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# 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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# CIRD276200 - Patent Box: CSA: examples of the Patent Box calculation for a company members of a Cost Sharing Arrangement

## CSA Examples

This is a series of examples applying the Patent Box rules to companies within a CSA, showing how the legislation is applied and highlighting the various parts of the CSA rules explained in [CIRD276050\(link is external\)](#)  
(<https://www.gov.uk/hmrc-internal-manuals/corporate->

[intangibles-research-and-development-manual/cird276050](#)) and [CIRD276100\(link is external\)](#) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird276100>). And cird 276150

## Simple Example

Three companies A, B and C have R&D facilities which allow them to carry on complementary R&D in different fields of research with a view to combining the results into one specific product. There is no guarantee that the costs of each specialist area of research will be equal, so the participators may agree that the income arising from any resultant IP (including, but not exclusive to, patents) will be split according to the relative costs incurred by each participator.

It would also be acceptable to apportion costs based on anticipated income from the invention for each contributor's field of use or geographical location, if the facts support that arrangement within the CSA.

Alternatively they may agree that the costs incurred by each participator should be recorded and that the greatest contributor will be reimbursed a proportion of their costs by the other participators. The income arising from the resultant IP would then be split equally between the participators, resulting in both costs and income being split equally across the participators.

Accordingly, each of the participators will have contributed to the development of the IP and will be entitled to a share of the income from that IP as a result. To the extent that this income includes income from a qualifying patent it should qualify for the Patent Box just as it would if it were not within a CSA.

## More complex scenario

UK Companies Y and Z are in one group and companies C, D and G are members of a different group. All have December accounting year ends.

Y, Z, C and D are members of a CSA. Grouped companies Y and Z and unconnected company D formed a CSA on 1 January 2015. Company C had exclusively licensed a patent to D since 2014, but C itself joined on 6 August 2018, and simultaneously transferred that patent to D, which held all IP for the CSA.

Qualifying IP rights developed by Y, Z, C and D used in the CSA were all previously granted and once they contributed to the CSA all IP was legally held by company D.

Company Z contributes to the CSA financially. Companies Y and C carry out R&D directly. Y, C and D also subcontract R&D to E and F, unconnected third party companies which are not in the CSA; C and D do this through fellow group member G, which is not part of the CSA. Where R&D is outsourced, the relevant CSA members still control the key decisions around the R&D work undertaken, thus meeting the active ownership conditions. Company Z also needs to show active ownership to qualify for entry into the Patent Box. In this example Z previously developed some of the IP now owned by D and retains administrative involvement in the project.

The profits expected from future sales of the developed product are:

Y 10%, Z 10% C 5%, D 75%.

It should be assumed for the purposes of this example that the value of the respective contributions made by the members of the CSA, with respect to IP contributed and R&D effort, match the expected profits.

All of these UK companies in the CSA have elected into the Patent Box and include relevant IP income arising from the IP owned by D.

Example 1 : When the new rules apply

The nexus Patent Box changes made in FA16 apply from 1/7/16 for all companies elected into

the Patent Box. However the additional CSA rules within FA17 Finance No2 Act do not take effect until the accounting period commencing after 1/4/17.

All companies must track and trace their R&D expenditure and acquisition costs relating to their CSA projects from these dates (unless an election to use an earlier date is made) and from their own perspective.

#### Example 2 : IP ownership and acquisition costs

CTA10/S357GCZD and CTA10/s357GCZE treat acquisition costs of qualifying IP rights related to a CSA as acquisition costs for the purposes of s357BLE.

The patent introduced by C on 6/8/18 was already licensed to D for use within the CSA. Once the patent had transferred to D there was no need for the licence which was extinguished. Any licence fee payments included within D's R&D Fraction should be removed as the licence right no longer exists.

Any payment or deemed acquisition cost by D to acquire the patent should be treated as an acquisition cost by D in its R&D Fraction. This mirrors the treatment outside of a CSA where a company with an exclusive licence acquires the underlying patent.

Any contribution towards this transaction made by other members of the CSA will be acquisition costs for those members.

