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IP BOX REGIMES

The path to an innovative and complex economy.

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I. Executive Summary

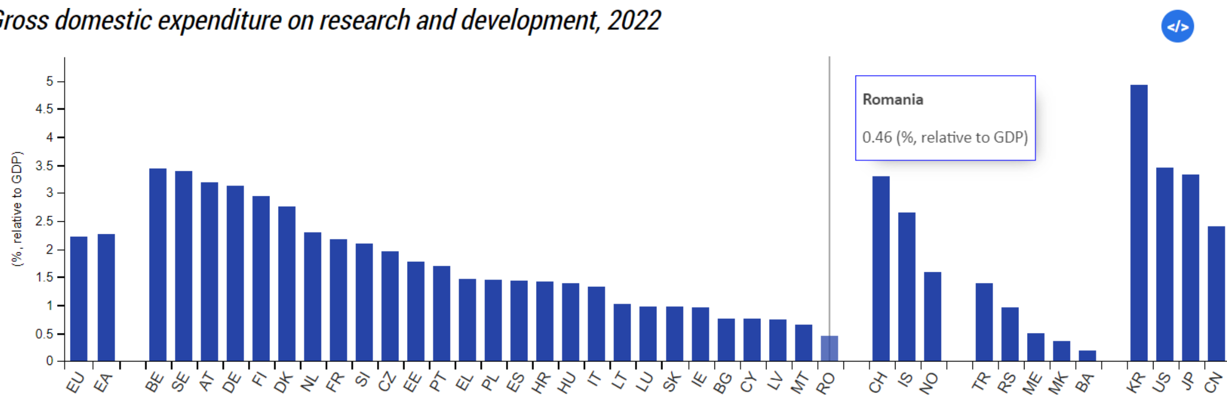
This paper analyzes the possibility of implementing an IP box-type regime in Romania, drawing inspiration from successful models in several countries and motivated by the need to increase the innovation capacity of the Romanian economy. **IP box regimes are regimes that offer reduced tax rates on income from intellectual property and aim to stimulate innovation and attract investment in research and development.** This paper explains what an IP box regime is and discusses variations of such a regime worldwide, focusing on the Polish system and the solution implemented by Israel. The paper argues for a customized IP box regime in Romania that supports local innovation while respecting international standards. This approach could catalyze growth in Romania's R&D sector, positioning the country in a favorable position in the global market and ensuring OECD compliance as the country moves towards OECD membership.

The adoption of an IP box regime in Romania represents a strategic opportunity to strengthen the country's innovation landscape. Such a regime would not only bring Romania in line with global best practices in intellectual property (IP) taxation but would also incentivize local and foreign companies to invest in R&D in the country. This could lead to much more rapid technological progress, job creation in high-tech sectors and a spill-over of positive effects throughout the economy. In addition, as Romania progresses in its OECD accession process, the implementation of an IP tax box in line with international standards would demonstrate its commitment to growth-oriented tax policies that encourage innovation. The implementation of an IP box regime would be useful for Romania in the context of an economy marked by a relatively low level of innovation. Putting such a regime in place would not only close the gap with major economic competitors (such as Poland), but also harness the strength of the ICT sector to promote wider technological advances and innovation-led growth.

II. Objectives of the study

The aim of this research is to investigate the feasibility and potential impact of implementing an IP box regime in Romania. The study aims to analyze existing models in countries such as Poland and Israel, assess their compatibility with OECD guidelines and explore how such a regime could be adapted to the Romanian context. Special emphasis is placed on the need to promote innovation in the Romanian economy, which, despite a strong ICT sector, shows relatively low levels of overall innovation. The research aims to propose a framework that could stimulate R&D activities, attract foreign investment and bring Romania in line with international best practices in intellectual property taxation. This initiative is crucial as Romania moves towards OECD membership, ensuring compliance with global standards while promoting economic growth through innovation.

The Romanian economy is characterized by very low investment in research and development, with spending of 0.46% of GDP in 2022, compared to the European average of 2.2% and well below Poland (1.46%) or the Czech Republic (1.96%).



