

Consultation on the introduction of a Patent Box

About the IP Federation

The IP Federation represents IP-intensive companies in the United Kingdom (see list of members attached). All our members are extensive users of the patent system in the UK, either through UK national patents or European patents designating the UK, and employ their own in-house patent professionals.

Summary of this response

This is in response to the Government's consultation on the taxation of innovation and intellectual property with a deadline of 22 February 2011.

- The IP Federation has not reached a unanimous view on the desirability of the Patent Box.
- The proposed system is needlessly complex and could be unviable as it stands.
- R&D tax credits should not be reduced to fund the Patent Box.

The Patent Box

In discussions, it has transpired that some members of the IP Federation are in favour of the Patent Box, but others are not. Thus we cannot present a unanimous view on this.

However, we are concerned that the proposed system could be unviable in the form proposed. Although the date of grant of a patent is easily established, it is not so straightforward to establish when a patent was first commercialised. Many patents cover peripheral aspects of a commercialised product, or otherwise contribute to the success of the product but do not directly relate to it. Such patents are still of commercial importance, and contribute to the incentive to develop and launch new, innovative, products. Thus there is no logical reason to exclude them from the Patent Box.

The Government is aiming to avoid complexity, and yet identifying qualifying patents in some products or sectors will be a non-trivial, uncertain and potentially expensive exercise. Moreover, in some instances, the expense involved in identifying qualifying patents (in terms of professional and managerial time) may be greater than the financial benefit derived from the proposals.

A further issue is the question of retrospective liability in case a qualifying patent is later found invalid. Proper thought needs to be given to whether the patentee would then have to pay back the tax benefit derived.

Research and Development Tax Credits

On the other hand, the IP Federation is strongly in support of R&D tax credits. The tie-in with Research and Development is far more meaningful than trying to identify which patents relate to a commercialised product.

It is our view that R&D tax credits should not be reduced to fund the Patent Box.

IP Federation
21 February 2011

IP Federation members 2011

The IP Federation (formerly TMPDF), represents the views of UK industry in both IPR policy and practice matters within the EU, the UK and internationally. Its membership comprises the innovative and influential companies listed below. It is listed on the European Commission's register of interest representatives with identity no: 83549331760-12.

ARM Ltd
AstraZeneca plc
Babcock International Ltd
BAE Systems plc
BP p.l.c.
British Telecommunications plc
British-American Tobacco Co Ltd
BTG plc
Delphi Corp.
Dyson Technology Ltd
Eli Lilly & Co Ltd
ExxonMobil Chemical Europe Inc
Ford of Europe
Fujitsu Services Ltd
GE Healthcare
GKN plc
GlaxoSmithKline plc
Hewlett-Packard Ltd
IBM UK Ltd
Infineum UK Ltd
Merck Sharp & Dohme Ltd
Nokia UK Ltd
Nucletron Ltd
Pfizer Ltd
Philips Electronics UK Ltd
Pilkington Group Ltd
Procter & Gamble Ltd
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Rolls-Royce plc
Shell International Ltd
Smith & Nephew
Sony Europe Limited
Syngenta Ltd
The Linde Group
UCB Pharma plc
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