

- 1. In the foreseeable future, are Malaysian companies ready to move into an era where audit is not mandatory? When? *(updated on 3 October 2019)***
2.

Answer:

Yes, the Registrar may implement audit exemption under section 267(2) of the Companies Act 2016 for certain categories of private companies based on the qualifying criteria set out in Practice Directive No. 3 of 2017 issued on 4 August 2017.

- 3. Is audit exemption applicable to a private company which is a subsidiary of a public listed company? *(updated on 5 September 2017)***

Answer:

Generally, the law requires every company to appoint an auditor for each financial year. However, under section 267(2) of the Companies Act 2016, the Registrar is empowered to exempt certain categories of private companies from having to appoint an auditor for a financial year.

Nonetheless, even if the company is a private company and it is a subsidiary of a public listed company, then it will not be eligible for audit exemption. Please refer to Practice Directive 3/2017 on the criteria to be eligible for audit exemption.

- 4. Is a private company which is a subsidiary of a public listed company required to hold AGM?**

Answer:

The requirement to hold annual general meeting is only applicable to public companies. Therefore, this requirement does not apply to a private company which is a subsidiary of a public listed company.

5. Circulation of First Set of Audited Financial Statements for Sdn Bhd
(updated on 9 June 2017)

Section 248(1)(a) states that the directors shall prepare the audited financial statements within 18 months from the date of incorporation.

Circulation of financial statements for Sdn Bhd under section 258(1)(a) is within six (6) months from the financial year end. The Act doesn't state that the circulation of the first set of Financial Statement must be within 18 months from date of incorporation.

Hence, based on section 258, the first set of Financial Statements of Sdn Bhd could be circulated after 18 months but within six (6) months from financial year end?

Answer:

Yes, for the first set of Financial Statements for a private company, the preparation **must be made** within 18 months after its incorporation but may be circulated beyond the 18-month period (so long as the circulation is made within 6 months from the financial year end).

6. When will the audit exemption for companies fulfilling the criteria takes effect? *(updated on 4 August 2017)*

Answer:

The audit exemption will be applicable for a private company's financial statements with annual periods commencing on or after the dates stated in the Practice Directive 3/2017 for the respective categories of companies.

There are three (3) categories of companies, namely **dormant companies, zero-revenue companies and threshold-qualified companies.**

The annual periods' **commencement dates** for these categories of companies are as follows–

- (a) **Dormant companies incorporated on or after 31 January 2017 – financial periods commencing 31 January 2017** where election not to audit its financial statements will be triggered for financial periods commencing on or after 31 January 2017.
- (b) **Dormant companies incorporated on or before 30 January 2017 – financial periods commencing 1 September 2017** where election not to audit its financial statements will be triggered for financial year ended 31 August 2018;

- (c) **Zero-revenue companies – financial periods commencing 1 January 2018** where election not to audit its financial statements will be triggered for financial year ended 31 December 2018.
- (d) **Threshold-qualified companies – financial periods commencing 1 July 2018** where election not to audit its financial statements will be triggered for financial year ended 30 June 2019.

7. How does a company that satisfies the audit exemption criteria elects for the first time not to have an audit (transitional period) after the Practice Directive 3/2017 takes effect? (Example - Dormant companies) *(updated on 4 August 2017)*

Answer:

All private companies governed by the Companies Act 2016 are required to appoint an auditor under section 267(1) of the Companies Act 2016. However, the Registrar can exempt any private companies from audit if it satisfies the criteria set by the Registrar.

For a company that qualifies as a dormant company and wishes to elect for an audit exemption, the company must first assess its audit exempt financial period commencing after the exemption takes effect to see whether it fulfils the requirements set in the practice directive for the current and immediate past periods.

Example 1

Company A Sdn Bhd is a private entity incorporated on 1 September 2015 and its financial year end is 31 August.

A Sdn Bhd is a dormant company and its first financial period eligible for audit exemption is financial year commencing 1 September 2017.

The company prepared its financial statements for 31 August 2016, 31 August 2017, 31 August 2018 and 31 August 2019 and it is dormant since incorporation.

A Sdn Bhd can elect not to audit its financial statements for financial year ended (FYE) 31 August 2018 (Financial year commencing from 1 September 2017 to 31 August 2018) and FYE 31 August 2019. However, the company is still required to audit its FS for FYE ended 31 August 2016 and 31 August 2017.

Example 2

Company B Sdn Bhd is a private entity incorporated on 1 August 2015 and its financial year end is 31 July.

B Sdn Bhd is a dormant company and its first financial period eligible for audit exemption is financial year commencing 1 September 2017.

The company prepared its financial statements for 31 July 2016, 31 July 2017, 31 July 2018 and 31 July 2019 and it was dormant since incorporation.

B Sdn. Bhd. can elect not to audit its financial statements with financial year ended 31 July 2019 (Financial statements commencing from 1 August 2018 to 31 July 2019). The company is still required to audit its FS for FYE ended 31 July 2016, 31 July 2017 and 31 July 2018. The financial statements commencing from 1 August 2017 to 31 July 2018 (FYE 31 July 2018) are not eligible for audit exemption because the financial year commences before 1 September 2017.

