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VEPACHEDU EDUCATIONAL FOUNDATION

The Andhra Journal of Industrial News

IP and Industry News

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The Patent Box

After patenting and successfully commercializing an innovation, firms are still unlikely to capture all the benefits of their patent in the form of profits. If incentives are given to innovators, economists believe that much of the benefits spill over to other firms and finally to consumers.

As a result, a number of countries recently have adopted new R&D tax incentives, such as the Patent Box, named after a box to check on the corporate tax form to allow corporate income from the sale of patented products to be taxed at a lower rate than other income.

A patent box reduces the financial risk involved in innovation. A patent box would lower the effective corporate tax rate for knowledge-based establishments, making it easier for them to compete against

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establishments in nations providing robust innovation incentives to the conduct of R&D and production of the patented product.

Nine pioneer nations have enacted patent box regimes that incentivize firms to patent or produce other related innovations, the ninth being the UK. Ireland was the first nation to develop a patent box in 1973, followed by seven nations - Belgium, China, France, Luxembourg, Netherlands, Spain, and Switzerland - in the mid to late 2000s. Most recently, in 2013, the UK joined the elite club with a tax rate of 10 percent from income of patented products.

In 2007, Belgium introduced the Belgian patent income deduction allowing a Belgian company or a Belgian permanent establishment of a foreign company to deduct 80 percent of qualifying gross patent income.

In France, revenue or gain deriving from the license, sublicense, sale, or transfer of qualified IP is taxed at a reduced 15 percent corporate tax rate (the standard rate is 33.33 percent) under specified terms and conditions.

In Hungary, companies owning qualified IP may deduct 50 percent of the royalties that related or unrelated parties pay for use of the IP.

In Luxembourg, the patent box regime provides an 80 percent tax exemption for the net income derived from the use or right to use qualified IP rights acquired or self-developed after December 31, 2007.

In the Netherlands, a patent box tax regime was originally adopted effective January 1, 2007, with an effective rate of 10%, which was reduced to 5% in 2010 and the new regime is referred to as the innovation box. Under the Dutch innovation box regime, losses from qualified IP are deductible at the general corporate tax rate of 25 percent.

Spain's patent box regime exempts 50 percent of the gross income derived from the cession of the use and the right to use qualified IP, effective January 1, 2008.

China's patent box goes beyond patents by providing the lower patent box rate to firms that spend at least 3 to 6 percent of gross revenue on R&D (depending on firm size), have 60 percent of firm revenue from core IP (defined as inventions, utility model patents, software, copyrights, proprietary layout designs, and new plant varieties), have 30 percent of their workforce with a college degree, or 10 percent employed in

R&D or high tech occupations. Ireland, Luxembourg, Spain, and Switzerland go farther and also allow income from designs, copyrights, models and trademarks to be taxed at the lower patent box rate.

In the UK, the Patent Box enables companies to apply a lower rate of Corporation Tax to profits earned after 1 April 2013 from its patented inventions and certain other innovations, and the lower rate of Corporation Tax to be applied will be 10 per cent.

To avail the UK Patent Box tax rate, your company should 1) be liable to Corporation Tax, 2) make a profit from exploiting patented inventions, owned or exclusively licensed-in the patents, and 3) have undertaken qualifying development on them, i.e., the creation or development of the patented invention or a product incorporating the patented invention.

The relevant patents must be granted by:

- UK Intellectual Property Office
- European Patent Office
- following countries in the European Economic Area: Austria, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Poland, Portugal, Romania, Slovakia, and Sweden

The UK government estimates the revenue cost will be about $1.7 billion in 2017.

Once the unquestioned world leader in cutting-edge technologies and high value added manufacturing and services, today the US progress stagnate, while competitor nations are racing ahead at enhancing their innovation capacity. In its report, The Atlantic Century II: Benchmarking EU and US. Innovation and Competitiveness, ITIF found that out of forty-four countries and regions, the United States ranks 4th in overall innovation based competitiveness but 43rd, second from the last, in the rate of progress made over the last decade.

