

# Patent Box

FACTS CARD

2016 / 2017

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**HAZLEWOODS**

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## WHAT IS THE PATENT BOX?

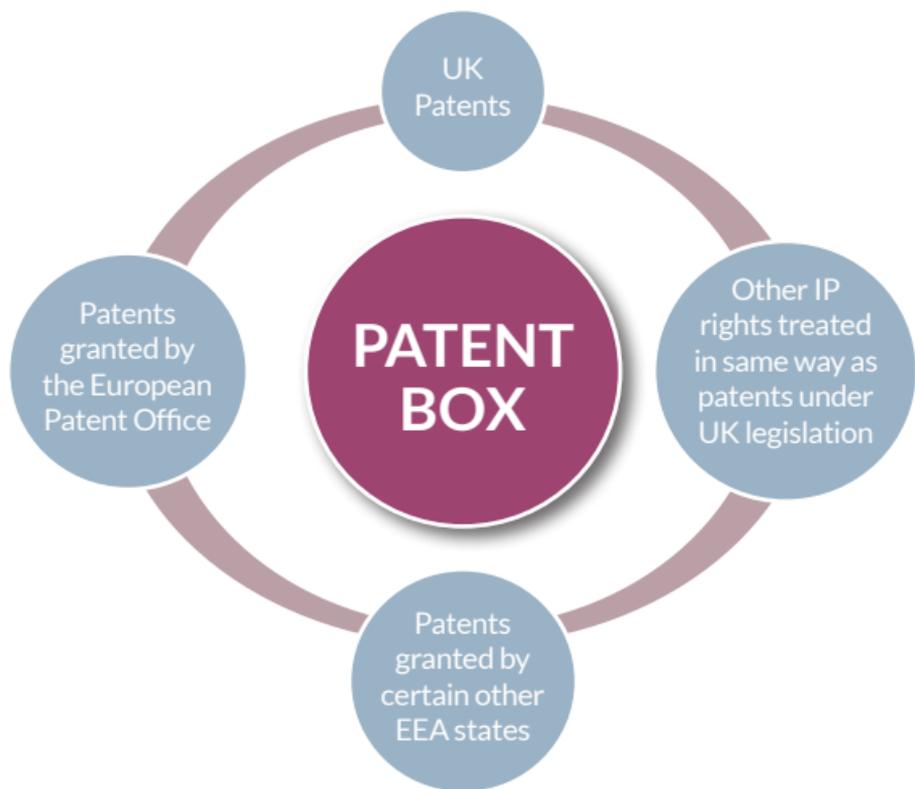
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- **10% corporation tax rate** on profits derived from certain patents
- For **companies only** (not partnerships or sole traders)
- Delivered via **additional deduction from taxable profits** (similar to enhanced R&D tax relief)
- **Phase-in of Patent Box benefits** over five years from 1 April 2013.

## WHAT IP DOES IT APPLY TO?

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Intellectual property ('IP') qualifying for the Patent Box includes:



- The 'development condition' must be met i.e. the company must have been involved in developing the underlying technology or a product incorporating it
- For groups of companies, the development may have been done by another group company, provided the Patent Box company actively manages its IP portfolio
- Existing patents are eligible, not just new patents
- Acquired patents are eligible, provided that the company has done further work in developing the IP or products incorporating it.
- Exclusive licences to qualifying patent rights are also eligible, provided that the exclusivity is territory-wide in a particular market.

## WHICH PROFITS ARE TAXED AT ONLY 10%?

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Profits eligible for Patent Box can derive from:



## PATENT BOX PROFITS - SALES OF GOODS

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This can be wide-ranging. Patent Box profits can include those arising from sales of:

- Products protected by qualifying patents/rights;
- Products incorporating one or more patented items (whole sale included, not just that relating to the patented item);
- Items designed to be incorporated into patented products, even if sold separately (e.g. bespoke spares).

