

IP INCENTIVES

The Luxembourg government favors R&D activities and aims at positioning the Grand Duchy as the major place for intellectual property management in Europe.

For this purpose, the parliament has voted on 21 December 2007 a statute relating to direct and indirect taxes, providing among others an exemption of 80% on income derived from intellectual property, including domain names.

The statute came into force on 1st January 2008 and will be applied as of taxation year 2008.

The main aspects of the statute

- Exemption of 80% on the net positive income derived from the use or the license of author's right on software, of patent, trademark or design and exemption of 80% on the capital gain generated by the assignment of such IP rights;
- Patents registered and used by the tax payer in the framework of its own activity entitles the latter to benefit from an exemption of 80% on the net positive income which would have been generated by the license of such IP right to a third party.

Conditions

- The intellectual property rights must have been acquired (or created, as the case may be) after 31 December 2007;
- Expenses in direct economic connection with the IP right and depreciation must be recorded in the balance-sheet assets of the company and as a profit pertaining to the first year for which the tax regime is applicable, to the extent costs have exceeded income relating to such right for a given taxation year;
- The IP rights must not have been acquired from an "associated company"*.

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* For the purpose of the statute, a company will be deemed to be an associated company if:

- It holds directly at least 10% of the share capital of the beneficiary company;
- At least 10% of its share capital is directly held by the beneficiary company; or
- At least 10% of its share capital is held by a third company which holds at least 10% of the share capital of the beneficiary company.