

Bill 5: Intellectual property: know-how and patents

Introduction

1. This paper presents draft clauses which rewrite certain corporation tax provisions about intellectual property that are contained within Chapter 1, Part 13 of ICTA. The corresponding rules for income tax are rewritten in Chapter 2, Part 5 of ITTOIA.

2. The draft clauses do not apply to amounts arising from intangible fixed assets that are within Part 9 of the Bill as published in February 2008. Nor do the provisions rewrite those provisions contained within Chapter 1, Part 13 of ICTA which apply to trades. Those provisions are rewritten in Chapter 12, Part 3 of the Bill.

3. The provisions presented in this paper were excluded from the draft Bill because assets acquired from third parties or created on or after 1 April 2002 fall within Part 9 of the Bill. But for assets acquired or created before this date, the provisions rewritten in this paper still apply.

4. These draft clauses bring the relevant income tax and corporation tax provisions into line. Any differences between the rewritten material for the two codes derive mainly from the way in which the two taxes are charged and the possibility that accounting periods, unlike tax years, will not be of 12 months' duration.

5. The paper contains:

- the draft clauses, with origins;
- draft explanatory notes; and
- two draft notes outlining changes in the law.

Questions for the committee

6. We would be grateful for any comments you may have on these draft clauses and also on the two proposed changes.

Closing date for comments

7. We would welcome any comments by 19 September 2008. If possible, they should be sent to:

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Written comments should be sent to:

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8. Please note that the names of respondents may be published unless they ask for their comments to be treated in confidence.