Any 'buy in' payment made by C to join the CSA is an acquisition cost for C

#### Example 3: Streaming by a CSA member with other RIPI

Streaming is required to be at the lowest level of IP, product or product family which will depend on the way relevant IP income is received and R&D projects undertaken. It is therefore likely in general

that there will be a separate CSA sub-stream or sub-streams, but this is not a requirement.

Company C receives payment from the CSA of 5% of sales income once the successful project is bought to market. It also receives income from sales from another CSA in the 'simple example' above. Both these sources are relevant IP income, but C will put them in different streams.

The R&D work was tracked and traced separately for each project.

#### Example 4 : Example of intra group payment flows

Companies Y and C incur R&D expenditure directly in relation to shared projects within the cost share. Under the terms of the cost share. Z contributes financially to the CSA by making payments to Y and C.

For Y's R&D fraction:

Y has direct R&D expenditure. None of C's expenditure is treated as contracted out by Y because Y makes no payment towards it.

Z's payment to Y does not reduce direct costs and there is no other intra CSA payment which can be deemed to be Y's connected R&D subcontract cost under CTA10/s357BLEA and GCZC, so the income which Y receives from Z cannot be netted against any payment made by Y.

For Z's R&D fraction:

Under CTA10/s357GCZC(2), the payment by Z is treated as Z having contracted out R&D to each of Y and C because it funds direct R&D that they do, and they are all within the CSA.

Z's payments to Y (connected party) are treated under CTA10/s357GCZC(2) as S2. This expenditure would be reduced to the extent of any receipts of Z from connected parties under the cost share arrangement in respect of that R&D project.

Z's payments to C (unconnected party) are treated under CTA10/s357GCZC(2) as S1. This expenditure would be reduced to the extent of any receipts of Z from unconnected parties under the cost share arrangement in respect of that R&D project.

For C's R&D fraction:

C has direct R&D expenditure. None of Y's direct expenditure is treated as contracted out by C because C makes no payment towards it. Z's payment to C does not reduce direct costs and there is no other intra CSA payment which can be deemed to be C's subcontract cost under CTA10/s357BLEA and CTA10/S357GCZC, for that R&D project, so there is no expenditure which falls within CTA10/s357GCZC, and no amounts against which Z's payments are netted off under CTA10/s357BLEA.

Example 5 : A further complex example showing how expenditure should be disregarded when there has been an equivalent receipt of the same type within the CSA

Within the CSA the qualifying IP is used in a separate project. Company D's project results are also of use to companies Y and C. Company C makes a payment to company Y for its (C's) use of the R&D expenditure costs, and Company Y makes a payment to D, covering its share and C's share of the R&D expenditure costs. The payments between Y, C and D are covered by the Cost Sharing Agreement and relate to the subcontracting of R&D within the CSA.

For company C's R&D Fraction:

CTA10/S357GCZC(2) means that in such an arrangement C is treated as having contracted out R&D to D because D is another company in the CSA that carries out R&D for which C pays. Although its payments are directly made to Y, an unconnected party, they are deemed by CTA10/s357GZCZ(2) to be S2, connected party expenditure. This reflects the fact that in

substance C has outsourced R&D to a connected party, D.

For Company Y's R&D Fraction:

This is also covered by CTA10/s357GCZC(2) as if it had contracted directly with D and hence these payments will be treated as S1 (unconnected expenditure) in Y's R&D fraction. Under CTA10/S357BLEA, the amount of expenditure will be reduced by the receipts from C, such that Y only brings into the R&D fraction the amount of expenditure that relates to its true share.

For Company D's R&D Fraction:

Company D subcontracted the R&D work to unconnected parties, and the expenditure in S2 of its R&D Fraction will be reduced by the contributions from the other CSA members.

Example 6 subcontractor costs – simple 'pass through' example

Company Y outsources R&D projects to company E which is an unconnected party and which is outside the CSA. For administrative reasons company Z enters into all contracts with E on behalf of the CSA. Company Y should consider the role which company Z has played in that R&D work which company Y controls. If Z is acting as a 'pass through' intermediary, either financially or administratively, company Y can also treat its payment to Z as an unconnected subcontract cost, despite being made to a connected company, because company Z is disregarded when considering the purpose of the payment and when considering whether the condition in CTA10/s357GCZC (3)(b) is met— company Y has in effect contracted directly with E, an unconnected subcontractor.

