

The taxation of IP within the European Union

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Introduction

In 2000 the European Council defined the EU 2020 strategy which has the aim to make the European Union the most competitive and dynamic knowledge-based economy of the world by increasing investments in technological innovation, research and development.

Based on this strategy, the Luxembourg House of Representatives approved the law of 21st December 2007 which introduced a new Art. 50bis L.I.R. in order to establish a beneficial tax regime for income deriving from Intellectual Property (IP) rights with effect from 1st January 2008. The objective of this new IP regime was to promote Luxembourg as an advantageous jurisdiction which shall attract mobile factors.

Apart from Luxembourg, other European countries such as the Netherlands, Belgium, France, Ireland and Spain have introduced favourable IP tax regimes in order to achieve the knowledge-based economy envisioned by the European Union and to attract investments to their countries.

The three main forms of tax incentives are tax credits, tax deductions and the application of reduced tax rates.

Objectives

The objectives of my research are both to compare the different European IP tax regimes and to analyze their compatibility with legally and non-legally binding provisions of the EU as well as to elaborate a suggestion of improvement for the Luxembourg IP tax environment.

In order to reach these objectives it will be necessary to identify and classify:

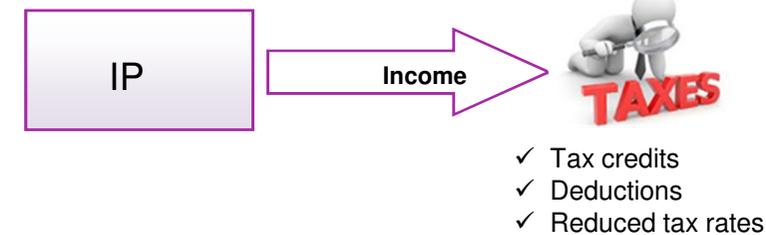
- the IP tax regimes of Luxembourg and other European countries which do also possess favorable IP tax regimes;
- the legally and non-legally binding provisions of the EU especially regarding (harmful) tax competition;
- the jurisprudence of the ECJ with respect to harmful tax competition.

Methodology

The thesis will be based on an intense multinational comparative analysis of the favorable IP tax regimes in Europe and on an examination of the European tax law doctrine and jurisprudence of the ECJ on harmful tax competition.

References

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