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The Northern Ireland Corporate Tax Office (NIrCTO)

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Aims

To help promote NI:

- Inward investment
- Local expansions
- HMRC Incentives and reliefs

Including: R&D Tax Relief
Patent Box
Creative industry reliefs

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Agenda

- R&D Overview
- Does my project qualify? (incl. project definition)
- R&D overview (pre 1 April 24)
- Grants & Subsidies (pre 1 April 24)
- New Merged Scheme (post 1 April 24)
- How to claim

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R&D Tax Relief - Brief overview

- Relief for qualifying ***revenue*** expenditure on R&D.
- Where a ***project*** seeks to achieve an advance in ***science*** or ***technology***
- Which is not readily available or deducible by a ***competent professional*** working in the field.
- Must be an advance in ***overall knowledge or capability in the field*** – not just the company's own state of knowledge or capability.
- (100% RDA's are available for ***capital*** expenditure).

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Examples of qualifying & non-qualifying activities

A software company which designs computer games, writes a new story line for an X-Box Series X and Series S/ PS5 game.

No matter now inventive the story line is, that in itself is not R&D.

Changes in the code, language and object interaction required to achieve the response speeds needed to run the game on a desktop games console were ground breaking in the software field.

This was qualifying R&D.

The *qualifying costs* related to the activities during this **period of uncertainty,** which directly related to resolving the code problems.

This *qualifying period* ceased when these issues were resolved.

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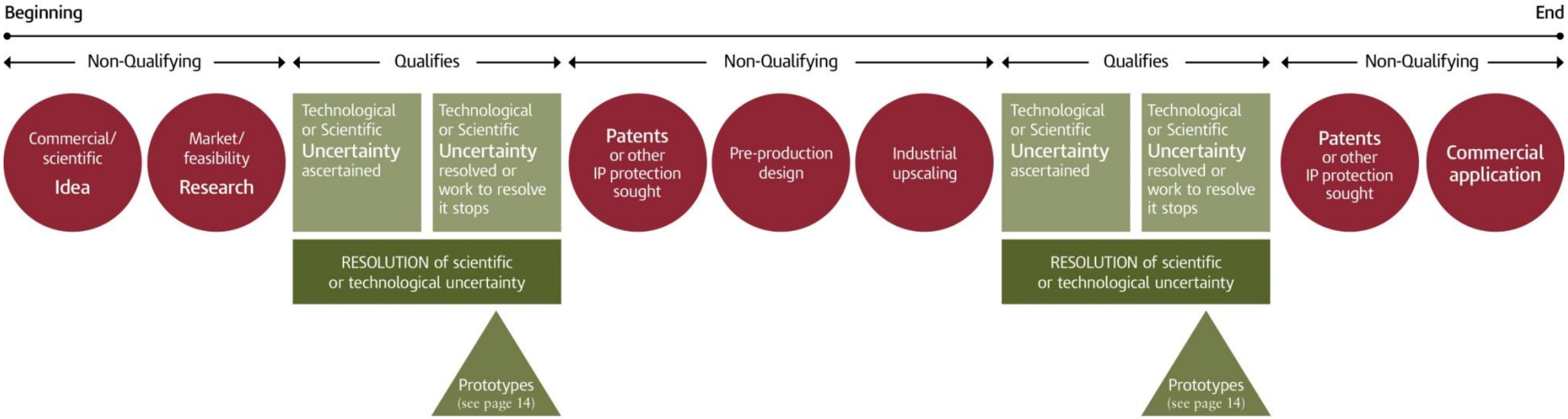
Possible commercial project time line – defining R&D for tax purposes



The parts of a project that require R&D activity to resolve scientific or technological uncertainties qualify for tax relief. The qualifying work starts when work to resolve the uncertainty starts, and ends when the new knowledge is codified in a usable form, or when work to resolve the uncertainty ceases.

