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LOOK THROUGH COMPANIES (LTC)

The Look-Through Company (LTC) rules came into affect for income years starting on or after 1 April 2011. 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. The key features of an LTC are:

- The LTC retains its identity as an incorporated company, and will keep its corporate obligations and benefits under general company law, such as limited liability.
- For income tax purposes, the LTC is "looked-through" and the owners of an LTC are regarded as holding the LTC's assets directly and carrying on the activities of the LTC personally.
- An LTC's income, expenses, tax credits, gains and losses are passed onto its owners, in accordance to their effective interest in the company.
- Each owner of the LTC will then record any income or losses, as appropriate, in their own income tax return.
- For other tax purposes (such as GST, PAYE or FBT) the LTC retains its tax obligations.

Who can become an LTC?

To become an LTC and maintain LTC status, a company must meet the following criteria for the whole of each income year that they are an LTC:

- It must be a company (ie a body corporate or other entity with a legal existence separate from that of its members)
- It must be a New Zealand tax resident and not treated as a non-resident under any double tax agreement
- All owners must have only look-through interests. There are special requirements for look-through interests depending on when the company is an LTC.
- There must be five or fewer look-through counted owners. Look-through counted owners must be either natural persons or trustees (including corporate trustees). There are special rules for determining the number of look-through counted owners.
- It must not be a flat-owning company.

Additional criteria that apply for the 2017-18 and later income years

- It must not have an owner which is a tax charity or a Māori authority, unless the tax charity or Māori authority are grandparented.
- If the total ownership interests in the LTC are more than 50% held by foreign LTC holders the LTC must not have a foreign-sourced amount for the year that is more than the greater of $10,000 or 20% of the LTC's gross income for the year.

Electing to become a look-through company

You can elect to become a look-through company (LTC) by completing a *Look-through company election (IR862)* form.

Accounting for look-through company income/deductions

Income, expenses, tax credits, gains and losses from the look-through company's (LTC) activities are passed through to the owner of an LTC, in proportion to the owner's effective look-through interest. Each owner is responsible for declaring the income and deductions on their own income tax return.

The owner will be liable for any tax payable on their net LTC income which is included in their taxable income. They'll also be allowed a deduction for any loss incurred by the LTC against any other income sources they may have, subject to the loss limitation rule if applicable.

Loss limitation rule

The loss limitation rule ensures that the losses an owner can claim reflect their economic loss in the LTC.

The LTC's deductions are allocated to its owners in the same way as income is allocated. The amount of deductions an owner can use is limited to the contribution the owner has made to the company, or is liable for. This is known as the owner's basis.

For the 2017-18 and later income years, the loss limitation rule applies only to LTCs in joint venture or partnership. Losses previously restricted under this rule are available for use against income in the 2017-18 and later income years.