



# Guidelines for completing a Knowledge Development Box (KDB) Certificate Application

- Before making an application for a certificate, it is strongly recommended that you undertake a review to determine that you have an invention as specified in section 769R of the Taxes Consolidation Act 1997 and that the invention was the result of R&D by the applicant company.
- Please ensure before making an application that you are a 'relevant company' as defined by the Taxes Consolidation Act 1997. Further information is available at [www.revenue.ie](http://www.revenue.ie)
- Please use the following guidelines as an aid when filling in the Application for a KDB Certificate.
- All sections of the application form must be completed.

## 1. What is the KDB?

The Knowledge Development Box (KDB) was introduced by the Finance Act 2015 for companies whose accounting period commences on or after 1 January 2016.

The KDB regime is only available to companies that carried out the research and development (R&D) within the meaning of Section 766 of the Taxes Consolidated Act 1997 (TCA 1997) which led to the creation of the patent, copyright software or a third category of assets in the form of intellectual property (IP) equivalent to a patentable invention. The KDB regime allows a company's profits which derive from that IP to be taxed at 6.25%.

## 2. What is a KDB Certificate?

A KDB Certificate is required for small companies which have assets in the form of intellectual property (IP) equivalent to a patentable invention.

Intellectual property for small companies is defined in Section 769R (1) of the TCA 1997 as:

*"... inventions that are certified by the Controller as being novel, non-obvious and useful"*

The **Knowledge Development Box (Certification of Inventions) Act 2017, (No. 6 of 2017) (the KDB Act)** establishes a certification scheme to enable SMEs which have inventions in the form of intellectual property (IP) equivalent to a patentable invention to qualify for the KDB and avail of the reduced corporate tax rate of 6.25%. Eligible SMEs are those with income arising from intellectual property of less than €7.5m and with global turnover of less than €50m where the profits result from R&D.

The KDB Act provides that the Controller will oversee and operate this certification scheme.

The Controller will issue a KDB certificate if he is satisfied that all requirements of Part 2 of the KDB Act are met. The certificate will state the name and address of the applicant, the title of the invention and the date on which the invention began to be used, produced or marketed. On receipt of a certificate, a company will be in a position to make a claim for tax relief to Revenue.

### **3. Exclusions**

The certification scheme applies to intellectual property (IP) equivalent to a patentable invention. As not all inventions are patentable, Section 5 of the KDB Act sets out the subject matter which is excluded from patentability and is therefore excluded for the purposes of KDB certification.

Any of the following in particular shall **not** be regarded as an invention:

- A discovery, scientific theory or mathematical method;
- An aesthetic creation;
- A scheme, rule or method for performing a mental act, playing a game or doing business, or a program for a computer;
- The presentation of information.

A KDB certificate shall **not** be issued in respect of:

- An invention which would be contrary to public order or morality
- A plant or animal variety or a biological process for the production of plants or animals other than a micro-biological process
- A method for treatment of a human or animal by surgery or therapy and a diagnostic

method practiced on a human or animal

#### **4. Single Inventive Concept.**

A KDB certificate will only be issued in respect of one invention, except in cases where a group of inventions are so linked as to form a single inventive concept.

#### **5. The Application Form**

The application form reflects the requirements set out in Section 7 (2) and (3) of the KDB Act 2017:

##### **5.1. The Applicant (Section 1 of the form)**

In this section of the form, please state the full name of the applicant company as it is registered under the Companies' Acts.

- The applicant should be the relevant company making the application.
- Include the company business address.

Please note that the details input under the Applicant section of the form including the email address, will be used for all non- confidential correspondence, including the certificate (if issued), if no agent or representative is appointed.

A KDB certificate will only be issued in respect of the relevant applicant company named in the application form.

##### **5.2. Agent or Representative (Section 2 of the form)**

**This section should only be completed should you wish to appoint an agent or a representative to act on your behalf.**

By completing this section you indicate that you have given authority to the named agent to act on your behalf. Please note that if this section is completed, all non-confidential correspondence in relation to the application including the certificate (if issued) will be sent to the email address or postal address of the agent or representative supplied.

