

Reduce your effective tax rate

Intellectual property opportunities for medical device companies



In order to ensure a sustainable competitive effective tax rate, medical device companies need to operate in a location or locations which provide the opportunity to hold and to exploit Intellectual property (IP) in a tax efficient manner.

Ireland has responded to the need to offer a tax regime which provides such a platform to international business and which helps to drive Ireland's 'knowledge economy' ambitions.

Recent incentives introduced into the Irish tax system are particularly attractive to the medical device industry.

The key incentives are the IP tax regime and the research and development (R&D) tax credit regime. These incentives together with Ireland's low 12.5% rate of corporation tax enable medical device companies to locate in a stable Eurozone location with the opportunity to structure their operations to provide a competitive effective tax rate.

If you would like to discuss possible tax planning opportunities for your business in this area, please contact any member of our team or your usual PwC contact.

Our next bulletin will discuss the Irish R&D tax credit regime in further detail.



John M Kelly
PwC Pharmaceutical & Life Science Leader



Intellectual property

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
- Goodwill linked directly to any of the above

How does the IP tax regime work?

Ireland's IP regime can generate significant cash tax savings. The regime grants a tax deduction for capital expenditure incurred on the acquisition of qualifying IP assets. It matches the tax deduction to the amortisation / depreciation of the IP in the accounts. Alternatively, a company can elect to claim tax deductions over 15 years.

How can the IP allowance be used?

IP capital allowances are available for offset against trading income generated from exploiting IP assets or as a result of the sale of goods or services that derive the greater part of their value from IP. To the extent a company carries on other activities, it is necessary to treat those activities as a separate trade, with ring fencing of IP allowances. Trading income is taxable in Ireland at 12.5%.

Is there any restriction on the amount of allowance available?

The maximum allowance available in a given year is restricted to 80% of the profits from the exploitation of IP. Restrictions on the use of interest expenses in IP companies work to

ensure that the maximum income which can be sheltered is 80%. Any excess allowances can be carried forward without limit and used against IP profits of subsequent years, subject to the 80% restriction.

Where a company also qualifies to claim R&D tax credits, such credits can be claimed in addition to the IP allowances.

Example	€ m
IP income	100
IP allowance	90
R+D credit	2
IP income	100
Max IP allowance	<u>(80)*</u>
Taxable income	20
20x12.5%	2.5
Less R+D credit	<u>(2.0)</u>
Tax due	<u>0.5</u>

*Allowance is restricted to 80% of IP income with unused allowances available to carry forward.



Intellectual property

Opportunities for medical device companies

Will it apply to transfers of IP within a group?

Relief is available whether the asset is acquired from a third party, or a connected party, subject to some conditions. In the case of a connected party transaction an arm's length rule will apply to the valuation of the IP. Additionally, the IP allowances are not available where the IP is transferred tax free under capital gains tax (CGT) group provisions to the company seeking an IP allowance.

Will this regime impact existing reliefs and allowances?

The existing tax reliefs available for patent rights and know-how will continue to be available, by election, until May 2011 for new acquisitions. After that time, any acquisitions of patent rights or know-how will fall within the new IP regime.

What if I dispose of the IP asset?

No clawback of the allowances claimed will arise where the IP asset is disposed of more than 10 years after the beginning of the accounting period in which the asset was first provided for the trade.

How can we help?

Whether you are a multinational looking to centralise your IP or align substance with profit, or an Irish owned company looking to manage your tax rate, you should consider the Irish IP regime. PwC has a dedicated team who have already built up significant experience of both the IP regime itself and in negotiating with Irish Revenue. We are happy to either assist or act on your behalf in liaising with Irish Revenue.

Our experience ranges from evaluating various international IP regimes to implementing significant on-shore IP migrations. Our approach will help you to avoid the common pitfalls and look to achieve the optimal solution for your business from both a commercial and tax perspective. We look forward to exploring the specific opportunities this regime presents for your group.



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