

PATENT BOX RELIEF



Patent Box was introduced in the UK in 2013 to incentivise businesses to protect their technologies and inventions. It works by reducing the tax paid on profits attributable to patented products or processes.

Businesses which qualify for the scheme will benefit from an effective corporation tax rate of 10% on income deriving from the commercial exploitation of patents.

Businesses often assume that the patent box scheme will not be eligible as they either do not own a patent or would struggle to secure a patent. The technical hurdle to secure a patent is much lower than many would expect. Surprisingly many more companies could take advantage of this relief.

Practical steps

1. Identify patentable products. There are three main criteria:
 - The invention has to be new/novel;
 - It has to involve an “inventive step”; and
 - It should be capable of industrial application.
2. Draft the patent application in a way that covers the necessary scope, avoids ambiguity and does not infringe on prior art.
3. Calculate the patent box relief. There are several steps to calculating the profits subjected to the reduced corporation tax rate and a specialist will ensure that the calculation has been done correctly and each stage has been calculated to maximise the amount of relief available.

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Tax implications

This relief enables a company to reduce the headline rate of corporation tax from 19% to 10% on revenue derived from patented products and processes.

FAQS

Our team made the first patent box claim in the UK. If you have a query, please feel free to contact us. There isn't a question about patent box relief that we can't answer.

What is a Qualifying Patent?

Qualifying patents are those granted in the UK or 13 other jurisdictions in the European Union. Patents granted by the European Patent Office are also valid. The relief applies to worldwide profits derived from these patents.

Which countries can you hold a qualifying patent in?

You can benefit from the Patent Box if your company owns or exclusively licenses-in patents granted by the UK Intellectual Property Office, European Patent Office or one of the following countries in the European Economic Area: Austria, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Poland, Portugal, Romania, Slovakia, and Sweden.

What if a company did not actually hold a patent but held an exclusive license of a patent?

Companies can still take advantage of this relief if they hold an exclusive licence agreement to exploit a patent owned by another individual or company. The patent in question must still have been granted in one of the countries above(including the UK), and the extent of the qualifying profits depends on the scope of the exclusivity of the licence agreement.

Can you claim patent box and R&D tax relief?

Yes! Companies can retain the full tax incentives available under the R&D Tax Credit Scheme in addition to Patent Box.

How much does it cost to obtain a patent?

The cost of obtaining a UK patent is typically around £5,000. Small and medium-sized enterprises (SMEs) can save several times this amount in tax under the Patent Box scheme, in addition to gaining valuable patent protection.

Does the company claiming the relief have to have undertaken any development?

The company claiming the relief (or another group company) must make significant contribution to either the creation or development of the patented invention.

When do you have to elect into the patent box scheme?

Companies have to make an election within two years after the end of the accounting period in which the profits arose to apply Patent Box and receive the reduced rate of corporation tax.

Is it worth electing in to the scheme if the company is loss-making?

In theory it is possible for a company to have a profitable IP stream which would attract a Patent Box deduction whilst the company as a whole has made a taxable loss. In this scenario the election in to the scheme would simply result in the creation of additional losses to carry forward. It is possible that a claim could increase an SME R&D tax credit claim, so an election should not be dismissed outright if a loss is made.

What types of income are eligible for relief?

If a patent covers a physical product then the sales of this line will qualify. What is also covered includes any parent items which are intended to incorporate the patented element, which should be fundamental to the function of the parent item and intended to be so for its useful economic life. In addition any bespoke spare parts designed specifically for use in the patented component constitute qualifying income.

The income from the sales of patents or income arising from infringement rights will also qualify for the relief.

What happens if the patent covers a process instead of a physical product?

A process patent covers a system, process or workflow. For example, a company might develop a machine that is subsequently covered by a process patent but that company's revenue may actually be derived through the sale of widgets produced by that machine (as opposed to selling the machine itself). HMRC allow the company to claim "IP-derived" income through the use of a "notional royalty". This is a deemed amount of the company's turnover that relates to the value added by utilising a patented process.

Can I claim relief if a patent is pending grant?

The date of filing is the earliest date from which relief can potentially apply if it is eventually granted. The relief that would have been deductible in the period had the patent been granted is effectively noted and rolled forward on a period-by-period basis. No relief can be claimed until the patent is granted.

Next steps

If you would like more information on Patent Box and if you think that you could qualify for this relief, contact us, please call us on **01753 888211** or email **info@nhllp.com**