Global Intellectual Property Tax Planning Services

When multinational companies are optimizing their global tax position, it is imperative to align their Intellectual Property (IP) tax strategy with the organization's strategic business goals.

Technology organizations' most valuable assets are their IP, and protecting this IP is vital to the success of the business. Encompassing trademarks, patents, copyrights and trade secrets, IP plays a critical role in the technology industry because it protects and commercializes innovation. As artificial intelligence (AI) and other machine learning begin to take the world by storm, IP planning should be top of mind for the entire technology industry. Development of an IP strategy should include planning for ever-present, significant tax risks, such as multiple taxing jurisdictions claiming the right to tax the same IP. Diligent global IP tax planning will help optimize a company's global tax profile as well as increase cash tax savings and optimize the global effective tax rate.

Risk Considerations When IP Tax Planning

Given the complexities of IP planning, there are a variety of components that should be considered. Several factors that have a large impact on IP tax planning include:

- Location of IP's tax ownership to avoid high-tax locations
- IP ownership and planning during Mergers and Acquisitions (M&A)
- Research and development (R&D) in jurisdictions where IP ownership may be claimed by multiple jurisdictions from a tax perspective and can heighten transfer pricing risks
- Hiring consultants or employees in multiple jurisdictions performing R&D may create a larger taxable presence risk (i.e., Permanent Establishment)
- Documentation management of IP and its tax ownership location(s) to avoid regulatory challenges
- Tax ramifications when moving IP between jurisdictions to avoid transfer pricing adjustments and the potential for double taxation

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IP & Global Expansion

As technology organizations expand globally, their decisions on IP management will impact the global group's tax obligations and overall profit. There is a complicated variety of factors to consider when determining where taxes are owed. The first step is determining in which tax jurisdictions an organization's IP resides for tax purposes. One of the largest factors that determines an organization's IP tax residency is the taxing jurisdiction's definition of tax ownership, which can range from:

- **Legal Ownership:** Generally straightforward as the registered owner; to
- **Economic Ownership:** Equivalent to determining who exercises control over the asset and benefits from its use or exploitation.

More often, IP tax ownership is more closely associated with economic ownership, whereby it is crucial to consider the facts and circumstances of the underlying transactions, placing more reliance on the actual substance of the transaction and the actions of the parties involved. Consequently, where the legal ownership of a company's IP is could be different than where it resides from a tax planning perspective.

Global IP Planning Services

Global IP planning strategies are foundational to the success of multinational organizations. Cherry Bekaert's International Tax Services practice can assist with:

- Identifying IP location optimization through migration and cost sharing strategies
- Providing IP planning for M&As
- Providing transfer pricing analyses for royalties and IP development
- Assisting with transfer pricing controversy for IP-related adjustments

Let Us Be Your Guide Forward

Cherry Bekaert's International Tax Services practice has in-depth expertise and decades of relevant experience helping companies of all sizes in the technology industry to identify, develop, implement and maintain company-specific, tax-effective global IP strategies.

Cherry Bekaert aligns its IP planning recommendations and strategies with a client's business goals to achieve optimum tax-effective results that are tax-defensible and avoid undue risks.

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