



SIMPSON GRIERSON

LAW

4 February 2002

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For: Steve Wilton

Effects of New Legislation on LAQCs

1. We refer to your telephone instructions of 18 December 2001 asking us to consider if the Property Relationships Amendment Act 2001 ("Property Act") has an effect on who can be a shareholder in a loss attributing qualifying company ("LAQC").
2. The Income Tax Act 1994 ("Tax Act") is the act that sets out the shareholding requirements for LAQCs. Section OB3(1)(b)(i) provides that the company must have five or fewer shareholders. For the purposes of the Tax Act people related in specified ways are treated as single shareholders.
3. Section OB3(3)(b) provides that shareholders who are related to each other (in the first degree) by a blood relationship, *marriage*, or adoption are treated as single shareholders.
4. The Property Act, which comes into force on 1 February 2002, amends the rules relating to property, especially the division of property, of married and de facto couples. However, the Property Act **does not** amend any of the Tax Act provisions relating to shareholding in LACQs. Accordingly, defacto couples are **not** treated as single shareholders under section OB3(3).
5. This means that defacto couples who want to invest in the forestry investment companies will still have to hold the shares in their own name and each be treated as a shareholder. We trust this is of assistance.

Yours faithfully
SIMPSON GRIERSON

Alan Henwood/Roann Watson
Partner/Solicitor

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