Tax deduction regulations
How can PATLIB centres assist
Sander De Vrieze
PATLIB Centexbel

Everybody loves taxes

"It's relatively simple. We only want what's ours, plus 30% of what you think is yours."
In Belgium, you shouldn’t pay taxes as a company

<table>
<thead>
<tr>
<th></th>
<th>Profit</th>
<th>Taxes Amount paid</th>
<th>Deduction</th>
<th>Effective Tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>AB Inbev</td>
<td>€ 5,978,763,000</td>
<td>€ 26,000</td>
<td>€ 2,032,155,144</td>
<td>0.00 %</td>
</tr>
<tr>
<td>Inbev Belgium</td>
<td>€ 2,977,769,000</td>
<td>€ 50,000</td>
<td>€ 1,011,923,733</td>
<td>0.00 %</td>
</tr>
<tr>
<td>Exxonmobil</td>
<td>€ 2,784,081,000</td>
<td>€ 0</td>
<td>€ 946,309,132</td>
<td>0.00 %</td>
</tr>
<tr>
<td>Grup Brussel Lambert</td>
<td>€ 1,642,074,000</td>
<td>€ 0</td>
<td>€ 558,140,953</td>
<td>0.00 %</td>
</tr>
<tr>
<td>DSM Finance-Belgium</td>
<td>€ 1,445,546,000</td>
<td>€ 0</td>
<td>€ 491,341,085</td>
<td>0.00 %</td>
</tr>
</tbody>
</table>

*2014 Belgian data

Tax deduction regulations have an impact on our job

Centexbel as a PATLIB centre

Belgian – innovation tax deduction

Other European countries – tax deduction

Bridge patent valuation with tax deduction
Tax deduction regulations have an impact on our job

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**Centexbel is a PATLIB centre in Belgium**

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Centexbel is a research institute for the textile industry

- Born in 1947, from and for textile companies
- 1300 customers from more than 30 countries
- Turnover: 15 million € in 2016
- 160 employees – 2 patent information specialists
- Research – services - testing

Centexbel in Belgium
Centexbel services the large number of Belgian textile SME’s

<table>
<thead>
<tr>
<th></th>
<th>EU27</th>
<th>Belgium</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees</td>
<td>730,000</td>
<td>29,000</td>
</tr>
<tr>
<td># of companies</td>
<td>41,000</td>
<td>600</td>
</tr>
<tr>
<td>Turnover (€)</td>
<td>92,000 million</td>
<td>6,700 million</td>
</tr>
<tr>
<td>Turnover/employee</td>
<td>126,000 euro</td>
<td>231,000 euro</td>
</tr>
<tr>
<td>Export</td>
<td>39%</td>
<td>75%</td>
</tr>
</tbody>
</table>
600 textile companies in Belgium generate 6 billion revenue together

Carpets, technical textiles, interior textiles, (sports) clothing, military

Technical textiles are knowledge and innovation intensive
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Belgian had a patent income tax deduction law up to July 2016

The profit of the taxable timeframe is decreased with **80 %** of the patent revenues

Stimulate Belgian companies to:

- Perform technical innovation
- Obtaining intellectual property
Fiscal rule started from assessment year 2008

Revenues of patents used by Products of Services of a Belgian Society
Not before 1 januari 2007

And indeed, this law gave a rise to Belgian patent applications at EPO

2012: 1886
2013: 1882
2014: 1927
2015: 2041
2016: 2184
The Belgian tax deduction gained enormous momentum over the years.

Total tax deduction (millions euro)

But the tax deduction needed to be changed.

BASE EROSION AND PROFIT SHIFTING
Belgian changed to an innovation income tax deduction law

The tax deduction was changed with a correction factor.

It is now possible to apply for tax deduction for patent applications in Belgium.

The long term impact still needs to be researched.

How do Belgian textile SME’s look at the tax deduction

“I don’t know this”
“How do patents work?”
“Is this for real”
“Blinking eyes”

Different roles for PATLIB centres:
Inform and Advice
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Paper 13-070 of the Centre for European Economic Research

This was a discussion paper of 2013, making an overview of the IP tax regimes in Europe

At that moment, 11 European countries had a ‘patent box’ system in place

2 different patent box systems are observed

Conclusion: IP box is poorly targeted at incentivising firms to undertake R&D investments
2 different types of patent boxes

System 1: targeted at incentivising R&D investment and innovation. Notably, they focus on patents and other trade intangibles and do not apply to acquired IP.

System 2: focuses on attracting mobile IP income, in particular by not requiring any original R&D activity on behalf of the taxpayer.