According to the most recent OECD data, as of 2009 the United States ranked 24 out of 38 countries (including 32 OECD members plus Brazil, China, India, Russia, Singapore, and South Africa) in the value of tax incentives provided per dollar of R&D. Because the US research credit expired December 31, 2011, the US incentive provided for R&D is now even lower than indicated by the OECD ranking.

According to 2011 OECD data, the combined federal and average state statutory corporate tax rate in the United States (39.2 percent) is second highest among OECD countries, and more than 14 percentage points greater than the average for the other countries (25.1 percent).

A patent box would be one of a number of key steps policymakers can take to restore US competitive advantage Based on the patent box, legislation drafted by Senator Dianne Feinstein (*Strengthening 21st Century Manufacturing Act*) would reduce corporate taxes on the sale of patented, domestically manufactured products, lowering the tax rate from the usual 35% to a reduced 15%.

On June 28, Rep. Allyson Schwartz (D-PA) introduced H.R. 2605 bill to amend the Internal Revenue Code of 1986 to allow a deduction for the patent box profit from the use of patents, which was referred to the House Committee on Ways and Means. The bill is expected to provide a 10% tax rate on the sale of qualifying patented products by American businesses.

As the patent box increases a country's competitiveness not only by spurring firms to invest more in innovation, but also by providing a more competitive corporate tax climate for increasingly innovation based firms; it is high time for the US to adopt new R&D tax incentives, such as the Patent Box.

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Global Patent Search Network

In an effort to expand coverage of worldwide patent collections, the USPTO announced the launch of the Global Patent Search Network (GPSN) to make the patent research easier and more comprehensive by providing streamlined search capability to multiple international patent collections. The GPSN is the first patent-related initiative to use cloud technology

As a result of cooperative effort with the State Intellectual Property Office (SIPO) of the People's Republic of China, Chinese patent documentation is now available for search and retrieval in the inaugural release of the GPSN. Accessible from the USPTO website (http://gpsn.uspto.gov/), the data available includes both full text Chinese patents and English machine translations enabling users to search Chinese patent documents in the English or Chinese language. Users can search documents including published applications, granted patents and utility models from 2008 to 2011 in this collection, which will periodically be updated with more current data.

This new search tool delivers to the public, as well as our patent examiners, an additional source of foreign patent collections. Furthermore, the immediate availability of English machine translations will effectively address the language barrier and allow for quick analysis of the relevancy of the prior art while reducing the need for costly human translations. Machine translation technology can sometimes generate awkward wording, but it provides an excellent way to determine the gist of the information in a foreign patent. http://gpsn.uspto.gov/

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Written Description Support

In *Novozymes A/S v. DuPont Nutrition Biosciences* (Fed. Cir. 2013), the Federal Circuit made it clear that written description is not satisfied merely by ensuring that each individual claim limitation is disclosed in the original disclosure. Rather, the written description requires disclosure of the patented claim as a whole.

Top 25 Biotech Companies of 2013

Genetic Engineering & Biotechnology News ranked biotech companies by their market capitalization for the latest quarter that they furnished figures on their numbers of outstanding shares. Generic companies such as Dr. Reddy's Laboratories, ranked 18, with 2013 Market Cap: $5.014 billion, and Teva, ranked #6 with 2013 Market Cap: $33.768 billion, are in the top 25: http://www.genengnews.com/insight-and-intelligence/top-25-biotech-companies-of-2013/77899858/.

According to Genetic Engineering & Biology News, there are 10,000 jobs available in the pharnaceutical industry: Novartis 2,740; Roche 1,450; Sanofi 1,427; Pfizer 815; GlaxoSmithKline 733; Johnson & Johnson 655; AbbVie 555; AstraZeneca 544; Eli Lilly 484; and Bristol-Myers Squibb 368. http://www.forbes.com/sites/ycharts/2013/07/22/tell-the-kids-10000-jobs-at-pharma-companies/

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Om! Asatoma Sadgamaya, Tamasoma Jyotirgamaya, Mrityorma Amritamgamaya, Om Shantih, Shantih, Shantih!
(Aum! Lead the world from wrong path to the right path, from ignorance to knowledge, from mortality to immortality, and peace!)

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