Tackling compliance: A key focus area for small businesses

By Dhiraj Mathapersadh, issued by SAICA

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Compliance, one of the most essential and often overlooked business functions for small business owners. For many entrepreneurs, the primary concern is revenue generation and ensuring profitability for their company, however, business compliance is a legal requirement not often prioritised due to business owners being unaware of their responsibility to maintain the compliance status. Covid-19 has forced many small business owners to adapt and or repurpose their business strategies to adjust to the changing environment and the importance of compliance and operating business compliantly has become more apparent.

Compliance refers to the process of ensuring that businesses operate in accordance with the set laws, regulations and legislations of the country they operate in to ensure the legality of business operations. Operating in accordance with these laws ensures that business owners are committed to conducting business in a legal manner, guaranteeing the legality of business operations, which will, in turn, enhance the credibility of business. Credibility is particularly important for the stakeholders in your business such as potential investors, funders and customers as this highlights the quality of being trusted and a commitment to doing business the right way.

Compliance is often overlooked as business owners are often unaware of the financial implications of non-compliance. For shareholders, potential investors and funders, compliance is a non-negotiable business requirement and non-compliant businesses will not be considered for potential funding/investment opportunities resulting in possible losses in revenue. Non-compliance also decreases investor confidence, as investors are unwilling to invest in businesses not operating in accordance with the prescribed rules and regulations. This is particularly important now for small business owners as various government agencies try to relieve the financial burden on those businesses heavily impacted by Covid-19. Non-compliance also comes with a direct financial implication as non-compliant businesses may be responsible for payment of severe fines, interest and penalties as a result and in the current age of technology, ignorance is not accepted as an excuse.

This begs the question: Which regulatory bodies are small businesses required to be compliant with? A regulatory body is responsible for the enforcement of rules, regulations and other codes of practice to ensure regulations are followed correctly. For small business owners in South Africa, compliance must be ensured with the following:

- Companies and Intellectual Properties Commission (CIPC)
- Department of Labour (DOL)
- South African Revenue Service (Sars)

Companies and Intellectual Properties Commission (CIPC)

The Companies and Intellectual Properties Commission is an agency of the Department of Trade and Industry and is responsible for the registration of companies and intellectual property rights in South Africa[1]. Companies registered with CIPC are issued a company registration number and company registration documents used to ensure they form part of the registry. Valid company registration documents are required for investor and funding opportunities and small business owners are required to ensure that the company number remains valid while the business is in operation. Compliance is maintained by ensuring annual returns are submitted and paid timeously while failure to do so will result in business deregistration and loss of the company registration number.

Department of Labour (DOL)

The Department of Labour is responsible for matters relating to employment, unemployment insurance and occupational health and safety[2]. Business owners are required to comply with the regulations stipulated by the DOL to ensure efficiency in operations, protection of human rights, eliminating inequality and discrimination in the workplace and to ensure the safety of workers. Non-compliance may result in severe fines and penalties payable to the DOL and business operations may be seized until compliance is ensured and may result in additional losses of income.

South African Revenue Service (Sars)

The South African Revenue Services is the nation's tax collection authority responsible for administering the tax system and customs service in South Africa[3]. Sars is responsible for the collection tax in South Africa and small business owners must ensure that their businesses are registered with Sars and for the applicable taxes. It is wise to consult with an accountant and/or tax practitioner in this regard as they can offer professional advice specifically related to Sars registrations and tax related matters. It is imperative that returns are submitted and payment is made timeously to Sars to avoid added interest and penalties being charged to the account. To ensure compliance is maintained, a Tax Clearance Certificate (TCC) is issued by Sars to indicate that businesses are compliant in terms of returns submitted and payments made.

The consequences of non-compliance range from business deregistration to severe fines, penalties and interest imposed on business owners and potential losses in revenue from funding and investment opportunities as well as potential jail time if found guilty of non-compliance. Compliance must form part of the fundamental business activities for small business owners as non-compliance can have severe financial impacts on small businesses and in order to avoid the additional financial burden, business owners must be aware of the responsibilities towards maintaining compliance. Seek the advice of professionals, be aware of and stay up to date with compliance requirements and learn about the rules and regulations applicable to your business to avoid additional financial outlays.

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1 https://careerplanet.co.za/what-is-the-cipc/

2 https://nationalgovernment.co.za/units/view/23/department-of-employment-and-labour-del

3 https://www.sars.gov.za/About/Pages/default.aspx

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