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COVID-19: POST-PANDEMIC WORLD

IS YOUR BUSINESS READY?

As I sit at my desk, contemplating inventing a product that would drown out the high-pitched voice of my 8-year-old who frankly just doesn't stop talking, a single word catches my eye and makes me reflect on this unique situation we all find ourselves engrossed with: Teamwork!

Every morning, as each Mazars employee begins their day by logging on, our corporate image which resonates the DNA of every Mazarian, greets us. One such characteristic of our "ONE TEAM" behavioural charter is that of teamwork.

Unconsciously I think about the courageous health workers working tirelessly to save lives, the ecosystem of essential services who enable making an unbearable situation bearable and a government that has shown cohesiveness to lead us, its people. Such teamwork has epitomised what synergy can achieve in the face of extreme adversity and it has bonded a nation when we needed it the most.

South Africa has received numerous accolades for how it has handled this pandemic – from acknowledgment from the World Health Organization; to the projection of the South African flag over the Matterhorn Mountains in the Swiss Alps as a symbol of solidarity; to the admiration of everyday South Africans of our charismatic President. What we have accomplished as a nation can be granulised into the simple concept of teamwork or in South African lingo – Ubuntu.

So what is the link between the simple concept of teamwork and a post Covid-19 world for South African businesses? Simple; it will be the difference between surviving or floundering.

While this crisis may have galvanised us against a common, faceless enemy, the economic hub of our country is in for turbulent times. South African businesses' fight for survival is real, but it's not a fight against the pandemic. The pandemic is merely a disrupter while the fight is for certainty, recovery and sustainability. Businesses face uncertain futures and will have to build on relationships and teamwork if they are to survive. Those who panic and are only inwardly focused will not have learnt from what nature has thrown our way.



What we have accomplished as a nation can be granulised into the simple concept of teamwork or in South African lingo – Ubuntu.

A survey conducted by Statistics South Africa (Stats SA) has revealed that 42.2% of the businesses surveyed indicated that they are not confident they have the financial resources to continue operating during the Covid-19 outbreak. Most of these businesses also believe that this pandemic will impact their business worse than the 2008/09 global financial crisis.

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Now is the time for these businesses, and others in a similar situation, to mobilise their community of leadership, staff and service providers to build a post-pandemic reality.

With the easing of lockdown restrictions, businesses should not be lulled into a false sense of comfort. While executives may rightfully be worrying about getting their staff back to work safely, procuring necessary supplies like sanitisers and masks and controlling access to their workplace, they should not lose sight of a key goal – that of sustainability.

Executives should be asking themselves some key questions:

- Is my business model still relevant to ensure profitability?
- Am I exploring opportunities in the midst of a crisis?
- Have I done a proper cash gap analysis or cost reduction modelling?
- Are my Business Continuity Plans robust enough to see me through this crisis or even another crisis during this one?
- Lastly and maybe more importantly, do I have a team with the necessary skills and expertise to do this right?

Only when you can affirm all of these have you fulfilled your shareholder mandate to act in the best interest of the company. Without doing so, you have simply not woken to the reality of living in a disruptive world, a world where the phrase "business as usual" seems almost anecdotal.

This is a time we will all look back to for years to come and it will sink in that we were part of something that changed the world. Your ability to react now will determine whether you look back at this time with pride or regret.

We don't have to look far to see how some organisations have reacted. Take Denel for example; an SOE whose forte lies in the defence industry but is assisting the country in its fight against the virus by producing medical ventilators. While Denel's actions in this instance are philanthropic, it serves as a good example that with the right strategic thinking and good teamwork your business of yesterday need not be your business of tomorrow.

Social contracts that we have built, not just internally but that includes trusted advisors, will need to be re-engineered as we establish a new social dynamic for working post Covid-19. At Mazars, we have already inculcated the virtues of teamwork. We are ready to help our clients ingrain this in their organisational culture and help you prepare your business for a post pandemic world too. We're in this together!

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WHY TREASURY NEEDS A BRAND NEW 2020/21 BUDGET

The South Africa Revenue Services (SARS) has predicted that it would lose around 15 to 20% of its tax revenue this year as a result of the nationwide COVID-19 lockdown, and the responsibility of filling the gap will fall upon the South African taxpayers. However, the real question is whether there will be a large enough taxpayer base left at the end of the lockdown period to make a meaningful contribution to the South African Revenue Service's (SARS) collection efforts by the end of the financial year.

This is according to David French, Tax Consulting Director at Mazars, who says that Treasury had no choice but to relook the national budget that it presented to Parliament in February of this year. "It looks like South Africa will get some reasonable funding from institutions like the World Bank and the International Monetary Fund, but on the collections side the loss to the fiscus is going to be huge. With Treasury planning to table a special adjustments budget on June 24, we can only hope that the measures that will be introduced, will not be destructive to the taxpayer base."

In particular, he points to excise duties which have already seen a significant drop in collections for SARS. "Items like the fuel levy, VAT as well as sin taxes on alcohol and tobacco sales, are going to perform well below what was expected because of the low economic activity and outright bans on certain products. We also do not expect to see this recovering once lockdown ends because consumers and businesses are probably going to be spending less and focusing more on saving throughout the rest of the year."

