

A Tax Incentive for Patented Technology: Life Sciences and Green Technology



Income derived from eligible patent-related activity qualifies for favourable tax treatment

An international patent business, carried on through a fixed place of business in British Columbia, may be eligible for a refund of 75% of its B.C provincial income tax.

- The revenue of the international patent business must be derived from one or more of the following transactions:
 - selling, assigning or licensing an eligible patent to a non-resident;
 - selling to a non-resident a good or service in respect of which the sales revenue is principally derived from an invention for which a patent within an eligible class of patents is owned by the corporation.
- Licensing to a non-resident person includes a joint research and development licensing agreement directly related to an eligible patent.
- A registered corporation may choose to claim a tax refund on a patent activity or another qualifying activity, but not both.

Eligible patents

- The eligible class of patents incorporates patents in certain inventions related to
 - life sciences
 - clean power generation (including wind, solar and tidal)
 - waste water treatment
 - fuel cell technology
- For a full list of eligible patents, visit the website of B.C.'s Ministry of Finance at www.sbr.gov.bc.ca/business/Income_Taxes/International_Business_Activity/about/patents.htm.
- The eligible class of patents does not include a patent that relates to tobacco.

Income earned on eligible life science or green-related patents by a company registered in the International Business Activity (IBA) program qualifies for a refund of 75% of provincial income tax (to a maximum of \$8 million), reducing the corporate tax rate to 17.75% in 2013.

Vancouver is a low-tax, low-cost location

Vancouver's taxes are the lowest of the 41 major cities studied in the KPMG *Competitive Alternatives 2010, Special Report: Focus on Tax*

The cost of operating a biomedical research facility in Vancouver, B.C. is lower than in other major cities, according to the KPMG *Competitive Alternatives 2010*.

Total Tax Index

| Location | Total Tax Index (Overall) |
|------------------------------------|---------------------------|
| Vancouver (IBA registered)* | 33.9 |
| Vancouver, CA | 50.5 |
| Montreal, CA | 60.3 |
| Toronto, CA | 67.6 |
| Seattle, US | 92.1 |
| London, UK | 98.6 |
| San Francisco, US | 109.5 |
| Frankfurt, GE | 126.4 |

Cost Comparison of a Biomedical R & D Operation

| Location | Cost Index |
|----------------------|-------------|
| Vancouver, CA | 87.4 |
| Montreal, CA | 87.8 |
| Toronto, CA | 93.9 |
| Seattle, US | 99.1 |
| San Diego, CA | 102.2 |
| San Francisco, CA | 110.0 |
| London, UK | 112.7 |
| Frankfurt, GE | 114.4 |

*Estimate

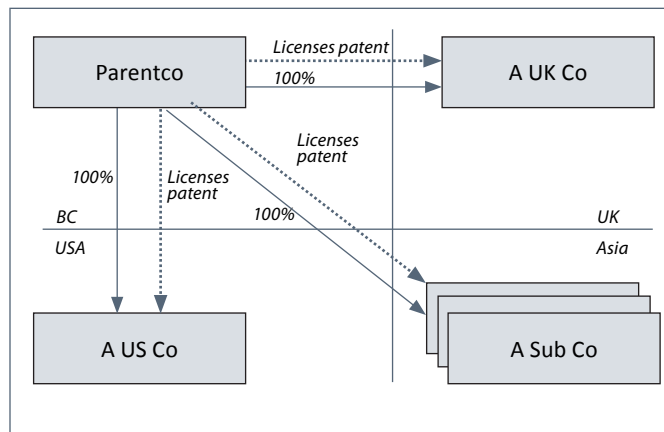
Source: KPMG *Competitive Alternatives 2010, Special Report: Focus on Tax*. Total Tax Index includes all taxes levied on corporations, including taxes on income, capital, sales, property, local business, and wage-based taxes.

Source: KPMG *Competitive Alternatives, 2010*.