If this section does not apply to you then please state "N/A"

If no agent or representative is appointed, then all correspondence will issue to the email

address or postal address of the applicant.

Should you wish to withdraw the authority of the agent or representative to act on your behalf, you must notify the Intellectual Property Office of Ireland (IPOI) in writing and provide details of the name and address and email address to which further correspondence should issue.

#### **Email authorisation check box**

*Please note that an email address is required to enable applications for a KDB certificate to be filed using a secure tool called ShareFile®. ShareFile® will also be used for the exchange of confidential information concerning the application including, if necessary, the submission of a revised application. More information on ShareFile® is at Section 7 of these guidance notes.*

*Confidential information will only be exchanged using ShareFile®.*

*Marking the email authorisation check box authorises the Intellectual Property Office of Ireland to send any non- confidential correspondence relating to the application to the email address provided by the applicant. The box should only be checked if the applicant has a valid email account that is checked regularly. The Intellectual Property Office of Ireland shall not be held responsible if correspondence is not acted upon by the applicant due to the applicant's failure to access their email account on a regular basis.*

*If the box is not checked, then the Intellectual Property Office of Ireland will assume that all non-confidential correspondence should issue by post.*

### **5.3. Nature of Business (Section 3 of the form)**

Describe the principle activity of the company and the appropriate NACE classification for economic activities. The four digit NACE code and general nature of activity should correspond with the company's principal objective in its memorandum of association.

The information will be used for statistical purposes only.

*CSO provide an online search facility to find NACE codes for the various NACE categories. By searching the NACE Coder using a keyword/business description it will bring back a list of possible NACE Codes using the NACE Rev.2 Classification system.*

[\[http://www.cso.ie/px/u/NACECoder/NACEItems/searchnace.asp\]](http://www.cso.ie/px/u/NACECoder/NACEItems/searchnace.asp)

(For example the NACE code for activity involving “weaving of textiles” is 1320).

Please enter the NACE code you consider to be most relevant to your business in the space

provided at section 3 of the form.

#### 5.4 Title of Invention (Section 4 of the form)

The title of the invention must be clear, accurate and concise and must contain enough detail that it is obvious what the invention is or what it relates to. The title should be meaningful and should clearly, concisely and as specifically as possible indicate the subject of the invention.

Trade names, trademarks, personal names or abbreviations should not be used.

The title should be concise and should be no more than 160 characters in length.

Some acceptable and non-acceptable examples of titles are set out below:

Examples of Good informative titles	Examples of Non-informative titles
Air outlet diffusor for centrifugal compressors	Arrangements giving improvements in compressors
Process for colouring acrylic fibres using cationic dye	Treating fibres
Indwelling vein catheter assemblies	Medical assemblies
Process for preparing cyclohexanediones	Chemical process

If the Office is not satisfied that the title is not sufficiently informative and detailed so as to clearly indicate the subject of the invention, the Office will regard the application as not complying with Section 7(2)(b). In such a case and also if the Office is not satisfied that that other requirements of Section 7 have been met, a notice will issue which will give particulars of the requirement which is not being complied with to the Controller's satisfaction. A period of 30 days from the date of issue of the notice will be allowed in order that an applicant can revise and resubmit the application.

#### 5.5 - Date invention began to be used, produced or marketed (Section 5 of the form)

The date from which the invention began to be **used, produced or marketed must** be provided. This is to decide the cut-off date for the latest prior art assessed in respect of the invention's novelty, non-obviousness and usefulness. A KDB Certificate will only be issued in respect of an invention which meets these requirements.

This date is also important in that it will have a bearing on the accounting period in which the relevant company has qualifying income and expenditure in respect of the invention. For more

information on accounting periods for KDB claims please consult Revenue. Queries should be addressed to Aine Hollingsworth ([aholling@revenue.ie](mailto:aholling@revenue.ie)).

