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NEWSLETTER

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LAQC'S WHAT NOW?

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On 1 April 2011 the Loss Attributing Qualifying Company (LAQC) regime was abolished in New Zealand.

That means that if you own property or a business in a LAQC you must review your current position, and give careful consideration as to whether or not you need to change the structure of ownership.

If you do nothing your Company remains a Qualifying Company under the legislation.

If you do not review your position you will have no choice as to how your Company is treated.

The transitional rules require you make an election within six months of the 2012 or 2013 financial years. That means a decision and an election must be made by September 2011 if you want to elect another structure without any tax cost.

The transitional rules allow the owners of a LAQC to transition the structure into:

(a) A Qualifying Company (by default if you do nothing);
(b) A Look Through Company (LTC) (This is a new structure);
(c) A Partnership;
(d) A Limited Partnership; or
(e) A Sole Trader.

The LTC is a new structure created by the legislation. The LTC remains a Limited Liability Company but its assets and activities are treated as the Shareholders for tax purposes. Therefore all income, expenses, tax credits, gains and losses are passed on to the Shareholders. The loss limitation rules mean owners can offset tax losses only to the extent the losses reflect their economic loss.

There are specific rules regarding the transition and carrying forward losses from the LAQC and it is very important that you obtain the correct advice before making an election.

We are happy to work with you in conjunction with your accountant to assist in any structural changes as a result of this legislative change.

If you do nothing you may suffer a tax disadvantage.

Please feel free to contact Eugene Collins if you wish to discuss this matter further.

Next Issue: Redundancy - What must happen before a decision is made

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