THE PATENT BOX

Whitepaper

In a bid to improve the UK's competitiveness within the fields of **technology and development**, the UK government run an initiative which allows companies to elect to benefit from a reduced rate of corporation tax on profits derived from the sale of qualifying patented inventions and other specified types of intellectual property (IP).

The 'Patent Box' regime allows a lower rate of corporation tax (the lowest rate being 10%) to be applied to qualifying profits, presenting the opportunity for significant tax savings to be made.

Under new rules, applying to new entrants to the Patent Box on or after **1st July 2016**, the amount of profit qualifying for the reduced rate of corporation tax will depend upon how much of the research and development expenditure was incurred by the company claiming the relief.

The new regime favours companies that are UK based and carry out all of their R&D in house. It is less favourable than the old regime for companies that have acquired IP rights or have subcontracted R&D to related parties.

WHO CAN BENEFIT?

You can only benefit from the relief if your company is liable to Corporation Tax and makes a profit from exploiting patented inventions. The company must either own or exclusively licence-in patents granted by one of the following:

- UK Intellectual Property Office
- European Patent Office
- Countries within the European Economic Area:
  - Austria
  - Bulgaria
  - Czech Republic
  - Denmark
  - Estonia
  - Finland
  - Germany
  - Hungary
  - Poland
  - Portugal
  - Romania
  - Slovakia
  - Sweden

The company must also have undertaken qualifying development for the patent by making a significant contribution to either the creation or development of the patented invention or a product incorporating the patented invention.

WHICH PROFITS QUALIFY?

To qualify for relief, relevant 'IP income' can arise from one of the following:

- The sale of patented products or products incorporating the patented invention
- Licencing out patent rights
- Selling patented rights
- Infringement income
- Damages, insurance or other compensation related to patent rights

Profits derived from a company's routine manufacturing, development functions, or marketing activities are excluded.

HOW DO I CALCULATE IP INCOME?

The Formulaic Method:

At its most basic, this allows a company to apportion its taxable profits between qualifying and non-qualifying using the same percentage as qualifying sales income over total sales income. This simplified method placed a smaller accounting burden, particularly on SMEs.

The Streaming Method:

This requires income and expenditure to be allocated to two streams, one for all IP income and the other for all non-IP income, increasing the administrative burden of the scheme.

CHANGES FROM 1ST JULY 2016

Compulsory Streaming:

Under the new rules, companies are now forced to use the 'Streaming Method' of calculating IP Income.

Furthermore, instead of just allocating income and expenditure between two streams (IP Income and Non-IP Income) companies are now required to use a separate sub-stream for every individual IP right or, where appropriate, for each patented product or product family.

This individual streaming requirement will mean that companies will need to have comprehensive systems in place to track and allocate expenditure and income to the relevant stream.

The Nexus Fraction:

For each separate sub-stream, it is now also necessary to multiply the relevant IP profits by the 'Nexus fraction'.

This fraction is calculated separately for each individual sub-stream based on the amount/nature of R&D expenditure and is designed to reduce the amount of relief available for businesses who have merely bought IP rights or have subcontracted R&D compared to those who have developed their patented products in house.

HOW CAN WE HELP?

The Patent Box scheme offers significant tax savings for businesses who generate profits from the exploitation of IP assets, even when taking into consideration plans to further reduce the corporation tax rate (currently 20%) by 2020.

However, many businesses are put off by the complex rules and administrative burden of the scheme, particularly with the implementation of the new 'Streaming' rules.

These factors shouldn't stand in the way when considering whether to use the Patent Box scheme. If you're interested, then we can work together with you to advise and assist in the following:

- Determining whether your company would qualify for the reduced rate of corporation tax under the Patent Box scheme
- The implementation of streamed accounting practices; using cloud accounting systems to track and allocate expenditure and income to individual sub-streams
- The application for relief, including completion of your company's Corporation Tax return (CT600)

Contact Chaddesley Sanford to arrange a chat with our Patent Box specialist. You can call us on **0207 183 6088** or email drop us an email on **enquiries@chadsan.com**.

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