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Property Speaking

Budget 2010 Implications for Commercial and Residential Property Investors

It has been no secret that the government had intended overhauling the tax treatment of property investments in its 2010 Budget. Finance Minister, the Hon Bill English has summed up the property investment aspects of his Budget as an effort to “... *make the tax system fairer by ensuring the treatment of property is consistent with other forms of investment.*” We set out below a summary of the Budget changes that will have implications for property investors.

Change in depreciation treatment

- » Beginning with the 2011–2012 income year commercial and residential landlords will **no longer** be allowed to claim depreciation deductions for buildings with an estimated useful life of 50 years or more.
- » The government will also review the tax treatment of ‘fit outs’ in commercial buildings, with any changes having effect for the financial year beginning **1 April 2011**.

Change in treatment of Loss Attributing Qualifying Companies (LAQCs)

- » LAQCs have been a popular structure used by rental property owners because of the manner in which ‘geared losses’ from LAQCs can be deducted from the personal income tax rates of LAQC shareholders.
- » The government will enact legislation limiting the amount of a loss that one can deduct through a LAQC in any given financial year to the amount that the shareholder has invested in the LAQC. The balance of the loss would be carried forward to future financial years.
- » LAQCs will become ‘flow-through’ entities whereby LAQC profits will be taxed at the personal tax rate of a shareholder, rather than at the lower company tax rate.

If you are a commercial or residential property investor, you should contact us and other professional advisers to review your property investment portfolio in light of these Budget changes. You will need to consider the implications of the changes in terms of potentially restructuring the ownership of your property investments and the manner in which any losses are attributed to the same.

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