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HMRC internal manual

Corporate Intangibles Research and Development Manual

From: [HM Revenue & Customs](#)
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Published 11 March 2016

Updated: 10 September 2025 - [See all updates](#)

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CIRD220170 - Patent Box: relevant IP profits: relevant IP income: head 1: sales income

CTA10/S357BH(2)

Head 1 is income from the sale by the company of:

(a) Qualifying Items

A qualifying item is an item in respect of which a qualifying IP right held by the company has been granted. For a patent, the qualifying item will be the invention claimed in that patent.

Qualifying IP rights may only protect European sales. For example, an EPO patent will not prevent a competitor from manufacturing and selling the invention in a jurisdiction outside those to which that EPO patent relates. However worldwide sales by the company of that item will still fall within head 1; an item does not need to be protected by the qualifying IP right in the jurisdiction of sale. A qualifying item for the purposes of head 1 is defined simply as an item in respect of which the qualifying IP right is granted.

Where a company begins to hold a qualifying IP right, or begins to hold an exclusive licence in respect of such a right, during an accounting period, then income will only be relevant IP income from the point at which the right is held. Similarly, sales made after the company ceases to hold the right or exclusive licence will not give rise to relevant IP income. It may be appropriate in such circumstances to compute the relevant IP income on a time-apportioned basis (unless sales of the relevant product do not reflect this).

(b) Items incorporating one or more qualifying items

Sales of items that incorporate qualifying items also qualify. To be incorporated, the item must be physically part of the larger item and intended to be so for its operating life.

‘Parent items’ are items that are designed to incorporate a qualifying item. If the parent item and the qualifying item are sold together as a single unit or as part of a single unit and at a single price, then an ‘item incorporating a qualifying item’ includes the parent item.

(c) Items wholly or mainly designed to be incorporated into items at (a) or (b)

This section is included to cover bespoke spare parts. The spare part will also qualify under head 1 as long as the company selling the part holds, at the time of selling them, the qualifying IP rights in the item for which the spare parts are designed.

Sales of products that are a direct result of a patented process will not fall within head 1 unless the product is protected by a relevant product by process claim in the process patent ([CIRD220250](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird220250) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird220250>)). Claims for products defined in terms of a process of manufacture are allowable only if the products as such fulfil the requirements for patentability, for example, that they are new and inventive. A product is not rendered novel merely by the fact that it is produced by means of a new process.

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