

MEMBERS IN PRACTICE IN THE IRISH REPUBLIC

In the Irish Republic, a registered CIMA Member in Practice is not an auditor¹ - the requirement in Ireland, for a company to claim the audit exemption are as follows, otherwise a company's accounts must be audited.

Conditions to be satisfied

The conditions to be satisfied (revised) before a company will be able to claim the exemption from the requirement to have its accounts audited are set out in section 32(3) of the 1999 Act (as amended by the Companies (Auditing and Accounting) Act 2003 and the Investment Funds Companies and Miscellaneous Provisions Act 2006) and are as follows:

In respect of the financial year concerned:

- The company must be a company to which the Companies (Amendment) Act 1986 applies i.e. a Private Limited Company;
- The amount of turnover of the company **must not exceed €7.3 million**;
- The **balance sheet total of the company is less than €3.65 million** at the end of its financial year;
- The average number of employees **must not exceed 50**;
- The company must **not be a parent company or a subsidiary company**;
- The company must not come within one of 19 classes of companies listed in the Second Schedule to the 1999 Act; Please see Attorney Generals website for [Second Schedule](#);
- The company's annual return, to which the accounts for the financial year in question are attached, must be furnished to the CRO in compliance with section 127 Companies Act 1963. This means that the return must be delivered to the CRO not later than 28 days after the company's [Annual Return Date](#), or where the return has been made up to an earlier date, within 28 days of that earlier date. i.e. it must not be late in the current year;
- Furthermore, where an annual return to which accounts for the immediately preceding financial year was delivered to the CRO, that return must also have been filed on time. i.e. it must not be late in the previous year;
- the year in question must be the current year - section 32 provides that the directors must be of the opinion that the company "will satisfy" the conditions - use of the future tense precludes the decision being taken in respect of a year that has already ended.
- A company which satisfies the revised exemption threshold levels in a current financial year, the year in respect of which the audit exemption is being claimed, must also have satisfied those revised threshold levels in the preceding financial year.

Unless the financial year in respect of which the audit exemption is being claimed is the first financial year of the company, the company must also have satisfied all the conditions set out in section 32(3) in respect of the preceding financial year. For instance, if the most recent company's annual return with accounts was delivered late to the CRO or if the current year's return is being delivered late, the company is not entitled to the audit exemption, notwithstanding that it may satisfy all the remaining conditions.

"Balance sheet total", in relation to any financial year of a company, means-

- (a) Where Format 1 of the balance sheet formats set out in the Schedule to this Act is adopted by the company, the aggregate of the amounts shown in the company's balance sheet for that year under headings corresponding to items A and B in the format,

- (b) Where Format 2 of those formats is adopted by the company, the aggregate of the amounts so shown under "Assets", and
- (c) Where the company prepares IFRA individual accounts, the aggregate of the amounts shown as assets in the balance sheet.

All relevant legislation can be downloaded from www.irishstatutebook.ie. See [Legislation Page](#).

What if the company reregisters from private unlimited to private limited? A company which re-registers from private unlimited to private limited during the course of 2010, with a financial year-end of 31/12/2010, is ineligible for the audit exemption in respect of the financial year to 31/12/2010 and its accounts to 31/12/2010 will have to be audited - this is on the basis that the company was not a company to which the Act of 1986 applied in respect of its preceding financial year to 31/12/2009, the company having been a private unlimited company prior to its re-registration during 2010.

As the company did not satisfy all the qualifying conditions for the audit exemption in respect of its financial year to 31/12/2009, it is ineligible for the audit exemption in respect of its financial year to 31/12/2010. Accordingly the company will be required to file audited accounts to 31/12/2010 with its 2011 annual return, but in future financial years, providing that it meets all the qualifying conditions for the audit exemption, it will be eligible for audit exemption.

We would recommend that you seek professional advice, or contact your professional association/accountancy body, if you have any queries on the format of accounts.

Consequences of an Annual Return being late

Where an annual return is filed late, in the year in which an exemption is claimed or in the preceding year, the company loses its entitlement to claim audit exemption not only for the year in question but for the following year also. It may only claim back the audit exemption in the third year if it files correctly and on time in the second year. i.e. if a company loses its audit exemption in 2010, it must file audited accounts in 2010 and 2011. It must file correctly and on time in 2011 before it is in a position to claim the audit exemption again in 2012.

Implications of a company having been a subsidiary in respect of the financial year concerned.

One of the conditions which a company must meet in order to qualify for the exemption from the requirement to have its accounts audited is that the company must not be a subsidiary undertaking (within the meaning of the European Communities (Companies: Group Accounts) Regulations 1992 (S.I. No. 201 of 1992) in respect of the financial year concerned. See link to Attorney Generals website - See [Section 32 \(3\)\(v\)\(I\) Companies \(Amendment\)\(No.2\) Act 1999 Legislation](#).

In July 2000, the CRO received the following legal advice on the interpretation of the phrase in respect of the year concerned contained in section 32(3), and placed notification of the same on its website.

The phrase in respect of the year concerned means the entirety of the financial year of the company concerned.

Therefore, if a company is a subsidiary undertaking **at any time during a particular financial year, it cannot avail of the audit exemption in respect of that year, notwithstanding the fact that it may meet all other qualifying conditions.** It is not relevant that the company may no

longer be a subsidiary undertaking at its balance sheet date - the fact of it having been a subsidiary at any time during the currency of the financial year disqualifies it from the audit exemption.

Furthermore, section 32(1)(b) provides that unless the financial year in respect of which the audit exemption is being claimed is the first financial year of a company, the company must also have satisfied the qualifying conditions set out in section 32(3) in respect of the preceding year. Accordingly, where a company does not meet the qualifying conditions in respect of its first financial year, it cannot avail of the audit exemption in respect of its first two financial years.

Apart from the importance of this issue generally for the exemption from audit, it should be noted that where on incorporation a company is part of a group, the company will be required to file audited accounts with its initial two annual returns, even if all other qualifying conditions for the audit exemption are met during that period.

Unaudited Accounts

Unaudited accounts consist of a balance sheet and the notes to the accounts where applicable. **There must be an [exemption statement](#) on the balance sheet.**

The Registrar of Companies has not been granted any powers under the terms of the Companies Acts 1963 to 2009 to allow a derogation from the requirements of the law in regard to a claim for Audit Exemption. The CRO cannot accept accounts which are unaudited, where there is non-compliance with any of the conditions laid down in section 32(3) of the 1999 Act, either in respect of the year concerned or the preceding year.

Further Information

Please see - Leaflet 10 - Guide to the Audit Exemption and Preparation of Companies Acts Individual Accounts for Small Private Companies for more information regarding qualifying conditions. **[Link to Information Leaflets page.](#)**