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Further considerations

- Focus on the advance being achieved and not the industry or product aspiration, specification or design.
- It's not enough that a product is commercially innovative.
- What was the actual 'uncertainty' and what did you do to overcome it?
- What failures did you have?
- Could not be easily worked out by a professional in the field.
- Involve the R&D staff in the process e.g. research manager.

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Advance Assurance Scheme

- Voluntary scheme for SME corporate businesses making their first claim to R&D tax relief, certain criteria to be met.

- If accepted, HMRC will allow the R&D claim without further enquiries for the first 3 accounting periods claimed, providing in line with agreed application.

- From 1 April 2024 this will only apply to new R&D Intensive Companies (ERIS)

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R&D tax Relief - How the relief works (Pre- 1 April 2024)

The level of relief available depends upon which *R&D relief scheme* a company falls within:

- The **small or medium company (SME) scheme** - enhanced deduction of **230%** of the company's qualifying expenditure decreased to **186%** from 1 April 2023.
- **14.5%** payable tax credit of surrenderable losses. Decreased to **10%** from 1 1 April 2023
- **Research & development expenditure credit (RDEC)**.
- **13%** research & development expenditure credit from 1 April 2020. Increased to **20%** of qualifying R&D expenditure from 1 April 2023.

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SME or RDEC

Pre 1 August 2008	Post 1 August 2008
< 250 Employees	< 500 Employees
and	and
Annual turnover not exceeding €50m	Annual turnover not exceeding €100m
or	or
Balance sheet totalling no more than €43m	Balance sheet totalling no more than €86m

This extended post 1 August 2008 definition is for R&D Tax Relief purposes only.

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Research & Development Expenditure Credit (RDEC) (Pre 1 April 2024)

- Available for large companies and SMEs who cannot claim SME Scheme.
- Applies to R&D expenditure incurred on or after 1 April 2013.
- Given as a taxable credit. Like a grant, reducing the cost of R&D, unlike the current scheme which is tax.
- 13% from 1 April 2020. Increased to 20% from 1 April 2023.
- Fully payable (net of tax at full rate) to companies with no CT liability.
- Administered and settled through the CT system.

RDEC – Scheme design

Groups will be able to surrender:

- All or part of the credit to set against another group company's CT liability.
- The tax withheld on the payable credit to set against another group company's liability.

Companies **must elect** into scheme

Election is irrevocable

Credit limited to the company's PAYE/NIC liabilities of *staff engaged in qualifying R&D activities in the accounting period*.

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Qualifying R&D expenditure

Is expenditure on:

- Direct R&D Staffing costs
- Consumable items

  From 1 April 2023 this includes

  - Datasets (licences)
  - Cloud computing costs
- Software
- Externally provided R&D workers
- Subcontracted R&D
- Contributions to independent research (large companies only)
  (category no longer exists post 1 April 2024)

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Grants & Subsidies (Main Principles)

SME Scheme (pre 1 April 2024)

- Grants & subsidies are deducted and the R&D claim is made on net allowable expenditure.
- If grants are Notified State Aids, no claim is possible under the SME scheme, but you may still make a claim under the *RDEC Scheme*.

Under the new merged scheme (post 1 April 2024)

- grants are ignored in calculating the relief.

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Grants & Subsidies (Main Principles)

RDEC (pre 1 April 2024)

- Grants & subsidies are not deducted and the R&D claim is made on **gross** allowable expenditure.

NB - The grant receipt is taxed under the normal taxing provisions.

- Grant receipts are not conclusive evidence of R&D for tax purposes and don’t necessarily correlate to the qualifying R&D expenditure.

