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RISK MANAGEMENT - A VITAL PART OF YOUR BUSINESS

Risk is an integral part of business. Every time we launch a new product or buy new assets there is risk involved. It has become accepted for many businesses, particularly large and multi-national corporates to consider risk as part of their governance and compliance process. In this scenario, risk is a backroom exercise with limited impact on the day to day operations of the business.

The continuous growth of globalisation and technology has brought in rapid change. This has led to new products and technologies, shorter product life cycles, more competition and less time for businesses to react to threats and challenges. In turn this means that business risk is continuing to rise.

How to respond

Best practice businesses have responded to the conundrum of increased risk by putting it at the forefront of their strategy. When planning their response to, say, a new investment, risk is incorporated into the project plan and mitigating strategies are developed to reduce each risk identified to manageable levels. Thus, instead of the risk committee considering risk in the business, it has been brought to the coal face of business operations.

Risk has also increased with new regulatory demands being placed on organisations, for example the Consumer Protection Act and the Protection of Personal Information Act. Regulatory compliance risk is now being assessed as part of a business' ongoing strategy.

Where to start?

Some of you may not have consciously considered risk but it will have been at the back of your mind. Taking into account the above, it is well worth deciding the risk profile you want your business to adopt and then document the risks facing your business and strategies to reduce the risk. This can become an ongoing working document and every time you face an important decision, this document can be used to help in making the decision. In time you will have a valuable risk assessment of your business.

Everything is speeding up which adds to the risk in business – if you don't already formally consider risk, now is a good time to start.

FRANCHISE AGREEMENT RENEWAL: A HIDDEN TIME BOMB

When the Consumer Protection Act (CPA) was being introduced in 2011, the intention of the legislature was that all franchisors were to be given a six month window period to bring all existing franchises into line with the CPA. After a public outcry this requirement was dropped to the satisfaction of franchisors.

What is the catch?

Most franchise agreements are subject to renewal after a certain period of time. The CPA deems that the renewal of a franchise is "a new franchise agreement" and thus falls into the ambit of the CPA. Any renewal of the agreement must therefore comply with the CPA.

As franchises were largely unregulated up to the introduction of the CPA, this is a blow for them. Franchisees get considerable protection in the CPA. Agreements are to be transparent with strong disclosure provisions and must be written in simple understandable language.

More significantly the agreement must start with the following “cooling off period” wording:

“A franchisee may cancel a franchise agreement without cost or penalty within 10 business days after signing such agreement, by giving written notice to the franchisor”, and a reference to the CPA.

What it means

If the above wording is not included, then the agreement seemingly becomes void in terms of the CPA. The courts still need to rule definitely on this when a “cooling off period” case comes before them. This will remove uncertainty surrounding whether or not the agreement becomes void - until then, the risk to franchisors is a real one. **Obviously this can have adverse consequences for any party trying to enforce its rights through the franchise agreement.**

Until the courts decide, franchisors would be wise to ensure that renewed contracts comply with the CPA, particularly the “cooling off period” clause.

VAT REFUNDS: HOW THE NEW SYSTEM WORKS

After numerous complaints SARS implemented a new VAT refund process just over a year ago.

How does it work?

SARS commits to paying refunds within 21 business days of receiving a VAT return, subject to:

- The return being correctly filled in
- The taxpayer owes no monies to SARS and there are no outstanding VAT returns
- Banking details of the business being valid

Interest is paid to the taxpayer for non-payment after 21 business days.

A computer program analyses VAT returns and selects “high risk” refunds. Taxpayers selected will get a request for documentation (usually within 48 hours of submitting the VAT return) which needs to be submitted within 21 business days. The refund only becomes due when SARS are satisfied that the refund is due and valid. Then the commitment to paying refunds in 21 business day rule kicks in.

Taxpayers may object to the assessment by completing the Alternative Dispute Resolution form. This must be done within 30 business days. SARS aim to resolve the objection in 90 days. If taxpayers are still not satisfied they may appeal.

What to do

It becomes time consuming when taxpayers are asked to submit justifying documentation which will negatively affect the taxpayer’s cash flow.

- Ensure you submit your return accurately and timeously.
- Watch your account on eFiling and respond promptly to any requests for documentation (if you don’t respond within the 21 business days, SARS can issue an assessment denying the input VAT claim).
- Submit the documentation on eFiling to avoid queues at SARS’ offices.
- Then monitor your statement of account on eFiling as it will reflect any new assessments or refunds due.

In other words be proactive to reduce your waiting time to a minimum..

INTERNET 101: ONLINE SHOPPING IN SOUTH AFRICA - THERE’S

OPPORTUNITY OUT THERE

"There is a tide in the affairs of men. Which, taken at the flood, leads on to fortune. Omitted, all the voyage of their life is bound in shallows and in miseries. On such a full sea are we now afloat. And we must take the current when it serves, or lose our ventures." (William Shakespeare, Julius Caesar)

For the past five years online shopping has grown at over 30% per annum and is the fastest growing segment in retail. Online shopping in South Africa accounts for less than 1% of total shopping (compare that with 10-12% in developed countries) but will continue to show high growth due to "the experience curve" - it takes up to five years for people who are Internet users to get comfortable with online shopping. Once they get comfortable they allocate more of their monthly spend to online shopping at the expense of traditional retail expenditure. In South Africa, there has been rapid growth in Internet users over the past several years, due primarily to the number of smart phones and tablets coming to the market.

This means that although overall retail spend is tailing off, online shopping will double in the next three years.

Other factors

Broadband is becoming more accessible driven by mobile networks. Social media is sending greater numbers of people to online retail outlets whilst the relentless growth of technology is making the Internet cheaper and easier to use. It may seem confusing to unravel what this ongoing change means for our business but many corporates, such as Woolworths and Mr Price, have successfully increased their business by online shopping. Naspers' Internet subsidiary in China (Tencent) has just purchased 15% of JD.com – an online shopping company - for R2.3 billion.

Take the opportunity

Now is the time for small and medium businesses (SMEs) to take advantage of this distribution channel which can increase both your business and your exposure. Think of a unique way to get to your clients on the Internet and you stand to successfully exploit the opportunities Internet shopping offers. **The market is still relatively new and experts believe there is space for several new players to become dominant businesses in online shopping.**

Once you are working in digital media, it is easy to build up a data base on your clientele such as their preferences, the promotions they favour etc. All this becomes valuable information in further growing your business.

Time and cost

As with any new investment, there will always be costs and the required focus of management time in planning and implementing a new strategy. Remember the traditional retail channels are growing very slowly and the Internet is growing very quickly.

Also remember, there is still space for businesses to get a commanding position on online shopping but this window of opportunity will not last.

A TAX SNIPPET: ESCALATING QUERIES WITH SARS

If you are finding it difficult to resolve any problems you have with SARS, speak to your accountant. SAICA have an agreed channel to SARS whereby operational queries can be escalated for resolution.

You need to have gone through the normal query resolution processes at SARS before taking advantage of this avenue.

Considering the frustrations many people have with SARS, this is an excellent service to take advantage of should you need it.

YOUR TAX DEADLINES FOR APRIL

The Employer Annual Reconciliation (EMP501) is due on May 30. To avoid penalties, it pays to start the process as early as possible.

Have a great April!