## **5.6 - Items accompanying the application (Section 6 of the form)**

Please ensure all attached documentation is saved in a PDF non editable format.

### **(a) Evidence that Company is a “relevant company”**

An applicant company must be a “relevant company” as prescribed by Section 796G of the Finance Act 2015 viz.

*“A relevant company means a company which carries on a specified trade and is within the charge to tax in the State, and where 2 or more companies carry on that specified trade in partnership, then each company that is within that charge to tax in the State, shall be a relevant company”.*

Eligible SMEs are those with an income from intellectual property of less than €7.5m and with global turnover of less than €50m where the profits result from R&D.

A sworn statutory declaration that your company is a “relevant company” will suffice as evidence.

### **(b) Description of the Invention (incl. drawings, images or other evidentiary material)**

You must supply a full, clear, concise and accurate description in writing of the invention and of the manner and process of making and using it. Please also submit any drawings, images or any other evidence (technical manuals, process maps etc.) which may assist in understanding the nature of the invention and any other information which may help the Office in deciding whether to grant a

KDB Certificate or not. The description and any drawings and other supporting documents should be in PDF format. (see section 7 below).

### (c) Features of the invention which were part of the state of the art

Under this section, set out the features of the invention which were part of the state of the art in the technology concerned and which were known to you on or before the date the invention first began to be used, produced or marketed.

### (d) Novel features or improvements in the invention which were not part of the state of the art

Under this section, provide details of the novel features or improvements in the invention which were not part of the state of the art in the technology concerned before the date that the invention first began to be used, produced or marketed.

### (e) Description of Advantageous Effects (if any) of the Invention

Under this section you should set out the advantageous effects (if any) of the invention with reference to:

- The state of the art in the field of technology concerned
- The way in which the invention is made and used in the industry and
- If the invention is described as an improvement, a description of the invention pointing out the part(s) of the process or the technical features to which the improvement relates focusing on the exact nature of the improvement and any parts or technical features which assist with the improvement or are necessary for a complete understanding of the improvement.

***It may be useful to use the following order when providing the information required by the application.***

*Set out the technical field related to the invention.*

- 1. Provide a detailed description of the invention, as in (b) above. Provide some background information of the technology area necessary for understanding the invention. For an apparatus or product, describe each part, how they fit together and how they work together. For a process or part of a process, describe each step from start to end result. For a compound include the chemical formula, the structure and the process which could be used to make the compound. The invention must be disclosed in such a manner that the technical problem solved by the invention and the solution are clearly evident.*
- 2. Use illustrations and drawings to assist in understanding how the elements of the invention interact. Non-essential details should be omitted.*

- 3 *Describe at least one way of executing the invention in such a way that it is understandable to a person skilled in the art. This is usually done using examples supplemented by drawings. Cross-referencing the text to the drawings using numbers is advisable. Applications for chemical substances must include a description of at least one example of how it would be produced, and the substance must be identifiable by means of physical data.*
  
- 4 *Include in the document, under the separate sections at (c), (d) and (e) above, how the invention differs and/or improves on the prior art and what elements are not part of the state of the art. The prior art disclosure is generally done by reference to published technical literature, for example, documents which were found through a search together with literature such as technical journals, user manuals, product descriptions, etc. Highlight novel features by including a description of how the invention is different from what is currently in use and known to you. State the advantages which the invention exhibits over the prior art with regard to the novel features disclosed.*

*An example is annexed.*



Example  
Document.pdf

#### **(f) Patent Agent Opinion & Supporting Evidence**

The application must be accompanied by an opinion from a Patent Agent certifying the invention as novel, non-obvious and useful on the date contained in the application (i.e. the date from which the invention began to be used produced or marketed) and evidence to support that opinion. This opinion document must be signed by the Patent Agent or by an authorised signatory of a firm or partnership of patent agents which has been retained by the applicant.



