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Look through company (LTC) Is it an appropriate structure for you?

Legislation has recently been passed that affects companies in New Zealand. It is particularly related to Loss Attributing Qualifying Companies (LAQC) but there is also an opportunity available for Qualifying Companies (QC) and standard companies to take advantage of this new legislation.

In brief the changes are as follows:

- From 1 April 2011 the ability to attribute losses from LAQC companies has been removed. LAQC companies will no longer exist. The reasoning behind this is to prevent what the government refer to as 'arbitrage' - the retention of profits in a company, therefore utilising a lower company tax rate (28% as of 1 April 2011), while losses were attributed to shareholders and used to offset income at personal tax rates that could be as high as 38%.
- A new business structure has been established called a Look Through Company (LTC). An LTC is merely a tax fiction. An LTC retains its identity as a registered company with limited liability and therefore is still governed by the Companies Act 1993.
- A LTC allows you to distribute losses through to the partners but limits this distribution to the level of investment the partner has in the LTC. These losses are then able to be offset against other income of the partner. What is different though is that if the LTC makes a profit these also must be passed out to the partners. No longer can these be retained in the company and be taxed at the company tax rates.

A LTC retains the asset protection available to companies that is not available to sole traders or partnerships.

There are also benefits to consider for non LAQC Companies of the LTC regime:

- If you have private debt there could be an opportunity to restructure to a LTC which may allow a deduction for the interest costs incurred.
- There is an opportunity when converting to a LTC to distribute dividends to the shareholders with no additional RWT requirements on fully imputed retained earnings.

Those of you who own an LAQC will have received from us a letter detailing the changes and the necessary work that should be completed to ensure that the business is transferred to the appropriate structure. We urge you to consider your position and contact us as soon as possible to complete a review of your situation and make a recommendation of the most appropriate structure for your company going forward.

For those of you who are not an LAQC but would like to consider the new LTC as an alternative company structure please feel free to contact us on 09 430 4888 and discuss your situation.