An AmCham[1] in 2021 showed that at that time, of the Central and Eastern European countries, only Romania and Slovakia were on a multi-year downward trend in R&D spending.

Low investment in research and development in a country can have significant implications, including reduced economic growth and a decline in global competitiveness.

[1] https://www.amcham.ro/download?file=committeePaper/uaSvaWw.pdf&filename=Position%20Paper%20regarding%20the%20IP/Patent%20Box%20System%20in%20Romania

This leads too often to a lack of innovation, limiting the development of new technologies and industries. This can lead to a dependence on outdated processes and technologies, reducing efficiency and productivity. In addition, low investment in R&D can hamper job creation in high-tech sectors, impacting on quality and overall employment rates. It can also hamper a country's ability to respond to new global challenges and opportunities, affecting its position in international markets. In the context of the twin green and digital transitions, taking place in an extremely challenging international climate, the ability of the economy to innovate, adapt and progress rapidly is essential.

The same AmCham analysis cited above also shows that the current Romanian legislation offers several specific tax incentives to stimulate research and development (R&D) activities by taxpayers. These include a 10-year corporate income tax exemption for entities engaged exclusively in R&D-innovation activities. Taxpayers carrying out such activities can also benefit from an additional 50% deduction for eligible expenses when calculating corporate income tax. In addition, the accelerated depreciation method is applied for assets used in R&D activities. However, AmCham's analysis shows that these facilities cannot be fully applied, as the corporate income tax exemption for R&D taxpayers does not have the necessary legal framework approved in terms of its state aid nature. In addition, there are still many uncertainties about the necessary documentation regarding the additional 50% deduction. Therefore, the implementation of a simple and clearly defined IP Box regime would support intellectual property activities, thus creating a tax framework conducive to investment in innovation, research and development.

In this context, this document has three main objectives:

- **Exploring the potential of implementing an IP box regime in Romania** to increase innovation and R&D investment.
- **Analysis of successful IP box models** in countries such as Poland and Israel in the context of alignment with OECD guidelines.
- **Proposing a tailor-made IP box framework for Romania** to stimulate the local economy and align with international tax standards.

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III. The History of IP Box Regimes

According to the OECD, intellectual property (IP) regimes may be specific to IP income only or may include other categories of activities. They provide benefits for IP income such as patents and copyrights. The history of these regimes predates OECD regulations, with Ireland implementing the first such regime in the 70s. Ireland then lowered its corporate tax rate to attract foreign investment, and over time became a major center for multinational companies, particularly in IP. The Irish model has been followed by other European countries. France introduced an IP regime in 2001, followed by Hungary in 2003. Today, 14 EU Member States, plus many other non-EU countries, have implemented IP box regimes.

What Is an Intellectual Property Regime?

Special intellectual property regimes are designed to promote innovation and protect the rights of creators. IP box regimes (known by several names, including ‘patent box’ or ‘knowledge box’, but also generic names such as *intellectual property box*) are a type of regime that taxes intellectual property income at a lower rate than the standard corporate tax rate applied in a country, with the aim of encouraging local research and development. This financial benefit is intended to encourage investment in R&D and innovation within a jurisdiction, differentiating it from standard IP protections that focus primarily on legal rights and enforcement.

An intellectual property regime is an economic and fiscal policy instrument targeting high value-added activities[2]. **In simple terms, such an instrument is the use of a special tax regime for income from intellectual property activities to encourage such activities.**

[2] https://library.fes.de/pdf-files/bueros/budapest/20260.pdf

According to the draft of ***the National Industrial Property Strategy***[3] , "the aim of the instrument is to encourage and attract research and development of innovation and localization of innovative businesses within national boundaries through significant tax incentives, with revenues from industrial activities incorporating innovation being taxed at much reduced rates". The draft proposes as an action "the introduction of the patent box regime as a tax incentive for the development of innovative activities in enterprises**". The inclusion of an action on the introduction of an IP Box regime in a public strategy is a promising first step regarding the future of R&D and innovation activities in Romania.**

What is INTELLECTUAL PROPERTY?