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A SME practical example

Costs	Allowable	Qualifying Expenditure
R&D staff (x3) with total costs £150,000 and 80% of time *directly* on R&D	£150,000 x 80% allowable as staff costs	£120,000
R&D Manager's costs £100,000 with 20% of time directly managing the R&D activity	£100,000 x 20% allowable as staff costs	£20,000
Heat & light £5000 with 25% consumed in R&D project	£5,000 x 25% as consumable items	£1,250
Disposable laboratory equipment consumed £200	£200 as consumable items	£200
£80,000 payments to an unconnected subcontractor for specific R&D work	65% of payments allowable as subcontracted R&D	£80,000 x 65% = £52,000
£70,000 payments to unconnected staff provider for staff directly engaged on R&D	65% allowable as an externally provided worker	£70,000 x 65% = £45,500
Total qualifying expenditure		**£238,950**
SME Scheme enhanced expenditure	£238,950 x 230%	**£549,585** claimed at Box 660 on CT 600
SME Scheme enhanced R&D Relief @ 230%	£238,950 x 130%	Additional deduction due **£310,635**

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How R&D Relief is claimed

- In full company tax return at end of accounting period or

  an amended return.
- Outline the project and determine the start and end dates.
- Outline the **scientific or technological uncertainties** to be resolved.
- Describe the **successes and failures**.
- Quantify the allowable costs under each qualifying activity.
- Backdated claims possible

  (generally 2 years after the end of the accounting period).

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How R&D Relief is claimed (Post 1 April 2023)

- For accounting periods beginning on or after 1 April 2023, check if you need to *submit a* ***claim notification form*** to notify HMRC in advance of your claim. Find out what you need to provide when you tell HMRC that you're planning to claim R&D tax relief.

- From 8 August 2023 you must *submit an* ***additional information form*** to support your claim. Find out how to send the information and what to provide when you submit detailed information before you claim R&D tax relief.

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Record Keeping

It is recommended that a company keeps the following records in support of a claim:

Staffing Costs	PAYE records Contracts of employment for R&D staff Records of pension payments List of R&D staff / time recording
Consumables	List of items used Details of apportionments, evidence of costs
Software	Receipts / contracts for software purchased, licensed or commissioned Copies of marketing literature Evidence showing it was properly charged to the R&D activity
Subcontract Costs	Contracts and invoices from subcontractors Evidence of the nature of the work and terms Evidence of payments e.g. bank records

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Updates to *pre-merged* R&D Incentives

Changes *from April 2023* include

- Extending the scope of qualifying expenditure to include costs of datasets and of cloud computing and inclusion of pure mathematics
- Costs must be disclosed on a "per project" basis
- A detailed report is still required
- All claims must be endorsed by a named senior officer of the company and HMRC notified within 6 months of end of financial year of intention to make R&D claim
- Going forward all claims must be submitted online.
- From August 2023, claimants have to inform HMRC which agent was involved in producing their claim.

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Updates to *pre-merged* R&D Incentives cont….

- Relief is to be restricted to R&D ‘undertaken in the UK’ and ‘qualifying overseas expenditure’
- Externally provided workers (EPWs) must be *paid via a UK payroll* and eligible activities subcontracted to third parties will need to be carried out in the UK
- Eligible activities of UK companies undertaken by their own UK employees, overseas for a period of time, will qualify for relief
- Expenditure on overseas R&D activities that are subcontracted or carried out independently, must be undertaken outside the UK due to <u>necessary</u> *geographical, environmental or social conditions, or legal or regulatory requirements*, rather than convenience or preference.

  (Cost or the availability of workers are specifically excluded as reasons for R&D activities to be carried out overseas)

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New Merged Scheme

(from 1 April 2024)

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New merged scheme from 1 April 2024

- Merges current SME and RDEC schemes for AP's beginning *on or after 1 April 2024*

- R&D rate for combined scheme (all companies) will be at current RDEC rate of 20%

- Notional tax rate in merged scheme for loss-making companies (with chargeable profits less than £50k) will be small profits rate of 19%.
  For all other companies, restriction will continue at main CT rate, currently 25%

- Removal of use of nominations for R&D Tax Credit payments; payments now go directly to claimants

Qualifying R&D expenditure – Finance Act 2024

Is expenditure on:

Relevant R&D undertaken by the Company itself

- Direct R&D Staffing costs
- Software, Data licences, Cloud Computing services, pure maths (since 1 April 2023)
- Consumable items
- Externally provided R&D workers
- Contracted out by the Company, NOT TO the Company

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Additional support for R&D intensive (SME) businesses

This is in addition to and separate from the new Merged Scheme.

