

# Simple Facts of Accounting

from **infoCPA**



No: 2

## Duties of Company Directors



This is the second of a series of financial information bulletins prepared by the Institute of Certified Public Accountants in Ireland for members of the Small Firms Association. The intent is to give an overview of the subject rather than an in-depth analysis. Directors are advised to obtain professional advice before proceeding.

### Introduction

- ◆ Every company must have at least two directors.
- ◆ The main purpose of the directors is to manage the affairs of the company.
- ◆ No formal qualifications are required to become a company director. However certain persons are ineligible to act as company directors, for example auditors of the company, undischarged bankrupts and persons disqualified by a Court from acting as a company director.
- ◆ There is no legal distinction between an executive and non-executive director, and their legal responsibilities are the same.
- ◆ Directors are usually appointed by members of a company in a general meeting.

### Issues to be considered prior to becoming a director

An individual appointed as a company director should become familiar with the following:

- ◆ Directors' statutory duties and obligations
- ◆ Directors' common law duties
- ◆ Directors' powers
- ◆ Penalties for criminal offences
- ◆ Penalties for civil offences
- ◆ Appointment and removal of directors
- ◆ Restriction and disqualification of company directors

### Duties of Directors

#### → *Maintain proper books and records*

Proper books and records must be maintained by all companies. These should:

- ◆ Record and explain the transactions of the company.
- ◆ Enable the financial position of the company to be determined with reasonable accuracy at any time.
- ◆ Enable the company's directors to ensure that the balance sheet and the profit and loss account comply with the Companies Acts.
- ◆ Enable the accounts to be readily and properly audited.



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### → *Prepare annual financial statements*

All companies must prepare annual financial statements which comply with the requirements of the Companies Acts and generally accepted accounting principles. The accounts must show a "true and fair view" of the company's affairs.

These financial statements generally consist of the following:

- ◆ Directors' Report
- ◆ Auditor's Report (unless audit exemption availed of)
- ◆ Profit and loss account
- ◆ Balance sheet
- ◆ Accounting policies
- ◆ Notes to the financial statements
- ◆ A cashflow statement may also be required

The directors are generally required to have these statements audited. This is an independent examination of the accounts and must be conducted by a registered auditor. The annual financial statements may be unaudited where the company is eligible to, and has decided to, avail of the small company audit exemption (see CPA/SFA information bulletin No 1).



### → *Maintain certain registers*

Directors must ensure the following are maintained:

- ◆ Register of Allotments
- ◆ Register of Members
- ◆ Register of Transfers
- ◆ Register of Directors
- ◆ Register of Mortgages and Debentures
- ◆ Register of Directors' and Secretarial Holdings
- ◆ Register of Directors and Secretarial Interests in Securities

The registers must be maintained, for inspection, at the company's registered office.

### → *Make returns to the Companies Registration Office*

Certain annual returns – together with the company's financial statements - must be filed with the Companies Registration Office.

Other returns must be filed where circumstances change within the company - for example a change in registered office, change of director or director's details etc.

Failure to file on time will lead to fines. The Companies Registration Office can strike a company off the Register of Companies for failure to file its annual return.



### → *Behave properly*

Directors must exercise their powers in good faith and in the interests of the company as a whole.

## Penalties

The Companies Acts provides for penalties for a number of offences.

- ◆ Summary offence: €1,900 and/or 12 months imprisonment.
- ◆ Indictable offence: €12,700 and/or five years imprisonment.
- ◆ Other sanctions are also provided for. A company director can be disqualified or restricted in certain circumstances.

## Directors' Compliance Statements

The duties outlined in this bulletin do not cover the proposed Directors Compliance Statement regime.

This obligation, following representations by the CPA Institute, has been referred for further review. At time of going to print this review is ongoing. When concluded we will issue a further financial information bulletin addressing the issues involved.



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#### Disclaimer

This information bulletin is intended to be used as an introduction to the Duties of Company Directors. It does not purport to be a definitive guide. For further information the Companies Acts should be consulted or you should speak to your CPA professional advisor. Neither the Institute of Certified Public Accountants in Ireland, or the Small Firms Association can be held liable for any error, or for the consequences of any action, or lack of action arising from this leaflet.

#### For further assistance...

Please contact the Institute of Certified Public Accountants in Ireland at 01 6767353, who can put you in touch with your nearest CPA practice. The Institute is a statutory accountancy body with 4,500 members and students. CPAs work both in practice and all areas of Irish commercial life, and work in 28 countries around the world.