

Patent box regime

AT A GLANCE

PATENT BOX REGIME

Aim: promote investments in research and development of intangible assets

Eligible intangible assets: software protected by copyright; patents, business and technical industrial know how; other legally protected IP, such as designs and models

Benefits: partial tax deduction (50%) from Income Corporate Tax for incomes arising from direct use or licensing of qualified intangible assets

What is it

The Patent box regime is a tax *bonus* introduced in order to improve the development of intellectual property, granting tax benefits to resident and non-resident taxpayers carrying out research and development activities.

Who can use it

- Companies
- Individual entrepreneurs
- Other bodies, different from companies, carrying out business activities
- Non-resident taxpayers with a permanent establishment in Italy if they are resident in a Country with which Italy has an effective tax information exchange agreement

Which intangible assets are eligible

- Software protected by copyright
- Patents (which can be granted or in process of being granted)
- Business and technical-industrial know how
- Other legally protected IP, such as designs and models

Benefits

Optional partial tax exemption from Corporate Tax for those incomes arising from direct use or licensing of qualified intangible assets. Under this regime, taxpayers can partially exclude from their tax income, for purposes of the Income Tax and of Regional Tax on Productive Activities, those qualified incomes deriving from the direct exploitation of intangibles or from licensing of the IP, such as royalties earned by the taxpayer, net of all IP-relating costs. The Patent Box businesses shall be entitled to exclude up to 50% of their income derived from such assets.

How to obtain the tax bonus

In order to determine the benefit, there must be a direct nexus between R&D activities and qualified IP, as well as a direct nexus between qualified IP and qualified income. The election shall be exercised annually by holders of the right to use the qualifying IP (owners or licensees) and it is deemed as irrevocable for 5 years.

The Patent Box regime requires taxpayers to obtain an *ad hoc* [advance tax ruling](#) from the Italian Revenue Agency, whose submission is mandatory for determining the amount of benefited income arising from the direct exploitation of the qualified intangible assets.

The ruling procedure is instead optional in order to determine the capital gain where the qualifying IP is licensed to related parties against the payment of royalties or if it is

transferred between related parties.