- Budget 2023 announced enhanced R&D tax credit for **loss-making R&D Intensive SME's**.
- A company is considered R&D intensive where its qualifying R&D expenditure is at least 40% or more (from 1 April 2023) of its total adjusted profit & loss expenditure. This is reduced to 30% from 1 April 2024.
- SME tax relief for R&D Intensive loss-making companies:
  originally 10% repayable credit from 1 April 2023,
  increased to 14.5% backdated by Finance Act also from 1 April 2023.

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Northern Ireland only…ERIS

- R&D Relief Regulations 2024 make provision for loss-making, R&D intensive SME's with a registered office in Northern Ireland
- Affected Companies are *NOT subject to the restrictions for relief on payments to overseas contractors, or providers of externally provided workers*
- Will be able to claim **enhanced R&D intensive support** (ERIS), subject to a rolling three year limit
- Above this limit, relief is available under the New Merged Scheme
- Limit applies to the net benefit of all claims made under ERIS over any period of three years, on a rolling basis
- Must not exceed £250,000

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SME example under OLD rules

R&D qualifying Expenditure	£100,000
Non-notified State Aid	£ 40,000
	£ 60,000

SME - £60,000 @ 86% = £51,600 @ 25% (CT rate) = £12,900
RDEC - £40,000 @ 20% = £ 8,000 - 25% (CT rate) = £ 6,000 (Net of CT)*

Total amount claimed (net) = £18,900

(Net cost per £100,000 = £81,100) ignoring grants taxed under normal provisions

(Subcontract costs allowable within).

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SME example under OLD rules

R&D qualifying Expenditure	£100,000
Notified State Aid	£ 40,000
	£ 60,000

RDEC - £100,000 @ 20% = £ 20,000 - 25% (CT rate) = £ 15,000 (Net of CT)*

Total amount claimed (net) = £15,000

(Net cost per £100,000 = £85,000) ignoring grants taxed under normal provisions

(Subcontract costs **not** allowable within)

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SME example under NEW merged rules

R&D qualifying Expenditure	£100,000
Notified State Aid	£ 40,000
Net Cost	£ 60,000

RDEC - £100,000 @ 20% = £ 20,000 - 25% (CT rate) = £ 15,000 (Net of CT)*

Total amount claimed (net) = £15,000

(Net cost per £100,000 = £85,000) ignoring grants taxed under normal provisions

(**UK** Subcontract costs ***are*** allowable within)

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RDEC example under OLD rules

R&D qualifying Expenditure	£100,000
Notified State Aid	£ 40,000
	£ 60,000

RDEC - £100,000 @ 20% = £ 20,000 - 25% (CT rate) = £ 15,000 (Net of CT)*

Total amount claimed (net) = £15,000

(Net cost per £100,000 = £85,000) ignoring grants taxed under normal provisions

(Subcontract costs not allowable within)

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RDEC example under NEW rules

R&D qualifying Expenditure	£100,000
Notified State Aid	£ 40,000
	£ 60,000

RDEC - £100,000 @ 20% = £ 20,000 - 25% (CT rate) = £ 15,000 (Net of CT)*

Total amount claimed (net) = £15,000

(Net cost per £100,000 = £85,000) ignoring grants taxed under normal provisions

(**UK** Subcontract costs **are** allowable within)

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Enhanced Support – Loss making R&D Intensive SMEs

Available for R&D Intensive loss-making SME’s

1. Multiply qualifying expenditure by 86% to give the additional deduction amount.

2. Multiply total qualifying expenditure by 186% to give the enhanced expenditure amount.

Can surrender lower of:

A) The enhanced expenditure amount or,

B) Total *unrelieved loss* after taking the additional R&D relief deduction for the period,

for a payable tax credit at a rate of 14.5%

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Worked example of Enhanced Support

Scenario 1

R&D Total Qualifying Expenditure £100,000

Grants are ignored

Enhanced Expenditure = £100,000 X 186% = £186,000

£186,000 @ 14.5% = £26,970 payable Tax Credit

Cash amount = 26.97% of Total Qualifying Expenditure

Worked example of Enhanced Support cont…….

