

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9: Intellectual property: know-how and patents

Overview

Chapter 4: Relief from corporation tax on patent income

Section 924: Relief for expenses: patent income

2335. This section provides relief for certain expenses in connection with patents. It is based on sections 526 and 528 of ICTA. The corresponding rule for income tax is in section 600 of ITTOIA.
2336. The relief is on the basis of expenses incurred. This relaxes any requirement in the source legislation that fees have to be paid before a deduction can be made.
2337. *Subsection (2)* defines “patent application and maintenance expenses” for the purposes of this section. Relief for such expenses is excluded from the scope of this section if the expenditure is incurred for the purposes of a trade carried on by the payer. This is because there is a similar provision for trading expenses connected with patents (in section 89 of the Act).
2338. *Subsection (4)* gives a signpost to section 926 which deals with contributions to expenditure. This is necessary because section 532 of ICTA treats section 526 and 528 of ICTA as if those provisions were contained in CAA.

Section 925: How relief is given under section 924

2339. This section sets out how relief is given when a claim is made under section 924 for patent expenses to be set against patent income. It is based on sections 526, 528 and 533 of ICTA. The corresponding rule for income tax is in section 601 of ITTOIA.
2340. *Subsection (2)* allows relief for expenditure against patent income in the accounting period in which the expenditure is incurred. However, if the expenses exceed the patent income in the accounting period, the surplus expenses cannot be used to create a loss under this section. Any such surplus is dealt with in accordance with *subsection (3)*.