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Hillier Hopkins LLP
Chartered Accountants and Tax Advisers
hillierhopkins.co.uk

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The Patent Box

The Patent Box regime applies a 10% rate of corporation tax to profits derived (after 1 April 2013) from patents. This is in support of the Government’s drive to provide an additional incentive for companies in the UK to retain and commercialise existing patents and develop new innovative patented products.

To qualify the company must own:

- patented inventions registered in the UK or
- patents registered at the European Patent Office
- or hold an exclusive licence over these types of patents

This incentive could bring about significant tax savings for companies that currently have patented IP, but will also be of interest to those who as yet have not applied for a patent. The regime therefore, applies equally to old processes which are capable of being patented.

With careful planning, companies can maximise the profits which fall within the new patent box regime.

What are the main features of the Patent Box?

- The Patent Box is to provide a reduced UK corporation tax rate of 10% for companies exploiting patented inventions and certain other botanical and medical innovations.
- The Patent Box is optional - companies can elect into it. Companies which have elected in can later choose to opt out, but there are restrictions on subsequently electing back into the regime again.
- The reduced corporation tax rate is to apply to a proportion of a company’s profits derived from licensing or selling patent rights; selling products incorporating a patented invention; other use of a patented invention in the course of a company’s trade, such as providing services; and to compensation received for infringement of a patent right.

- Profits attributable to routine manufacturing or development functions, and to marketing activities, will not benefit from the patent box.
- Companies exploiting patented inventions collaboratively via partnerships and cost sharing arrangements can benefit from the patent box.

Who is eligible to benefit from the Patent Box?

Companies that are within the charge to UK corporation tax are eligible for the patent box regime. This includes UK resident companies and non-resident companies that trade in the UK through a UK permanent establishment.

Companies within the charge to UK corporation tax that are members of groups and/or conduct their activities via a tax transparent partnership remain eligible for the patent box, though additional rules apply to them. There are also specific provisions dealing with cost sharing arrangements.

What are the qualifying conditions?

There are two principal qualifying conditions:

- The company must have made a significant contribution to the creation or development of the item protected by the patent or a product incorporating this item (which can include development under partnerships, joint ventures and cost-sharing arrangements), and must continue to maintain the patent. In a group situation, provided the company holding the patent actively manages its portfolio of qualifying rights, another group company can undertake the qualifying development.
- If the company licences its patent rights it must have exclusivity which is at least country-wide.

If your company owns or has a licence over patents granted by the UK Intellectual Property Office or European Patent Office it may benefit from the Patent Box.

For a free initial
consultation please
contact:

Meeten Nathwani
Principal
+44(0)1923 634474
meeten.nathwani@
hhllp.co.uk

Liam Henry
Principal
+44(0)1923 634416
liam.henry@hhllp.
co.uk

Offices

London
Milton Keynes
Watford

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