French states that it is likely that SARS does not yet know how to manage the crisis that this has created. "SARS will be looking at very technical issues once the lockdown is over. There may be the question of

whether any expenditure during this lockdown time would be taxable, because any money spent by companies may not be in the production of income – which poses a risk to taxpayers. Also, how aggressive is SARS going to be about collecting these taxes, given that taxpayers are likely to be in dire straits?"

Ultimately, he points out that SARS can only collect what is there. "Economic activity hasn't stopped completely, so there will be at least some VAT and other taxes, like import duties, to collect. But from the sectors that have suffered losses or that weren't active, there simply won't be anything to collect."

Even once the economy restarts, French says that there will not be enough recovery taking place to fill the collections gap. "Collections on excise taxes may pick up again, but it is likely to be subdued. Corporate income taxes on the other hand, may see many more companies submitting tax deductions based on expenditure and losses as a result of the lockdown. It would be interesting to see how SARS approaches these submissions, since such deductions would cover the taxes on the future incomes of these companies as well."

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FREE INFORMATION PRIVACY (POPI) READINESS ASSESSMENT

We have all read or heard about the scams that Cyber Crime has introduced as a result and capitalization of the CORONA Virus.

This spate of attacks, along with an increase in Information Privacy legislation globally such as the General Data Protection Regulation (GDPR) in the UK, should cause you to ask the following questions:

1. How secure is our computer network or systems?
2. Do we understand what information is deemed sensitive that requires protection?
3. Do we understand the landscape of Information Privacy and our role to be compliant with the eminent POPI Act ?

Mazars has developed a free assessment to determine your Protection of Personal Information (POPI) readiness. Please feel free to take this free assessment to help determine your readiness and ultimately compliance. You are welcome to contact us to understand the Information privacy and Cyber Security landscape better in relation to improving your business resilience.

Scan below or [click here](#) to access the assessment.



HOW 2020 IS FUNDAMENTALLY CHANGING SA'S TECHNOLOGICAL LANDSCAPE

The IT landscape in South Africa is facing some of its biggest shifts yet, and businesses must be ready to adapt accordingly. Adjusting to technological advancement will certainly bring new challenges in the form of security and compliance, but agile businesses that are ready to make the necessary changes will benefit greatly from this fast-changing dynamic.

This is according to Terence Govender, Director of Mazars' newly-established IT Advisory division, who says that, in addition to the expected implementation of the Protection of Personal Information (POPI) Act, the recent changes in South Africa's economic landscape should alter the way companies now view and use their IT systems - including applications, connectivity and migration to the Cloud. In an economy hard-hit by the COVID-19 national lockdown, technology has been essential in enabling remote working in the digital enterprise.

"POPI is likely to come into effect in this year, which will expose businesses to significant regulatory pressure and possible fines in the event of cyber breaches. In addition to this, the national lockdown has forced many companies to put temporary measures in place to allow their employees remote access to their servers while working from home. Businesses need to start implementing more permanent solutions to sure-up the security of their systems, while still allowing a substantial part of their workforce to work from home. The corporate network has now extended to the home. I think it's clear that remote working will

be needed for a while still, and may continue to be the new normal, where bricks and mortar and large offices are no longer required," says Govender.

Business owners are likely to start asking themselves whether they really need as much (expensive) office space and equipment as they have in the past.



The number of cyber assessments for businesses are also starting to increase now. The risks related to potential cyber breaches have grown exponentially for businesses over the last ten years. "Mazars recently analysed the risks related to cyber breaches in the financial services industry, looking beyond just the obvious risks. We found that the fallout from such an incident has the potential to devastate even large corporates that some may think should surely be able to withstand such a breach.

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“To start, companies can already be held liable for the safety of their clients’ personal information and any breach could easily result in a lawsuit. Once POPI is enacted, businesses will also face fines of up to R10 million. Then there is also the company’s reputation, which is one of the most fundamental strategic risks to any company. With social media and the reach of online news being what it is today, companies could see large portions of their customer base disconnecting from their service following a cyber-incident.”

With that said, Govender also notes that the ways in which the extended lockdown has changed the economic landscape, may in fact hold several benefits for the private sector.

“Most businesses were forced to expedite their existing digitisation plans and have now seen that they can continue to operate effectively with a substantial part of their workforce operating off-site. I predict around 60% of businesses will continue to allow their employees to work from home after lockdown. The cost-saving implications of this are extensive in the long-run.”

The trend for more and more businesses to move their data systems to secure cloud servers – which is significantly more cost-efficient and in many cases safer than storing information on-site – is one that is here to stay.

“Business owners are likely to start asking themselves whether they really need as much (expensive) office space and equipment as they have in the past. I think there will be a fair number of companies moving to smaller and more cost-effective office spaces, once they realise how much of their workforce can successfully operate remotely.”

