The Patent Box

Confluence Tax LLP

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Programme

- Introductions
- An overview of the patent box – the story so far
- Insights from HMRC
- What happens if… some example scenarios
- Closing remarks
- Q&A
- Lunch

Introductions

Colin Hailey – Founder of Confluence Tax

David Harris – HMRC, Senior Policy Advisor

Gill Turner – Confluence Tax, Technical Specialist

Patent box – an overview

- Patent box introduced in 2013
- An incentive for innovation in the UK
- 10% tax rate on profits from patents
  - Profits from items incorporating a patent
- Benefit given by an additional tax deduction
- Aim to benefit the patent ‘super profits’
  - Take out routine return
  - Take out marketing return

Patent box – an overview

- Patents and similar assets
- Not US patents
- To claim must own the patent or hold an exclusive licence

Patent box – an overview

- Formulaic rules:
  - Calculate percentage of income that is from items containing a patent
  - Use this to find the percentage of taxable profits
  - Adjust for routine return and marketing return
  - Turn this patent related profit into a tax deduction

Patent box – an overview

- 2016 changes:
  - 'Old rules' – elected in by 1 July 2016
  - 'New rules' – after 1 July 2016 and all companies after 2021
- Changes driven by OECD wide BEPS project
- The patent box rate is only available to profits with 'nexus' to the activities of the company

Patent box – the nexus fraction

$$\frac{\text{Good spend}}{\text{Good spend + bad spend}}$$

OR

$$\frac{\text{Own R\&D spend + R\&D subcontracted to 3}^{\text{rd}}\text{ parties + 30\% uplift}}{\text{Own R\&D spend + R\&D subcontracted to 3}^{\text{rd}}\text{ parties + Acquisition costs + R\&D subcontracted to related parties}}$$

Patent box – why do I care?

Why should a company with losses think about the patent box?

- Lower future tax rate on profits
- Lower future tax rate on a licencing deal
- Due diligence process by future investors / IPO
- Due diligence process on a share sale