

# B.C. Patent Box: Consultation Paper

As announced in Budget 2026, the Government of B.C. is engaging with stakeholders to explore whether adopting a patent box regime could support the growth of B.C.'s life sciences sector, and whether the tax system can help encourage the commercialization of intellectual property (IP), in the Province.

For further information and to send in written submissions please contact [BCPatentBox@gov.bc.ca](mailto:BCPatentBox@gov.bc.ca).

## What is a patent box?

A patent box is a tax incentive that provides preferential tax treatment on income earned from certain types of IP, such as patents or other qualifying innovations. Rather than supporting the cost of research upfront, a patent box reduces the amount of tax paid on income generated when IP is commercialized, for example through licensing, or royalties. The aim is to encourage the development and retention of IP stemming from research and development (R&D) conducted within a jurisdiction.

The key elements in the design of a patent box regime include the type of tax incentive offered, the IP assets eligible for preferential treatment, and the categories of income to which the incentive applies.

Patent boxes are typically designed to complement existing R&D tax incentives by supporting later stages of the innovation cycle, once research has resulted in commercially valuable IP. The specific design of a patent box can vary by jurisdiction, including which IP assets and types of income are eligible, the size of the tax benefit, and how compliance and administration are handled, often with reference to the international standard of the OECD's nexus approach.

## What is the OECD's nexus approach?

The OECD's nexus approach is an international standard designed to ensure that patent box tax incentives reward actual R&D activity, rather than the shifting of IP or profits for tax purposes. Under this approach, a business can only receive preferential tax treatment on income from IP to the extent that the business itself incurred qualifying R&D expenditures that contributed to creating that IP in a jurisdiction.

The approach was developed to promote genuine innovation and economic activity, and ensure patent box regimes are consistent with international standards to prevent harmful tax competition.

## What is the "life sciences" sector?

"Life sciences" refers to fields that involve the scientific study of living organisms. B.C.'s life sciences sector includes contract research firms, testing and medical labs, and companies that develop, produce or sell medical devices, diagnostics, pharmaceuticals, radiopharmaceuticals, and other reagents. The sector is a driver of economic growth, innovation, and healthcare advancement for British Columbia.



## What could a B.C. patent box look like?

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If a B.C. patent box for the life sciences sector was implemented, the Province would need to take into account not only the “nexus approach” noted above, but also how the program administration would work for businesses.

While B.C. income taxes are administered by the Canada Revenue Agency, it is unlikely that the B.C. patent box would be administrable as part of the annual tax return filing process. The *Canada-B.C. Tax Collection Agreement* provides for Canada Revenue Agency administration of B.C.’s income taxes in exchange for a number of provincial commitments, including the adoption of a “common tax base”, which determines how income is calculated and taxed, and the commitment to not create different tax rates for different types of income, such as income from IP commercialization.

B.C. would instead need to consider the adoption of either a tax credit program, which would be tied to specific determinable business expenses, or a provincially administered tax refund program.

## Provincially Administered Program

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A hypothetical provincially administered tax refund program would likely require businesses to register for the program and prove eligibility, file a corporate income tax return, and pay any taxes owing to the provincial and federal governments. Then, within 18 months from the end of the tax year, the business would apply for a refund of B.C. tax. The application for the refund would be assessed by provincial staff and a refund paid out where appropriate. If the business was reassessed for income tax purposes by the Canada Revenue Agency, then the business would need to inform the Province and adjust the refund accordingly.

## Key Questions for Considerations

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The Ministry of Finance is seeking feedback from stakeholders on the following questions under four themes of competitiveness, effectiveness, patent box design, and administration / technical questions:

### Competitiveness

The following questions seek input on how a patent box might strengthen B.C.’s innovation ecosystem.

1. Would the adoption of a B.C. patent box regime make the province a more competitive location for life sciences companies developing and commercializing IP?
2. When choosing a competitive location for developing IP, how important is the support of a B.C. patent box incentive compared to other supports and or regulatory changes?
3. Have you considered moving your life sciences operations, either in whole or in part, to another jurisdiction outside of B.C.? If yes, why? (e.g., access to finance, access to markets, access to talent, government support and investments, etc.)