“For businesses thinking about allowing their employees to work from home more permanently, it is vital to understand that their corporate network now extends far beyond the confines of an office building. This is where the blind spots in an organisation’s cyber security are most likely to exist, so it is paramount to ensure that cyber policies and risk management are not only applied to the office, but also to each employee’s personal networks and devices. Now is the time to engage with a service provider that can conduct in-depth audits of one’s IT networks and highlight any possible risks before it is too late,” Govender concludes.

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POST COVID-19: ON-DEMAND SKILLS

FINANCIAL SERVICES INDUSTRY ASSISTANCE TO ADAPT

The ongoing COVID-19 pandemic has placed immense pressure on South Africa's economy, which was already struggling to correct its underperformance for some years. Financial services institutions such as banks and insurers are particularly hard hit, meaning that containing operational costs will be crucial for this sector to remain competitive, and even thrive, in a post-COVID-19 economy.

This is according to Riaan Eksteen, Managing Director of Mazars Financial Services Africa (MFSa), who says that maintaining a healthy balance sheet, while delivering on revenue and cost targets, is going to be an even greater challenge for financial services businesses over the coming months. "In addition, banks and insurers are now expected to deliver on COVID-19 support programmes to retail and business clients, as well as show that they can effectively service, retain and grow their customer base in a socially distanced world."

He adds that Mazars' own research shows that especially in the banking and insurance sectors, the response to these challenges have mostly followed the same format. "The most common responses that we have observed include addressing the immediate liquidity concerns, quick responses to reconfigure operations to serve clients given socially distanced and lockdown requirements, several cycles of reprioritisation of strategic objectives and strategic initiatives in the short term, and formulating and executing on short term tactical cost containment imperatives."

George Ellis, Director responsible for MFSa Financial Services Engineering, notes that in light of the economic difficulties that have preceded the recent pandemic

by a number of years, most financial services institutions have for some time been actively driving enterprise-wide efforts to become more efficient. This includes implementing cost reduction measures, significantly reducing staff costs, increasing productivity and steadily migrating clients to lower cost digital sales and service channels.

"In our interactions with financial services executives during the lockdown period, we have noted a number of trends among these businesses. In general, business units have been challenged to attain a further tactical cost containment target of around ten percent. Also, strategic initiatives that have not yet commenced, and that do not address the COVID-19 challenges in the near term, will be delayed," says Ellis.

Other trends include, digital sales and service initiatives being prioritised and accelerated, with funding being reprioritised accordingly; more focus being placed on collections capability buildout; and protecting staff health and jobs in the near term becoming a priority.

Eksteen notes that the result of this increased focus on cost containment often means that their project teams within these organisations are increasingly being kept relatively small.

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“The problem with this is that these teams routinely lack specialised skills and capabilities that are so crucial for accelerated delivery. While attracting and developing these professionals in-house invariably comes with a high price tag, Eksteen says that partnering with a specialised organisation that specialise in providing these skills at an extremely cost effective rate could be a viable solution.”

On-demand skills providers will increasingly offer financial services clients the personalised service that their businesses need in the rapidly evolving market.



With this in mind, he says that it has become vital for companies in the financial services sector to partner with service providers that can assist project delivery teams with solutions to deliver and accelerate their priorities during this time. A service provider that is uniquely positioned to find and attract cutting-edge skills and make them available to clients on a project-by-project basis, therefore makes sense. “Mazars Financial Services Africa is one such service provider. Our CFO Services and Financial Services Engineering offerings allow companies to eliminate a lot of hiring risk and build much leaner finance and financial services engineering teams.”

Ellis relates an example where one of the large insurers have partnered with MFSA to drive digitalisation of their sales and services environments through the implementation of Salesforce, achieving rapid and cost effective implementation of these processes.

“Our Financial Services Engineers additionally ensure that these processes are efficient by design, while also giving the relevant focus on compliance, risk and controls.”

In addition to making these professionals available to businesses in a cost-effective manner, Eksteen says that on-demand service providers are also a great benefit to the industry in general. “This model is very much in line with modern workforce trends. Young professionals value flexibility and variety, so offering non-permanent experience at various clients allows them to gain experience across different sectors and develop skills that are in high demand in the industry. This way, we believe on-demand skills providers can help to grow the skills base to the advantage of the entire financial services sector.”

In closing, Eksteen says that on-demand skills providers will increasingly offer financial services clients the personalised service that their businesses need in the rapidly evolving market. “The business world has changed immensely in the last few months, and more significant shifts are anticipated in the near future. On-demand skills will help these organisations face these changes and challenges in a cost-effective manner,” he concludes.

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The Covid-19 pandemic sweeping across the world did not spare South Africa. The increasing numbers of Covid-19 positive cases and deaths resulted in the President declaring a National State of Disaster and imposing a National lockdown. With effect from midnight 26 March 2020 the lives of all citizens would change impacting business and personal lives.

