

### What is it?

The Patent Box is a new preferential UK tax regime for profits arising from patents. It is intended to strengthen the UK's position as a world leader in innovation and patented technologies. UK corporation tax on worldwide profits gained from patents will be reduced from 24 per cent to 10 per cent.

### When will it come into effect?

The Patent Box is expected to be introduced from 1 April 2013. Draft legislation has been released ahead of its introduction.

### Who will benefit from this?

Companies that own a qualifying patent or hold an exclusive licence to exploit a qualifying patent will be able to choose to have the profits derived from that patent taxed at just 10 per cent.

The opportunity to apply this reduced tax rate should be available to many businesses. Indeed, the draft legislation states that qualifying patents will include those granted by the UK Intellectual Property Office and the European Patent Office.

### What income will benefit from the 10 per cent tax rate?

- Income from the sale of patented inventions or products;
- Income from the sale or exclusive licensing of patent rights including licence fees and royalties;
- Income from the sale of items that incorporate a qualifying patent;
- Income from patent infringement compensation; and
- Income from notional royalties – relevant where a qualifying patented product is used in a process to produce income from a non-patented product or service.

### How do we fall within the Patent Box?

This is a regime intended to boost innovative companies and it is crucial that companies ensure they meet the requirements. This can be done by:

- exploring opportunities to patent products or processes; and
- reviewing existing and future licensing arrangements to evaluate whether licences fall within the definition of 'exclusive licence' as defined in the draft legislation.

### Are there any other factors to consider?

The Patent Box regime will be optional and it will be important to ensure that all factors are taken into account. Points to consider include:

- reviewing any joint venture or intra-group arrangements to identify which entities own patents, which entities use those patents and whether any restructuring is required to truly benefit;
- selecting the method of calculating taxable profits – the regime will offer a choice of how to do this and making the right choice will require careful consideration and planning; and
- how the regime fits in with the wider tax affairs of the company and its group, including the application of transfer pricing principles to intra-group arrangements and cross border issues involving the tax regimes of other countries.

This is just a summary of a few of the issues in this long, complex draft legislation. It is, therefore, prudent for companies to plan in advance of the introduction of the Patent Box.

### How can Squire Sanders help?

Squire Sanders has the expertise to help your company fully exploit and protect access to this attractive relief. Our UK and international tax experts can guide you through the complexities of this regime, including the application of transfer pricing rules. In addition, our intellectual property team are able to assist in the drafting of licences, reviewing patent portfolios and all other associated IP matters.

If you would like further information on how the Patent Box may affect your company, or how Squire Sanders can help your company reduce its corporation tax liability, please do not hesitate to contact us.

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