

Patent Box Benefits for consumer product manufacturers



The Patent Box legislation has been introduced to encourage innovation in the UK. Under the regime, and from April 2013, a lower effective rate of corporation tax applies on profits attributable to certain UK or European patents – by 2017 the tax rate for such profits will be as low as 10%. But how does this benefit consumer product manufacturers?

The power of brands

An analysis of the key value drivers for consumer product manufacturers would typically recognise the significant role played by the brand. For this reason, many consumer-facing businesses might assume that the Patent Box regime would not be applicable to them given the notional marketing royalty which needs to be deducted. However, for many companies selling consumer products, the value of the brand is itself related to the quality of their products. It is therefore necessary to understand the, often complex, interaction between the role played by product quality and its underlying technology, and the role of advertising and marketing, in order to derive an accurate valuation of the brand for Patent Box purposes. The legislation is written to enable the value associated with the technical base of the product to be preserved in the profits benefiting from Patent Box.

Brands can be valued using methodologies such as the profit split approach. Under such an approach, the profit in the value chain is split between the various components which generate value for the business, whether they are 'routine' activities or valuable intangible assets. Such an approach often demonstrates the role of product quality and, in particular, how the patented technology contributes to the value of the brand.

Mapping made easier

All income from product sales will qualify for Patent Box if those products either incorporate a patented item or are wholly or mainly designed to be incorporated into a patented item. Manufacturers with a wide range of consumer products may find the process to connect patents and products daunting.

Deloitte's patent specialists have experience of mapping patents to products and have methodologies to simplify the process. These processes allow the compliance burden to be managed whilst ensuring that the claim should be acceptable to HMRC. Deloitte can help a company identify the most suitable approach to carrying out the mapping exercise based on the facts and circumstances for that company.

Can you patent the manufacturing process?

As well as patenting the end product of a manufacturing process it is also possible to patent the manufacturing process itself (the latter is commonly referred to as a process patent). In some cases process patents will also include a claim to the product (known as a product by process claim), but this will not always be the case. This distinction is important for the Patent Box, as where there is no claim to the product, a company will have to use transfer pricing principles to calculate the Patent Box benefit (notional royalty) and the benefit will be significantly reduced compared with a product patent.

Case study: Agreeing brand value with HMRC

As part of a feasibility study for a well-known consumer product group and global retailer, Deloitte helped determine the relative value in the supply chain which was attributable to their R&D intangibles and their brand. Working with the team, Deloitte defined both the methodology and pricing of the various intangibles that were acceptable to HMRC. The analysis included the calculation of a brand royalty under OECD transfer pricing principles, which was then deducted from the overall profit attributable to the group's technology assets, including patents. This resulted in significant profit to benefit from the reduced Patent Box rate.



Why Deloitte?

Implementing a successful Patent Box program requires a range of specialist skills as well as a multi-disciplinary approach. The Deloitte Innovation tax team has the following capabilities:

- **In-depth Patent Box technical knowledge** – of the legislation and how it applies in practice.
- **IP strategy capabilities** – from the combined team of patent specialists and a patent attorney.
- **Experience in securing Patent Box agreements with HMRC** – including issues such as notional royalty, notional marketing royalty and general methodology.
- **Technology, R&D and Engineering specialists.**
- **Corporation tax and transfer pricing specialists** – with specific focus on notional royalty and notional marketing royalty expertise by industry.
- **Commercial and business strategy experience.**

Who to contact



Carmen Aquerreta
+44 (0)20 7007 3928
caquerreta@deloitte.co.uk



Greg Smith
+44 (0)20 7007 3800
gregsmith@deloitte.co.uk



Sarah Lord
+44 (0)20 7007 0330
sarahlord@deloitte.co.uk



Olivia Johansson
+44 (0)20 7007 7448
ojohansson@deloitte.co.uk

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Designed and produced by The Creative Studio at Deloitte, London. 31514A