Companies will need to assess how the Lockdown may impact the B-BBEE compliance goals, objectives and targets. In order to be a good corporate citizen companies need to act swiftly and ensure that compliance is maintained. Transformation is an ongoing process and changes in legislation or company operations may affect various goals and targets that were determined at the outset. These may need to be realigned to the current challenges the company is experiencing. The calculation of level of compliance is both complex and requires interpretation to set the correct goals and targets. This may pose a challenge for companies that do not have a dedicated resource that measures and adjusts the targets to achieve the required results at the next SANAS accredited B-BBEE verification.

We have a solution. ZARScore can assist you with managing your B-BBEE compliance process. It is a cost effective and flexible B-BBEE compliance management software solution.



What is ZARScore?

ZarScore helps companies simplify and reduce the costs associated with B-BBEE compliance by combining the country's leading B-BBEE software with access to a team of highly experienced B-BBEE specialists.

What is the value of ZARScore?

With ZARScore, companies can easily calculate and optimise their B-BBEE scorecard and prepare themselves for a hassle free, digital B-BBEE scorecard verification.

Low-cost and user-friendly B-BBEE software

Ensures B-BBEE compliance continuity for remote work

Digital verification preparation and scorecard audit

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5 WAYS TO HARNESS SUSTAINABILITY AMID COVID-19

As lockdown continues to loom in South Africa, Treasury estimates that up to 7 million people could lose their jobs and between 100 000 and 200 000 business will close their doors. Experts say that with the extended lockdown it's no longer possible to accurately predict the fall out of the Covid-19 pandemic on business owners, but we can simply look at global trends to get an idea.

The United States and United Kingdom have seen an unprecedented rise in unemployment with 38 million people filing jobless claims in the US alone. The continued decline in working hours means that 1.6 billion workers (nearly half of the global workforce) stand in immediate danger of having their livelihoods destroyed, according to the International Labour Organization.

In SA, many businesses were already facing financial strain before the pandemic, but the crisis has now laid bare their frailties. While it's very easy to get sucked into a vortex of confusion and paralysis during these unprecedented times, businesses that don't start moving forward with adjusted business plans will invariably topple. The question is how do we plan ahead when so much remains uncertain and beyond our control?

Although we can't tell what the future holds, we can share some universal approaches used to help structure the chaos. From listed entities to family run enterprises, there are so many basic commonalities in business, complexity does not attach to the size of a business. There may not be a silver bullet solution to tackling the challenges that Covid-19 presents, but there are some key strategies any business owner can consider.

Here are five proactive strategies to sustain your business amid Covid-19.

1. CASH FLOW GAP ANALYSIS

Understand your business from a historical perspective by benchmarking where you were prior to Covid-19. This will require you to analyse your profit and loss, balance sheets and cash flows of the past two years. Take the time to then assess various cost categories within your business and the impact on cash-flow due to lockdown restrictions. Establish what your working capital requirements are and where there is a cash gap. Based on this, consider renegotiating payment terms, interrogate debtors and assess their likelihood of recovery.

2. IDENTIFY YOUR STAKEHOLDERS

Accurately identify and proactively engage with your stakeholders. Generally, your employees, management, shareholders, suppliers and financial institutions make up your core stakeholders. In times of crisis, the natural tendency of many people is to hunker down and lay low but now is the time to foster trust and deepen relationships.

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3. RELY ON TRUSTED ADVISORS

Bookkeepers and accountants see a lot of business in context and they can bring a wealth of experience to the table. They also bring with them an independent assessment of your business. Outsource to your advisors. Have your accountant fight with SARS so that you have time to run your business. If you have attorneys, ensure you consult them as early as possible especially if you are facing aggressive creditors. The earlier your advisors are brought in to assist you, the more value they are likely to add value to your business.

Only time will tell when this global pandemic will end, but for now, business owners should be proactive in gearing their companies, regardless of its size or situation, for the months ahead.



4. OPERATIONAL REVIEW

Be ruthless in your operational review. Assess items such as printing, debit orders and stationery bills, the size of rental premises (and rent) and their importance in your business operations. Ensure that there are synergies between different revenue streams and your service offerings and consider cutting streams that are making a loss. Make sure your staff support and understand the business' current needs and why you have to cut costs.

5. KNOW WHERE YOU STAND

Stand back and get a holistic view of your business. Understand its strengths and weaknesses. Know where you stand in terms of the worse-case scenario and how you plan to move forward with the information you have at your disposal. Review this regularly, especially given the state of uncertainty we are experiencing. Develop an adaptable business continuity plan that can evolve and ensure you communicate this clearly to all stakeholders, particularly employees.

After 11 weeks of lockdown, many South African businesses might be at a point where these five strategies just aren't enough. If you are at this point, there remain options at your disposal - depending on the circumstances, you could embark on a compromise with your creditors, formal business rescue proceedings or even liquidation. While considering formal steps in the wake of financial distress is stressful, if implemented correctly and at the right time, these options can offer business owners a myriad of possibilities. The key is to engage professional advice and guidance as soon as possible to facilitate the best possible change of navigating the storm.

Only time will tell when this global pandemic will end, but for now, business owners should be proactive in gearing their companies, regardless of its size or situation, for the months ahead. Covid-19 doesn't have to bring you or your business to a halt. When it feels like you can't do anything - that's exactly when you need to do something!

