# Briefing Note

Mercer & Hole

## PATENT BOX

The patent box regime enables companies to pay corporation tax at a reduced rate (10%) on its income from patents and similar Intellectual Property (IP). Such income includes royalties and sales of goods, services and processes as long as they comprise as a component, the patent

In order to obtain relief, the benefits must be linked to actual Research & Development (R&D) expenditure.

The rules require profit streaming. The company must identify the net profit for separate streams of income for each IP asset, splitting costs on a just and reasonable basis. The calculated profit is then modified to reflect the proportion of the development activity on that particular IP asset, by means of the 'nexus fraction' which is applied to the income for each IP asset.

The nexus fraction is:

Qualifying R&D spend to create IP assets +30% uplift / Overall expenditure on creating the IP assets

Qualifying R&D spend is:

- direct expenditure on own R&D activity; and
- expenditure on R&D activity subcontracted to 3rd parties.

Overall expenditure is:

- direct expenditure on own R&D activity;
- expenditure on R&D activity subcontracted to 3rd parties;
- expenditure on the acquisition of IP; and
- expenditure on R&D activity subcontracted to related parties.

The fraction is cumulative and cannot exceed 1. The amounts included are those incurred at company not group level. Therefore for groups that split their R&D, IP ownership and commercialisation between various companies the impact could be substantial.

The timings for the changes are as follows:

- Existing IP within the old regime can continue to benefit from the old (pre-2016) regime until 30 June 2021; and
- IP acquired from related parties after 1 January 2016 is not eligible for grandfathering, unless that IP already qualified under an existing IP regime.

Companies need to ensure their reporting systems are adequate to provide the relevant inputs for the streaming and nexus calculations.



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