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HMRC internal manual

Corporate Intangibles Research and Development Manual

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CIRD272000 - Patent Box: Tracking and tracing R&D expenditure CTA10/s357BLB

What is tracking and tracing?

The Patent Box regime requires a link between a company's expenditure on R&D, its qualifying IP rights and the IP income derived from those assets. Companies therefore need to 'track and trace' their R&D expenditure i.e. identify it, trace it to the development of a particular qualifying IP right and then to monitor the link going forward.

The expenditure needs to be identified in order to calculate the R&D fraction which forms part of the Patent Box computation for each income sub-stream. Continued R&D and/or acquisition expenditure means that the fraction will change each year.

When first preparing to track and trace R&D expenditure the company needs to identify how the income will be streamed, so the R&D expenditure can be grouped accordingly into the relevant fraction, and the company can understand what the different terms of the fraction include.

Please note it is not necessary for the R&D expenditure to have been included in an R&D Tax Credit and/or RDEC claim for R&D expenditure to be included in the R&D Fraction for a Patent Box election.

Effect on streaming

This page should be read in conjunction with [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) on Streaming as both are required to prepare for the Patent Box calculation and are to a large extent inter dependent.

Does the company have to track and trace if the company clearly has a fraction of 1?

If a company currently has an R&D fraction of 1 i.e. all their R&D is undertaken in-house, and there are no acquisition costs, it may seem as though tracking and tracing will be unnecessary. If a company has clear evidence that all of their fractions cannot be other than 1 (for example because all the R&D has been carried out in-house and there have been no related acquisitions) and chooses, under self assessment, to use this evidence instead of tracking and tracing actual R&D expenditure, HMRC will consider this to be acceptable. However, this should not be used to ignore the requirement to track R&D

expenditure without consideration of future plans. If there should be any changes which affect the fraction – for example an acquisition of a qualifying IP right which is incorporated into the same product stream, identifying the previous R&D expenditure will become necessary to complete the R&D fraction in that later year. So tracking and tracing at the time the fraction is 1 may be easier than having to identify past expenditure only when it becomes necessary.

Small Claims Treatment: Global Stream see CIRD273200

Companies with smaller amounts of IP income may be able to elect for the global streaming treatment at S357BNC, where all income is included in one stream. Companies which wish to take advantage of the global streaming treatment may therefore combine their R&D expenditure for different qualifying IP rights into one stream. Consideration of the company's future plans and profit projections will need to be made when deciding the level at which to track and trace the R&D expenditure. If a company's qualifying expenditure becomes too large to elect for Small Claims Treatment it will need to identify separate R&D fractions when streaming separately becomes necessary. As above, companies in this situation should consider whether tracking and tracing their R&D expenditure in more detail at the time might prove more beneficial ready for future changes in circumstances.

Process Patents and other relevant IP income falling within s357BHA see [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>)

IP income streams relating to IP derived income calculated under s357BHA require R&D expenditure to be tracked and traced in the same way as for products. Such expenditure needs to be tracked and traced to the IP asset, and the methodology for doing so should be made clear in

the first such claim made and updated where necessary.

Licences and relevant income falling within Head 2 s357BH see [CIRD220200 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird220200\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird220200)

A Licence and the underlying IP asset(s) are separate assets. However, when relevant IP income is received because the company holds an exclusive licence there still needs to be an R&D fraction applied to that stream. Practically, there has not been R&D expenditure to create the licence itself, so in order to allow the R&D expenditure to form the R&D fraction at all, the related R&D expenditure on the underlying asset can be used in respect of the licence to which it relates, as without the underlying IP asset the licence would not have been created. There is likely to be additional acquisition expenditure in relation to the licence, which will contribute to term A of the R&D fraction.

[CIRD274500 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird274500\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird274500) describes circumstances when the terms and conditions of a licence date from before the start of tracking and tracing.

Other Heads of Income within s357BH see [CIRD220240 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird220240\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird220240)

The other Heads of income include proceeds of realisation, infringement compensation and damages, for example, all instances where the amount may relate to a 'one off' receipt in the future. An R&D fraction will still be required and the tracking and tracing records will need to be available for these circumstances as well as Head 1 Sales.

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