View the full webinar on **Shaping sustainability amid Covid-19** here.

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TALENT MANAGEMENT SOLUTIONS

USING THEM TO OUTPERFORM YOUR COMPETITORS IN THE CONTEXT OF DIGITALISATION

One of the most important roles of leaders is to ensure the productivity of their teams. To achieve this, they need to do two things:

- Firstly, ensure that EVERY JOB IS WELL DEFINED AND ABSOLUTELY NECESSARY. This relates to the organogram of the organisation. As the organisation grows or when the organisational context changes, the work that needs to be done also changes and/or expands. Oftentimes, these changes are not incorporated in the role profiles (i.e. job descriptions and role requirements) and/or performance contracts of the organisation. This results in employees doing what they are comfortable and familiar with, as opposed to what the business needs. Effectively, the business ends up paying for work that is inessential or not required.
- Secondly, ensure that EVERY JOB IS FILLED WITH EFFECTIVE AND EFFICIENTLY PERFORMING INDIVIDUALS, doing all the work that relates to their jobs and roles, regardless of how the environment or the context changes. If this is not the case, the business is paying for work which is not getting done.

The purpose of talent management within an organisation is to achieve effective productivity by defining the following:

- How to bring the right people into the organisation that has the capability to do all the work at a sufficient level of quality.
- How to hold employees accountable for performance in the role they have been appointed in.

- How to develop employees for current and future roles.
- How to use the available reward budget to drive performance, values and culture in the organisation.
- How to determine the organisation's bench strength (i.e. the availability of internal talent needed to implement a growth strategy by means of succession planning).
- How to engage with your team to motivate them.

These factors can be regarded as enablers which a leader can use to achieve the objective of overall organisational productivity.

A key contributor of talent management is the **use of talent assessment solutions** throughout your talent management cycle. This will ensure that you identify, select and develop the right individuals for the right roles in your organisation. Most leaders can identify with the feeling of "dread" when they realise that they have put an employee up for failure by promoting them from one role, in which they were performing effectively, to a higher level role in which they do not perform as effectively; or the "frustration" when a new appointee does not deliver the expected level of performance or output.

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Equally so, most leaders can relate to the feeling of exhilaration and pride when they have provided an employee with an opportunity in which the employee then flourishes, reassuring their ability to spot and grow internal talent.

What is meant by “**talent assessment solutions**”? It relates to the tools, technology, process and methodology you can use to **help you make better talent decisions** and improve talent performance. It includes:

- Assessments **tools** that are commonly used to inform talent decisions, for example: interviews, personality questionnaires, reasoning tests, situational judgement tests, technical or functional test and case studies, values questionnaires, 360-degree questionnaires, skills tests, assessment & development centres, etc.
- The **technology** used to deliver and administer assessments, as well as scoring of and reporting on assessment results. This is the domain in which the most recent innovations take place. The use of virtual technologies and virtual platforms has become common place, makes business sense and has a huge impact on the candidate experience. Furthermore, savings in terms of money, time and carbon footprint is substantial. It is now possible to put the candidate and the talent assessment professional in the same room, whilst effectively being on other sides of the world. These savings also allow you to access a bigger candidate pool, which amplifies your ability to identify the talent you require for your business. It provides an accessible (wide range of devices which can be used for administration, like smartphones, tablets, etc.), seamless, consistent, easier (less dependent on

synchronising a number of people's diaries) and brief assessment experience that engages the 21st century workforce.

- The **process** will determine where and when the assessment tools are used. Developments regarding the use of virtual tools and virtual platforms create ample opportunities to streamline and optimise the effectiveness of talent assessment processes. A traditional high volume process (e.g. paper CV screening, telephonic screening, technical tests, panel interviews, personality and ability assessments) can be replaced by a process that starts with relatively cheap virtual asynchronous screening interviews and on-line smartphone ability assessments, followed by more expensive assessment tools. New trends in the optimal use of talent assessment information are being adopted. This includes, for example, taking the individual's growth areas, identified during the selection process, and immediately feeding them into the learning system which then generates a personalised individual development plan. Assessment information can also be used in the succession planning process to indicate potential for higher level roles.

Artificial intelligence is used to a greater extent due to actuarial interpretation and reporting formats being proven to significantly impact decision-making quality.



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- The **methodology** indicates how to use the assessment tools. It starts with defining what needs to be measured (i.e. the factors that will predict success in your company) and how the results will be reported on. Here, artificial intelligence is used to a greater extent due to actuarial interpretation and reporting formats being proven to significantly impact decision-making quality.

COVID-19 has, at most, only accelerated the pace at which new solutions are presented to the market.



Should we use talent assessments? Is there a valid business case? The short answer is YES, for both corporates and SME's. Why? Because, over the years, studies have unequivocally shown that it substantially **improves the quality of talent decisions**. And, as new talent assessment solutions are offered in the market, the more cost effective and affordable the use of talent assessments become.

