

The Patent Box – a significant tax saving

On 1 April 2013, the UK government will introduce its "patent box" tax legislation, giving tax relief for UK businesses dedicated to innovation and development (rather than companies which purchase IP). UK businesses will be able to reduce their tax bill if any of their profits can be attributed to patented inventions.

Who can benefit?

Any UK business which owns:

- a UK or European patent (whether or not validated in the UK),
- a national patent in a select group of EEA countries (which have similar examination and patentability criteria to the UK),
- a supplementary protection certificate, or certain plant breeders rights can claim reduced corporation tax on all "qualifying income".

Businesses which are an exclusive licensee of such IP rights can also take advantage of the reduced corporation tax.

A UK business cannot claim any tax relief under this new regime if it has not been involved in the development of the invention. A patentee must have created, significantly contributed to the creation or development of the invention to be entitled to the tax reduction.

What income qualifies for the tax reduction?

The "qualifying income" includes license fees and/or royalties generated by the patent, and income from selling products incorporating the patented invention (however small a part of the product the invention is). It includes income generated in the six year before the grant of the relevant patent. Therefore the business need not accelerate examination of the pending applications to take advantage of the tax reduction.

The tax reduction will apply to new IP, as well as further development of acquired IP.

Conclusion

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The tax reduction is being phased in over a four year period, and will not be effective until 2017. We recommend that UK businesses, involved in research and development, review that activity now. They should look to patent all product developments, however minor, as the resulting patents could provide a useful tax break, in addition to their other benefits.