

Article on LAQC Companies

(Published in Northern Outlook on 10 November 2010)

END OF AN AFFAIR – THE FUTURE OF LAQC'S

By Justine Grey, Director

Loss Attributing Qualifying Companies (LAQC's) as the entity of choice has reached the end of its glory days! This popular ownership vehicle, especially for property investors, for over a decade has offered tax breaks to shareholders. Net losses of the company are used to off-set shareholder's personal income reducing their tax liability. ***New legislation has been rolled out effective 1 April 2011 affecting their sustainability.*** The legislation is complex and offers a new entity called a Look-Through Company (LTC). Some highlights of the proposed rules are:



- **BOTH** income and losses will be taxed/deducted at the individual shareholder's rate;
- Losses will be limited to shareholder's investment in the company. Any losses in excess of that investment can be carried forward until the shareholder's investment increases. Currently losses may be used in excess of equity, for instance, depreciation deductions;
- Shareholders of LTC's will be treated as holding the property that the company holds, similar to partnership rules. From a legal perspective this undermines the corporate veil of a company. For shareholders, this means, when selling their shares they will be seen as disposing of the company property which may have tax consequences;
- Currently, if timed correctly, a company can revoke its LAQC status avoiding liability for income tax in the following year. Under the new rules this will no longer be possible and as the reforms suggest, the liability will flow through to the shareholder;
- **Companies retaining LAQC status will no longer be able to attribute losses to shareholders.**

Whilst both accountants and lawyers grapple with the new legislation, until finalised, ***its full impact is unknown.*** If you have an LAQC or considering one then, you will need to ***see your Accountant and your Lawyer to discuss*** whether the company retains its status or elects to be a LTC or other entity.

At Ashley Law we look forward to discussing your property ownership and asset protection issues and working with you to resolve your concerns.



Barristers & Solicitors

7 Ashley Street

PO Box 627

Rangiora 7440

t. 03 3106464

f. 03 3106462

e. Justine@ashleylaw.co.nz

w. www.ashleylaw.co.nz