In conclusion, the talent assessment landscape has changed dramatically, most notably regarding the development of virtual and digital solutions and the use of artificial intelligence. COVID-19 has, at most, only accelerated the pace at which new solutions are presented to the market. Even for a seasoned talent assessment professional, decisions on which tools and technologies to use, as well as how to incorporate them into talent management processes that are cost-efficient and provides for a positive candidate experience, may be overwhelming. But it is also extremely exciting and holds the promise of creating new simplified opportunities that are affordable and can undoubtedly improve your organisation's performance.

For further conversations on this topic please contact **Anna Odendal** (anna.odendal@mazars.co.za or 082 466 6697)



TAXPAYER'S RIGHT TO BE NOTIFIED

IS A MATTER OF ADMINISTRATIVE JUSTICE

The High Court in Pretoria recently ruled that taxpayers have a right to be notified before SARS appoints an agent to collect 'outstanding tax debt'. ALTHEA SOOBYAH, Tax Consulting Director at Mazars explains why this is a victory for both taxpayer rights and the wider cause of administrative justice.

SARS can collect outstanding tax debts using several methods, but each has specific procedures that must be followed to ensure due process, especially when a third party is involved. A recent High Court judgment¹ confirmed this, and in doing so, also confirmed the administrative justice principle of providing sufficient notice to the taxpayer prior to appointing an agent for the collecting of outstanding debt.

The high cost of litigation often deters taxpayers who want to take action against SARS to recover their funds, but, courts are less likely to overlook legal process and rights of the taxpayer in situations where proper processes are not followed. In this judgment, the High Court ordered the Commissioner to repay the monies to the taxpayer together, with interest as well as the costs of litigation.

This case is a perfect example where rights of the taxpayer prevailed over the powers conferred upon the Commissioner.

WHAT THE TAX ADMINISTRATION ACT (TAA) SAYS

Section 179 of the TAA allows the SARS Commissioner to appoint a third party to withhold money held on behalf of a taxpayer, and to pay such monies over

to SARS in respect of outstanding tax debt. This third party is often the bank with which the taxpayer banks. However, S179 also requires that the Commissioner takes certain steps before appointing this third party as a collection agent, including notifying a taxpayer that they have an outstanding tax debt, and that further steps will be taken should the tax debt remain outstanding.

This protocol is aligned to the Promotion of Administrative Justice Act, which requires that an administrative body such as SARS notify any person of their intention to take a decision that has an adverse material external effect on the person's rights, such as the decision to appoint a third party as a collecting agent for outstanding tax debt. A key requirement is that the debt must be outstanding.

Importantly, any notice served to a taxpayer by the Commissioner before expiry of the aforementioned date does not qualify as a 'notice' in terms of S179 of the TAA. The Commissioner therefore cannot invoke this section's provisions against any third party who holds monies or assets on behalf of the taxpayer to collect on a tax debt.

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1. SIP Project Managers (Pty) Ltd v Commissioner for the South African Revenue Service, case number 11521/2020.



THE CASE AT HAND: SIP PROJECT MANAGERS VS SARS COMMISSIONER²

A recent High Court ruling in the case of SIP Project Managers vs SARS Commissioner dealt with this issue in detail. In this case, an official in SARS' debt management team issued a letter notifying the taxpayer that there was debt on their account, which fell due at the end of November. The letter was issued before the expiry date for payment specified in the assessment notice. The Counsel representing SARS in this matter relied on this notice as evidence that the taxpayer had been notified that SARS would be appointing the bank as an agent. The High Court had to decide whether that notice (issued prior to the due date) constituted notice in terms of S179 of the TAA, and whether such notice was sufficient to entitle SARS to appoint the bank as an agent to collect on the deemed outstanding tax debt.

Ultimately, the Court ruled against the Commissioner, stating –

"...the respondent may only use the method in sec 179 to obtain payment through a third party if it complies with the requirements of the section. The wording of section 179(5) is unambiguous and clear – the notice to a third party "may only be issued after delivery of a final demand for payment which must be delivered at least 10 business days before the issue of the notice..." This is a peremptory requirement before the step can be taken to issue a third party notice for the recovery of an outstanding tax debt."

The High Court acknowledged that the debt remained outstanding and the process would have to be initiated from the beginning if an order was granted that SARS should repay the monies collected from the bank account of the taxpayer.

However, it also highlighted the purpose of S179 (5), which required notification was introduced to limit the powers of SARS in recovering outstanding tax debts. To ignore the provisions of S179 (5) for the sake of process would be condoning an unlawful process and render the provision superfluous.

This decision reinforces that before SARS can make use of a third party as agent to collect monies³:

1. There must be a tax debt;
2. The due date for payment of the tax debt must have expired;
3. A letter of demand must be delivered to the taxpayer at least 10 days prior to issuing a notice to a third party who holds monies for and on behalf of the taxpayer concerned;
4. The letter of demand delivered to the taxpayer must set out the recovery steps to be taken should the tax debt not be paid; and
5. The letter of demand must also specify the relief mechanisms available to the taxpayer.

