

PATENT BOX

Tax benefits for income deriving from the use of intangible assets: an opportunity for innovative companies

WHAT IS IT?

The Patent Box is a subsidised taxation regime that concerns business income deriving from the use of intellectual properties developed by the company (**direct** Patent Box) or granted in concession to third parties (**indirect** Patent Box), such as:

- Industrial patents
- Designs and models
- Copyrighted software
- Know-how, information and experience in the industrial, commercial or scientific fields

WHO IT IS AIMED AT

The Patent Box applies to all subjects residing in the territory of the State, in relation to the productive activities of business income, regardless of their legal nature, size and production sector.

TAX BENEFIT

There are **two ways to gain access to the tax benefits of the Patent Box**:

- In "**ruling**" mode (i.e. through direct interaction with the Italian Revenue Agency [Agenzia delle Entrate]), or
- in **self-assessment or self-determination** mode (i.e. with the possibility for companies to directly determine the subsidised income and therefore the tax benefit in self-assessment), **an innovation introduced starting from the tax return for the year 2019**.

For both methods, **the tax benefit for the company consists in the reduction of 50% of the IRPEF, IRES and IRAP taxes to be paid on the income generated by the intangible asset(s) developed and held by the company.**

RULING

A prior agreement is signed between the company and the Italian Revenue Agency defining the amount of the tax benefit for a renewable period of 5 years and which can be used from the moment the agreement with the Italian Revenue Agency is formalised.

SELF-ASSESSMENT

Annually, the company must prepare a set of documents required by the law and independently determine the amount of the benefit. The correspondence of the documentation prepared by the company with the requirements established by the law allows access to the benefits of **penalty protection**, i.e. the non-application of sanctions in the event of findings by the tax authorities. The amount of the benefit must be included in the tax return and can be used over 3 years.

CALCULATION METHOD

DIRECT PATENT BOX

For each intangible asset developed and held by the company, the eligible income that contributed to the overall profit or loss of the company must be identified. The eligible income, therefore the share of business income generated by intangible assets held by the company itself, is determined as the difference between the % of the company's pre-tax profit (ROS%, Return On Sales) with respect to the median or average value of the ROS% referred to a group of comparable companies (so-called **benchmark**). The benchmark can be determined:

- Independently by the company for each routine function (production function, commercial function)
- By requesting it directly from the Italian Revenue Agency by sending your ATECO code via PEC.

By comparing the ROS% of the company with the mean/median value of the ROS% of the benchmark, the difference determines the business profit generated by the intangible asset(s) held by the company: this profit represents the eligible income, which will be taxed at a 50% discount compared to the standard rates.

INDIRECT PATENT BOX

If an enterprise has developed one or more intangible assets (typically software) by granting it for use to other enterprises (third parties or those belonging to the same group), it is possible to determine the eligible income as the difference between the total income from rents or licences for the use of the asset or intangible assets held by the enterprise and the costs incurred by the enterprise for the creation, development, maintenance and/or improvement of the asset itself. In this case, **the company can recover the benefits of the last two fiscal years**, without referring to a benchmark.

For the purposes of obtaining the benefit, the grantor must always carry out or have carried out activities related to R&D related to the subsidised intangible product.

CRSL AND THE PATENT BOX

CRSL with its activities as a research, innovation and design centre **supports companies** in creating, developing, maintaining and improving corporate intangible assets.

The benefit, in fact, is guaranteed on condition that the beneficiaries can demonstrate that they actually carry out research and development activities (necessary for the creation, development, maintenance and/or improvement of the intangible asset itself), also by means of research contracts stipulated with Research Entities such as CRSL.