Intellectual property covers all exclusive rights granted over intellectual creations. It is divided into two branches: 1) **industrial property**, which covers inventions (patents), trademarks, industrial designs and appellations of origin, and 2) **copyright**, which covers literary and artistic works.

Since the entry into force of the Treaty on the Functioning of the European Union (TFEU) in 2009, the EU has an explicit competence in the field of intellectual property rights (Article 118)[4]. Examples of intellectual property are software programs, algorithms and innovative formulae, inventions, trade secrets and know-how, manufacturing practices, marketing concepts, artistic works, designs, images, names and inventions used in commerce. Intellectual property is considered one of the most valuable assets a company can have.

Things to note about IP box schemes:

- **Reduced tax rates:** These provide a lower effective tax rate on income earned on qualifying intellectual property assets. This rate is significantly lower than the standard corporate tax rate.

[3] https://www.osim.ro/images/poca/0_Strategia-nationala-in-domeniul-proprietatii- industrial_26.04.2023.pdf
[4] https://www.europarl.europa.eu/factsheets/ro/sheet/36/proprietatea-intelectuala-industriala-si- commercial

- **Eligible intellectual property assets:** These usually include patents, copyrights, trademarks and sometimes even unpatented technology. The specifics can vary from scheme to scheme.
- **Nexus approach:** As a result of the OECD BEPS (Base Erosion and Profit Shifting) project, particularly Action 5, many countries have adopted or modified their intellectual property regimes to comply with the "nexus approach". This approach requires a substantial economic link between the rights generating the revenue and the country providing the regime.
- **Focus on R&D:** These schemes aim to support local R&D activities.
- **Global variations:** Different countries have implemented IP box regimes with different characteristics. The specifics of what qualifies, tax rates and compliance requirements can differ significantly.

According to the OECD, IP regimes can be regimes that exclusively provide benefits for IP income, but some preferential regimes classified as IP regimes are "dual category" regimes. These regimes also provide benefits for income from other geographically mobile activities or provide benefits for a wide range of activities. The **most common types of eligible IP are patents and software copyright. Depending on the patent regime, IP revenues may include royalties, license fees, gains from the sale of IP, sales of goods and services incorporating IP, and patent infringement damages[5].**

[5] https://taxfoundation.org/data/all/eu/patent-box-regimes-europe-2022/

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a) The Irish Model

Intellectual property regimes have a long history and date back long before important OECD and European Commission regulations defined their limits and the characteristics they need to fulfill to be implemented. Ireland first introduced a special tax regime in its corporate tax structure in the 1970s, which provided an incentive through full tax exemption for royalties and other income from licenses patented in Ireland.

In the 1970s, Ireland implemented significant changes in its corporate tax policies, laying the foundations for the nation's emergence as a global economic player. During this period, Ireland introduced a low corporate tax rate as a strategic move to attract foreign direct investment and stimulate economic growth. This measure was a key factor in making Ireland a favorite destination for multinational corporations seeking a business-friendly environment. The corporate tax rate, which was considerably lower than in many other European countries, played a crucial role in attracting industries and stimulating job creation. The decision to adopt a favorable corporate tax regime in the 1970s had a lasting impact on Ireland's economic landscape and positioned the country as a key player on the world business stage. Today, most multinational entities in Ireland operate in intellectual property-intensive industries, particularly technology and science. The effective corporate tax rate can be reduced to 2.5% for Irish companies whose business activity involves the exploitation of intellectual property.

The Irish intellectual property regime is broad and applies to all types of intellectual property. The current form was established in 2016 and is known as the "Knowledge Development Box (KDB). **The current Irish model offers a preferential tax rate for income generated from the exploitation of patents, copyrightable software programs and other intellectual property rights similar to a patentable invention, if these assets are developed in Ireland.** A company qualifying for the KDB may be entitled to a deduction equal to 50% of its qualifying profits. This means that its qualifying profits can be taxed at an effective rate of 6.25%[6].

[6] https://www.revenue.ie/en/companies-and-charities/reliefs-and-exemptions/knowledge-development-box-kdb/index.aspx

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How Does a Company Qualify for KDB?