The Commissioner is therefore obliged to notify the taxpayer of its intention to use collection methods (such as appointing an agent) before making use of such provisions.

Another important point to note from the judgment is that the letter of demand must be delivered to the taxpayer (via electronic platform or to the last known address of the taxpayer). A notice generated by the eFiling system does not satisfy the requirement of delivery unless such notice is uploaded on to taxpayer's profile.

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1. SIP Project Managers (Pty) Ltd v Commissioner for the South African Revenue Service, case number 11521/2020.

2. The only exception to the rule would occur in the event that a senior SARS official is satisfied that such notification will prejudice the collection of the tax debt. However, this exception is subject the SARS official concerned proving that such prejudice existed at the time such decision was taken.



HOW CAN MANAGERS COPE WITH THE IMPACT OF COVID-19 ON EMPLOYEES AND THE WORKPLACE?

The Covid-19 virus and accompanying lockdown poses many new challenges to managers, for example:

- Employees working from home
- Reliance on technology to keep in touch with employees
- Differentiation in the time management needs of employees (e.g. parents who need to home-school their children, etc.)
- Drastically and rapidly changing communication methods
- Mental health pressures experienced by employees and managers alike

LET'S LOOK AT MENTAL-HEALTH, WHAT IS IT?

Mental health includes our emotional, psychological, and social well-being. It affects how we think, feel, and behave. It also impacts on how we handle stress, relate to others and make choices. Mental health is important at every stage of life, from childhood and adolescence to adulthood.

Covid-19 puts a lot of pressure on both physical and mental health and it can lead to feelings of loss, including: loss of contact with loved ones; relationships; loss of routine; loss of life as we have known it. Depending on the intensity of these loss feelings, employees may experience grief which can have a huge impact on their daily functioning. Grief is a natural response to loss. It is the emotional suffering an individual experiences when something or someone that is loved is taken away.

Often, the pain of loss can be overwhelming. These individuals may experience all kinds of difficult and unexpected emotions, for example shock, anger, disbelief, guilt and profound sadness. The pain associated with grief can also disrupt physical health, making it difficult to sleep, eat, or even think straight. These are normal reactions to loss – and the more significant the loss, the more intense the individual's experience of grief will be.

Although grief is a natural outcome of loss, there might be individuals that are unable to work through the five stages of grief themselves and might therefore need professional help.



THE KÜBLER-ROSS MODEL: THE FIVE STAGES OF GRIEF

Denial: "This can't be happening to me."

Anger: "Why is this happening? Who is to blame?"

Bargaining: "Make this not happen, and in return I will ____."

Depression: "I'm too sad to do anything."

Acceptance: "I'm at peace with what happened."

Managers have a role to play in supporting employees who experience these feelings of loss and grief.

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WHEN IS IT NECESSARY TO REFER AN EMPLOYEE FOR PROFESSIONAL HELP:

Although grief is a natural outcome of loss, there might be individuals that are unable to work through the five stages of grief themselves and might therefore need professional help. It is essential that managers have the skills to identify these employees in order to assist them. Key identifiers can include:

- Withdrawal from meetings and activities, for example when employees frequently use excuses like a lack of or poor online connectivity, parental duties, etc. when absent from important work events
- Struggling or finding it hard to control their emotions during interactions
- Poor or reduced job performance
- Pessimism, for example where these employees experience an inability to see the “silver lining” of a situation

If any of your employees show any of these symptoms, please refer them for professional help.

WHAT CAN MANAGERS DO?

On a Strategic level:

- Leadership must be aligned and communicate the same message to all employees
- Keep focus on the bigger picture whilst acknowledging and addressing the current crisis
- Redefine and realign the business strategy

In the shorter term:

- Communicate, communicate, communicate
- Leading with “care”
- Creating safety through routine
- Having meaningful conversations with employees
- Refocus business practices

Let us have a look at each of these:

Communication:

The impact of insufficient communicating is evident in the actions of Pres. Cyril Ramaphosa during the lockdown period. In the beginning of the lockdown, the president communicated with the nation on a weekly basis. Although it was a difficult time, everyone knew what to expect, which made it a bit easier. Thereafter, the president failed to communicate with the nation for almost three weeks. During that time, the wheels came off. Conspiracy theories made their appearance and people were unhappy and unsettled. There is a valuable lesson to learn from this. Managers should ensure that they constantly and continuously communicate with employees. Some guidelines include:

- Now, more than ever, it is imperative that managers have effective communication skills
- Communicate facts, data, business continuity strategy, etc. to employees
- Make numerous channels of communication available to employees
- Be aware of the impact of current restrictions on communication, for example wearing masks, social distancing, etc.

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Leading with care:

People need to feel safe to share their true feelings without worrying about being condemned. Empathy is an essential skill for managers to have in this instance. Empathy entails:

The ability to step into the shoes of another person, aiming to understand their feelings and perspectives, and to use that understanding to guide actions. That is what makes empathy different from kindness or pity.

