November 23, 2018

Mitigating risk associated with the proposed amendment to Skills Development of the B-BBEE Codes

Skills Development in South Africa has become a strategic priority for businesses that wish to attain or retain an acceptable BEE level and also meet the requirements of the Skills Development Act.

On 29 March 2018 the Minister of Trade and Industry, Dr Rob Davies, published a *draft proposed amendment to the Broad-Based Black Economic Development (B-BBEE) Codes of Good Practice* which could bring changes to the Ownership and Skills Development elements on the *B-BBEE scorecard.* We have already seen the introduction of the *Youth Employment Service (YES)* initiative in August. The final publication was expected during August 2018; save for the YES initiative, the proposed amendments have not been finally tabled.

What does the proposed Skills Development amendment mean for businesses?

In summary, the proposed Skills Development amendment envisages the following:

- Splitting the current 6% Leviable Amount Target for overall Skills Development Expenditure by introducing a 2,5% target for spending on bursaries for black students attending Higher Education Institutions;
- 3,5% of the expenditure target is still available for spending on externally *accredited training, internal training, learnerships, apprenticeships and internships*;
- Increasing the cap on recognition for informal training from 15% to 25%;
- The headcount target for the number of black people who should be involved in learnerships, apprenticeships and internships is expected to remain unchanged.

At present, the fact that the proposed amendments have not been finally tabled creates uncertainty amongst business owners. Companies planning to meet their targets on Skills Development do not know whether the current Skills Development scorecard will be in place during their next verification; whether the proposed Skills Development scorecard will be published with immediate effect; or whether the proposed Skills Development scorecard published will be subject to a transition period.

Historically, companies have been able to earn full points on the Skills Development scorecard, based on achieving their targeted spending and headcount target for Learnerships, Apprenticeships or Internships. Should the new proposed scorecard be tabled, the points for a scholarship may be lost if companies have not prepared for the amendments.

Many companies are approaching their financial year-ends, which means there is an urgent need to ensure that the required spending and targets are met within their financial period.

How should businesses plan and prepare for their B-BBEE scorecard in the meantime?

It is possible to plan for adequate protection under both scorecards without spending much more to achieve the targets under both scenarios. Many companies exceed their headcount target on Learnerships and Apprenticeships due to the tax rebates that are available for registered learnership agreements. Diverting the excess spend to scholarships may be an effective way to ensure compliance under both scorecards without spending more money.

Companies that are B-BBEE level sensitive and cannot afford to miss out on Skills Development points are encouraged to *contact our professional team* for guidance on the possible scenarios and how to mitigate and manage the risks associated with the proposed Skills Development scorecard.

About the Author: Denise Coetsee joined SERR Synergy in February 2018 as a Project Manager within the Pretoria B-BBEE Department. She obtained her Bcom Law, LLB and LLM (Corporate Law) degrees from the University of Pretoria and is also a member of the Golden Key International Honour Society. Denise is an admitted Attorney of the High Court with 6 years of legal experience.