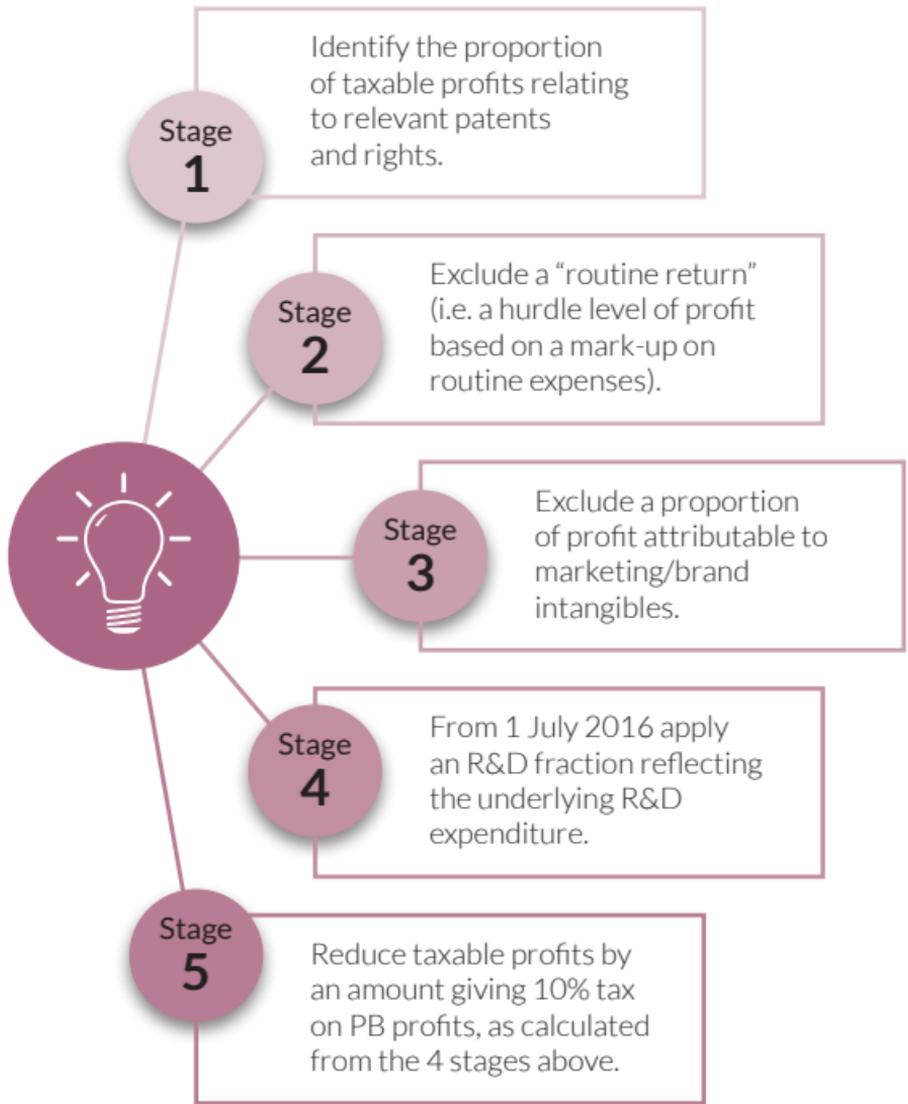
## NOTIONAL ROYALTIES

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- Patent Box can apply where products do not themselves incorporate a patented item but are made using a patented process.
- This would apply where the company has been involved in the development of that process and holds the patent rights to it.
- In these cases, it is not the profit from the sale of the product that comes under Patent Box, but instead a 'notional royalty'.
- The notional royalty is the amount the company would expect to pay as a licence fee to an unrelated third party, if it did not itself hold the rights to the process.

## HOW ARE PATENT BOX PROFITS CALCULATED?

There are a number of steps to calculating Patent Box profits, as follows:



## HOW DOES A COMPANY ELECT FOR PATENT BOX TO APPLY?

- A company must give notice if it wishes to elect in to the Patent Box.
- The notice must be in writing, and must specify the first accounting period for which the election is to apply.
- The election is usually made through the company's corporation tax self assessment return or via an amendment to its tax return.
- The election must be made within 12 months of the filing date for the company's tax return; this means that the election must usually be made within 2 years after the end of the relevant accounting period.
- The return or amended return must report the taxable profits as adjusted for the Patent Box deduction.

## RECENT DEVELOPMENTS

- Following a challenge to Patent Box incentives through the European Union, it has been agreed that such incentives should be moved to a 'Modified Nexus' basis, more closely aligned to the underlying R&D expenditure.
- Consequently, new Patent Box rules apply from 1 July 2016.
- Companies that have already elected in to the existing Patent Box scheme will continue to benefit from the existing rules until 30 June 2021, but new IP assets applied for after 30 June 2016 (or the date the new scheme is introduced) will need to be claimed under the new rules.

## IMPORTANT POINTS

**The Patent Box is optional and will not apply automatically;** it will only apply if the company elects for it to apply.

**Company/group structures can affect the amount of Patent Box tax savings.** It is therefore important to review existing structures to ensure the tax position is optimised.

**Profits earned during the 'patent pending' period can potentially qualify for the 10% tax rate – provided an election is made for the relevant period.** The normal time limits apply, so companies should not wait until the patent is granted before considering the tax position. A 'catch-up' claim is then made via a one-off adjustment to profits for the year in which the patent is ultimately granted.

**Specialist IP and tax advice** should be sought at the earliest opportunity. Patent Box calculations are not straightforward and it is important that the company considers appropriate records and systems to capture the necessary information.

The data in this card is based on releases from HM Treasury and HMRC.

We are proud winners of the British Accountancy Awards 2015 Top 50 Tax Team of the Year, and were finalists in the Tolley's Taxation Awards 2015 and 2016 Best Tax Practice in a Regional Firm.



## HAZLEWOODS INNOVATION AND TECHNOLOGY TEAM

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Our team has a wealth of experience in the sector and appreciate that there are many subsectors that each have different needs.

We work with clients across:

- Aerospace and Aviation
- Energy and Environmental
- Software, IT and Digital
- Life Sciences and Biomedical
- Manufacturing and Engineering
- Creative Industries

The Hazlewoods Innovation and Technology team provides joined-up thinking, addresses complex technical issues, and helps you to navigate through them. The focus is on top-level strategy and planning, built on significant experience in helping Innovation and Technology businesses. We believe this sets us apart from other advisers.

We provide an extensive range of services relevant to Innovation and Technology businesses, including:

- R&D tax incentives
- Patent Box
- Corporate finance
- Business structuring
- Investors' and shareholders' tax reliefs
- Employee share schemes
- Business valuations and share valuations
- Accounts, audit and tax compliance
- VAT advisory
- Payroll and Outsourcing accounts

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