*N.B. The services of a patent agent/attorney will be necessary for making a proper determination of the relevant prior art and, based on this, to provide an opinion as required by Section 7(3) of the KDB Act. The provision of an opinion from a patent agent attesting to the invention being novel, non-obvious and useful, accompanied by evidence to support that opinion, is a mandatory requirement.*

*Though not mandatory, the services of a patent attorney may be also necessary in order to ensure that the description clearly discloses the novel technical features or improvements of the invention and has regard to any prior art.*

*Subject to the provisions of section 105 and 106 of the Patents Act 1992, a person established in the State shall not act as a patent agent unless that person is registered in the register of patent agents.*

## **6. Signature, Capacity and Date (Sections 7-10 of the Application Form)**

This section must be completed with the applicant's (agent or representative's (if any) signature. The person who signs the form should indicate in which capacity they are signing for the company, i.e. Director, Secretary, etc. The date should be the date of signature.

## **7. How to file the application**

In order to ensure the continued security and confidentiality of the data contained in your application and to avoid the risk of inadvertent disclosure, the Intellectual Property Office of Ireland will not accept applications filed by unsecured (standard) email, by post or by fax. The Intellectual Property Office of Ireland will allow applications for a KDB certificate to be filed using a secure tool called ShareFile®. When you (or your agent/representative) have completed the application form and have assembled all the required documentation, please contact the Intellectual Property Office of Ireland at [[kdbcert@ipoi.gov.ie](mailto:kdbcert@ipoi.gov.ie)] for information on how to securely file the application using ShareFile®.

**Please read the following note which provides some details regarding ShareFile, document size and acceptable file format.**

*ShareFile® is a tool for securely sending and receiving files online. ShareFile® employs SSL/TLS protocols to protect client authentication, authorization and file transfers. It secures files in transit with up to 256-bit encryption using industry-standard encryption protocols.*

*When you are ready to file your KDB application and have all your documentation, you should contact the Intellectual Property Office of Ireland by email at the following email address [kdbcert@ipoi.gov.ie](mailto:kdbcert@ipoi.gov.ie) and state that you wish to file an application for a KDB Certificate. You will receive a reply by email which will give you instructions on how to proceed.*

*You will be required to create an account with a password. The password should be complex and secure. The onus is on you the applicant to protect the security of this password as the Office will not have access to it. You will be provided with instructions on how to upload your application documents. Only you and the Intellectual Property Office of Ireland will have access to the ShareFile® account which you have created.*

*ShareFile® can accommodate files/documents up to 100 GB in size. You are requested to submit the completed application form and all accompanying documents in searchable Portable Document Format (PDF). The PDF documents should contain just text and drawings. They should not include or contain other “objects” such as multimedia (e.g., sound, video, animations, slideshows), file attachments, multi-page objects (e.g., Microsoft Excel spreadsheets, multi-page TIFF images), and commenting/reviewing features (highlighting, annotations, comments, notes, and the like). All PDF documents must be free of executables, worms, viruses, or any type of potentially malicious content. Files which contain objects other than text or drawings and files with potential malicious content will be deleted in order to preserve system security.*

*Any drawings can be included in a multiple page PDF file or submitted as a separate PDF if required. Drawings must be legible and appropriately numbered and labelled. Photographs will be accepted provided they can adequately illustrate and provide an understanding of the invention.*

*Your ShareFile® account will be set up to automatically notify the Intellectual Property Office of Ireland when you have uploaded your application. You will also receive a notification to your ShareFile® account when the Intellectual Property Office of Ireland downloads your application. In addition, a separate acknowledgement confirming receipt will issue to the email address provided. If additional secure confidential communications regarding your application are necessary, these will be conducted through your ShareFile® account. Standard email will only be used for non- confidential communications.*

*For added security, the Intellectual Property Office of Ireland will remove uploaded application files once they have been retrieved and downloaded. All other data and files in a ShareFile® Account will be removed once a final decision is taken on an application.*

## 8. Procedures following submission of an application

8.1. There will be an initial formalities check to ensure that the application form has been properly completed and uploaded and that the application is accompanied by the required documentation i.e. the sworn statutory declaration that the applicant is a relevant company, description of invention, opinion from patent agent, etc. The Office will issue an acknowledgement of receipt of the application by email. However, if the formalities check reveals that the application form has not been properly completed or that documents are missing, the applicant will be notified by email that a valid application has not been received and requested to re-submit

8.2. On receipt of a valid application, the various elements of the application will be examined and a determination made as whether the information provided is sufficient to comply with all the provisions of Section 7 of the KDB Act.

