MOORE Markhams

Accountants and Advisors

ABOUT LOOK-THROUGH COMPANIES

LTCs PROVIDE CLEAR TAX BENEFITS

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SHINING THE LIGHT TO CLARIFY OPPORTUNITIES

The rules around a look-through company (LTC) are quite complex. Moore Markhams' tax specialists will ensure your company complies with the legislation and maximises the opportunities an LTC provides.

There are clear tax benefits from being able to 'look through' the company for tax purposes and have profits and losses taxed directly at the shareholder level in some situations.

Shareholders of an LTC are liable for tax upon the company's profit, as well as being able to offset the company's losses against their other income.

Characteristics

LTCs are generally transparent for income tax purposes. The LTC's income, expenditure, tax credits, gains and losses flow through to the LTC owners in proportion to their shareholdings. This means that the owners become responsible for paying the tax on their share of the LTC's taxable income or may be able to utilise the LTC's losses.

LTCs are not transparent for other tax types including GST, PAYE, FBT, RWT, NRWT, ESCT and RSCT.

LTCs can be particularly useful for start-up businesses or for some rental property purchases where it is considered likely that the new company will initially make a loss. The ability to have losses flow through to individual shareholders where they can be offset against other sources of income can provide an efficient tax structure. Note that ring-fencing of rental losses at the individual shareholder level applies from 1 April 2019.

In order to become an LTC, the company must:

- be a New Zealand tax resident
- have five or fewer shareholders
- have one class of shares that provides the same rights and obligations to each shareholder
- have shareholders that are natural persons, trustees, or other LTCs. An ordinary company, tax charity or a Máori Authority cannot hold shares in an LTC
- not have foreign sourced income more than the greater of $10,000 or 20 percent gross income for the year if the total ownership Interests in the LTC are more than 50 percent held by foreign LTC holders.

Benefits

There are benefits from using an LTC. These include:

- limited liability under the Companies Act 1993
- tax flow through status.

Disadvantages

- disposal rules on exit / sale
- entry tax
- loss limitation rule. Losses are limited to the owner's basis for LCTs that are in a joint venture or partnership that includes another LTC
- forfeit of prior years' company losses upon transition to LTC.

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