Theron Le Roux

Accountants / Rekenmeesters

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Assosiaat Algemene Rekenmeester (SA • Associate General Accountant (SA)
Professionele Rekenmeester (SA) • Professional Accountant (SA)
Belastingpraktisyn • Tax practitioner

38 Akasia Street George East 6529 • ✉ 4529 George East 6539 • Tel: 044 871 5067 • Fax: 044 871 5082

WITH COMPLIMENTS

e-mail : jgmt@jgmt.co.za

AGA(SA)
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B-BBEE Revised Codes: Are

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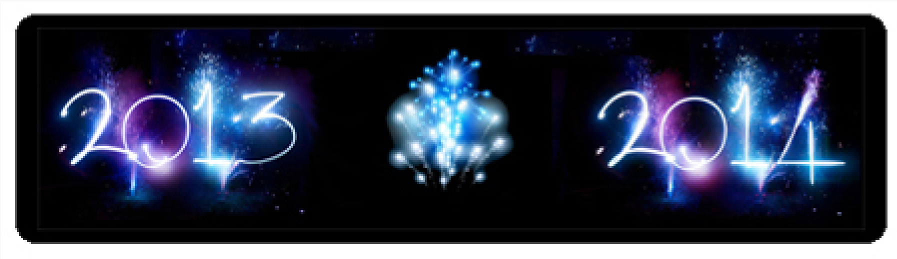

Thank you for your support in 2013. Have a Wonderful Festive Season, and a Happy and Prosperous 2014!

B-BBEE REVISED CODES: ARE YOU A WINNER OR A LOSER?

In October, Minister Davies gazetted revised B-BBEE (Broad-Based Black Economic Empowerment) codes. These codes are **voluntary** but you cannot deal with a government or public entity without a B-BBEE certificate and some of your customers or suppliers may also require a B-BBEE certificate from you.

The thrust of updated codes is to increase black ownership, improve black skills and encourage more dealings with black-owned businesses.

Business has one year (to 11 October 2014) before these codes replace the current ones (until then you can choose to comply with either) – it is important you study these closely as they will almost certainly impact on your business.

Some of the most significant features of the new codes are:

Exempted Micro Enterprises (EMEs)

As now, EMEs are deemed to have a level four rating. The threshold for qualifying as an EME has been raised from R5 million annual turnover to R10 million turnover. 100% black-owned EMEs qualify for a level one rating whilst 51% black-owned EMEs can get a level two rating.

Previously, EMEs required a certificate from an accounting officer for their scorecard. In terms of the revised codes all they require for a level four rating is a sworn affidavit. In view of the complexities of getting a certified scorecard, these are significant concessions to small business.

Other Enterprises

The remaining changes to the codes apply to all other entities and to EMEs if they want them to i.e. if they are convinced they can get higher than a four rating.

Number of elements reduced, and Discounting

The number of elements has been reduced from seven to five – “Employment Equity” has been moved into “Management Control”, and “Preferential Procurement” and “Enterprise Development” are merged into one element – “Enterprise and Supplier Development”. The other elements are “Ownership”, “Skills Development” and “Socio-Economic Development”.

Three of the elements are “Priority Elements” – “Ownership”, “Skills Development” and “Enterprise and Supplier Development”. Businesses which do not reach the threshold requirements for these elements will be discounted by one level – entities will need to achieve 40% of these targets. In other words, a business which would have got a level two rating will drop to a level three, if it misses the criteria for one of the priority elements.

Points System

The point scoring methodology has been changed. It could be more difficult to maintain the rating you had – for example a four rating prior to October 2013 will be a seven rating now. Whilst there are more points on offer in the new codes, businesses will need to carefully assess the revised points system.

Ownership

One of the criteria in scoring in this category is that black ownership of equity needs to be valued at "net value". This means the value of black equity is calculated net of debt. As many B-BBEE deals have involved loaning funds to BEE equity purchasers, this could have a serious effect on financing B-BBEE deals. In turn this could lead to substantially less B-BBEE deals happening.

Skills Development

The expenditure compliance target has been raised from 3% to 6%. There are points available for training disabled and unemployed black employees. There are bonus points for employing people who have been on learnership programmes.

Enterprise and Supplier Development

Procurement has changed and to get points it is necessary to deal with "empowering suppliers". One key requirement is that 40% of a business' purchasing should be from 51% black-owned "empowering suppliers". This is a complicated process and will require checking that the "empowered supplier" complies with all laws and regulations.

Qualifying Small Enterprises (QSEs)

The threshold has been raised from R35 million annual turnover to R50 million. As with EMEs an affidavit on turnover and black ownership is all the verification needed.

QSEs must comply with all five elements (previously only four of the seven). In terms of the priority elements, QSEs only need to comply with two of the three ("Ownership" must be complied with and one of either "Skills Development" or "Enterprise and Supplier Development").

QSEs will have a more difficult path ahead.

Time frame

As noted, the new codes replace the current ones after twelve months, which gives businesses time to grapple with the new codes. In the twelve month period you may use your existing B-BBEE scorecard.

Sector Codes

If the sector you are in has its own codes, then you are required to follow them. The new "generic" codes are to be used if there is no sector code in your industry.

Fronting

Draft legislation has been released which proposes a B-BBEE Commission to investigate complaints and fronting. The legislation makes it a criminal offence for fronting or for using false data for an entity's B-BBEE scorecard.

