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Is B-BBEE about to become narrow based again?



Is Broad-Based Black Economic Empowerment (B-BBEE) about to become too narrow-based for sustainability in the long run?

Since the Department of Trade and Industry (DTI) published the *proposed amendments to the B-BBEE Codes of Good Practice* in March 2018, there seems to be uncertainty among business owners regarding the impact of these amendments on Broad-Based Black Economic Empowerment (B-BBEE) in general and specifically with reference to the enhanced recognition status for black-owned businesses. Let's look at this in more detail.

Enhanced recognition for black-owned entities

One of the interesting features of the proposed amendments is the extension of the enhanced recognition to include generic black-owned enterprises (**Generic Enterprises are businesses with an annual turnover exceeding R50 million*). Generic enterprises will be deemed to be B-BBEE Level 1 with 100% black ownership or B-BBEE Level 2 with at least 51% black ownership without having to complete a *B-BBEE scorecard*.

The above proposed amendment has opened the door for a rather interesting debate: *Will B-BBEE start fading away once these proposed amendments become effective?*

Enhanced recognition and fronting practices

By implementing the proposed amendment of 'enhanced recognition for all Black-owned businesses' irrespective of size, we will soon find ourselves on a slippery slope, with greater opportunities for fronting practices, as an influx of white-owned generic enterprises might start considering different and more creative ways of restructuring their shareholding to reflect 51% black shareholding for a favourable B-BBEE Level 2.

The impact on Skills Development and Enterprise & Supplier Development

Fewer generic enterprises will invest in Skills Development and *Enterprise & Supplier Development*, which forms the core of the entire broad-based approach. When doing the necessary calculations, generic enterprises will soon realise that it will become far more cost-effective to pay dividends to shareholders than to lay out capital as per the B-BBEE scorecard, even more so during the current economic down-turn cycle where fewer enterprises resort to dividend payments to distribute profits to shareholders. The higher dividend tax recently imposed contributes towards this impasse.

Conclusion

For B-BBEE to remain progressive and to continue having a positive impact on economic growth, employment and business development in South Africa, the DTI should strongly consider using a system similar to that of the Construction Charter Council.

Creating an extra layer for the enhanced B-BBEE Level 1 and 2 enterprises will diminish the above-mentioned risks. In summary:

- o **51% Black shareholding = B-BBEE Level 2, provided that the generic enterprise meets the sub-minimum of 40% for both Skills Development and Enterprise & Supplier Development (if full points are scored = Upgrade to a B-BBEE Level 1)**
- o **100% Black shareholding = B-BBEE Level 1, provided that the generic enterprise meets the sub-minimum of 40% for both Skills Development and Enterprise & Supplier Development**
- o **If neither sub-minimum is met, the generic enterprise forfeits the right to be deemed an enhanced B-BBEE Level 1 or 2 and must comply with the provisions of the full scorecard.**

By implementing this, the B-BBEE policy framework will curb disinvestment in B-BBEE development initiatives by generic enterprises. Significant emphasis will still be placed on *Skills Development* and continuous development of Small, Medium and Micro Enterprises (SMMEs) by Generic Enterprises.

SERR Synergy's *comprehensive B-BBEE service* include tailor-made solutions that meet existing B-BBEE challenges by implementing effective and value adding strategies.

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