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Welcome to the

Sheffield City Region Breakfast Club

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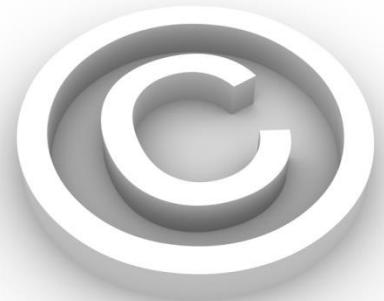
S W I N D E L L & P E A R S O N L T D

Patent & Trade Mark Attorneys since 1878

The Patent Box

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- 1. Overview of Patent Box
- 2. Who could the Patent Box apply to?
- 3. What income qualifies for Patent Box?
- 4. What are patents?
- 5. Is a pending patent application sufficient for patent box?
- 6. How is Patent Box profit calculated?



1.1. Overview of the Patent Box

- A gift from the Government to innovative companies.
- Reduced Corporation Tax.
- Incentive to commercialise existing patents
- Incentive to develop new innovative patented products.



1.2. Overview of the Patent Box

- Basis in the Corporation Tax Act 2010 as amended by the Finance Act 2012.
- In force April 2013.
- Allows companies to elect to apply a reduced rate of corporation tax (10%) to profits attributable to qualifying intellectual property.



1.3. Overview of the Patent Box

Phased in over 5 years

Year	Benefit available
2013-2014	60%
2014-2015	70%
2015-2016	80%
2016-2017	90%
2017-2018	100%

e.g. for 2014-2015, the 10% rate is only applied to 70% of the relevant profit



1.4. Overview of the Patent Box

- Not just patents
- Patent Box also applies to:
 - Supplementary Protection Certificates
 - Medicinal and Veterinary Products with marketing authorisations and marketing or data protection
 - Plant breeders and plant variety rights
 - Plant protection products with data protection benefits



2.1. Who could the Patent Box apply to?

- It could apply to a company that:
 - A) owns a patent
 - B) is an exclusive licensee of a patent (can be limited territorially)
 - C) is in a group of companies (another of which owns the patent or holds exclusive licence)

AND meets the qualifying development condition.

(Active role in creating the invention or developing (i) the invention, (ii) a product or process incorporating the invention.)



2.2. Who could the Patent Box apply to?

Exclusive Licensee

- Licensee must meet qualifying development criteria.
- The licence must:
 - Provide rights to develop and exploit the patented invention
 - Be to the exclusion of all other parties
 - Provide exclusivity throughout at least an entire national territory
 - Enable licensee to be able to bring infringement proceedings or be entitled to most of the damages awarded in successful proceedings.



2.3. Who could the Patent Box apply to?

A Company in a Group

- Active ownership is required, e.g. Planning/decision making for
 - developing or exploiting IP
 - Maintenance of protection (renewals)
 - Granting licences
 - Researching alternative applications for the innovation
 - Licensing others to research alternative applications



3.1. What income qualifies for Patent Box?

- Sale of patented products.
- Income from processes covered by a patent.
- Sale of a patent.
- Patent licensing royalties.
- Damages arising from patent litigation.



4.1. What are patents?

- Monopoly right that lasts up to 20 years from the filing date of the patent application.
- Protect innovations that are:
 - ✓ new
 - ✓ not obvious
 - ✓ industrially applicable.
- Not to be confused with registered designs, trade marks or copyright.



4.2. What are patents?

Which patents will qualify for the Patent Box?

- Granted GB patents
- Granted European patents
- Patents granted in other EEA states having similar examination and patentability criteria as the UK. (Austria, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Poland, Portugal, Romania, Slovakia, Sweden.)



4.3. What are patents?

IMPORTANT

- Keep invention secret
- Incremental improvements are patentable.



4.4. What are patents?

- Under UK patent law, some innovations are excluded from being patented. These include:
 - business methods
 - scientific theories
 - mathematical methods
 - aesthetic creations
 - methods for performing mental acts and
 - programs for a computer

Exclusion only applies where patent relates to that thing as such.



4.5. What are patents?

- Computer implemented inventions are patentable under UK and EPO law!
- If the claimed subject-matter has a technical character it is not excluded from patentability.
- If a computer program is capable of bringing about a technical effect it is likely to be patentable.



4.6. What are patents?

- E.g. a technical effect may be found in:
 - the control of an industrial process
 - processing data which represent physical entities
 - the internal functioning of the computer itself or its interfaces under the influence of the program.



4.7. What are patents?

Procedure in the UK:

- Patent application is drafted and filed at the UKIPO
- Searched
- Published
- Examined to ensure that the invention is patentable
- Granted (when patentable)
- After grant – annual renewal fees.



4.8. What are patents?

- What can a patent be used for?
 - Preventing others from using, manufacturing, selling or importing the invention
 - Licensing to third parties
 - Selling the patent to third parties
 - Building value into a company
 - Publishing information (prevent others from patenting)
 - Reducing the tax bill (Patent Box)



5.1. Is a pending patent application sufficient?

- Patent must be granted to make use of Patent Box.
- Possible to retrospectively claim for period while application was pending (for up to 6 years prior to grant).



6.1. How is Patent Box profit calculated?

- The Calculation
 - Complex!
 - HMRC website - Corporate Intangibles Research & Development Manual -
<http://www.hmrc.gov.uk/MANUALS/cirdmanual/CIRD200000.htm>



Thank You for Listening

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