Kinds of empathy:

Three kinds of empathy, namely cognitive, emotional and compassionate empathy will be explored/explained:

Cognitive Empathy

Cognitive empathy is defined as “simply knowing how the other person feels and what they might be thinking. Sometimes called perspective-taking” (Daniel Goleman¹)

What it is concerned with: Thought, understanding and intellect

Benefits: Helps in negotiations, motivating other people, understanding diverse viewpoints and is ideal for virtual meetings

Pitfalls: Can result in a disconnection from or disregard of deep emotions and does not “put you in another’s shoes” in a felt sense.

Emotional Empathy

Emotional empathy is defined as “when you feel physically along with the other person, as though their emotions were contagious” (Daniel Goleman¹)

What it is concerned with: feelings, physical sensation and mirroring neurons in the brain.

Benefits: Helps in close interpersonal relationships and careers like coaching, marketing, management and Human Resources

Pitfalls: Can be overwhelming or inappropriate in certain circumstances

Compassionate Empathy

Compassionate empathy is defined as “not only understand a person’s predicament and feel with them, but are spontaneously moved to help, if needed” (Daniel Goleman¹)

What it is concerned with: Intellect, emotion and action

Benefits: Considers the whole person

Pitfalls: Few – this is the type of empathy that individuals are usually striving for!

Can you learn empathy as an adult? Yes! A recent study published in the Journal of Counselling Psychology shows that empathy training is effective for adults.

CREATING SAFETY THROUGH ROUTINE

Humans like routine and rituals. In general, we like to know what to expect because it makes us feel safe. If you and your team use to have coffee in the morning before starting with your daily duties, keep on doing it. Perhaps meet on an online platform and have a cup of coffee together. Try and keep as many of the “normal” rituals and routines in place as possible.

HAVING MEANINGFUL CONVERSATIONS WITH EMPLOYEES

Creating platforms to firstly create awareness and then talking about issues without the fear of discrimination and stigma will be critical to ensure the mental health of employees.

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1. Renowned psychologist and author of the 1995 book Emotional Intelligence



The following can be used as helpful guidelines:

- The theme of "togetherness" in this pandemic is of great importance
 - Discuss scenarios where the team experiences togetherness
 - How does the team plan to work together on this?
- Be honest about your own feelings, frustrations, emotions, etc.
- Ask for regular feedback in terms of communication platforms, times of meetings, etc.
- Consider each employees' personal situation, for example, an employee who normally use to be in the office from 8 o'clock might now not be able to attend an 8 o'clock meeting
- Build an emotional vocabulary



Humans like routine and rituals. In general, we like to know what to expect because it makes us feel safe.

Mutual trust and respect between managers and employees are crucial. If you are concerned that an employee is not doing his or her part, discuss it. Do not make assumptions. It is extremely important to consider employees' realities. Performance management still needs to take place, but the method of conducting performance management should be adapted.

REFOCUS BUSINESS PRACTICES

It is important to keep in mind that we are all learning.

The following considerations should be made:

- Put a platform in place where employees can make suggestions
- Do regular, short and anonymous surveys
- Leadership needs to take control and listen, whilst still moving forward
- We are in a time of disruption, however, there will be a time after the disruption, and it is important that we keep our focus on that
- Winston Churchill stated: "Never let a good crisis go to waste", therefore, make use of this opportunity to make your business more efficient and streamlined
- Now is the time for learning new skills, improving business practices, etc.
- Look for ways to communicate positivity by placing emphasis on small victories
- Develop flexible working models for the future

Other important interventions

- Employees must have a "safe place" where they can openly and honestly share their emotions and feelings
- Teams should have the opportunity to conduct meaningful conversations where they can share and refocus their emotions
- Employees and teams should be given the opportunity to learn new skills regarding their own and others mental health
- Performance management needs to be re-planned

For further conversations in this regard you are welcome to contact **Marieke Oberholzer** (Marieke.oberholzer@mazars.co.za or 083 306 1720)

A close-up photograph of a hand holding a pen, writing the word 'TAX' in large, bold, black letters on a piece of lined paper. The paper has horizontal and vertical blue lines. The hand is positioned on the right side of the frame, and the pen is angled towards the top right.

LIFE MADE EASIER (AND SAFER) FOR NON-EFILERS

When SARS have requested documentation from taxpayers who do not use eFiling, the taxpayers have had to take these documents into a SARS Branch. Now SARS have launched an online form that taxpayers can complete and upload with the documentation requested by SARS.

The online form can take ten documents which need to be 5MB or less in size.

The process is very simple, and taxpayers merely need to follow the instructions set out.

As a trip to SARS can take a full morning, this is a time saver for taxpayers and is safer as taxpayers are less at risk of catching COVID-19.

NOTE FOR ACCOUNTANTS: See the SARS website page “SARS Online Query System” [here](#).

YOUR TAX DEADLINES

- 5 June – Monthly PAYE submissions and payments
- 25 June – VAT manual submissions and payments
- 28 June – Excise Duty payments
- 30 June – VAT electronic submissions and payments
- 30 June – CIT Provisional Tax Payments where applicable.



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