

## Special LAQC Alert: The jury is out

### Death of the LAQC as we know it?

Changes announced in May 2010 are complex and will require each LAQC Company to make a choice as to the most appropriate regime to be a part of.

We've sifted through the information to cut through the legalise so that you gain a better understanding of the changes.



## A general overview of the changes and implications

1. As of 1 April 2011, LAQCs will not be allowed to attribute losses to shareholders.
2. The legislation creates a new entity, called a 'Look through Company' (LTC).
3. Companies will be allowed to transition across to become an LTC, or alternatively they can change to another business structure (for example a partnership), without any tax cost.
4. An LTC's profits and losses will be passed on to its owners, according to each shareholder's effective interest in the company. This means that losses and profits will be deducted or taxed at the owner's marginal tax rate.
5. Losses in LTCs will only flow through to owners to the extent that those losses reflect their economic loss. (Getting complicated now)
6. Owners must elect to become an LTC. We will meet with you to determine what is in your best interest.
7. The shareholders of an LTC will be treated as holding the assets of that LTC directly. This raises complex issues where those assets are sold.
8. Remember, this is all a tax fiction only – an LTC retains its identity as a registered company and therefore is still governed by The Companies Act.

We must at this point stress the very general nature of the above overview. The legislation is quite complicated and we know you don't appreciate wordy and complex epistles on tax. It's our job to cut through all of that for you.

## For those clients with LAQCs, what are the options?

1. Stay as a Qualifying Company (QC). This means you will not be able to allocate any company losses to shareholders. Losses will need to be used by the company, against other income. If your company makes regular losses, and you want to use those losses against personal income (such as profits from another business, or wages from employment), this option may not work best for you.
2. Be taxed as an ordinary company. Once again, you will not be able to allocate company losses to shareholders. Also, you will miss out on certain other benefits that QCs enjoy, such as the ability to distribute capital gains without winding up the company.
3. Be taxed as a Look Through Company (LTC), as summarised above.
4. Restructure to another type of entity, such as a partnership, a limited partnership, or a sole trader. As you can imagine, such a restructure is not necessarily a simple matter.



## Your company and the way forward

We have to stress at this very early point that the legislation is still in its draft form. In fact, there are one or two key aspects of the legislation that are yet to be written.

You might feel like a mosquito in a nudist camp – you know what you ought to do, but don't know where to begin.

### WE ARE HERE FOR YOU

We'll be running a Seminar for all of our active LAQC clients in February, and we'll be able to provide you with what we believe is the best option for you.

The transition across to an LTC or the restructuring for those clients for whom the company vehicle is no longer appropriate, must be completed 6 months from the year end. For most clients that date will be 30<sup>th</sup> September 2011.

As always, call or email us for a chat about the options and your circumstances.

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