

Intellectual property (IP) rights (Tax Guide 2018)

New rules & Tax Benefits for Cyprus IP Box

As from 1 July 2016 new rules apply for taxpayers wishing to obtain benefit under the so called “IP Box Regime”. The rules and conditions, which are applicable for assets which are developed after 1 July 2016, are summarized below.

Qualifying intangible assets

“Qualifying intangible asset” means an asset which was acquired, developed or exploited by a person in furtherance of his business, (excluding intellectual property associated with marketing) and which is the result of research and development activities and includes intangible assets for which only economic ownership exists.

These assets are:

- patents as defined in the Patents Law
- computer software
- other IP assets which are legally protected and they fall under one of the following:
 - > utility models, intellectual property assets which provide protection to plants and genetic material, orphan drug designations and extensions of protections for patents;
 - > non-obvious, useful, and novel, where the person which utilizes them in furtherance of a business does not generate annual gross revenues exceeding €7.500.000 (in case of a group of companies not exceeding €50.000.000), which are certified as such by an Appropriate Authority in Cyprus or abroad.

Business names (including brands), trademarks, image rights and other intellectual property rights used to market products and services are not considered as qualifying intangible assets.

Qualifying expenditure

“Qualifying expenditure” for qualifying intangible asset is the sum of total research and development costs incurred in any tax year, wholly and exclusively for the development, improvement or creation of qualifying intangible assets and which costs are directly related to the qualifying intangible assets.

Qualifying expenditure includes, but is not limited to, the following:

- wages and salaries
- direct costs
- general expenses relating to installations used for research and development;
- expenses for supplies related to research and development activities

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- costs associated with research and development that has been outsourced to non-related person

But do not include:

- cost for the acquisition of intangible assets
- interest paid or payable
- costs relating to the acquisition or construction of immovable property
- amounts paid or payable directly or indirectly to a related person to conduct research and development activities, regardless of whether these amounts relate to cost sharing agreement
- costs which cannot be proved directly connected to a specific eligible intangible asset

An up-lift expenditure will be added to the above costs, which means the lower of:

30% of the eligible costs, or

the total amount of the cost of acquisition and outsourcing to related parties for research and development in relation to the eligible intangible asset.

Qualifying income

“Qualifying income” means the proportion of the overall income corresponding to the fraction of the qualifying expenditure plus the uplift expenditure over the total expenditure incurred for the qualifying intangible asset.

Income includes, but is not limited to the following:

- royalties or other amounts in connection with the use of qualifying intangible asset
- any amount for a license for the operation of qualifying intangible asset
- any amount received from insurance or as compensation in relation to the qualifying intangible asset
- capital gains and other income from the sale of qualifying intangible asset
- embedded income of qualifying intangible asset arising from the sale of products or by using procedures that are directly related to this item

Overall Profit

“Overall profit” arising from the qualifying intangible asset means the gross income accrued within the tax year, less the direct costs for generating such income.

Direct costs include:

- all direct and indirect costs incurred in earning the income from the qualifying intangible asset

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- the amortization of the cost of the intangible
- notional interest on equity contributed to finance the development of the qualifying intangible asset

Calculation of taxable profit

80% of the overall profit derived from the qualifying intangible asset is treated as deductible expense. Every year the taxpayer may elect not to claim the whole or part of this allowance. In the case of a resulting loss, only 20% of the loss can be surrendered to other group companies or be carried forward to subsequent years.

Accounting Records

Any person who claims benefit under the above regime is obliged to maintain proper books of account and records of income and expenses for each intangible asset.

Assets which do not qualify for the transitional provisions for the IP Box regime

The cost of acquiring an intangible assets which does not qualify for the transitional provisions and which asset is used in furtherance of the business of the person can be amortized over the period of the useful life of the asset in accordance with accepted accounting principles with the maximum period being 20 years. In the case of sale of this intangible then a balancing statement must be prepared, the same way that such statement is.

Transitional arrangements for existing IP Box regime

The existing IP Box regime (which was introduced in Cyprus in 2012) covers intangible assets which are defined in the Patents Law, the Trade Marks Law and the Intellectual Property Rights Law. Effectively, it provides for an exemption from taxation of 80% of the gross income from the use of the intangible, ie after deducting from the total revenues all direct costs (including interest and the amortization of the cost of the intangible over 5 years).

In the case of a resulting loss, only 20% of the loss can be surrendered to other group companies or be carried forward to subsequent years.

There are transitional provisions for persons who have entered the existing IP Box regime, which enables them to continue claiming the benefit until 30 June 2021 with respect to intangible assets which:

1. were acquired before 2 January, 2016; or
2. were acquired directly or indirectly from a related person during the period from 2 January 2016 until 30 June 2016 and which assets at the time of their acquisition were benefiting under the IP Box regime or under a similar scheme for intangible assets in another state; or
3. were acquired from an unrelated person or developed during the period from 2 January 2016 until 30 June 2016.



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There are also transitional provisions until 31 December 2016 for intangible assets which were acquired directly or indirectly from a related person during the period from 2 January 2016 until 30 June 2016 and which do not fall under the above provisions.