



Changes to the LAQC regime – How these may affect you.

Changes to the way some companies are taxed were introduced in the latest budget. The legislation for this was passed through parliament in December 2010.

This has caused a lot of uncertainty for company directors and requires all companies and especially those who are LAQC's to review their tax status and make a decision on what they will do going forward.

* Current Situation

The Qualifying Company (QC) and Loss Attributing Qualifying Company (LAQC) regimes were introduced with the aim to treat a company and its shareholders' as one entity for income tax purposes, similar to how a partnership is treated.

Being a QC or LAQC has no bearing on the legal status, limited liability or the treatment of the company in any other way – it is only for income tax purposes that they are treated differently from an ordinary company.

One of the benefits that LAQC's have is the ability for shareholders to use the losses created in a company against their personal income tax. This can result in a tax refund or reduced tax liability if the shareholder has other taxable income.

Hence they are used extensively by property owners who are making losses on rental properties. Generally investors have other sources of taxable income.

* After 1st April 2011

From the 1st April 2011 there is no longer the ability to enter the LAQC regime. A new company tax status called a "Look Through Company" (LTC) will be in its place.

LTC vs LAQC

The main differences between an LTC and an LAQC are:

- **An LTC must distribute profits as well as losses to its shareholders.**

(An LAQC had to distribute losses to shareholders but any profits could be retained in the company)

Whether a company is likely to make a profit or not in the near future will be one of the prime considerations for those currently in an LAQC.

- **There are loss limitations for shareholders in an LTC.**

(Previously all losses could be distributed to shareholders without any restriction, under the new legislation there are limitations)



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The loss limitation rules are quite complex. Your advisor will need to ensure that if you are going to transition to an LTC you are not limited by this rule.

- The sale of shares in an LTC may result in any asset owned by the company being treated as sold by the shareholder for tax purposes.

(There was no such rule in the LAQC regime)

For property owners this means that if shares are sold in an LTC it could create a taxable gain on disposal even though the property is not sold. This would then be treated as income in the year the shares are sold.

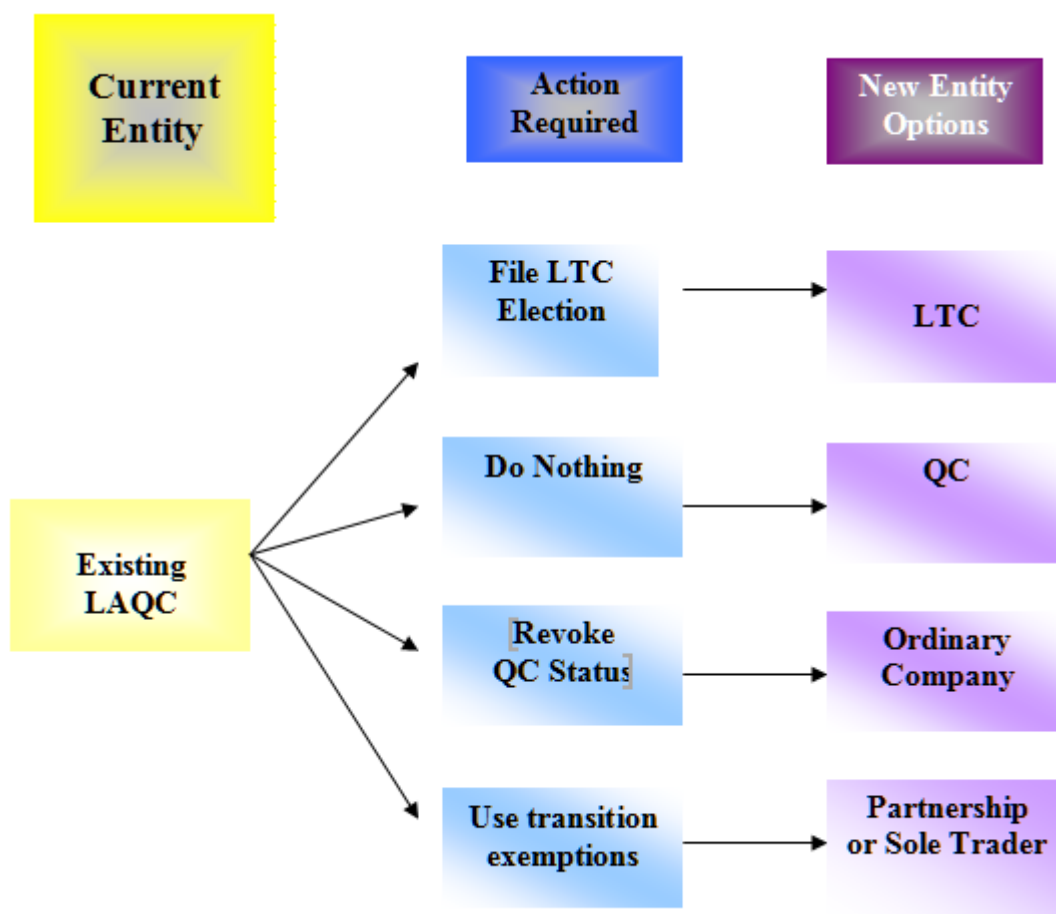
What to do?

Assuming you currently operate your rental properties through an LAQC you will need to make a decision which affects the future tax status of your company.

Every company will be different and your advisor should have a review process in place to ascertain what will be best for your company going forward.

For the majority of Rental LAQC's, where losses are being made, transitioning to an LTC will be the most effective option. BUT.....
.....there are disadvantages which need to be worked through and only your tax advisor can ensure that **you** make the right decision.

OPTIONS FOR CURRENT LAQC COMPANIES UNDER NEW REGIME



This article provides an overview of the changes and does not provide advice to any reader. For advice on your particular situation see your tax advisor or contact Karen at Monteck Group Limited. Karen Tobeck is a Chartered Accountant and Director of Monteck Group Limited in Botany



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