

R&D TAX UPDATE

Patent Box

Thinking outside the box: the future of the Patent Box regime

For the brief period of its existence, the UK's Patent Box regime has been a significant opportunity for innovative companies to reduce their tax exposure. The 2014 Autumn Statement made it clear however that things are set to change.

UK Patent Box – the current regime

Currently companies can opt to pay a reduced corporation tax rate of 10% on worldwide attributed profits from patented products registered in the UK or EU, instead of the standard 20% rate. It was announced at the end of 2014 that this scheme is to be wound up and replaced with a new, EU compatible regime.

Why the need for change?

At the end of 2013 the European Commission concluded that the UK Patent Box breached two of criteria set out in the EU Code of Conduct for “harmful tax practices”.

The UK, in a joint statement with Germany, have since announced they have agreed to align the UK patent regimes with the EU “modified nexus” approach, which insists on a direct link between R&D and the income derived therefrom.

What will happen to the old scheme?

The Patent Box regime in its current form will close to new entrants on June 2016. Companies having made the election by this date will be able to stay within the regime until June 2021, when the scheme will cease completely.

What do we know about the new scheme?

The UK government has announced that it remains committed to a revised Patent Box regime to incentivise innovation and its commercialisation in the UK.

Full details of the proposed scheme have not yet been published, but it is apparent that the regime will continue in some form.

If you require any further information on any of the issues raised above, please email the team at randd@menzies.co.uk

It is intended that the new regime will be more closely linked to R&D activities being carried out and in the UK, to avoid exploitation of the scheme, for instance by companies carrying out R&D elsewhere than the UK but still claiming UK Patent Box relief.

Should I make the election now?

- There has been no insinuation that the Patent Box rate will be higher than the current 10% available, although there is also no comment to the contrary.
- It is unlikely the new regime will be as flexible as the current model, especially for companies not carrying out the relevant R&D in the UK.
- It is however unclear whether companies in the existing scheme will be able to elect out and into the new scheme within the transition period.

How can Menzies help?

Menzies Innovation and R&D Team works in partnership with clients and other professional advisers to provide a commercially relevant and effective tax-planning service, from concept development through to commercial exploitation of intellectual property. This includes:

- Advising on the implications of electing into the current regime, or not
- Preparing relevant claims and identifying opportunities to maximise profits within the regime
- Considering tax-effective IP ownership policies
- Assessing the commercial and tax implications of patent applications
- Coordinating an approach with patent attorneys
- Determining whether development expenditure will qualify under the R&D tax regime