

Patent Box Benefits for the pharmaceuticals industry

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%. This has significant benefit for the pharmaceuticals industry because even if you just distribute pharmaceuticals in the UK but don't own any patents, you can still benefit.

The forgotten rights

For groups operating in the pharmaceuticals sector, patents are not the end of the story. The list of rights, which may qualify for the 10% rate, are extended to include certain Marketing Authorisations (MA) for reference medicinal products, orphan and paediatric products.

HMRC has set out in its guidance their view that distributors, who have an exclusive licence from the patent holder to buy and sell patented goods, do not hold any rights over the underlying patent and therefore do not have any qualifying patent rights for Patent Box. However, where a UK company holds one of the relevant MA rights, it no longer needs to establish if it holds qualifying patent rights and can instead access Patent Box by virtue of its MA rights.



Maximising R&D tax reliefs

Maximising R&D tax relief claims would be beneficial for companies in light of Patent Box as it has a positive impact on the Patent Box benefit. This is because when calculating the profits benefiting from Patent Box, the costs that form the basis of the R&D tax relief claim do not get included in the routine return calculation (removing a 10% mark up on certain costs), therefore leaving more profit to benefit from Patent Box.

Although a wide variety of companies are already claiming for new product development activity, many companies are missing out on R&D claims for development projects where existing products are being improved, or where process improvement activity is being undertaken, including R&D in developmental full production trials.

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 the 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



Neil Hudson
+44 (0)20 7007 3928
nahudson@deloitte.co.uk



Richard Turner
+44 (0)23 8035 4236
riturner@deloitte.co.uk



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

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