

UNIVERSITY OF LEEDS

POLICY

IP Royalty and Consultancy income waivers

Issue date : June 2013

Responsibility of the Department of Finance

Document Version

Issued June 2013

Ensure that you are using the latest and current version. If in doubt you should check with the Department of Finance.

Contact Details

Alan Thomson

Deputy Director of Finance

CONTENTS

1. ROYALTY AND CONSULTANCY INCOME WAIVERS

- 1.1 Purpose of document and applicability
- 1.2 Summary of waiving rules and process
- 1.3 Regulations – university regulations governing royalty/consultancy income
- 1.4 Regulations – tax legislation
- 1.5 Further guidance on interpretation of regulations

Appendix A – Form of waiver for Royalty Income

Appendix B – Form of waiver for Consultancy Income

1 ROYALTY AND CONSULTANCY INCOME WAIVERS

1.1 Purpose of document and applicability

- 1.1.1 This document provides guidance on the process through which University employees may waive their right to receive certain intellectual property (IP) or consultancy income in favour of their academic department.
- 1.1.2 A summary of key points is given in the following section and this is supported by further detail in the sections thereafter on the guidance and governing legislation that applies.
- 1.1.3 It is important for correct treatment of income tax and National Insurance that the defined procedures are followed. Failure to do so may result in complications involving HMRC (Her Majesty's Revenue and Customs, the UK Tax Authority), for both the University and individuals concerned.

1.2 Summary of waiving rules and process

- 1.2.1 As a general rule, payment of earnings due to an employee are subject to income tax and NICs (National insurance contributions). Earnings may be in cash or non-cash form (for which an equivalent value is computed) and need not actually have been paid over to become assessable for tax purposes.

The time at which tax and NICs become assessable is the earlier point of

- when the payment is made; and
- when an employee becomes entitled to the payment.

It is therefore crucial that the Deed of Waiver of Royalty Income or Deed of Waiver of Consultancy Income at Appendix A and B is completed, signed and returned to the Commercialisation Department before entitlement to payment arises.

- 1.2.2 Revenue generated through the exploitation of IP or consultancy is treated for tax purposes as employment related income.
- 1.2.3 Should an employee of the University, or an individual in receipt of IP income or consultancy payments, wish to waive their rights to receive income, the following points apply:
- i. The waiver can only be made through the **Deed of Waiver of Royalty Income** or **Deed of Waiver of Consultancy Income**, (see Appendix A and B).
 - ii. In the case of IP royalty income the waiver must be made in respect of part or all of the revenues due during a specified licence period (as defined within the relevant IP Agreement) e.g. specific years or for the duration of the licence term.

- iii. In the case of consultancy income the waiver must be made in respect of part or all of the revenues associated with a contract and cannot be limited to a particular stage of a contract.
- iv. All waivers need to be completed with respect to future income entitlements, they cannot be made retrospectively. For IP royalty income this means in advance of the IP income being received by the University and for consultancy this means prior to final signature of a contract. The purpose of entering into the waiver at this point is to prevent a tax and NI liability arising on the income (without the appropriate waiver, this could happen even if the income is not received).
- v. The waiver must be absolute, and cannot be varied at a later date.
- vi. The employee cannot insist that the sums waived are used in a particular fashion. The University may take account of the individual's wishes, however, to waive in favour of a specified department or unit.
- vii. In accordance with points (iv) and (v) above, annual or renewable waivers are invalid.
- viii. An income waiver means that the right to receive that income from the University is given up and the University (or a department of the University) will retain all or a proportion of future income that would otherwise have been due to the individual. This right is not transferable and cannot be used as a means of transferring income to other individuals and organisations.
- ix. Completed waiver forms for IP royalty income should be forwarded to Commercialisation Services, Research & Innovation Service.
- x. Completed waiver forms for consultancy income should be forwarded to your relevant faculty research office.
- xi. A waiver is an irrevocable action that remains in place for the lifetime of the income stream to which it relates.

1.3 Regulations – University regulations governing IP royalty and consultancy income

- 1.3.1 The University Intellectual Property Policy can be found at:
http://www.leeds.ac.uk/secretariat/documents/ipr_policy.pdf
- 1.3.2 The University Consultancy Policy can be found at:
<http://www.leeds.ac.uk/finance/policies/consultancy>

1.4 Regulations – tax legislation

- 1.4.1 The primary tax legislation which applies to the waiving of employment income is the Income Tax (Earnings and Pensions) Act of 2003, referred to as 'ITEPA 2003'.
- 1.4.2 Details of ITEPA 2003 can be found at:
<http://www.opsi.gov.uk/acta/acts2003.htm>
- 1.4.3 Details of HMRC guidance can be found at:
<http://www.hmrc.gov.uk/manuals/eimanual/EIM42705.htm>

Appendix A/B – Form of Waiver

The current form of waiver for use with both income streams is provided on the following page

Notes for completion – Appendix A Royalty Income

Appendix A Royalty Income

Applicants must complete all parts. As per paragraph 1.2.3 (v) the University will receive the right to the income. It will consider the individual's wishes to direct the funds to a Department however this is at the sole discretion of the University (and a condition stipulated by HMRC).

The declaration must be completed by all applicants and signed and dated in the presence of a witness. *Completed forms should be sent to Commercialisation Services, Research & Innovation Service.*

Notes for completion – Appendix B Consultancy Income

Appendix B Consultancy Income

Applicants must complete all parts. As per paragraph 1.2.3 (v) the University will receive the right to the income. It will consider the individual's wishes to direct the funds to a Department however this is not guaranteed.

The declaration must be completed by all applicants and signed and dated in the presence of a witness. *Completed forms should be sent to your Faculty Research Office.*

Appendix A
Deed of Waiver of Royalty Income

To :

Commercialisation Services
Research & Innovation Service
Charles Thackrah
University of Leeds

By this Deed, I waive absolutely and irrevocably my entitlement to all and any remuneration as described below:-

- i. Licence name / reference**

- ii. Period that the income relates to**

- iii. Total value of the income that you are waiving**

- iv. I know that, having waived entitlement to this income, I have no rights but it is my wish that the funds released are credited to:**

Department/Faculty	
Signed and delivered as a deed by	(signature of individual)
Full name of individual signing	
In the presence of Research & Innovation Finance Manager	(signature of witness)
Full name of witness	
Dated	

This document should be retained on the relevant project file with a copy given to the person waiving the income.

Appendix B
Deed of Waiver of Consultancy Income

To :
Faculty Research Office

University of Leeds

By this Deed, I waive absolutely and irrevocably my entitlement to all and any remuneration as described below:-

- i. Contract reference**

- ii. Period that the income relates to**

- iii. Total value of the income that you are waiving**

- iv. I know that, having waived entitlement to this income, I have no rights but it is my wish that the funds released are credited to:**

Department/Faculty	
Signed and delivered as a deed by	(signature of individual)
Full name of individual signing	
In the presence of Faculty Research & Innovation Office Manager	(signature of witness)
Full name of witness	
Dated	

This document should be retained on the relevant project file with a copy given to the person waiving the income.