

Patent Box

The Patent Box is a tax relief scheme to incentivise companies to locate their research and development (R&D) activities in the UK.

Under this government scheme, UK companies can benefit from a reduced rate of corporation tax (at 10%) in relation to profits earned from their patented inventions.

There are several requirements to satisfy, in order to use the Patent Box. The main ones are outlined below. Please contact one of the Dehns attorneys to find out more.

Can my company benefit?

UK companies, that are liable to UK corporation tax may use the patent box if they make profits from exploiting patented inventions.

Does my company need to have a patent?

The Patent Box concerns granted UK and European patents, as well as patents granted in several countries in the European Economic Area. Your company must own or exclusively licence in these patents. As well as patents, the Patent Box covers some IP rights that are similar to patents, relating to medicines, plant breeding and plant varieties.

The tax relief through the Patent Box only applies only once a patent is granted. However, companies can accrue benefits on the income during the patent application phase by electing into the Patent Box early and then claiming through the Patent Box once the patent has been granted.

What if I don't have any patents?

Patent applications can be filed for new inventions and the Patent Box can be used once a patent has been granted. Your company could also take out an exclusive licence to a patent owned by someone else. The tax savings you make from using the Patent Box can potentially add up to exceed the patent costs.

Which of my company's profits are eligible for the Patent Box?

The profits can come from a number of worldwide activities relating to a company's patents and their patented inventions. These include profits from the sales of the patented product or products incorporating the patented invention, licence fees and royalties derived from patent rights, sales of patent rights, income received as a result of infringement of the patent rights, damages and other compensation related to the patent rights, and notional royalties from the use of patented processes or tools.

It is important to note that the reduced rate of corporation tax through the Patent Box does not apply to all profits made by a company. Gross profits are converted into profits that qualify for the Patent Box, by

considering certain routine returns, a marketing asset return, the amount spent on R&D and in acquiring the relevant intellectual property, for example.

How is the Patent Box tied to my company's R&D activities?

Development work, resulting in a significant contribution to the creation or development of the patented invention, or to a product that incorporates the patented invention, must have been carried out by the company. It is important to note that a company can claim both R&D tax credits and tax relief through the Patent Box.

How do I join the Patent Box scheme for my company's profits?

To benefit from the reduced rate of corporation tax that applies to the Patent Box, you have to "elect" into the Patent Box. This can be done with your corporation tax return or separately in writing to HMRC. You can elect into the Patent Box up to two years after the end of the accounting period in which the relevant profits for the Patent Box arose.

Do I need an accountant to make the submission to HMRC for me?

The claim for tax relief through the Patent Box is submitted alongside your corporation tax return. The calculations needed to determine the profits that are eligible for the Patent Box are not always straightforward. We can provide recommendations for accountants who are experienced in the Patent Box calculations and the relevant government legislation. These accountants can work alongside your existing accountants to add in the calculations for the Patent Box to your corporation tax return.

Is it worth my while using the Patent Box?

The short answer is that it very much depends on the activities your company undertakes, the patents it holds or licences in and the associated profits that are made. If you satisfy the various requirements outlined above, it is worth investigating further. The Patent Box will benefit some companies more than others, so you should talk to a Dehns patent attorney to find out if it is suitable for your company.

However, bear in mind that you only need to be granted a UK patent to claim through the Patent Box on profits from the worldwide sales of technology that you have developed. Multiple patents covering the same product do not increase the benefit, so the scheme is accessible regardless of the size of your IP budget.

Are design rights or trademarks included?

Profits that result from other types of intellectual property rights, such as design registrations, trade marks, copyright and confidential information or know-how, are not eligible to be considered for the Patent Box.

How can Dehns help you with the Patent Box?

At Dehns we can help you to maximise the benefit of your company's IP assets in a number of ways, including by:

- reviewing your current patent portfolio and identifying opportunities for Patent Box tax relief;
- guiding the development process for new customer offerings to incorporate your own patentable innovations or licensed-in technology;
- advising on a patent strategy to build the value of your business.

Please contact us if you wish to discuss any of these matters further.