
Patent Box an update and changes ahead.....

The Patent Box is a relatively new UK Government regime that taxes profits from patented interests at 10%, considerably less than the standard tax rate currently 20%. Using the Patent Box can help reduce your effective tax rate.

Patent Box – Five key points:

- *Profits from qualifying patent interests will be taxed at 10%. These benefits are available in addition to claiming R&D tax credits.*
- *The Patent Box rules apply from 1 April 2013, phasing in over five years. 60% of the benefits are available in the year starting 1 April 2013, increasing to 100% in the year starting 1 April 2017.*
- *If you are a UK company or an overseas company with a taxable UK branch, and you hold interests in qualifying IP rights (primarily UK and many European patents) or an exclusive licence over such rights (perhaps from another group company), you can take advantage of the Patent Box.*
- *The regime is very broad. For example, even if the patented element of a product is minor, 100% of sales income from the product falls into the regime.*
- *If your patents relate to the internal processes you use to produce your products or underpin the services you provide, then you should still qualify for the Patent Box.*

To qualify for the regime, your company must meet the following criteria:

- *Hold a qualifying IP right or an exclusive licence over a qualifying IP right*
- *Make a significant contribution to the development of the qualifying patent or any product incorporating the patented invention (this condition can be met either by the Patent Box claimant company or a member of the same corporate group)*

What is the benefit?

The Patent Box regime taxes qualifying profits at 10% in the UK, rather than at the standard tax rate (21% from April 2014, reducing to 20% in April 2015). This reduces the effective tax rate and cash tax payable. You can use Patent Box and continue claiming R&D tax credits.

When do the rules apply

The regime came into effect from 1 April 2013 so it covers profits generated after 1 April 2013. Benefits will be phased in over the first five years of the regime. You have two years from the end of an accounting period to decide to elect into the regime. Although you can choose to revoke an election, you would then be barred from re-entering the regime for five years.

As you will probably be aware, applying for a patent can be a long and costly process. If a patent has not yet been granted, a company can still elect into the Patent Box regime provided it has met all of the other qualifying conditions.

If an election has been made through the company's tax return in respect of a pending patent, then Patent Box benefits covering the application period will arise when the patent is granted, provided all other conditions are met.

Which patents will qualify

Patents granted by the UK Intellectual Property Office, the European Patent Office and certain other EEA State Patent Offices all qualify. As well as legal owners, the regime will cover exclusive licence holders (for example, companies holding an exclusive right to exploit patents in a single territory or field of application) and companies entitled to exploit patents through cost-sharing arrangements or acting in partnership.

The types of income that qualify under the Patent Box regime include:

- *Income from the sale of products with at least one integral patented component*
- *Licence fees/royalties for granting rights over qualifying patents*
- *Certain income derived from valuable patents used in processes that underpin non-patented products, services/consultancy*

- Proceeds of realisation of a qualifying patent or exclusive licence
- Income from infringements.

What does the future hold for the Patent Box?

HM Treasury recently issued a statement confirming that the current UK Patent Box regime will close to new entrants by 30 June 2016 and will be abolished by 30 June 2021. A new regime will follow, the details of which are yet to be elaborated upon. However, the benefits of the new regime are more likely to be aligned to R&D activity carried out in the UK.

For further information

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