

We take care of your financial planning and compliance, so you can have more time at the beach.

## Qualifying Company and Loss Attributing Qualifying Company Changes

Recently the Government released draft legislation in relation to the treatment of Qualifying Companies ("QCs") and Loss Attributing Qualifying Companies ("LAQCs"). The draft legislation has confirmed the creation of a new Look Through Company ("LTC") regime.

The LTC regime will take effect from the first income year beginning on or after 1 April 2011. For those taxpayers with early balance dates (October 2010 to February 2011), any transition will not occur until the 2012 income year.

For existing QCs and LAQCs, the current temptation is to simply convert to LTCs. Under the proposed new rules, LAQCs and QCs have until six months after the start of their 2012 income year to elect for the change to take effect in the 2012 year. For example a LAQC with a 31 March balance date may elect to become a LTC up to 30 September 2011. Any election within this period will be effective from 1 April 2011.

After 1 April 2011 LAQC will cease to exist. All LAQCs which do not elect to go into the LTC regime or any other alternative will be treated as a QC (which will limit the ability to distribute losses through to shareholders). If the ability to access losses is not considered to be important then there is no real need to make any changes. All the current rules applying to QCs will continue.

If continued access to losses is needed there are three options available;

A new look through company

A partnership

A sole trader (This option is only available to QCs or LAQCs that have one shareholder).

Transitional rules allow existing QCs and LAQCs to leave the QC regime and elect to become a LTC or a partnership or sole trader with no tax cost.

### Look Through Companies

A LTC exists only in tax law for tax purposes. It is a normal company registered under the Companies Act 1993. It retains its corporate obligations and the standard benefits of being registered under general company law. So changing from a QC or LAQC to a LTC requires no new entities to be set up.

The key element of taxing a LTC is that the



company's income, expenses, tax credits, rebates, gains and losses are passed on to its owners. These items are allocated in accordance with each owner's (shareholder's) effective interest in the company.

The eligibility criterion to become a LTC includes;

- They must be a body corporate. That is it is an entity that has a legal existence separate from that of its members; and
- Is resident in New Zealand; and

Has five or fewer look through counted owners. Under this test individuals who are related to the second degree of blood relationship are counted as one owner. In addition a trust owning shares in a LTC are counted as one owner unless all the income that was allocated from the LTC in that income year and in each of the preceding five income years was paid out as beneficiary income in those years.

Has only one class of shares for the company of which all must have the same rights to vote in respect of distributions, constitution, capital variation, director appointments and equal rights to distributions and net assets.

Is not a flat owing company.

All owners must elect to become a LTC. The company will remain a LTC unless;

The company breaches the eligibility criteria; or

An owner chooses to revoke the LTC election.

There are severe tax consequences if a LTC inadvertently falls outside the eligibility criteria of the LTC regime.

There are a number of other rules relating to;

Loss limitations

Disposal of look through interests

Rules relating to ceasing to be a LTC

### Conclusion:

All LAQCs will have to consider carefully what ongoing status if any that they should adopt during the transitional year. Depending on your circumstance you will need to consider;

The inability to claim depreciation on buildings from 1 April 2010

Calculation of ongoing losses with out the depreciation deduction

Whether it is important to have access to the ongoing losses

Potential sources and levels of individual shareholder's income

Future planning

As always should you wish to talk to me further regarding this matter please contact me.

Check out our website and subscribe to this newsletter:

[www.umbrellatrust.co.nz](http://www.umbrellatrust.co.nz)

for up-to-date information, useful links and important dates on the tax calendar.

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# 2010 - 11 personal income tax rates

Personal income tax is calculated based on a person's annual income. Because the tax rates are changing part-way through the 2010-11 income year, the new tax rates that apply for the whole of the 2010-11 income year are "composite tax rates", ie, they're an average of the two income tax rates used during the year.

The table below shows the income tax rates to be used during the 2010 - 11 income year as well as the full year or composite tax rates for the year.

Income range	Personal income tax rates for 1 April 2010 - 30 September 2010	Personal income tax rates for 1 October 2010 - 31 March 2011	Full year (composite) personal income tax rates for the 2010-11 income year
\$0-\$14,000	12.5%	10.5%	11.5%
\$14,001-\$48,000	21%	17.5%	19.25%
\$48,001-\$70,000	33%	30%	31.5%
\$70,001 and over	38%	33%	35.5%



*Merry  
Christmas  
&  
Happy  
New Year  
from  
Sharon  
Amy  
Connie  
& Lyn*

## Are you completing the correct FBT return?

We've noticed some FBT returns have been filed incorrectly. The following should help you give us the correct FBT return and data.

Three FBT returns can be completed:

Fringe benefit tax quarterly return (IR420), for employers who must file every quarter, and those who choose to do so

Fringe benefit shareholder/employee income year tax return (IR421), for companies with shareholder-employees

Fringe benefit ordinary employee annual tax return (IR422), for employers who elect to file returns for the year ended 31 March.

You can file an income year or annual return if one of the following applies:

Total annual gross PAYE and ESCT (employer superannuation contribution tax) for the previous year is \$500,000 or less.

The employer is a close company and the only benefit was the provision of one or two vehicles for private use of shareholder - employees (option B).

You weren't an employer in the previous year.

It's important the correct form is completed for the circumstances, based on the appropriate election.

The election options are:

Option A - employers with ordinary employees (not shareholder-employees)

Options B, C, D or E are for close companies only:

B income year returns for shareholder-employees only

C annual returns for ordinary employees and quarterly returns for shareholder-employees

D income year returns for shareholder-employees and quarterly returns for ordinary employees

E annual returns for ordinary employees and income year returns for shareholder-employees.

Remember you must file your election by the appropriate due date.

Find out more about the FBT and the election due dates.

## *House Prices Rise in Auckland*

Auckland house prices rose 5.7 per cent last month as a quarter of home sales in the country's biggest city were valued at more than \$750,000.

The average sale price in Auckland was \$553,743 in November, up from \$524,000 in October and \$550,217 a year earlier.

While the average monthly prices rose, sales stayed in the doldrums, with 668 in November. That's up 19 per cent from a month earlier, but still down 23 per cent from 2009.



*Make an appointment to see Sharon about any concerns you may have. Call 279-0336*

The information in the newsletter has been prepared with a great deal of care. However, we recommend you consult your normal expert advisor and do not rely solely on this newsletter. If you have any questions or concerns, please call Sharon Marryatt on the number below.

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