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HMRC internal manual

Corporate Intangibles Research and Development Manual

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CIRD271000 - Patent Box: patent pending calculation: Transitional provisions from the old regime CTA10/s357BQ

S357BQ CTA10

This section now only applies to certain calculations relating to patents pending.

All qualifying IP rights will have entered the ‘new regime’ by 1 July 2021. This means that the ‘nexus requirements’ of streaming relevant IP income and applying an R&D Fraction to those streams and

sub-streams are now a required part of the Patent Box calculation.

However, it may still be the case that companies which elected into the Patent Box prior to 1 July 2016 have patents granted which were applied for before 1 July 2016. Relevant IP profits from the patent pending years are included in the computation in the year of grant, but the calculation of those profits follow the old rules applicable in those years.

For the accounting period straddling 30 June 2016 there should be two notional accounting periods to ensure that the assets are assigned to the correct regime. The filing date remains the same – it is simply a mechanism to allocate the Patent Box assets to the correct regime.

Example: Entering the transitional provisions

The APE 31/12/16 is divided into notional accounting periods 1/1/16 – 30/6/16 and 1/7/16 – 31/12/16.

Where there is a patent pending which is introduced into the computation in the year of grant, the adjustment calculation must reflect whether the qualifying IP right was regarded as old or new in each year.

The remaining old IP is gathered into one sub-stream, which will not have an R&D fraction applied to it, but that old relevant income will fall within the streaming calculations shown at [CIRD271500 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird271500\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird271500).

Any old IP still remaining on 30 June 2021 will be taxed under the new regime from 1 July 2021. A notional accounting period should be used to split any accounting periods straddling this date in order to incorporate different regimes within the same period.

Example: leaving the transitional period

For the accounting period straddling 30/6/21 there should be two notional accounting periods to ensure that the assets are assigned to the correct regime. The filing date remains the same (31/12/23) - it is simply a mechanism to allocate the Patent Box assets to the correct regime.

In the accounting period ended 31/12/21 there will need to be a notional split whereby after 1/7/2021 the R&D fraction is applied to the relevant IP income.

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