

# Snapshot: Cayman Islands Annual Fees in respect of Intellectual Property Rights

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Annual fees are payable to the Cayman Islands government every 1 January for the life of an intellectual property registration for a trade mark, patent or design. Here Ashleigh Miller, a paralegal in Ogier's Intellectual Property group, addresses some of the most commonly asked questions on this topic.

## **What are annual fees?**

Annual fees are maintenance fees which, as the name suggests, are due annually.

## **Are annual fees the same as renewals?**

Annual fees are not the same as renewals, which extend the life of the IP right. For example, Cayman Islands trade marks are due for renewal every 10 years from the date of the trade mark application, which is also deemed to be the effective date of registration. An application for a trade mark renewal extends the life of the trade mark for a further 10 year period. In contrast, annual fees are payable every 1 January for the life of the trade mark to ensure that the trade mark registration is kept in good standing at all times.

## **When do annual fees fall due?**

Annual fees start to accrue every 1 January after filing a trade mark, patent or design application. However, they do not fall due for payment until 1 January following registration. For example, if a trade mark application is filed on 1 July 2022, the first annual fee will accrue on 1 January 2023. If the application also progresses to registration in 2022, then the first annual fee must be paid prior to 1 January 2023. However, if the application does not progress to registration until 2023, then the first annual fee and the second annual fee payments must be paid by 1 January 2024. The Cayman Islands Intellectual Property Office (CIIPO) also provides a helpful explanation of the process in Practice Guide No. 01/2017, which can be viewed here: [General Registry \(ciiipo.ky\)](https://www.ciiipo.ky) (see page 2 'Payment of Annual Trade Mark Fees').

### **Is there a grace period for late payment?**

Yes. The grace period for late payment of annual fees expires on 31 March of each year. Fees paid after this date will be subject to a penalty. Penalties accrue for each year of non-payment unless annual fees are paid prior to the respective deadline.

### **When were annual fee penalty fees introduced?**

Penalty fees were introduced in 2010 in respect of trade marks and patents. Prior to this date, no penalty fees were payable. Penalties were introduced in respect of registered designs with the implementation of the Design Rights Registration Act, 2016, in August 2017.

### **Can annual fees be paid up to the next renewal/expiry deadline in advance?**

No. Prior to 1 August 2016, it was possible to pay annual fees in advance up to the next renewal/expiry deadline in respect of patents and trade marks. However, CIPO changed this practice on 1 August 2016 (Practice Note No. 01/2016) and it is no longer possible to pay annual fees in advance.

### **What are the consequences of non-payment of annual fees?**

Registered rights are held in abeyance and are not in good standing or enforceable against third parties until annual fees are paid up to date.

### **What are the benefits of paying annual fees on time?**

The payment of annual fees each year ensures that registered rights are in good standing at all times. This also puts third parties on notice of the proprietor's ongoing commitment to their intellectual property rights in the Cayman Islands and may act as a deterrent against potential acts of infringement. Furthermore, payments made on time ensure that penalty fees do not accrue thereby increasing the overall annuity cost over time.

### **Can I pay the annual fees directly to the Cayman Islands government?**

No. Payments must be through a registered agent in the Cayman Islands, such as Ogier.

### **Do you have any annual fee related tips?**

Yes, in respect of series marks. Series marks must be 'divided' before they can be renewed. Prior to division and renewal it is important to ensure that all outstanding annuities are paid up to date as if this is not done, the outstanding fees will be payable in respect of each registration divided (i.e. outstanding fees could be doubled or even sextupled!).

As the 1 January deadline for the payment of Cayman Islands annual fees approaches, please

reach out to [Sophie Peat](#) and [Ashleigh Miller](#) for further assistance.

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