

Amended BBEE Codes could spell disaster for SA

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14 Nov 2012

In October the Department of Trade and Industry released the amended BBEE Codes for public comment. Some of the changes could potentially spell disaster for the country's economy, especially when it comes to multinationals and the importing of goods.

The change in the treatment of imports is one of a number of challenges that multinationals and importers have to deal with.

Goods (and services) that are imported are no longer excluded from the BEE net. In the current Codes of Good Practice, certain unique imported goods and services may be excluded from total procurement before evaluating the preferential procurement score. This exclusion effectively reduces the procurement target against which local BEE spending is evaluated. The impact for importers is that their preferential procurement performance is only measured against their local spending. It is, therefore, quite plausible that a company that spends the majority of its expenditure on imports could still achieve a very high preferential procurement score if its local purchases are from BEE suppliers.

The proposed amendments to the BBEE Codes of Good Practice remove this exclusion benefit for importers. The impact is that imported goods and services will be evaluated in the same way as local goods and services when determining the preferential procurement score of an enterprise.

A nonsensical situation

It creates the nonsensical situation that importers should request the BEE status of their foreign suppliers so that the imported goods and services can be evaluated in terms of preferential procurement. Obviously, the intent is to encourage South African enterprises to reduce their dependence on imports and encourage the purchase of goods and services from local suppliers. The practicality of this intent is questionable. If one looks at the computer hardware industry alone, South Africa does not have any major manufacturing capability. There are a number of global IT companies that have a presence in South Africa and supply their goods and services into the South African market. These companies have significant productive assets based in countries such as China, where economies of scale have resulted in low-cost products and services being made available to South African businesses and consumers. Where these items are currently excluded from BEE compliance, the proposed amendments to the BEE Codes would require these imports to be included in the evaluation of preferential procurement and the importers overall BEE compliance.

The impact of this change could result in the importer not meeting the subminimum target for preferential procurement and, therefore, being penalised with a two-level drop in its overall BEE recognition status.

This could result in importers finding ways to get around this provision by creating a "post box" scheme within South Africa, in which a local company is created to act as an agent for the importer and the importer then claims that the purchases are from a local supplier. If the agent is a newly formed company it would attain an automatic Level 4 BEE status. The effect would be unnecessary increased costs and, therefore, increased prices being passed on to South African consumers.

A far better approach

Although having the noble intent of stimulating local procurement and, therefore, local production, penalising importers is not the solution. A far better approach would be to reward companies that seek out or develop local suppliers and award bonus points for their preferential procurement. The Amended Codes make provision for three bonus points to be earned; however this does not compensate for the 12 points that could be lost by the importer.

The consequence for multinationals is that they are unable to maintain a competitive BEE score. Multinational companies that generally import their products and services contribute a lot more to South Africa than just their products and services. Multinationals employ more than 200 000 South Africans. Dis-incentivising multinationals to continue to do business in South Africa because they are unable to meet unrealistic BEE targets would be counterproductive.

The public has until 5 December to comment on this and other changes to the amended BBBEE Codes and the most important factor to consider is how these proposed changes would impact on transformation, job losses and restructuring.

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