Example 3

Company C Sdn Bhd is a private entity incorporated on 1 April 2017 and its financial year end is 31 August.

C Sdn Bhd is a dormant company and its financial period eligible for audit exemption are financial periods commencing 31 January 2017.

The company prepared its financial statements for 31 August 2017 and 31 August 2018 and it was dormant since incorporation.

C Sdn. Bhd. can elect not to audit its first financial statements with financial period from 1 April 2017 to 31 August 2017 and also for the subsequent financial statements with financial year ended 31 August 2018 (Financial statements commencing from 1 September 2017 to 31 August 2018). The company can continue to elect not to audit its future financial statements so long as it satisfies the criteria for audit exemption under any one of the three (3) categories of companies.

Example 4

Company D Sdn Bhd is a private entity incorporated on 1 April 2017 and its financial year end is 30 June. *(updated on 9 August 2017)*

D Sdn Bhd is a dormant company and its financial period eligible for audit exemption are financial periods commencing 31 January 2017.

The company prepared its financial statements for 30 June 2018 and 30 June 2019 and it was dormant since incorporation.

D Sdn. Bhd. can elect not to audit its first financial statements with financial period from 1 April 2017 to 30 June 2018 and also for the subsequent financial statements with financial year ended 30 June 2019 (Financial statements commencing from 1 July 2018 to 30 June 2019). The company can continue to elect not to audit its future financial statements so long as it satisfies the criteria for audit exemption under any one of the three (3) categories of companies.

8. How do companies determine their number of employees? *(updated on 16 August 2017)*

Answer:

The number of employees is based on the number of full-time employees employed by the company at the end of each relevant financial years.

For the purpose of Practice Directive 3/2017, full-time employees means paid workers working for not less than six (6) hours a day for at least 20 days a month or working for at least 120 hours a month.

Full-time workers include local, foreign, contract workers and workers undergoing probationary period but excluding—

- (a) a director who is also working as a full-time employee;
- (b) a shareholder who is also working as a full-time employee; or
- (c) family members or friends who are unpaid or receiving irregular wages while working in the company.

9. If a company has corporate shareholders and meet the criteria, can they enjoy the company audit exemption? *(updated on 4 August 2017)*

Answer:

For a company to elect to be exempted from audit, it must be a private company that satisfies the Malaysian Accounting Standards Board's definition of private entity and the criteria applicable to the company to qualify for the audit exemption. A private company which has corporate shareholders but fulfils the criteria can enjoy the audit exemption for the relevant years.

10. Does a company that elects to be exempted from audit no longer has obligations in the preparation and filing of financial statements with SSM? *(updated on 4 August 2017)*

Answer:

No. The company is still obliged to prepare and circulate financial statements within the time period stated in the Companies Act 2016. Thereafter, the company is required to lodge the unaudited financial statements with SSM within 30 days after circulation. The financial statements prepared and lodged with SSM must comply with applicable approved accounting standards.

11. How does a company determine its total assets and total revenue? *(updated on 4 August 2017)*

Answer:

The total revenue and total assets of a company would be determined by the applicable accounting standards and stated as the total revenue or total assets in the financial statements of the company for each relevant financial years but excluding the accounting entries as specified in Practice Directive 3/2017.

12. Can a private exempt company that elects to lodge a certificate relating to its status as an exempt private company (EPC) with SSM choose to elect to be exempted from audit? *(updated on 4 August 2017)*

Answer:

No. An exempt private company cannot elect to be exempted from audit if it chooses to lodge an EPC certificate with SSM in lieu of financial statements. However, an exempt private company is eligible to elect for audit exemption provided the company satisfies the criteria and lodges its unaudited financial statements with SSM.

13. Do I need to apply for audit exemption and what is the form to complete? *(updated on 4 August 2017)*

Answer:

Similar like exempt private companies, you need not apply for audit exemption with SSM. A company is eligible for audit exemption if it satisfies the criteria set in Practice Directive 3/2017 and it can elect to do so. The company can always appoint an auditor to conduct an audit if there is a need for it as it is not prohibited from engaging one.

14. Based on the Practice Directive 3/2017 (Qualifying Criteria for Audit Exemption for Certain Categories of Private Companies), certain categories of private companies can elect for the financial statements to be exempted from being audited by an auditor under the Companies Act 2016 ("CA2016"). How about for income tax purposes? *(updated on 24 September 2018)*

Answer:

The requirement for audited accounts by the Inland Revenue Board of Malaysia ("LHDNM") is pursuant to subsection 77A(4) of the Income Tax Act 1967 ("ITA") and it is beyond the scope of the requirements under the CA2016.

However, LHDNM had announced that if a company is not required to submit its audited accounts to the Companies Commission of Malaysia ("SSM"), then the provision of subsection 77A(4) of the ITA would not apply. LHDNM has posted the following announcement at their website pertaining to the application of subsection 77A(4) of the Income Tax Act 1967, which is self-explanatory.

http://www.hasil.gov.my/pdf/pdfam/ANNOUNCEMENT_REGARDING_THE_APPLICATION_OF_SUBSECTION_77A_11042014.pdf

For further clarifications, please contact LHDNM directly.