Scenario 2

R&D Total Qualifying Expenditure £100,000

Grants are ignored

£100,000 @ 86% = £ 86,000 (additional deduction)

Enhanced expenditure (£100,000 + £86,000) = £186,000

Pre Tax loss (£50,000) plus £86,000 = £136,000 (available to surrender)

If this is more than £186,000, then you can claim £26,970 (14.5% of £186k)

If this is less than £186,000, then you can claim £136,000 @ 14.5% = £19,720

R&D relief comparison

	SME	ERIS (for APs beginning from 1 April 2024)	RDEC	New RDEC (for APs beginning from 1 April 2024)
Who can claim?	SMEs	Loss making SMEs who meet 30% intensity condition	SME and Large Businesses	Companies of any size
Method of providing relief	Enhanced expenditure (claimable tax credit if loss)	Enhanced expenditure (claimable tax credit if loss)	Taxable credit	Taxable credit
Rate	86% additional deduction, 10% credit rate (14.5% credit rate if 40% intensity condition met)	86% additional deduction, 14.5% credit rate	20%	20%
PAYE cap	£20,000 + 300% PAYE and NIC for all staff	£20,000 + 300% PAYE and NIC for all staff	PAYE and NIC for R&D staff	£20,000 + 300% PAYE and NIC for all staff
Contracting	Allowed	Allowed	Not generally allowed	Allowed
Overseas	Allowed	Restricted	Allowed	Restricted

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Help and Further Information

1. R&D – GOV.UK website at: https://www.gov.uk/guidance/corporation-tax-research-and-development-rd-relief

2. Merged Scheme and ERIS:

[Research and Development (R&D) tax relief: the merged scheme and enhanced R&D intensive support - GOV.UK (www.gov.uk)]()

3. The HMRC Manual at: https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80000

4. R&D Specialist Unit

Email: RD.IncentivesReliefs@hmrc.gov.uk

The Patent Box

- What is it?
- Overview of main conditions
- What profits qualify?

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What is it?

- Allows limited companies to tax qualifying ***profits*** earned from its qualifying patents or patented inventions at **10%**.
- An optional regime so companies must **elect** in – No special form.

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Main conditions

- Company must hold a qualifying **UK** or **EPO patent** or an exclusive licence to develop such rights. Limited other EEA jurisdictions also apply.

- Regime also applies to rights similar to patents relating to human and veterinary medicines, plant breeding and plant varieties.

- <u>Development Condition</u> – the company must have created or significantly developed the patented invention.

- <u>Active Ownership Condition</u> - for group’s, the company must have either developed the IP itself or be actively managing it.

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What profits qualify?

1. Sales of the patented item or items incorporating it
2. Royalties from licensing
3. Sales of qualifying patented rights
4. Infringement income

And:

