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## HMRC internal manual

# Corporate Intangibles Research and Development Manual

From: [HM Revenue & Customs](#)  
([/government/organisations/hm-revenue-customs](#))

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## CIRD210150 - Patent Box: qualifying companies: qualifying IP rights: rights to which Part 8A applies

### CTA10/S357BB and CTA10/S357BBA (from 1 January 2021)

The legislation lists rights to which it applies:

- A patent granted by the UK Intellectual Property Office (IPO) under the Patents Act 1977.

- A patent granted by the European Patent Office (EPO).
- A patent that is granted under the law of a specified European Economic Area state ([CIRD210160](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210160) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210160>)).
- Rights similar to patents, including rights arising under new legislation coming into force after the end of the UK Transition Period (post 31 December 2020) as a consequence of the UK leaving the EU (see [CIRD210170](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210170) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210170>) and [CIRD210175](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210175) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210175>)).

It is a question of fact, and generally a matter of public record, whether a patent has been granted and is in force.

## **National security or public safety**

Normally, patents are granted by patent offices in exchange for a full disclosure of the invention. However, where such disclosure could be prejudicial to national security or the safety of the public, the patent will not be formally granted and the invention will not be disclosed. Where the UK IPO has notified a company making the application that the application complies with the requirements of the Patents Act 1977 but that directions prohibiting the publication of the invention have been put in force, the company making the application is treated, for the purposes of the Patent Box, as if it had been granted the patent under the Patents Act 1977. Such treatment, however, does not extend to cover secrecy granted by IP regimes other than the UK IPO because it would be extremely unlikely that equivalent evidence to confirm the position could be supplied to HMRC in support of the claim.

All such claims should be referred by HMRC officers to BAI (CT Innovation and Growth team) Patent Box contacts.

## **Rights similar to patents**

These rights relate to human and veterinary medicines, plant breeding and plant varieties.

Where a person holds marketing authorisation rights in respect of a product in accordance with any European Union legislation or, following the transition period, an equivalent UK right, and that product benefits from either 'marketing protection' or 'data protection', the person is treated as having been granted a right to which the Patent Box applies.

'Marketing protection' and 'data protection' for these purposes are defined in the legislation and updated for 1 January 2021 onwards - see [CIRD210170 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210170\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210170) and [CIRD210175 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210175\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird210175)

## **Legal rights vs economic beneficial ownership**

Where a company legally owns a right to which CTA10/PT8 applies (S357BB(1) and s357BBA(1)) but has transferred economic beneficial ownership of that right to another party, the company will still hold a qualifying IP right if it meets the development condition. The other party might also be able to access Patent Box benefits if it is a company with an exclusive licence (S357BA, [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))

It is not considered sufficient for a company to have economic and/or beneficial ownership, but not legal ownership and to be regarded as

‘holding’ that right. The company may however be deemed to be holding a qualifying right by way of holding a notional or actual exclusive licence conveying economic and beneficial ownership from the legal owner.

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