- The accounting period of a company must begin on or after January 1, 2016.
- the company must derive income from an eligible usable asset
- the company must have created the eligible usable asset as a result of eligible research and development (R&D).

What Is a KDB-Eligible Asset?

- An eligible asset is an asset that is created from eligible research and development activities, such as:
  - a computer program
  - an invention protected by a qualified patent
- Intellectual property for small businesses that is certified by the patent-certifying institution as patentable, but not patented.

The Irish model is particularly notable for its adherence to OECD BEPS Action 5 and the *nexus* approach, ensuring a strong link between IP revenues and the associated R&D activities carried out in Ireland.

Variations in Intellectual Property Regimes

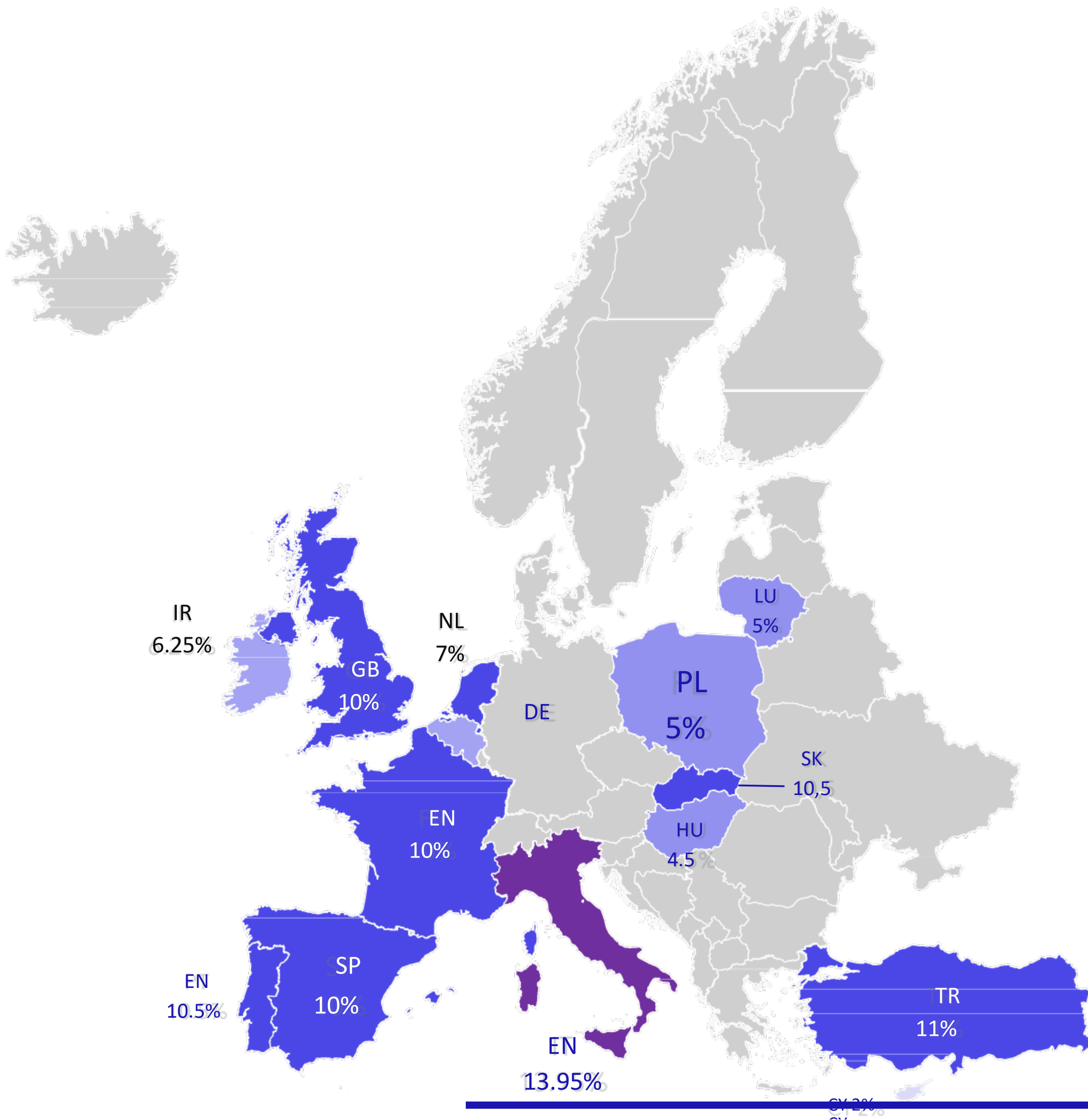
Models similar to Ireland's have become popular over the last two decades in the rest of Europe. In 2001, France adopted the first form of an intellectual property regime that is still operating today in an updated form. At the time, France wanted to attract investment by lowering the tax rate on income from licensing intellectual property or transfer of IP. Hungary was the second EU country to adopt such a regime in 2003. 13 of the EU's 27 Member States now have an IP box regime in place. They are Belgium, Cyprus, France, Hungary, Ireland, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Portugal, Slovakia and Spain (federal, Basque Country and Navarre). Countries outside the EU, Andorra, San Marino, Switzerland, Turkey and the United Kingdom have also implemented IP box regimes *(Ibid)*.

