



TAX REGIME APPLICABLE TO INCOME FROM COPYRIGHT AND INDUSTRIAL PROPERTY RIGHTS *PATENT BOX*

As part of the corporate tax reform promoted by Law 2/2014 of 16 January, the PATENT BOX tax regime was introduced with the aim of attracting investment in copyright and industrial property rights, but above all to prevent the income in question from being transferred to other countries.

This regime provides for the exclusion from taxation of part of the income earned by IRC taxpayers from the assignment of industrial property rights, in this case patents, industrial designs or copyright on computer programmes.

The application of the PATENT BOX regime depends on the cumulative fulfilment of the following conditions:

- a) The transferee uses the rights in the pursuit of a commercial, industrial or agricultural activity;
- b) The results do not materialise in the delivery of goods or services that give rise to tax-deductible expenses in the transferor entity, or in a company that is part of a group of companies with it;
- c) The Transferee is not an entity resident in a country or territory considered to have the clearly most favourable tax regime;
- d) The Transferor has accounting records organised in such a way that income from the transfer of intellectual and

industrial property copyright can be clearly distinguished from other income, so that it is possible to identify the costs and losses incurred or the costs incurred in carrying out research and development activities directly related to the rights transferred and from which the income to which this tax regime will apply is derived.

The tax deduction in question only applies to part of the income obtained from the temporary transfer or use of the rights in

question and provides for an exclusion from taxation of up to 85% of the income in question, i.e. only around 15% of the income earned from the transfer or use of the rights in question will be taxed.

It should be noted that, when applying this regime, there is a specific way of determining the amount to which the tax exclusion will apply.

Nuno Filipe Henriques
Nuno.fh@caldeirapires.pt