Tax compliance is crucial for Public Benefit Organisations (PBOs) and their donors

South Africas Public Benefit Organisations (PBOs) do invaluable work uplifting communities and benefiting underprivileged people across our country. Sadly, most of these entities do not have the resources to ensure that they are fully tax compliant.

However, the tax status of a SARS approved Public Benefit Organisation (PBO) is crucial to its ability to raise funds and attract donors, who along with wanting to be philanthropic, are attracted by the tax deductions that come with donations to such organisations.

These entities are often exempt from paying income tax and are entitled to issue Section 18A certificates to donors. A lack of tax compliance can see these PBOs lose their tax exemption status, prejudicing themselves, the communities they serve, as well as the companies and individuals that donate to them.

Once a charitable or community organisation is no longer tax compliant, it may become liable to pay income tax on the money that it receives. Therefore, an organisation that considers itself a charity can fall foul of our tax laws, often without even realising.

In such a case, the Section 18A certificates issued by these companies become worthless. This results in donors forfeiting the tax deductions and leading to additional taxable income they had not anticipated, previously secure in the belief they were making charitable donations to a registered PBO with a tax benefit. The ramifications can stretch back for several years, compromising historical donations, making donors liable to tax (including penalties and interest) and even threatening the viability of the PBO itself.

Complicating the situation is social entrepreneurship enterprises and PBOs that raise funds, but also have a trading leg to assist with sustaining themselves. In essence, only 5% of income received can come from trading for PBOs to retain their SARS approved PBO status. However, it is easy for a small business component or fundraising event to grow, and to change the entire income model of an operation.

For instance, if a PBO sets up a coffee shop that becomes popular and generates over 5% of the total receipts (income and donations), the PBO may be liable to pay income tax on the receipts based on the apportionment ratio.

In other instances, some social entrepreneurship initiatives entail receiving funding from donors on condition that the PBO renders a service to/for the donor. These agreements may be regarded, within our legislations, as payment for services and the funding would be liable for VAT at 15%. Effectively, the PBO would only be able to use 85% of the funding received for their welfare activities as 15% would be payable to SARS.

It is therefore critical that PBOs remain current on the tax laws that apply to them and how to comply. Many organisations do sterling work that benefit thousands of people, but do not have the relevant tax expertise to comply with South African legislation. Several NGOs dont know that they dont know.

Although the it may seem as though the legislation places additional administrative burdens on PBOs, the law is in place to combat tax fraud in the public welfare space and ensure that organisations are engaging in legitimate welfare activities and Ultimately, it is important that PBOs realise that all their activities have a tax impact. A tax exemption does not exempt an organization from tax compliance. Its not a free pass in perpetuity.

PBOs need to take their tax obligations seriously from the outset, even when starting out as grassroots organisation. Being properly accredited and being able to issue the appropriate certificates immediately attracts donors. Waiting until reaching a certain size before thinking about tax compliance will hamper growth.

A tax compliance status must be monitored, scrutinized and maintained. A PBO must do the accounting and auditing work and submit the returns to protect its tax status. This may mean getting training from tax organisations who focus on PBOs, as well as engaging with them to review and set-up processes in order to avoid compromising their tax exemption status, since in the end it is the underprivileged who need to benefit.

Conversely, its important that Donors do the necessary due diligence on PBOs, prior to donating and claiming the exemption, to ensure that they are compliant. One cannot take any entitys status for granted. PBOs are part of our countrys solution to deal with the crippling poverty, unemployment, crime and inequality that a large majority of our people face. It is important that the PBD follow the rules to ensure they can continue legitimately doing their work, which is indispensable.

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