A case study of income from a qualifying patent activity

Fact Pattern

- Parentco is incorporated in Canada with a fixed place of business in British Columbia.
- Parentco has developed a life sciences patent which has a patent number assigned in accordance with the International Patent Classification, 8th edition, adopted under the Strasbourg Agreement Concerning the *International Patent Classification* under Item 5, Section C, Class 07. (The list of eligible patent classes is available on the website of B.C.'s Ministry of Finance.)
- The patent is an eligible patent.
- Parentco licenses its life sciences patent to its foreign affiliates.
- Parentco and its foreign affiliates conduct a transfer pricing study to ensure the non-arm's length license fees are comparable to arm's length transactions.



Analysis

- Parentco is eligible to apply for registration under the *International Business Activity Act* (IBAA) since it will be carrying on an “international business,” was incorporated in Canada and has a permanent establishment in British Columbia.
- Parentco will be required to become a member of AdvantageBC in order to remain registered.
- Parentco is carrying on a qualifying business. The licensing of the life sciences patent is an international patent business of Parentco, and it will be a qualifying business.
- Parentco’s business qualifies as an international business by means of licensing to non-resident persons a patent, which has been prescribed under the IBAA *Regulations*.
- Parentco will be eligible to claim a refund of 75% of its B.C. corporate income taxes paid up to a maximum of \$8 million for each taxation year.

Key executives of registered companies may be eligible for a refund of provincial income tax

A company in the IBA program can register the key decision maker(s) as an Executive Specialist.

- Registered Executive Specialists can claim a refund of British Columbia tax on qualifying employment income. The refund is 100% in Years 1 and 2; 75% in Year 3; 50% in Year 4; and 25% in Year 5.
- To qualify, the employee must earn minimum annual compensation of \$250,000.
- This compensation must be included in calculating the program participant’s international financial business income.
- For a related group of program participants, only two Executive Specialists may qualify.
- The employee must have been a non-resident before entering into the employment contract. The employee must apply for registration by December 31 of the year in which he or she becomes resident of Canada.
- The employee, and any person related to him or her, must deal at arm’s length with the registered corporation.

British Columbia's competitive advantages

- In 2013, Canada's corporate income tax rate of 15% will be the lowest of the G7 nations.
- British Columbia's corporate income tax rate is 11%.
- The B.C. government has invested more than \$1.6 billion in R&D since 2001. The \$90 million B.C. Renaissance Capital Fund provides additional funding for early stage ventures in biotechnology and other high-technology sectors.
- The Government of Canada is providing \$60 million in funding for four new centres of excellence in commercialization and research in B.C. – three in life sciences, and the fourth in an area that includes some life science-related applications.
- The life sciences industry in British Columbia includes about 100 biopharmaceutical companies, 60 medical device manufacturing and distribution companies, and 30 bio products companies. Biopharmaceutical companies account for about 2,200 of the total employment of 2,700.
- Biopharmaceuticals generate roughly \$800 million per year in revenues. Greater Vancouver is home to about 70 per cent of the B.C. life sciences industry and has a strong complement of established and next generation firms (VEDC, 2012).
- British Columbia has a wealth of clean energy sources. 90% of B.C.'s total electricity generation is clean and renewable hydro-electricity and B.C. is looking to new resources, including wind, solar and tidal energy.
- British Columbia is a recognized world centre for hydrogen and fuel cell technology.
- The province has the largest warehouse of bio-energy fuel sources in the world.

Further Information

AdvantageBC International Business Centre • Vancouver (formerly the International Financial Centre British Columbia) was established in 1986 to attract international business to British Columbia by promoting the legislated tax incentive available through the International Business Activity (IBA) program. AdvantageBC communicates the tax incentive program as well as the many advantages British Columbia offers as a location for corporate investment, including an educated and multilingual workforce, an outstanding telecommunications infrastructure, clean and competitive energy, and a high quality of living. For further information, please visit the website of AdvantageBC at www.advantagebc.ca.

The International Business Activity (IBA) program is administered by British Columbia's Ministry of Finance. To qualify, companies must meet certain criteria; please refer to the Ministry's website at www.sbr.gov.bc.ca/business/Income_Taxes/International_Business_Activity/iba.htm for details.

The information contained herein is provided for convenience and guidance only and is not a replacement for the legislation. Businesses considering accessing the benefits under the *International Business Activity Act* (IBAA) should consult with their professional advisors on the applicability of the legislation to their particular circumstances.

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