In addition, the planned legislation makes it compulsory for State and public businesses to comply with these codes in their procurement and tender policies.

Approach these codes with caution!

Businesses and their accountants will have to approach these new codes with caution. SAICA is going to be working with the IRBA (Independent Regulatory Board of Auditors) in trying to address anomalies with the DTI and will keep members informed of progress. For example, the revised BEE codes in their current form are flawed in that they do not tie up with other legislation such as the Preferential Procurement Framework of Government.

DEBT REVIEW MIGHT HELP YOUR STAFF

With economic times proving to be tough, many people face rising debt. If this debt overwhelms them, it is devastating as they could lose all their assets. If they are working for you, their concentration and productivity will inevitably slip.

One potential solution is debt review.

What does it do?

It is covered by the NCA (National Credit Act) and gives protection to people who have been approved for debt review – during the debt review process, creditors cannot take legal action to recover their debts. It does not reduce or take debt away – the aim is give the debtor time to repay the debt. However, the appointed debt counsellor may apply to have debts reduced or terminated if they were, for example, too onerous and failed to take into account the debtor's ability to repay.

Debt review does not apply to everybody as the debt counsellor needs to be satisfied that the debtor will be able to repay his/her indebtedness. If the debt counsellor is not satisfied, the debtor will not be eligible for debt review.

The debtor needs to understand the debt review process and be fully committed to it, as he or she may have to alter their lifestyle by adhering to a strict budget.

What are the steps?

The process is straightforward. A debt counsellor is appointed and verifies the income and debt levels of the debtor. If satisfied the debtor can pay off his or her debt, the counsellor contacts creditors and proposes a repayment plan. If they agree the process can begin. (Note that even if creditors do not agree, the counsellor may request the court to approve the debt review.) An agreement is drawn up and the debtor repays the debt as per the agreement.

There are laid down charges which the debtor must pay to the debt counsellor and penalties if the debtor defaults on payments.

Overall, debt review can be of assistance to someone who gets into debt. It is worth advising your staff on its merits, as this may offer them long term relief.

FINANCE 101: IS THE ECONOMY LURCHING TO THE LEFT OR THE RIGHT? CLUES IN THE MEDIUM TERM BUDGET SPEECH

Every October the Minister of Finance, Pravin Gordhan, delivers before Parliament the fiscal outlook for the next three years, commonly referred to as the Medium Term Budget Speech or MTBS.

The backdrop to the MTBS was not positive:

- Economic growth has been faltering in recent years. In 2012, Gordhan expected the economy to grow 3.5% in 2013/14 but revised this down to 2% in his speech.
- Ratings agencies have been downgrading South African debt in recent years

citing the growth in government expenditure on salaries and social spend (dependant grants, health and education). Agencies have cast doubt on government's will to curb this spend, in view of the deteriorating economic situation.

- Agencies are also concerned at the level of indebtedness of South Africa. In the next three years, Gordhan predicts it will grow by R500 billion to R1.9 trillion. Interest payments to fund this debt will be the single biggest growth item in expenditure – rising from R100 billion per annum currently to R135 billion in three years.

- The government has been committed to social spend to raise the previously disadvantaged out of poverty. Although this is in conflict with the ratings agencies, it is a political imperative.

- There has been tension within the ruling alliance (the ANC, Cosatu and the Communist Party) over economic policy. The tension is chiefly over the National Development Plan (NDP) and the ANC's desire to bring in a subsidy to encourage youth employment.

So, how did Minister Gordhan fare?

In terms of the figures shown, the Minister did quite well. In February he predicted that the budget deficit to Gross Domestic Product (GDP) would be 4.6%. Now it will come out at 4.5% due to some provinces not being able to spend their budgets and to higher income and company tax collections. Up to 2016/2017 the deficits also look manageable and fall to 3.8% of GDP. It is worth pointing out that the government is changing the methodology of measuring the budget to an IMF (International Monetary Fund) system. The IMF method is globally recognised and its measurement procedures result in a lower deficit to GDP. If you see different figures to ones shown here, it is due to this change.

Expenditure (excluding interest) will be held to a 2.2% increase whilst income will grow in line with economic growth which Gordhan predicts will be 3.5% in two years' time. Inflation will remain at current levels as will the trade deficit. Of particular interest is that National Health Insurance seems to have been put on the back burner and government officials' perks were substantially reduced – no more official credit cards, smaller overseas delegations and less business class and expensive hotel travel. The impact of curbing perks is R2 billion a year. The Minister also recognised that resources are getting scarcer and it will be important to make the current government expenditure go further – efficiencies are going to become a key focus.

It is also important to bear in mind there is a general election in six months and no populist measures were mooted.

There is no doubt the international community and ratings agencies respect Pravin Gordhan and his team. The budget also has credibility with them and has been well received. Their major concern is the steady increase in government debt and how well will South Africa stand up to another financial shock. In the past our currency and economy have taken a beating (1998 Asian contagion, 2001 and 2008 meltdowns) and it has taken several years to recover.

Finally, Minister Gordhan announced the government is committed to the NDP and the budget presented is consistent with NDP principles. He also announced a youth wage subsidy which will cost R1.3 billion next year (it has now been introduced to and passed by parliament). It seems that prudence is winning over populism.

Enjoy the Break!

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