Patent Box Regime in EU Countries and Turkey

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Abstract

The patent box regime for the first time discussed in the EU and usually encountered in EU countries, which has been using in 12 of the 28 EU member states. This regime primarily applied by Ireland in the 1970s. That was respectively followed by countries such as Hungary, Belgium, the Netherlands, South Cyprus, Spain, Luxembourg, China, and Malta between 2000 and 2010, and followed by England, Italy, Portugal and Turkey between 2013 and 2015.

Patent box regime expresses reduced corporate tax rate to the income derived from patents. It takes place between the R&D tax incentives. In France and in the Netherlands known as “innovation box” and “innovation tax credit “, but it’s commonly called as patent box regime. This regime is basically intended to take under protection of the IP rights, its owners and accordingly obtained revenues from patents at the national level. Hence, it is desirable to increase the attractiveness of the country’s incentive environment for technology and innovation. However, to reduce the total tax liabilities multinational firms are ultimately moving their profits to other countries where the tax rate is low. Although the origin of the removable intangible intellectual property rights are different, their places can be easily changed. For example, American origin companies like Apple, Microsoft, Intel, Dell, Google, Facebook and Twitter have chosen Ireland because of low corporate tax rate, as well as the possibility of low-cost real estate opportunities and young and talented workforce.

In this respect, as a result of the Modified Nexus Approach Agreement for IP regime from execution of the action against harmful tax competition, a benchmark created for measuring the harmfulness of the patent box applicable to intangible assets by OECD. Thus, it is aimed to evaluate the patent box applications, a debated subject, as comparatively in Turkey and in EU countries in the study. At the same time, current innovation situation in Turkey patent in particular were examined according to the guidelines of EU Innovation Union Criteria. When compared with selected EU countries for intellectual rights such as patent applications, create design and trademark, Turkey’s innovation performance was seen below the EU average. While examining patent tax incentives, all of the patent income or some of them were found to be taxable in some EU countries. In France, corporation tax rate is 15% for all the gains derived from qualified IP income. Reduced corporate tax rate for patent income which obtained after the deduction of other cost reductions from base is 10% in UK. 20% of patent income in Belgium and Luxembourg and 50% of patent income is subject to tax in Spain. All of the patent income is exempt from tax in Ireland. With the 2014 Article 82 of Law No. 6518 for the earnings which derived from R & D and software activities linked to the invention 50% corporate tax and income tax exemption application was put into effect in Turkey.

Keywords : Intangible Property (IP) Rights, R&D Tax Incentives, Patent Box Regime, EU Countries, Turkey.

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