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HMRC internal manual

Corporate Intangibles Research and Development Manual

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CIRD260120 - Patent Box: supplementary: partnerships

CTA10/S357GB

S357A makes clear that only a company may elect into the regime. However, a qualifying IP right may sometimes be developed on a collaborative basis using partnership arrangements. Where one of the partners is a company, CTA09/S1259 will be relevant. This requires trade profits to be computed as if the partnership were a company and each corporate to be allocated an amount of these profits based on its profit share.

Where a partnership meets both the development and active ownership requirements in respect of qualifying IP rights it holds, a corporate partner in the partnership may obtain the benefits of the Patent Box.

This is achieved by allowing the corporate partner to elect to be taxed as if the partnership itself had elected into the regime. As a result of such an election, the profit allocated to the corporate partner will be reduced through the Patent Box calculation such that the effect will be that the actual profits are charged at 10 percent.

The election is made on a company-by-company basis so some corporate partners may elect in and some may not. The usual time limits for making elections apply ([CIRD260100](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird260100) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird260100>)).

A partnership meets the development condition in relation to a qualifying IP right for the purposes of this section if it has itself carried out qualifying development in relation to the right, or if a 'relevant corporate partner' (entitled to at least a 40% share of profits or losses) has done so. The latter test would, for instance, be met if such a partner transferred to the partnership IP rights that it had itself developed.

Where a corporate partner's return from the partnership is economically equivalent to interest (see [CIRD220130](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird220130) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird220130>)) then it is treated as if no election had been made in relation to its interest in the partnership.

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