



## THE BUDGET HAS A STING IN ITS TAIL

At the time the 2010 Budget announced, we highlighted that there were still some issues to work through in relation as to how the IRD saw the changes to Loss Adjusted Qualifying Companies (LAQCs) and Qualifying Companies (QCs).

Some of that detail has now been made clearer and we would advise that as from the 1 April 2011, the following changes will apply:

1. Existing LAQC's and QC's will become a flow through entity called a QC.
2. All income in the QC will be taxable to the shareholders in proportion to their interest in the QC.
3. Losses stemming from the QC will be deductible to the shareholders in proportion to their interest in the QC BUT the loss deduction will be limited to the shareholders economic interest in the QC. This means the "loss limitation rule will apply", which in effect says shareholders will only be permitted a deduction for losses to the extent of their investment in the QC. However, the big IF is whether the values of guarantees will also be considered when determining a shareholders investment in the QC. Most shareholders in a QC, have usually made loans to the QC and guaranteed that debt however, the consultation document is silent on that point.
4. Unutilized losses will be carried forward by the shareholder.
5. QC's will now be defined and treated as a partnership for tax purposes, rather than a company and will be required to file an IR 7 as opposed to the previous IR4.
6. If a shareholder works within the QC, the shareholder will now be required to have an employment contract and be in the PAYE system for shareholder salaries to be deductible.
7. No imputation credit accounts will be required as all dividends will be tax exempt.
8. One other item that still remains unclear, is that for Trusts, the Trustees will be required to return QC income in their own right, rather than the current requirement to pass dividend through to a beneficiary.

So in summary it looks like the old LAQC has had its day and would consider that in the future property investors may be better to look at individual / partnership ownership of property investments, or if you are taking a longer term view maybe trust ownership.