A broad difference in effective tax rates (2013)

<table>
<thead>
<tr>
<th>Country</th>
<th>IP box rate (%)</th>
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<th>IP box rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belgium</td>
<td>6,8</td>
<td>Netherlands</td>
<td>5</td>
</tr>
<tr>
<td>Cyprus</td>
<td>2</td>
<td>Spain</td>
<td>15</td>
</tr>
<tr>
<td>France</td>
<td>15,5</td>
<td>Nidwalden (CH)</td>
<td>8,8</td>
</tr>
<tr>
<td>Hungary</td>
<td>9,5</td>
<td>UK</td>
<td>10</td>
</tr>
<tr>
<td>Liechtenstein</td>
<td>2,5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Luxembourg</td>
<td>5,84</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Malta</td>
<td>0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

And in your country?
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One of the great PATLIB 2017 presentations about valuation

Patent (e)valuation – methods and tools and the use of indicators

Peter Kaldos
p.kaldos.office@gmail.com
+36 70 621 4202
Mr. Kaldos discussed the three valuation methods

- Market based
- Cost based
- Income based

His main conclusion:
income based valuation is probably the most straightforward for patent valuation

However, this isn’t necessary the case for patent tax deductions

An inhouse license is usually needed for the patent box

A company generates income from the direct use of its own IP

A calculation of implicit royalty will be needed

(Belgium: everything goes from 1 to 33%)

Several countries work with rulings
How to calculate eligible income -- Income Approach

What are the supplemental profits created by the patented product?

advantage: easy method (economical)

disadvantage: limited on interpretation

How to calculate eligible income -- Cost Approach

Historical costs set to actual value when creating the patents

advantage: investor point of view

disadvantage: not necessarily a link between costs and value of IP
How to calculate eligible income
-- Market Approach

Try to find data on a similar product: what was there the IP transaction/licence?

advantage: easy to understand

disadvantage: difficult to find a comparable example

Where to find comparable IP transactions?

Expert reports in litigation cases (eg Darts IP)

Publically available decisions in litigations

Specialized databases (see The Big Four)

Books - Lizenzsätze für technische Erfindungen
Royalty Rates for Licensing Intellectual Property
You can find some publications online as well

**Diagram 7: Royalty Rates for a Sample of Renewable Energy Patents**

<table>
<thead>
<tr>
<th>Industry</th>
<th>Maximum</th>
<th>Upper Quartile</th>
<th>Average</th>
<th>Median</th>
<th>Lower Quartile</th>
<th>Minimum</th>
<th>Sample Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical Device</td>
<td>77</td>
<td>4.39%</td>
<td>3.71%</td>
<td>5.08%</td>
<td>3.71%</td>
<td>3.71%</td>
<td>21</td>
</tr>
<tr>
<td>Pharmaceutical</td>
<td>50</td>
<td>5.56%</td>
<td>4.73%</td>
<td>6.57%</td>
<td>4.73%</td>
<td>4.73%</td>
<td>21</td>
</tr>
<tr>
<td>Chemical</td>
<td>21</td>
<td>3.70%</td>
<td>2.82%</td>
<td>4.57%</td>
<td>2.82%</td>
<td>2.82%</td>
<td>21</td>
</tr>
</tbody>
</table>

Source: Forst et al., 2008; Forst, Hus and van der Linde, 2008.

**Diagram 6: Royalty Rate Ranges in Three Industries**

<table>
<thead>
<tr>
<th>Industry</th>
<th>Minimum</th>
<th>Maximum</th>
<th>Median</th>
<th>Mean</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical Device</td>
<td>3.71%</td>
<td>5.08%</td>
<td>4.39%</td>
<td>4.56%</td>
</tr>
<tr>
<td>Pharmaceutical</td>
<td>4.73%</td>
<td>6.57%</td>
<td>5.56%</td>
<td>5.75%</td>
</tr>
<tr>
<td>Chemical</td>
<td>2.82%</td>
<td>4.57%</td>
<td>3.70%</td>
<td>3.91%</td>
</tr>
</tbody>
</table>


How to use – in reality
Patent Income Deduction Tax

Take 2 different valuation methods!

Asking rulings
in several countries you can discuss with the tax office beforehand

Convince management/accountancy of the importance of patents
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Tax income deduction a task for a PATLIB centre?

“Do you have my taxes figured out yet?”
Tax income deduction can help your clients

PATLIB professionals should be aware of their country’s tax laws related to IP

Every country has their unique mechanism, adopted to BEPS

Patent valuation is crucial for obtaining a reasonable calculation

I can be contacted @ svr@centexbel.be