Patent Box – Frequently Asked Questions

What is a patent box? A patent box rewards companies for commercializing innovative products by taxing the profits on the sale of those products at a 15% rate, compared to the normal 35% corporate tax rate.

What kind of business income qualifies for the lower patent box tax rate? Income from the sale of domestically manufactured products whose value is derived from domestically produced patents is eligible for the 15% rate.

Why tie innovation to manufacturing? Innovation is a natural byproduct of the manufacturing process, and research and development tends to follow manufacturing offshore. The United States cannot remain the most powerful economy in the world unless it fights for a solid manufacturing base. The manufacture of innovative products is a sector that the United States can—and should—dominate.

Which nations have adopted a patent box? Patent boxes are relatively new. Ireland developed a patent box in 1973, but the seven other nations with patent boxes in place (Belgium, China, France, Luxembourg, Netherlands, Spain and Switzerland) adopted them only in the past few years. The United Kingdom will have a patent box in place in 2013.

Why have so many nations adopted patent box regimes recently? The economic powerhouses of the future will be at the cutting edge of innovation. The nations with patent boxes recognize that they can be a useful tool to attract the next generation of transformative technologies. Where will the silicon wafer, the semiconductor, the next generation Internet be developed?

Why not just boost R&D incentives? R&D tax incentives are an important component of an effective national innovation strategy. While R&D tax incentives encourage more basic research, the Patent Box rewards companies that can capitalize on that research and turn a profit.

Why should the United States adopt a patent box? The United States is in a global competition for jobs and economic power. The country cannot sit on the sidelines while trade partners peel off vital industries through one incentive program or another. In the face of fierce global competition, failing to adopt a policy that supports U.S. industry is akin to adopting an industrial policy that seeks to disadvantage domestic businesses. The patent box is a proposal that aims to reverse this discouraging trend in U.S. policy.

Source: The Information Technology & Innovation Foundation

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Leveling the Playing Field Act of 2012

Putting America Back to Work

Senator Dianne Feinstein's "Patent Box" provision would tax corporate profits from the sale of patented, domestically manufactured products at a reduced 15% tax rate, as opposed the full 35% corporate rate.

The United States cannot remain the most powerful economy in the world unless it fights for a solid manufacturing base. The manufacture of innovative products is a sector that the United States can—and should—dominate.

The Patent Box would help bring jobs back to the United States, like these lab technicians working with silicon wafers.

Jumpstarting our Manufacturing Industry

Manufacturing jobs across the country—both blue- and white-collar—continue to be offshored, and the effects are dire.

Not only does the U.S. employment base continue to suffer, but companies are experiencing a significant decline in innovation, a byproduct of a strong manufacturing industry. This does not have to be the case.

One strategy to reverse this trend is a lower tax rate on profits derived from innovative products that are manufactured in the United States, also known as the Patent Box (named for a box companies check on corporate tax returns).

With a Patent Box, the profits a company derives from selling patented, domestically manufactured products are taxed at a 15% rate rather than the full corporate tax rate of 35%.

An alternative Patent Box tax rate would have the following effects:

- Increase returns to investments in research and development.
- Encourage increased domestic production.
- Level the playing field with international competitors that currently utilize a wide range of government-sponsored manufacturing tax incentives to attract businesses.

Patent Box tax regimes are in effect in seven other countries, and the United Kingdom will put a plan in place next year.

How a Patent Box would work:

A company's income must meet two tests to qualify for the lower tax rate:

- The income must be generated by a product that is significantly improved by or comprised of patented technology developed in the United States, and
- The company must manufacture the patented product in the United States.

The Patent Box will not only help attract manufacturing jobs that have been offshored, it will also revitalize U.S. research and development.

The eligible income is then taxed at a 15% rate, while all other corporate income is taxed at the statutory corporate tax rate of 35%.

Why a Patent Box is needed:

The United States cannot sit on the sidelines while our economic competitors aggressively market themselves through lucrative incentive programs. Doing nothing is a tacit acknowledgment that America is content becoming a second-rate innovator and manufacturer.

Bottom line:

The United States has a significant opportunity to take back market share in many different areas of manufacturing. Although other countries enjoy a panoply of tax incentives to attract the best researchers and manufacturers, differences in labor costs between the United States and its trading partners are shrinking.

In order to best position the United States to reap the gains of these changing dynamics, we must engage in the ongoing global effort to attract the next generation of manufacturing products and processes. The Patent Box will provide an incentive for companies to make that investment here.