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LET TAX BRING A 2010 WORLD CUP DREAM COME TRUE

The 2010 World Cup, which is fast approaching, in all likelihood, be a once-in-a-lifetime event for the majority of South Africans.

It will be an overwhelming success for our country if the stadia for each of the games are well supported and various organisations and parties are doing all they can to ensure that this happens. However, the costs of achieving this will not be an easy one, especially during the current recessionary times. It is understood that flight, match and hotel bookings are not as high as was first budgeted for and expected.

What may, however, help in achieving higher attendances is the fact that many taxpayers are not aware of their rights under the Income Tax Act, which could in many circumstances make the cost of attending matches substantially less expensive.

It is well established in our law that private and/or domestic expenses are not deductible for tax purposes. So, for individuals wanting to travel to watch relevant matches, generally, the full costs will be incurred by the individual without any assistance from SARS.

However, the principle that private and domestic expenses do not apply falls surprisingly under the heading in our Income Tax Act "18. Deductions in respect of medical and dental expenses."

While medical and dental expenses are themselves private expenses, the section is a lot wider than just. What opens the door for substantial tax savings to be made in respect of private and/or domestic expenses is a provision in section 18 that allows for the deduction of all expenditure necessarily incurred in consequence of a 'disability'.

To put the issue into perspective, there is a new definition in our law of disability, which became effective 1 March 2009. Broadly, a disability is defined as 'a moderate to severe limitation of a person's limitation to perform daily activities as a result of a physical, sensory, communication, intellectual or mental impairment, if the limitation has lasted or has a prognosis of lasting more than one year and is diagnosed by a registered general practitioner'.

The relevance of the definition of a disability in tax law is that if the taxpayer, his or her spouse, or child suffers from a disability then all irrecoverable medical expenses of the whole family paid by the taxpayer

can be deducted for tax purposes. Such expenses would include all medical aid contributions and all irrecoverable doctors, dental, hospital costs, etc. The important point here, as relates to a once-in-a-lifetime event such as the 2010 World Cup, is the provisions regarding expenses necessarily paid in consequence of a disability or physical impairment.

To give one example, if an individual is paralysed and requires special assistance to travel, special accommodation and a special seat at the match, the taxpayer's additional costs of attending the match should be tax deductible. If it would cost an able-bodied person R10 000 to attend the matches and the paraplegic would have to pay R30 000, it is considered that the additional R20 000 incurred is necessarily done so in consequence of the person's disability. If a person is required to have additional assistance such as having a father travel with the disabled person, then it is conceivable that the expenses of the father are also tax deductible – this is because in the absence of the father, the child would not have been able to attend, i.e. the father's expenses can be argued to be incurred in consequence of his child's disability.

It is noted here that the question is not whether the attendance at the match and airfares, etc. are necessary, but rather that the additional expense of R20 000 is necessary in consequence of the person's disability.

Since there are several thousand people (or many more) in this country who are disabled (in accordance with the definition) and it would cost them a lot more to attend 2010 World Cup matches than people who do not suffer from disabilities, it may come as some relief that SARS will 'contribute' a percentage of the extra amounts the disabled person would have to pay. There is, of course, no precedent in our law for this and specialist tax advice is recommended before assuming that any expenses would be deductible.

In summary, therefore, since the 2010 World Cup is a once-off occasion, the tax benefits may encourage those people with disabilities to make even more efforts to attend the matches. The tax savings should be tax neutral for the fiscus because of higher taxes raised from airlines, hotels, tour operators, etc. From the country's perspective, it should help achieve a more successful World Cup due to higher attendances.