

Intellectual Property (IP) Box Taxation

Intellectual Property can be one of the most valuable assets of an organisation. Choosing the appropriate regime/location for structuring the exploitation of IP assets is vital for an organisation in order to achieve efficient business development, effective IP protection and maximisation of tax saving. Our specialists in Cyprus can provide you with complete structuring solutions for your IP Business. Importantly Cyprus continues to be one of the most tax-competitive jurisdictions offering favourable IP Box regimes.

Cyprus IP tax regime

In Cyprus, Companies holding Intellectual Property can benefit from the new IP Box regime effective as of 1 July 2016. The new IP regime was introduced into law, fully compliant with the provisions of OECD BEPS Action 5 report. The new regime adopts the 'nexus' approach where the IP regime makes its benefits conditional on the extent of R&D activities of taxpayers receiving the benefits.

The provisions of the new regime link the benefits of the regime with the R&D expenditure incurred by the taxpayer. As per the new IP box regime qualifying taxpayers will be eligible to claim a tax deduction equalling 80% of qualifying profits resulting from the business use of the qualifying assets. A taxpayer may elect not to claim the deduction or only claim a part of it.

Any R&D expenditure being outsourced to related parties will not be treated as a qualifying expenditure for the purposes of the IP Box Regime. In addition, under the IP regime capital gains from the disposal of the IP are not included in qualifying profits and are fully exempt from income tax.

Qualifying assets

Qualifying assets* may include:

- Patents as defined in the Patents Law
- Computer software
- Other intangible assets protected by law which fall under specific conditions (in particular, intangible assets that are non-obvious, useful and novel)

* Qualifying assets do not include trade names, including brands, trademarks, image rights and other intellectual property used for the marketing of goods and services.

Qualifying expenditure

The qualifying expenditure in relation to a qualifying intangible asset is the sum of all R&D expenditure which was incurred, in any tax year, wholly and exclusively for the development, enhancement or creation of an intangible asset and are directly related to this intangible asset.

Qualifying expenditure includes but is not limited to the following:

- Salary and wages, direct costs and general expenses associated with research and development activities
- Commission expenditure associated with research and development activities
- Research and development expenditure outsourced to unrelated parties

Qualifying expenditure does **not** include:

- The acquisition cost of a said intangible asset
- Interest paid or payable
- Expenditure relating to the acquisition or construction of immovable property
- Amounts that have been paid or are payable directly or indirectly to a related person carrying out research and development, irrespective if these amounts relate to a cost sharing agreement
- Costs which cannot be proved to be directly associated with a specific qualifying intangible asset

Qualifying expenditures are included in the nexus fraction in the year that they have been incurred, irrespective of their accounting or tax treatment.

Harneys & Intellectual property

We have a well-established and experienced intellectual property practice in Cyprus with a client base ranging from multinational corporations and major international law firms, to specialist IP boutique firms representing some of the world's largest IP portfolios.

A significant part of our practice involves providing legal advice on trademark registration; trademark licensing, distribution agreements as well as providing advice on commercialising IP portfolios.

Furthermore, we acted as the legal counsel to multiple corporations in relation to opposition proceedings, passing-off, unlawful competition and anti-counterfeiting procedures, aiming at injunctive relief, recovery of damages as well as preventive measures against infringements of IP rights.

Our lawyers can also assist international watching service firms with the monitoring of trademark registrations, while advising on potential infringements through our own independent watching services.

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We advise an international client base which includes the world's top law firms, financial institutions, investment funds and private individuals. Our lawyers are consistently recommended by leading independent legal directories such as Legal 500, Chambers and Partners, IFLR1000 and Who's Who.

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