## Effectiveness

The following questions ask how tax policy influences business decisions about where to locate and commercialize their IP. They also seek to identify non-tax barriers and any unintended behaviours that a patent box regime might generate.

4. What role do tax considerations play when businesses decide where to commercialize IP and where to locate IP ownership, including within or outside B.C.?
5. What non-tax factors affect decisions about where to commercialize and locate IP developed through B.C.-based R&D? How might these factors influence how businesses respond to the introduction of a B.C. patent box?
6. Are there non-tax barriers that would limit a patent box's effectiveness regardless of its design?
7. Are there any unintended consequences you foresee a patent box might inadvertently create, such as any structures or behaviours that it may incentivise or penalise?

## Patent Box Design

The following questions explore how a potential B.C. patent box should be designed, including the effective tax rate, eligible IP income, and alignment with international standards. The questions seek to understand which IP assets should qualify, how businesses manage and commercialize different types of IP, and what administrative challenges firms may face under such a regime.

8. What would be a competitive provincial tax rate for a B.C. patent box regime?
9. What types of the following income from commercialized IP should be eligible for a tax incentive? (List all that apply.)
  - Income from new IP
  - Income from IP generated from incremental innovations
  - Income from changes to existing IP
10. Because a patent box incentive is tied to the income earned from IP, to help inform any design and impact considerations, what proportion of your business's income is derived from:
  - New IP
  - IP generated from incremental innovations
  - Changes to existing IP
11. [International patent box standards](#) include IP assets such as broadly defined patents and copyrighted software. It also includes new IP that is similar to patents or copyrighted software and certified as such (usually in a transparent certification process by a competent government agency that is independent from tax administration).
  - a. Should all these assets be eligible for a patent box for the life sciences sector in B.C.?
  - b. Are there other types of IP assets that are not included here?



- c. Would a patent box incentive affect commercialization or location decisions differently for different types of IP assets?
    - i. If so, how?
    - ii. Which business practices surrounding these different IP assets encourage different responses to a patent box incentive?
  - d. Will it be difficult for businesses to provide evidence for any category of IP assets? (e.g., evidentiary difficulties or increased administrative burden)
12. In the case of co-owned IP, if applicable, how much is owned by your business compared with other entities? (e.g., academic institutions)
13. For companies with academic spin-out origins, are there specific structural features (e.g., co-ownership, licensing-back arrangements) that the design of a patent box needs to consider?
14. If B.C. does decide to implement a provincial patent box, what is the most important feature to make the incentive worthwhile to your organization?
15. Are there any other design features of a patent box that the Ministry of Finance should consider specifically to limit new fiscal costs to the government?

## Administration / Technical Questions

The following questions explore patent box administration, verification documents, and compliance with the OECD's nexus approach. These questions may be best answered by a tax or other professional advisor, if applicable.

16. Which IP development, commercialization, and ownership retention expenses should be part of a patent box incentive?
17. How does a provincially administered tax incentive delivered outside the standard income tax return process affect your business or your client's business?
18. When applying for a tax incentive after having filed your annual taxes, what patent box features are important?
19. If B.C. implements a patent box regime for the life sciences sector, B.C. would require businesses to report expenditure details from the IP's R&D to maintain compliance with the OECD's nexus approach.
- a. If you have experience with other jurisdictions' patent box regimes:
    - i. What expense documentation challenges have you encountered?
    - ii. What best practices for expense documentation do you recommend?
  - b. What should be considered qualifying expenditures on R&D?
  - c. What type of information and records could be used to verify the development of eligible IP in B.C.?
  - d. What is the normal ratio of IP income to related expenses?
  - e. How much of your R&D is outsourced, if any?
  - f. If you do outsource R&D, to which jurisdictions do you outsource that R&D?

