



PATENT BOX – CAN YOUR COMPANY REDUCE ITS TAX RATE TO 10%?

Does your company have income from patents?

Do you know that some of its profits could be taxed at 10% from April 2013?

The new Patent Box regime commenced in April 2013 and allows companies which exploit Patents to tax profits arising from those Patents at 10%. Read on to find out if your company qualifies and what you need to do to take advantage of the generous 10% tax rate.

Is your company eligible?

A company that is liable to corporation tax and makes profits from exploiting patented inventions can benefit from the Patent Box.

The company must own or have the exclusive licence of the Patents and must have undertaken qualifying development on them.

Group companies may qualify if another company in the group had undertaken the qualifying development.

Qualifying patents:

In order to qualify for the Patent Box, the Intellectual Property (IP) rights themselves must be:

- granted by either the UK or EU patent office;
- granted by other EEA states that have similar examination and patentability criteria as the UK or
- a defence and nuclear industries 'secret patent'.

In addition to patents, certain rights will also qualify for the Patent Box regime, these include:

- Supplementary protection certificates relating to medicinal and plant protection products;
- Plant breeders and plant variety rights;
- Medicinal and veterinary products with marketing authorisations and marketing or data protection; and
- Plant protection products with data protection benefits.





Thomson Cooper Tax Team
What profit can you tax at 10%?

The Patent Box delivers an effective 10% tax rate to a notional 'profit' (not turnover). In order to determine your notional profit, a complex formula is applied to your trading profits. Arriving at the correct notional profit figure isn't easy – there are a number of steps set out in the legislation which you must work through and a number of deductions to take into account.

The formula establishes what element of your taxable profits are attributable to the relevant intellectual property income. You need to calculate your income from the sale of qualifying patented items or products that incorporate a qualifying patented item. This process may result in the application of the Patent Box being quite wide as it applies to products which merely incorporate a small patented part, as long as it is intended to be part of that product for its operating life.

Example

If a printer uses a patented print cartridge, the whole printer will qualify for the Patent Box, whether or not the cartridge is installed in the printer or is just included separately in the box with the printer. If the printer contained the patented part rather than the cartridge, the cartridge would still qualify for the Patent Box as an item wholly or mainly designed to be incorporated into the printer. It will be interesting to see how these rules apply in practice.

Streaming

If the formula gives rise to an inequitable amount of profits, companies have the option to elect to calculate their taxable profits applicable to qualifying IP by splitting the total gross income into two streams; income relevant to IP and all other income. The expenses then need to be allocated against those streams on a just and reasonable basis.

Steps to take now

If you think you could take advantage of the Patent Box you need to:

- Identify the patented items which may qualify,
- Consider getting patents for IP where you might not have previously thought it worthwhile,
- If you are a licensee, make sure that your licence grants you exclusive rights to the patent in the country or territories where you are developing the product,
- Consider re-arranging your patent ownership to make sure it satisfies the Patent Box regime,
- Think about the systems you need in place to enable you to determine the income split and obtain the information needed for the formula, particularly if the company pays its tax in quarterly instalments.





Why use Thomson Cooper?

We have a specialist team who would welcome the opportunity to help you assess your company's eligibility for the regime and who will work with you to calculate the profits which may qualify.

To arrange a free consultation to discuss your projects and to determine if your company qualifies for the regime, please call Thomson Cooper Partner Alan Mitchell on 01383 628800.

