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The impact of the new Agri Sector Code on B-BBEE

What is the impact of the new Agri Sector Code on B-BBEE?

The Amended Broad-Based Black Economic Empowerment (B-BBEE) Sector Code for the *Agriculture Sector* was gazetted on 8 December 2017.

The Agri Sector Code was implemented with immediate effect without a transitional period, which means that any B-BBEE verifications signed off after the publication dates have to be performed in terms of these amended (new) codes. All verifications performed prior to the above publication dates would remain valid for the validity period of the certificate.

We have summarised the Agri Sector Code for you for ease of reference.

What should you know about the new Agricultural Sector Code?

The Agriculture Sector Code will serve as a guiding principle for transformation of the agricultural sector. It replaces the old AgriBEE Sector Code gazetted in 2012. As mentioned by Minister Rob Davies, agriculture is the bedrock of our economy and a very important contributor to its development. “This is evidenced by the latest 2017 third quarter Statistics on Gross Domestic Product which shows that agricultural production has risen by 44,2% and was the main driver of the 2% GDP growth of the third quarter,” Davies said.

The **scope of application** of the amended Agri Sector Code includes:

- The main production of agricultural products
- The provision of inputs and services to enterprises involved in the production of agricultural products
- The beneficiation of agricultural products whether in a principal or semi-beneficiated form
- The delivery, storage and/or trading and associated activities linked to non-beneficiated agricultural products.

Important business category highlights:

- The *EME and QSE thresholds* of R10 million and 50 million in annual turnover, respectively, are the same as those of the Generic (General) Codes (paragraph 2.7 of the Charter).
- Level 4 for EMEs and 51% and 100% Black Ownership for EMEs and QSEs would enhance an entity to level 1 and 2, respectively, as is the case with the General Codes. These entities can also utilise a variety of ownership/shareholding structures (see paragraph 2.7 of the Charter).

The Agri Charter makes provision for the following in respect of land ownership and the element Ownership on the scorecard:

- Those enterprises with land claims registered are exempted from the Ownership element and those with registered land claims on a portion of the land would be proportionally exempted. See the Exclusion principle in paragraph 3.5 of Statement 000 of the General (Generic) Codes. These excluded entities must use the Specialised Scorecard. There is a General Specialised Scorecard for all industries as per Statement 004 dated 06 May 2015, but a tailor-made Specialised Scorecard is included in this Charter on all elements except, of course, Ownership. Specialised Scorecards are in general used for non-profit companies that do not have shareholders.

From a B-BBEE perspective, specialised entities, if measured on their own, would only need 75% black beneficiaries to be deemed a Level 1 (one) contributor. It is important to know that entities where land ownership is separate from the measured entity are not exempted from the Ownership element (see paragraph 7.2.1.7 and 7.2.1.8 of the Charter). *For unique shareholding structures, speak to us.*

- As in the case of all other enterprises, ownership points can be earned for a sale of asset(s) by disposing of or transferring/selling land to an B-BBEE partner as a Qualifying Transaction (see Statement 102 published on 06 May 2015). Apart from land, any other productive asset may be sold under the Qualifying Transaction Principle to earn ownership points (see paragraph 7.2 and 7.2.1.8 (a) + (b) of the Charter).

How can ownership points in terms of the Agri Charter be earned?

- concluding an equity transaction like any other enterprise; or
- selling/transferring or disposing of land in terms of the rules for a Qualifying Transaction; or
- selling/transferring or disposing of any other productive asset in terms of a Qualifying Transaction; or
- being exempted or partially exempted in the event of a registered land claim on the measured entities land, in which case the Specialised Scorecard shall apply.

You don’t have to become a B-BBEE expert to make sense of all of these compliance requirements. Contact *SERR Synergy* today as we are industry leaders when it comes to the strategies and processes associated with a B-BBEE certification. We provide local and international businesses, both big and small, and across a broad spectrum of industries, with the tools and skills to meet South Africa’s business legislative requirements.