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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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CIRD220315 - Patent Box: relevant IP profits: relevant IP income: software: income earned

Software can be exploited in various ways. A common feature is the existence of an End User Licence Agreement ('EULA'), which the end user is obliged to enter into before being able to use the software. The Patent Box company may receive its income under the EULA or under another contract.

For example, the income may be paid directly to the Patent Box company as a result of a direct

sale or grant of licence to use the software to the end user. Alternatively, the transaction with the end user may be via an intermediate distributor who is licensed to copy, reproduce and sell the software in return for a licence fee or royalty payable to the Patent Box company. There may be other circumstances where the distributor has no rights in respect of the qualifying IP right - the distributor might simply invoice the end user but does so on behalf of the Patent Box company, and it is the Patent Box company that issues the EULA and delivers the software directly to the end user. Such a distributor may retain a portion of the end user licence fee but is obliged to remit the rest of the fee to the Patent Box company.

It is essential to understand the true nature of the contractual arrangements to determine whether the income received by the Patent Box company is licence fee income that falls under Head 2 (S357BH(6), [CIRD220200 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird220200\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird220200)) or from the sale of an item that falls under Head 1 (S357BH(2), [CIRD220170 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird220170\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird220170))).

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