Example 7 – subcontractor costs – more complex 'pass through' example

Company F undertakes R&D on behalf of companies C and D. Company F is outside the

CSA and is not part of the same group as C and D. For administrative reasons, company G enters into all contracts with F on behalf of C and D – company G is part of the same group as C and D, but is not part of the CSA. Companies C and D each contract separately with G. In terms of payments, these follow the contracting routes - C and D each make separate payments to G, whilst G then makes aggregated payments to F. C and D control the R&D work, and G can be accepted to be acting as a ‘pass through’ intermediary.

As C and D separately contract out R&D projects, and each make payments for the R&D which they have themselves contracted out, payments made by C do not relate to R&D contracted out by D, and vice versa. CTA10/s357GCZC(3)(c) therefore means that CTA10/s357GCZC(4) does not apply to treat payments as being from C to D or D to C, because they relate to different R&D projects and as G is disregarded as a ‘pass through’ intermediary, the payments are regarded as being made from C to F and D to F, which in each case fall within S1 (unconnected party subcontracting).

It should be noted that if C had been making payments on behalf of D, with no separate R&D project of its own, C would then also be acting as a ‘pass through’ intermediary and D would be regarded as having made the subcontract payment directly to F, a third party, as S1, unconnected expenditure, via C and G.

However if D is making payments to C for any other reason related to its R&D project, it would be regarded as falling within CTA10/s357GCZC(4) and be included as a connected party subcontract payment, S2.

Example 8: putting the Patent Box calculation together, once relevant IP income (RIPI) is received from the CSA.

This follows the same steps as [CIRD275200\(link is external\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird275200) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird275200>). It does not repeat



everything from that section but notes how the new CSA rules affect those steps.

Consider the accounting period ended 31/12/18.

- Company Y (R&D company in CSA)

The company has the following streams

Standard stream of non RIPI

Sub-stream of RIPI arising from its 10% share of profits from the CSA

R&D fraction components for CSA sub-stream

D: R&D expenditure undertaken by company Y itself (example 4).

S1 : unconnected intra CSA R&D subcontracting to company D (example 5) and

unconnected outsourced R&D subcontracted payment to company E (example 6)

S2: none

A : any payments to D for use of IP, not covered in examples.

- Company Z ( company contributes financially and has admin role for CSA, with previous development input into IP now held by D. Assume active ownership condition is met and pass – through role is correct).

The company has the following streams

Standard stream of non RIPI and

One sub-stream of RIPI arising from its 10% share of profits from the CSA

R&D fraction components for CSA sub-stream

D : none

S1: R&D expenditure to unconnected party C  
(example 4)

S2: R&D expenditure to connected party Y  
(example 4)

A: any payments to D for use of IP in the CSA , not covered in examples

- Company C : (R&D company which joined CSA on 6/8/2018)

The company has the following streams:

Standard stream of non RIPI and

Sub stream of RIPI licence income from D prior to joining CSA

Sub stream of 5% CSA profits from 6/8/2018

Sub stream of RIPI from 'simple example'

R&D Fraction components for CSA sub stream:

D direct R&D costs (example 4)

S1 R&D subcontracted expenditure to unconnected party F, (via company G which is acting only as a 'pass through' intermediary)  
(example 7)

S2 R&D expenditure to connected party D (via Y)  
(example 5)

A: any 'buy in' payments to join CSA

- Company D (Owner of the IP/ holder of exclusive licences for the CSA and R&D contributor)

The company has the following streams, assuming there is no non RIPI income

75% income share per CSA agreement

Any receipts from other CSA members over and above this agreement to use the IP

## R&D fraction components for sub-streams:

D: Direct R&D expenditure from less contributions from Y and C (example 5)

S1: D contracts R&D work to unconnected company F (via connected company G). As G is a 'pass through' intermediary, this expenditure is treated as S1. (example 7)

S2: none

A: any payment/deemed acquisition cost to C for patent introduced when C joined the CSA on 6/8/18. Licence fees prior to 6/8/18 will drop out when the licence is extinguished.

Companies E, F and G are not in the Patent Box as they do not hold qualifying IP rights and do not benefit from the CSA rules as they are not a member of the CSA.

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