deemed not to be from a source in the *Republic* for purposes of the *Income Tax Act, 1962*, if that amount—

- (a) is derived as a result of that person's sponsoring or broadcasting of the *Championship*; and
- (b) is received or accrued from any goods sold for foreign consumption or services rendered outside the *Republic*.

**Part VI**

**Provisions relating to importation and re-exportation of goods**

**FIFA import duty rebate arrangements**

DRAFT

**13** (1)(a) This paragraph relates to goods imported under rebate of duty by a qualifying person or employee as contemplated in Part 1A of Schedule No. 4 to the *Customs and Excise Act, 1964*.

(b) In this paragraph “rebate provisions” means the provisions for rebates of duty referred to in Part 1A of Schedule No. 4 to the *Customs and Excise Act, 1964*.

(2) (2) Notwithstanding anything to the contrary contained in the *Customs and Excise Act, 1964* –

(a) the importation of goods under rebate of duty, the sale or other disposal of or use of such goods, any requirement in connection therewith, payment of any duty thereon and the value for duty purposes when duty becomes payable shall, subject to this paragraph, be in accordance with the rebate provisions inserted under the provisions of section 75 of that Act;

(b) any cost or market value contemplated in the rebate provisions shall be proved by the importer and may be determined by the Commissioner;

(c) the Commissioner may make rules under section 120 of that Act regarding any matter which is necessary to prescribe or useful to achieve the efficient and effective administration of this paragraph and the rebate provisions.

(3) The Commissioner may conduct inspections and audits to verify whether any goods admitted under the rebate provisions concerned have been, or are being, sold or used in accordance with the provisions of those items.

(4) Except as otherwise contemplated in this section, the provisions of the *Customs and Excise Act, 1964*, shall apply for the purposes of administering the provisions of this section and any rebate provisions.

**Part VII**

***Tax Treatment of the LOC***

DRAFT

14. Notwithstanding anything to the contrary contained in the *Value-Added Tax Act, 1991*, the supply of the services comprising the organising, staging and hosting of the *2010 FIFA World Cup South Africa* which are rendered by the *LOC* to *FIFA* must be charged with tax at the rate of zero per cent.

***Part VIII***  
***Miscellaneous***

**Execution of documents exempt from taxes and duties**

15. No stamp duties, transfer duty or similar taxes or duties which may be imposed in terms of any Act administered by the *Commissioner* are payable by *FIFA* or any *FIFA Subsidiaries* in connection with the *Championship*.

**Circumstances where provisions of this Schedule do not apply**

16. If any person identified in this Schedule fails to comply with any provision of the Memorandum of Understanding entered into between *FIFA* and the South African Government, the provisions of this Schedule shall not apply to that person to the extent determined by the *Commissioner* in consultation with *FIFA*.

DRAFT

SCHEDULE 2

Amendments to Schedule 4 to the Customs and Excise Act, 1964

(Section 75)

By the insertion after Part 1 to Schedule No. 4 of Part 1 A as follows:

Rebate Item	Tariff Heading	Rebate Code	C D	Description	Extent of Rebate
413.00				<p style="text-align: center;"><b>SCHEDULE NO. 4 PART 1A</b></p> <p><b>IMPORTED GOODS ADMITTED UNDER REBATE OF DUTY FOR SALE, CONSUMPTION OR USE IN THE 2010 FIFA WORLD CUP SOUTH AFRICA WHEN IMPORTED AND ENTERED BY QUALIFYING PERSONS AND EMPLOYEES OF QUALIFYING PERSONS</b></p> <p><b>NOTES:</b> For the purposes of this Part - 1. (a) the definitions in Schedule 1 of the Revenue Laws Amendment Act, 2006 (Act No. .... of 2006) shall, as may be applicable, apply in respect of any rebate item or Note provided for in this Part; and</p>	

DRAFT

Rebate Item	Tariff Heading	Rebate Code	C D	Description	Extent of Rebate
				<p>(b) “qualifying person” means -</p> <ul style="list-style-type: none"> <li>(i) FIFA and FIFA subsidiaries;</li> <li>(ii) FIFA National Associations;</li> <li>(iii) FIFA Confederations;</li> <li>(iv) Media Representatives;</li> <li>(v) Commercial Affiliates;</li> <li>(vi) Merchandising Partners;</li> <li>(vii) Licensees;</li> <li>(viii) FIFA Flagship Store operator;</li> <li>(ix) FIFA Designated Service Providers including the pitch importer, Concession Operators, Hospitality Service Providers, design servicers, event management, marketing operations servicers and office suppliers; and</li> <li>(x) The Host Broadcaster, Broadcasters and Broadcast Rights Agencies; and</li> </ul> <p>(c) the FIFA Flagship Store Operator may only import consumable, semi-durable or promotional Championship related goods under item 413.01, 413.02 and 413.03, excluding tobacco products and cosmetics, and only from a date six months before the 2009 Confederations Cup until one month after the date of the closing ceremony of the 2010 FIFA World Cup.</p> <p>2. (a) Any goods imported under -</p> <ul style="list-style-type: none"> <li>(i) Item 413.01 that have not been sold as contemplated in that item;</li> <li>(ii) item 413.02 that have not been consumed or distributed as contemplated in that item;</li> <li>(iii) Item 413.03 that have not been used as contemplated in that item; or</li> <li>(iv) Item 413.04 that have not been consumed during the secondment, shall be - <ul style="list-style-type: none"> <li>(aa) entered for payment of duty and the duty payable brought to account;</li> <li>(bb) abandoned or destroyed under item 413.05;</li> <li>(cc) donated under item 413.06;</li> <li>(dd) exported within any period contemplated in paragraph (b); or</li> <li>(ee) otherwise dealt with as the Commissioner may determine.</li> </ul> </li> </ul>	

