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## HMRC internal manual

# Corporate Intangibles Research and Development Manual

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[Back to contents](#) > [CIRD200000](#) > [CIRD210000](#)

## CIRD210100 - Patent Box: qualifying companies: meaning of 'qualifying company'

### CTA10/S357B

Only qualifying companies can benefit from the regime.

In order to be a qualifying company the company must meet either condition A or condition B, and in the case of a company that is a member of a group, condition C.

## Condition A

At any time during the accounting period, the company holds any 'qualifying IP rights' ([CIRD210110 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210110\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210110)) or an exclusive licence ([CIRD210120 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210120\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210120)+) in respect of any qualifying IP rights.

## Condition B

The company:

- has held a 'qualifying IP right' ([CIRD210110 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210110\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210110)) or an exclusive licence ([CIRD210120 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210120\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210120)+) in respect of any qualifying IP rights,
- has received income in respect of an event or events occurring at times when it was a qualifying company and a Patent Box election had effect,
- and that income falls to be taxed in a later accounting period.

Condition B is intended to cover the situation where income relating to qualifying IP rights is brought into account in an accounting period after the rights have expired or are no longer held by the company.

For example, a company may be involved in proceedings relating to possible infringement of its patents but by the time the action is successfully concluded the patents may have expired. In such a case the company is treated as a qualifying company when the income arising from the action is brought into account, provided that at the time of

the infringement the company was a qualifying company that had made an election under S357A(1).

## Condition C

The company satisfies the 'active ownership' condition ([CIRD210210 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210210\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210210)) in relation to substantially all of its qualifying IP rights.

Where a company becomes a qualifying company part way through an accounting period, it is only relevant IP income received after the date the company became a qualifying company that can be included in the company's claim for that accounting period. This is because before that date the income cannot be income from a qualifying IP right.

[Top of page](#)

## Patent Pending

A company will be treated as a qualifying company if it has applied for a patent that has not yet been granted and would otherwise be a qualifying company. If such a company elects into the regime in respect of that patent, then Patent Box benefits covering the application period may arise when the patent is granted ([CIRD220540 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird220540\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird220540)).

→ **Next page**

(/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210110)



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