5. Using a patented process to produce non patented items
6. Using patented items to provide a service

Notional Royalty

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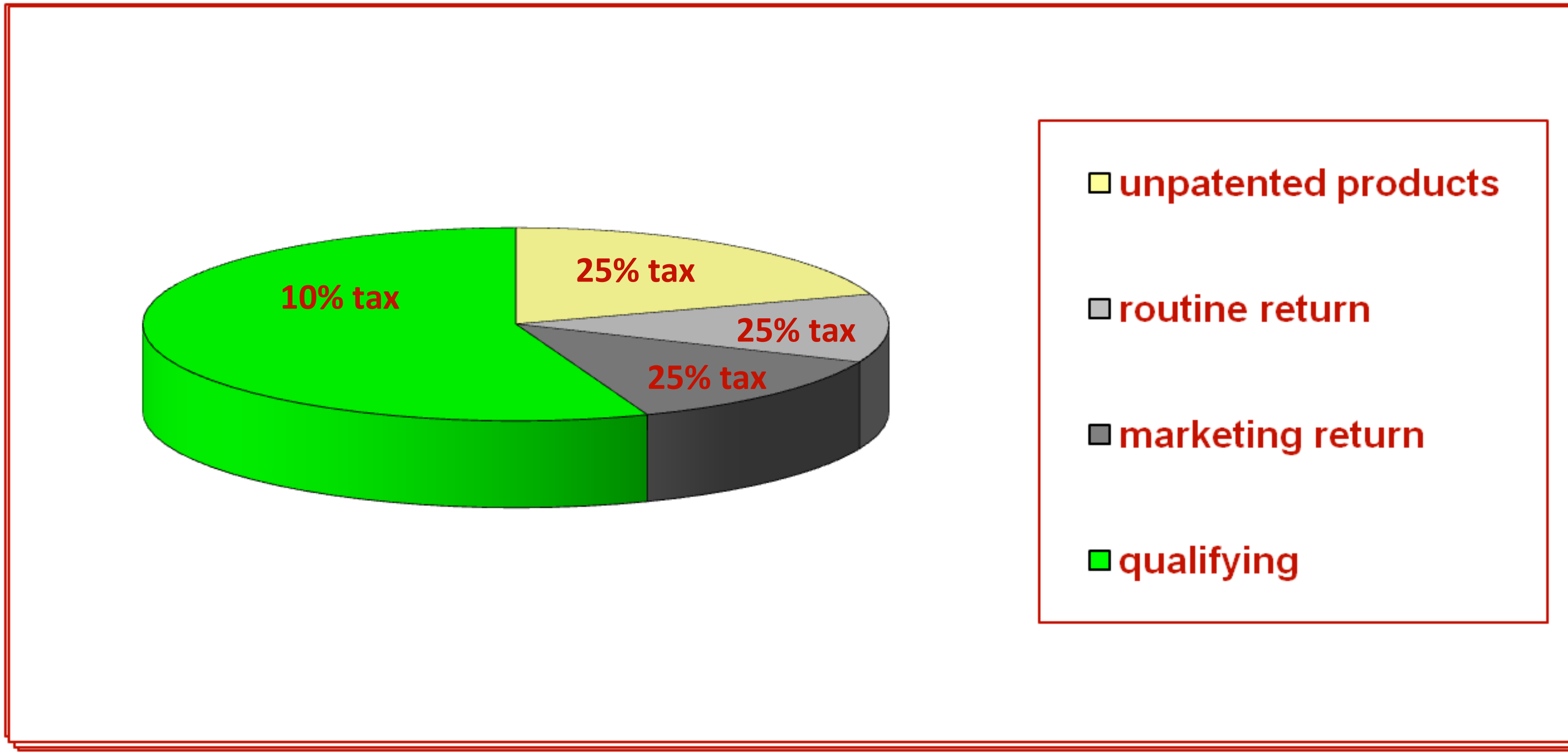
The Patent Box Profits



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Apportioning Profits

- The company must allocate expenses into “streams” of RIPI (relevant IP income) and non-qualifying income.

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Marketing Asset Return - Brands

- This adjustment aims to exclude the sometimes very substantial profits generated by established brands and to arrive at profit attributable to patents.
- Simplifications:
  - If brand profit is less than 10% of the profit remaining after deducting the routine return, then there is no need to make an adjustment.
  - Special treatment for "***small claims***".

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Help and Further Information

- Website: https://www.gov.uk/corporation-tax-the-patent-box

- The HMRC Corporate Intangibles and Research & Development (CIRD) Manual at:

https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird200000

- The Manchester R&D Specialist Unit

  Tel 0300 123 3410 *(Select the option for Patent Box)*

  Email:

  RD.IncentivesReliefs@hmrc.gov.uk

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The Northern Ireland Corporate Tax Office (NIrCTO)

www.gov.uk/guidance/northern-ireland-corporate-tax-office-nircto

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