DRAFT

Rebate Item	Tariff Heading	Rebate Code	C D	Description	Extent of Rebate
				<p>(b) The goods contemplated in subparagraph (dd) of Note 2(a) shall be exported in the case of -</p> <p>(i) goods imported by -</p> <p style="padding-left: 20px;">(a) FIFA and FIFA subsidiaries under item 413.01, 413.02 or 413.03, within a period of 24 months after the date of the Championship closing ceremony;</p> <p style="padding-left: 20px;">(b) qualifying persons other than FIFA and FIFA subsidiaries under item 413.01, 413.02 or 413.03, within a period of 12 months after the date of the Championship closing ceremony;</p> <p>(ii) goods imported under item 413.04, within a period of 12 months after the date of the Championship closing ceremony:</p> <p>Provided that the Commissioner may, on good cause shown, and subject to such conditions as he or she may impose, extend such periods.</p> <p>(c) Goods not exported must be entered for payment of duty, abandoned, donated or otherwise dealt with as contemplated in paragraph (a), within such time as the Commissioner may determine.</p> <p>3. (a) Whenever goods are sold, distributed, donated or used contrary to the provisions of this Part or not re-exported within the periods contemplated in Note 2(b), duty shall be payable upon demand by the Commissioner.</p> <p>(b) The value for duty purposes in respect of goods contemplated in paragraph (a), shall be -</p> <p>(i) the lower of the cost or market value on the earlier of the -</p> <p style="padding-left: 20px;">(aa) date upon which such goods are so sold, donated or used contrary to the rebate provisions; or</p> <p style="padding-left: 20px;">(bb) date of expiry of the applicable period for re-exportation, as if the goods were imported on that date;</p> <p>(ii) if donated otherwise than contemplated in item 413.06, the lower of the cost or market value on the date of donation as if the goods were imported by the donee (recipient) on that date;</p> <p>(iii) if disposed of by a person to whom donated in terms of item 413.06 within five years after the date of acquiring the donation, the lower of the cost or market value at the date of the donation as if the goods were imported on that date.</p> <p>(c) Whenever duty is payable the rate of duty shall be the rate applicable on the date contemplated in paragraph (b).</p>	
Rebate Item	Tariff Heading	Rebate Code	C D	Description	Extent of Rebate

DRAFT

			<p>4. Any entry under item 413.04 shall be supported by an inventory of all household goods and by the particulars of any motor vehicle imported for own use which shall include its colour, make, model, chassis number and engine number.</p> <p>5. For the purposes of rebate item 413.05 -</p> <p>(a) any offer to abandon or any application to destroy goods shall be made in writing by, or on behalf of, the qualifying person, employee or donee contemplated in the items concerned and shall -</p> <p>(i) include the bill of entry and all applicable invoices and other documents relating to the importation of the goods;</p> <p>(ii) state the identifying particulars of the goods; and</p> <p>(iii) indemnify the Commissioner against any claim by any other person;</p> <p>(b) the person contemplated in paragraph (a) shall be responsible for the cost of storage in and removal to the State warehouse or any place of security indicated by the Commissioner, if such storage or removal is required by the Commissioner, and for any other expenses including the cost of destruction; and</p> <p>(c) goods shall be destroyed under the supervision of an officer.</p> <p>6. Goods must be entered under the items of this Part, whether or not liable to any duty.</p>	
<b>413.01</b>	00.00	01.00	00 Consumable or semi-durable goods imported by qualifying persons for sale at any site during the Championship.	Full duty
<b>413.02</b>	00.00	01.00	00 Capital goods, consumable goods or promotional material individually of little value imported by qualifying persons not for sale but for consumption or distribution in connection with the Championship.	Full duty
<b>413.03</b>	00.00	01.00	00 Samples of consumable and semi-durable goods imported by a qualifying person not for sale, but for distribution at any site during the Championship.	Full duty

DRAFT

Rebate Item	Tariff Heading	Rebate Code	C D	Description	Extent of Rebate
413.04	00.00	01.00	00	Household furniture, other household effects and other removable articles, excluding alcoholic beverages and tobacco goods, including equipment necessary for the exercise of his or her calling, trade or profession and one motor vehicle, the <i>bona fide</i> property of any employee, not resident in the Republic for income tax purposes, of any qualifying person and members of his or her family, imported for own use on his or her temporary secondment to the Republic for purposes of the 2010 FIFA World Cup South Africa.	Full duty
413.05	00.00	01.00	00	Goods of any description cleared under rebate items 413.01, 413.02, 413.03 and 413.04 unconditionally abandoned to the Commissioner or goods destroyed with the permission of the Commissioner: Provided that the Commissioner may decline to accept abandonment or grant permission for destruction.	Full duty
413.06	00.00	01.00	00	Goods of any description cleared under rebate items 413.01, 413.02, 413.03 and 413.04 unconditionally donated to a person exempt from income tax in terms of section 10 of the Income Tax Act, 1962, or any public benefit organisation as contemplated in paragraph (a) of the definition of "public benefit organisation" in section 30(1) that has been approved of by the Commissioner in terms of section 30(3) of that Act: Provided that if the goods are disposed of by that person or public benefit organisation within five years from the date of acquiring such donation, duty shall be payable as contemplated in Note 3.	Full duty

