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HMRC internal manual

Corporate Intangibles Research and Development Manual

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CIRD210175 - Patent Box: qualifying companies: qualifying IP rights: other rights to which Part 8A applies: plant breeders' rights, plant variety rights, and plant protection products with data protection benefits

CIRD210175 - Patent Box: qualifying companies: qualifying IP rights: other rights to which Part 8A applies: plant breeders' rights, plant variety rights, and plant protection products with data protection benefits

The scope of the Patent Box extends to rights similar to patents which relate to human and veterinary medicines, plant breeding and plant varieties. It is not the intention to limit the scope of the Patent Box as a result of the UK's exit from the EU, so UK equivalent rights have been included from 1 January 2021 (see CTA/357BB), in addition to rights under EU law, which continue to qualify (see CTA/357BBA). Supplementary Protection Certificates and Marketing Authorisations are included at [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 plant breeders' rights, plant variety rights, and plant protection products with data protection benefits are included here.

1. Plant breeders' rights are granted in accordance with Part 1 of the Plant Varieties Act 1997. Community Plant Variety rights are granted under Council Regulation (EC) No 2100/94.

Community plant variety rights granted under Council Regulation (EC) No 2100/94 (19), and which are contained in the register maintained under Article 87(2) of the Council Regulation immediately before Exit Day, continue as existing rights and are treated as if they were a plant breeders' right granted in accordance with the 1997 Act and as if the variety was registered in accordance with regulations under section 18(1)(a) of the 1997 Act.

Accordingly, on and after exit day, the provisions of the 1997 Act apply in relation to those existing EU rights. Rights under the 1997 Act remain included within s357BB and S357BBA allows EU rights which are included by virtue of this section, and future rights included within this Act, to be included as qualifying IP rights for the PatentBox.

2. Plant protection products which benefit from a period of data protection under Article 59 of Regulation 1107/2009 will also be treated as holding a right to which the Patent Box applies for the period of ten to thirteen, or thirteen to fifteen, years as set out in that Article.

However, a company will not be treated as holding a right to which this Patent Box applies if the only data protection afforded under Article 59 is in respect of a study that was necessary for the renewal or review of an authorisation.

Regulation (EC) No 1107/2009 means Regulation(EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market.

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