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Ireland's IP tax regime

Intellectual property ("IP") is a key mobile profit driver and increasingly plays a major part in how multinational groups structure their international businesses. These groups are increasingly focussed on building sustainable tax-efficient business models which embed their key value drivers within a robust operational model.

Despite the global economic downturn, foreign multinationals continue to invest in Ireland, as evidenced in the continuing investment announcements summarised in our regular "**Investing in Ireland**" newsletters.

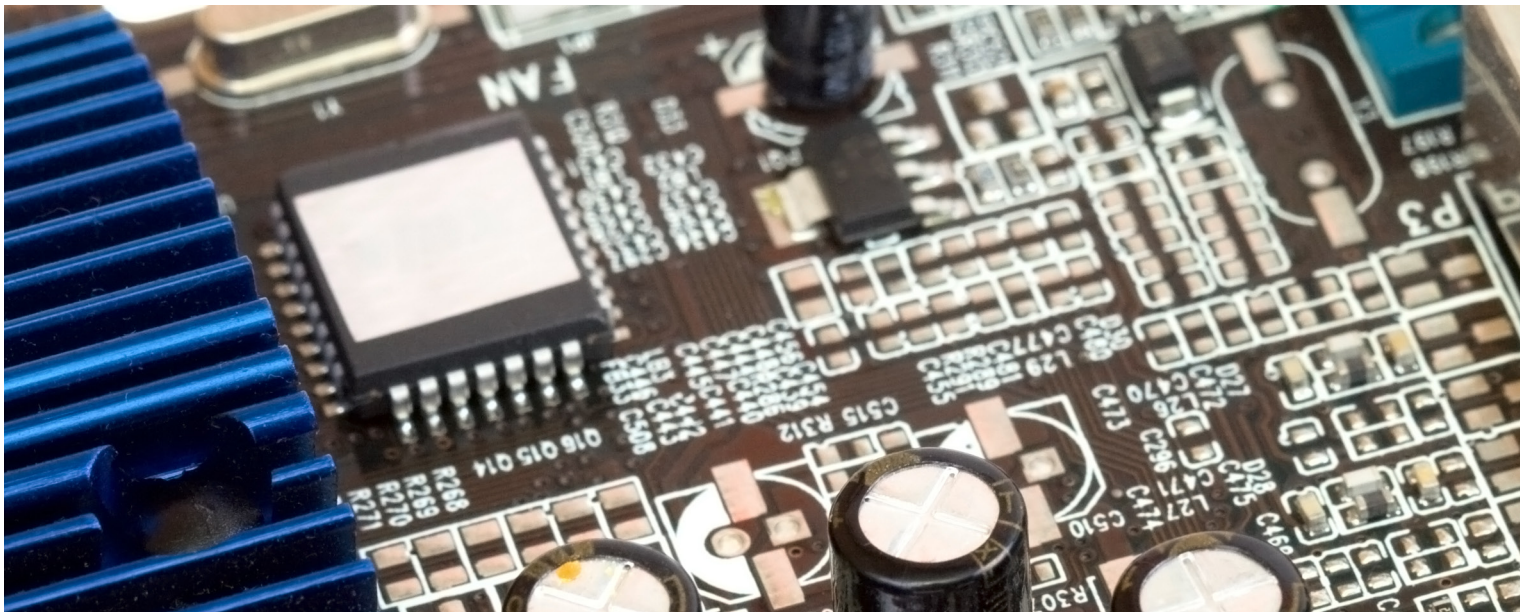
Ireland's low tax (12.5%) regime and extensive double tax treaty network, allied to our labour force and other business advantages, has helped position Ireland as a leading location for foreign direct investment.

For example, investment by US companies in Ireland is \$146bn, which is greater than the combined US investment in the "BRIC" countries of Brazil, Russia, India and China.

The nature of new investments is increasingly comprising R&D and IP management centres with a number of recent positive tax developments stimulating increased interest (in 2009, for example, almost 50% of new IDA Ireland supported projects related to R&D).

Please see overleaf for further details on Ireland's improved tax regime for IP.

Please contact me, or your usual PwC contact, if you would like to discuss Ireland's IP tax regime further.



What assets qualify as IP?

The definition of qualifying IP is broadly drafted and includes the acquisition of, or licence to use:

- Patents and registered designs
- Trademarks and brand names
- Applications for any of the above
- Know-how including industrial and commercial know-how
- Authorisations to sell medicines or for a product of any design, formula, process or invention
- Software acquired for commercial exploitation
- Goodwill linked directly to any of the above

Key features

A tax deduction is available on the acquisition of broadly defined IP (e.g. brands, patents, trademarks, domain names, know-how, etc.).

Companies have the option to elect for tax deductions over a 15 year period, or alternatively follow the accounting amortisation rate for tax purposes, which provides some flexibility to the regime.

How can the IP allowance be used?

The tax deduction may be offset against income from IP related activities, including the sale of goods or services that derive the greater part of their value from the IP.

Similar to some other countries, the maximum annual deduction (including any associated funding costs) is restricted, in Ireland's case to 80% of the attributable IP profits. Any excess deductions may be carried forward and offset in succeeding years, again subject to an 80% restriction.

What if I dispose of the IP asset?

There is no clawback of tax deductions provided the IP is held for 10 years.

Interaction with "old" regime

There is the option to elect to stay within the "old" regime for know-how and patents for IP acquired up until 7 May 2011. A shorter write-off period of 8 years has been retained for acquired software rights under the existing capital allowances regime where the rights are not acquired for commercial exploitation i.e. were acquired for end use by the company.

Accounting treatment

One of the associated issues which requires careful analysis, is the relevant accounting treatment, e.g. the status of the IP under generally accepted accounting principles, its carrying value, the amortisation rate, book versus cash tax rate impact, entity versus consolidated treatment, etc.

Ireland reinforced as an attractive location for IP

Ireland's enhanced IP tax regime sends a message to the global markets that Ireland remains an attractive investment location and is, indeed, continually reinforcing and improving its position as one of the leading locations for international business.

There has arguably never been more demand for a stable low-tax location as multinational groups face increasing international tax and regulatory requirements.

The new IP tax regime places Ireland on a more competitive footing internationally and, when allied to our stable 12.5% tax rate and improved **R&D tax credit regime** should mean that Ireland remains an attractive onshore location for the creation, management and exploitation of IP.

Details of the main provisions of Ireland's R&D tax credit regime, along with a summary of the R&D grant assistance available in Ireland, are contained in the PwC R&D flyer "*Generating cash from Irish R&D activities*".