

# PATENT BOX – 11 KEY FACTS

This April sees the introduction of Patent Box, enabling a company's patents to incur a lower rate of corporation tax. Designed to incentivise UK companies to develop new innovative patented products, HMRC have also made it easier for businesses to get richer in the process.

1. The 'Patent Box' is a new form of tax relief for UK companies that comes into effect from **01 April 2013** and so perhaps could become a 'sweetener' for deals where there is some time left on the life of a patent.
2. 'Patent Box' relief has the effect, in special circumstances, of **reducing the amount of corporation tax that a company pays**. It applies to relevant income derived from certain forms of Intellectual Property (IP), such as 'qualifying patents'.
3. The good news is that it gets better and better. In 2013/2014, only 60% of the full relief is available. **This relief gradually increases by 10% each year until 2017, when 100% relief is available**. But there is no need to delay a business sale until then, as in most cases, the benefit of the 'Patent Box' will pass to the new owner of the qualifying IP.
4. As it can take a few years from filing a patent application in the UK until grant is secured, **this 4-year window makes a lot of sense and suggests that businesses should all get inventing!**
5. There is more good news: 'relevant income' includes not only what is normally derived from sale of a patented product or process, but also **income from the sale of certain spare parts, royalties** derived from licensing, **income from the sale of patents** and even **damages awarded by a Court** in relation to the patent!
6. As with many forms of tax relief, there are **a number of conditions that need to be met**. **Some are intended as 'anti-avoidance' provisions**. In order to benefit from the 'Patent Box' these conditions or 'tests' are very specific and could be quite complex so you will probably need help from an Accountant and a Patent Attorney in setting things set up properly.



7. Three important 'qualifying' tests are:

- A: There must be **ownership** of the IP.
- B: There must have been some sort of **genuine development of inventions/technology**.
- C: There is an **active ownership** or active use.

8. **The ownership test**

In order to claim the relief the company must own a UK, European or certain other qualifying patent, not simply a patent application. There are other forms of IP that could qualify so it's always worth checking. **However, even if the company does not own the patent, but is an exclusive licensee, this could also meet the ownership test**, but you will need to check with an advisor because proving this will be complex.

9. **The development test**

There must have been some genuine development of inventions/technology. So a company may need to **prove that it has really been developing the invention with a view to creating a new product or entering a new market** or show that it has contributed to create the invention.

10. **The active ownership ('use') test**

If a company meets the development test it normally qualifies for this active ownership test automatically, but if not then the company will have to show things like it is **marketing the invention and making serious efforts to commercialise it**.

11. The 'Patent Box' is new legislation and could turn out to be complex, after all the 'devil is (usually) in the detail' so **Evolution always recommends you seek expert advice where appropriate**.

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