

Audit exemption

As amended by the Investment Funds, Companies and Miscellaneous Provisions Act, 2006

The new Investment Funds, Companies and Miscellaneous Provisions Act, 2006 is good news for most small private companies. It came into law on 24 December 2006 and will allow more companies avail of the exemption from having their financial statements audited.

Main qualifying criteria

The Investment Funds, Companies and Miscellaneous Provisions Act, 2006 has raised the qualifying thresholds for small private companies to:

- turnover no greater than €7,300,000;
- **and**
- balance sheet total less than €3,650,000 (ignore liabilities).

These rules significantly relax the requirements for certain private companies to have a compulsory annual audit of their financial statements. The previous turnover threshold was €1,500,000 and balance sheet amount was €1,904,607 introduced in July 2004.

The financial years which may qualify for this exemption are those ending on/after **24 February 2007**.

Other important criteria

Other criteria which a company must satisfy to avail of the exemption are as follows:

- the company is subject to the Companies (Amendment) Act 1986, i.e.

most private limited companies and certain unlimited companies. Some companies are prohibited from availing of this exemption, for example companies which are regulated by the Financial Regulator.

- average number of employees below 50.
- the company is not a member of a group or limited by guarantee.
- the annual return for the previous year was filed on time and the current year's annual return, to which the financial statements are annexed, is to be filed on time, i.e. within 28 days of the company's annual return date.
- there has been no written objection to the entitlement to audit exemption by shareholders holding 10% or more of the total voting rights.

In order to avail of the exemption, the directors must be of the opinion that the company satisfies the necessary conditions in respect of the current **and** previous financial year. Their decision to avail of the exemption should be recorded at a meeting of the board before the end of the financial year concerned.



A statement must be made by the directors on the face of the company's balance sheet stating that:

- the company is availing of the exemption on the grounds that it satisfies the relevant conditions.
- no notice has been received from a member requesting an audit.
- the directors acknowledge the obligations of the company to keep proper books of account and prepare accounts which give a true and fair view of the state of affairs of the company at the end of its' financial year and of its' profit or loss for that year and of its compliance with the Companies Act relating to accounts where applicable to the company.

Failure to make this statement on the balance sheet is an offence under the Act.

Notification

The directors must next notify the auditors, in writing, of their decision to avail of audit exemption. The auditors must then, within 21 days, serve a notice on the company advising whether there are any circumstances which the auditor believes should be brought to the attention of the members or creditors.

A copy of this notice must also be filed with the Registrar of Companies irrespective of whether there are any issues. If there are circumstances which the auditors feel should be brought to the attention of the members or creditors, they must send a copy of their notice detailing the circumstances to the members and creditors within 14 days of notifying the company. Unless these steps are followed, the termination of the auditors shall not have effect.

It should be noted that availing of the audit exemption does not exempt a company from the requirement to file its accounts in the Companies Registration Office. A company must still file accounts as required under the Companies (Amendment) Act, 1986.

Objections to claiming exemption

A member or members of the company entitled to an aggregate of 10% or more of the total voting rights in that company are entitled, if they so wish, to request that the financial statements be audited. For such an objection to be valid they must file a written request with their company at any time either:

- in the financial year immediately preceding the financial year concerned; or
- during the financial year for which audit exemption is being claimed, but no later than one month before the end of that year.

This is a relaxation of the previous requirements in this regard.

Contact

If you require any further details on the provisions of this Act please do not hesitate to contact Jillian O'Sullivan - Corporate compliance and advisory partner, to advise how the new legislation will affect you and your company.

Jillian O'Sullivan
Partner - Corporate compliance and advisory
D +353 (0)1 6805 850
T +353 (0)1 6805 805
E jillian.osullivan@grantthornton.ie

24-26 City Quay, Dublin 2

Offices also in Limerick and Kildare

This briefing is provided for general information purposes only and is not a comprehensive or complete statement of the issues to which it relates. It should not be used as a substitute for advice on individual cases. Before acting or refraining from acting in particular circumstances, specialist advice should be obtained. No liability can be accepted by Grant Thornton for any loss occasioned to any person acting or refraining from acting as a result of any material in this briefing. Grant Thornton, Irish member of Grant Thornton International, is authorised by the Institute of Chartered Accountants in Ireland to carry on investment business. www.grantthornton.ie