

House of Commons: Written Statement (HCWS55)

HM Treasury

Written Statement made by: **The Financial Secretary to the Treasury (Mr David Gauke)** on 02 Dec 2014.

Patent Boxes

As part of the Base Erosion and Profit Shifting (BEPS) Project that this Government helped to initiate and has championed, the OECD has been considering preferential intellectual property regimes which include the UK's Patent Box. Work by the OECD has focused on agreeing new rules on the level of substantial activities required for a preferential regime to be considered a tax relief that supports real economic activity and not to be considered 'harmful'.

The OECD proposed a number of methods to determine substantial activity. Whilst the UK and three other countries supported the 'transfer pricing' method, a significant majority of OECD-G20 members supported the alternative modified nexus method. The UK expressed concerns about the modified nexus approach but in the interests of reaching agreement on this important issue, agreed to work with Germany to try to find a compromise position.

On 11th November 2014, the UK and Germany duly published a Joint Statement which outlined a compromise proposal to be put to the OECD-G20 members at the Forum on Harmful Tax Practices (FHTP) and to EU Member States at the Code of Conduct Group. This compromise proposal adopts the main features of the modified nexus approach, but amends these in order to take account of previously expressed UK concerns.

The compromise proposal was presented to the FHTP at its meeting from 17-19 November, and to the Code of Conduct Group on 20 November. The proposal was welcomed and will now form the basis of continuing work by the FHTP to determine how the approach will work in practice. As part of the agreement, countries with existing IP regimes must agree to close these to new entrants by 30 June 2016 and will abolish them by 30 June 2021, after which all countries will be required to operate only nexus-compliant regimes. The legislative process to introduce changes to existing IP regimes so that continuing IP regimes conform to the re-modified nexus approach will also begin in 2015. In line with the normal tax policy-making process, the Government intends to consult on these changes, once the FHTP has completed work on the detail of the new rules.

The changes that the Government has secured to the original approach proposed by the OECD will protect the interests of the UK as an excellent location for technology based businesses by retaining a competitive Patent Box regime, which will now align benefits more closely to R&D activity carried out in the UK. As such, the Government is confident that the new regime will continue to incentivise innovation and its commercialisation in the UK.