

News Release

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INTELLECTUAL PROPERTY DRIVES COMPANY VALUE – SIGNIFICANT UNTAPPED POTENTIAL FOR TAX PLANNING BENEFITS

BOOK BY BELGIAN EXPERTS IDENTIFIES BUILDING BLOCKS TO ESTABLISH A ROBUST GLOBAL STRATEGY TO PROTECT, MONITOR AND MAXIMISE THE RETURN ON A COMPANY'S 'BRAINPOWER'

Brussels, 7 September 2005 – A new book by Intellectual Property (IP) experts from PwC Belgium highlights the increasing importance for companies to know, manage and control their IP. Structured around the life cycle of IP rights, the book provides compelling insights from a tax, legal and accounting point of view. It aims to complement the bookshelves of Corporate Senior Management, Boards, Lawyers, Tax Counsels, Accountants and Academics.

'Mastering the IP Life Cycle – towards a tax-efficient management of intellectual property rights' has been written by Belgian-based IP experts Isabel Verlinden (Partner Tax Consultants & Leader Transfer Pricing Continental Europe), Axel Smits (Partner, Tax Consultants) and Bart Lieben (Legal Counsel, PwC). For their endeavour, they were able to draw on the knowledge of PwC colleagues in over 30 countries, who added a local dimension to the book's content.

"Over a trillion USD a year is spent by companies on developing IP so as to create a competitive edge. On average, 70% of the value of a car relates to IP. The fact that less than a fourth of a company's market capitalisation appears these days to be imbedded in 'tangible assets' implies that much room for speculation is left to investors and also tax authorities to assess the 'true' value of IP. A pending US court case where some 10 billion USD is at stake proves that IP becomes a slam-dunk for revenue to generate a mouth-watering amount of taxes. Crafting a full-fledged solution for a tax- and cost-effective monitoring of their use is thus the message," says Isabel Verlinden.

CEOs and CFOs are urged to take interest

“In today’s environment of intensifying competition and resource constraints, corporate executives are increasingly aware of the importance of IP, and it will emerge as the key value driver for companies in the next 20 years,” says Axel Smits. In addition, corporate governance rules, such as the Sarbanes-Oxley (SOX) statute, have triggered the interest of the boardroom. CEOs and CFOs are now required to certify in corporate reports that the material disclosed accurately represents the financial condition of their companies. In this context, it is clear that CEOs and CFOs must have a substantial, in-depth knowledge of a company’s IP portfolio and must conduct periodic evaluations. Generally accepted accounting principles in most countries (GAAP) perpetuate the information deficiency. In general, GAAP treats practically all internally generated intangibles as costs to be expensed rather than as investments, nor does GAAP require firms to disclose any meaningful information about intangibles investments, except for aggregate R&D expenditures, lumping the rest of them in with general expenses. This keeps investors in the dark about how companies, for example, allocate R&D budgets to basic research, product development and process improvements, software development and acquisition, brand enhancement and employee training

Attention for legal aspects is crucial

Any tax planning involving IP rights is useless if the legal dimension is not taken into account. Even though tax ownership usually equals economic ownership of IP rights, considering their legal ownership is equally important as this will drive the value and inconsistencies in ownership could trigger double taxation.

Often forgotten in this respect is that legal protection still has geographical limitations and local rules need to be considered. *“Local differences in legal protection can influence significantly the value of an IP portfolio to its owner(s) and will, for example, determine to what extent licenses can be granted, what can be done in cases of infringement etc,”* states Bart Lieben.

To help companies understand their local picture, the book’s 31 country chapters provide an overview of the differences in terms of IP definitions, accounting treatment, tax incentives that can be obtained etc.

Four building blocks for an IP tax strategy

Many companies make mistakes when trying to plan and manage their IP. The following key issues need to be addressed to build a robust IP tax strategy throughout the IP life cycle:

1. A first and crucial step in any IP tax strategy is the identification of the various IP rights within a company or group. Often thought to be a simple exercise, practical experience shows that (legal or economic) ownership is usually scattered around the group and documentation is not readily available;
2. Tax planning for IP rights is most effective when addressed early on in the IP life cycle; the value of IP rights can increase rapidly and make it more difficult to migrate them in a tax efficient manner;
3. An IP tax strategy cannot exist on its own; it needs to be closely linked to the operational realities of the company or group and sufficient substance should be available; and
4. This cannot be a one-off exercise; IP rights are volatile by nature and their value needs to be monitored throughout their life cycle as this will influence the effectiveness of the tax planning; in this respect, convergence from one kind of protection to another over time (e.g. a brand becoming more valuable than the initial patents) should thereby be taken into account.

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Notes to editor:

The book '*Mastering the IP Life Cycle – towards a tax-efficient management of intellectual property rights*' can be ordered via the corporate website www.pwc.be. It runs to 585 pages and costs EUR 149 plus shipping.

ISBN number: 9080693170.

This book updates and complements the previous publication 'Intellectual Property Rights from a Transfer Pricing Perspective', by the same authors, which was published by PwC Belgium in 2004.

In order to obtain a free copy of the book or to arrange for an interview with the co-authors Isabel Verlinden or Axel Smits, journalists are welcome to contact:

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