8.3. If the determination is that the information is insufficient and that the application does not comply with all the requirements of section 7, the applicant will be issued a notice in writing which sets out the deficiencies. The applicant will have 30 days from the date of the notice to revise and resubmit the application taking account of the deficiencies. The Controller may permit an extension of the 30 days period.

8.4. If the application is not revised and resubmitted within the 30 days (or the extended period) the application will be deemed to have been withdrawn.

8.5. If the revised application is deficient a further notice will issue setting out the requirements of Section 7 in respect of which the revised application still does not comply.

8.6. If a notice identifying deficiencies in the application is issued the Controller will defer or cease further consideration of the application until a corrected application is resubmitted or in default of that the application will be deemed withdrawn.

8.7. If the Controller **is satisfied** that the invention meets all the requirements of Part 2 of the KDB Act 2017 and is satisfied that the invention is novel, non-obvious and useful, a KDB certificate will issue.

8.8. If the Controller **is not satisfied** that the invention meets all the requirements of Part 2 of the KDB Act 2017 and **is not satisfied** that the invention is novel, non-obvious and useful, the applicant will be issued a notice indicating refusal and setting out the grounds of the decision to refuse.

8.9. An applicant who has been issued with a notice of refusal has 30 days to request a review of the decision to refuse. The application will be reviewed by an officer of the Controller who is senior to the grade of officer who made the original decision to refuse.

8.10. There is no prohibition on applicants making new applications in cases where an application has been withdrawn, deemed withdrawn or refused.

## 9. Confidentiality

9.1. Section 17 of the KDB Act includes a number of confidentiality provisions which prevent publication or public disclosure of the details of an invention which is the subject of an application for a KDB Certificate.

9.2. The only exceptions are disclosure to a court which is in the interests of justice and disclosure to the Revenue Commissioners for the purposes of making a tax determination.

## 10. Status of these Guidelines

These guidelines are for general guidance only and are necessarily in condensed form. The guidelines are not a legal interpretation of the statutory provisions in the KDB Act and have no binding force. While every effort is made to ensure that the information in the guidelines is accurate, responsibility cannot be accepted for any liability or loss suffered as a consequence of relying on any matter published herein. If the guidance notes do not have all the information you require regarding the making of an application for a KDB Certificate, please contact the Intellectual Property Office of Ireland at [\[kdbcert@ipoi.gov.ie\]](mailto:kdbcert@ipoi.gov.ie)

Please note that the IPOI is not in a position to answer queries regarding the claiming of tax relief under the KDB.

Practical guidance on the Knowledge Development Box (KDB) regime has been issued by Revenue. For further information on the tax relief aspects and the steps to claiming relief under the KDB, please refer to the KDB Guidance Notes on Revenue's website [www.revenue.ie](http://www.revenue.ie) at **Revenue eBrief No.73/16** or contact your Revenue Office. Queries in relation to the Revenue guidelines or the tax aspects of the KDB regime should be addressed to Aine Hollingsworth ([aholling@revenue.ie](mailto:aholling@revenue.ie)).

**Please note that an application for a KDB Certificate is not an application for tax relief. A certificate will enable the holder to meet one of the requirements of the KDB scheme for small companies. A KDB certificate confers no intellectual property rights on a certificate holder. Nothing in the certificate should be construed as implying an entitlement to any tax relief or tax credit under the Taxes Consolidation Act 1997.**