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HMRC internal manual

Corporate Intangibles Research and Development Manual

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

Published 11 March 2016

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

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CIRD220180 - Patent Box: relevant IP profits: relevant IP income: head 1: sales income: packaging

CTA10/S357BH(3) & (4)

S357BH(3) divides an item between the packaging and its contents (where they might otherwise be treated as a single item). However, this separation is not done where the packaging performs a function essential for the use of the packaged product.

Separation of packaging and contents

The contents of a container will not normally be incorporated in that container, as they will be intended to be removed from it for use. But, to avoid doubt, or in cases where they would otherwise be so incorporated, S357BH specifically defines packaging and its contents to be separate items, unless the packaging performs a function other than just the normal function of packaging: to contain, protect, facilitate delivery or handling of an item or to enable the item to be presented in a particular way.

The main object of this rule is to stop non-patented items being sold in patented packaging as a single item with the result that the whole item would otherwise qualify under head 1.

Packaging performs a function

Packaging may exceptionally be an integral part of the product throughout its life, if it has a particular function aside from its packaging function. To deal with this, the legislation allows packaging to be regarded as incorporated with its contents if it performs a function that is essential to allow its contents to be used in the particular way they are intended to be used. This might apply, for example, in the case of an aerosol or inhaler.

Mixed income: patented packaging

If packaging is patented, and contributes to the sale value of a non-patented product that the packaging contains, then S357BHC will allow the income that is reasonably attributable to the packaging to qualify as RIPI.

If the patented item is the contents (and the packaging is not patented) then the de minimis test in the mixed income rule in S357BHC ([CIRD220290 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-)

[development-manual/cird220290](#)) means that in most cases there will be no need to apportion income between qualifying and non-qualifying elements.

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