IP box regimes in Europe set tax rates ranging from 0% (Malta) to 15% (France) and vary significantly in terms of eligible types of IP and IP income, as well as the treatment of IP expenditure. Most of the countries that have introduced IP box regimes have done so with the explicit aim of making the country an attractive location for R&D activities[7]. IP box schemes are complementary to other R&D incentives, such as additional expense deductions or accelerated depreciation, with the difference that IP box schemes are targeted at income rather than expenses. Annex 1 includes a list of IP box schemes in Europe and their main features.

7 https://www.europarl.europa.eu/RegData/etudes/IDAN/2015/563454/IPOL_IDA(2015)563454_EN.pdf

b) Comparison of IP Box regimes in Europe:

Intellectual property income tax regimes under a Patent Box regime from 2020.



Andorra and Malta have IP Box tax regimes of 2% each and San Marino has 0%. Switzerland has a system that applies differently to each canton.
Source: Tax Foundation

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IV. OECD recommendations on intellectual property regimes

According to an analysis by the European Parliament's Directorate-General for Internal Policies, intangible assets such as those derived from intellectual property are an important value driver for multinational companies. These assets, including patents, trademarks and copyrights, are not tied to a fixed geographical location and can be transferred to jurisdictions with more advantageous tax regimes. This leads to concerns about tax planning and tax base erosion. In 2015, the OECD responded to these challenges by introducing the "Modified Nexus Approach for IP regimes" under BEPS Action 5, thereby limiting the abuse of preferential tax regimes and ensuring a closer correlation between the geographical location of R&D activities and IP income. The same analysis shows that patent applications are sensitive to corporate tax and that intangible assets of European companies are more likely to be held by low-tax subsidiaries. In such a context, the existence of preferential tax regimes for European ownership comes with several risks related to tax planning and tax base erosion in countries that do not benefit from such regimes.

To counter the shortcomings in the rules on taxation and to ensure that profits are taxed where economic activities take place and where value is created, the OECD produced the 2013 report "Addressing Base Erosion and Profit Shifting (BEPS)". Following this report, OECD and G20 countries adopted a 15-point action plan to tackle BEPS in the same year. The action plan identified 15 actions under three key pillars: introducing consistency in domestic rules affecting cross-border activities, strengthening substantive requirements in existing international standards and improving transparency and certainty[8].

[8] https://www.oecd-ilibrary.org/docserver/9789264311480-en.pdf?expires=1704372397&id=id&accname=guest&checksum=C602596EF509DF8BCB6D16CFF5 DA4D6A

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How Are Intellectual Property Regimes Evaluated?

To align with the *nexus* approach, countries that previously did not comply with the nexus standard have either eliminated or modified their patent box regimes in recent years. Thus, many patent boxes around the world have undergone substantial reforms in recent years due to concerns about profit shifting.

Intellectual property regimes are covered by the BEPS Action 5 report[9] (OECD, 2015), which calls for regular *peer reviews* are to identify characteristics of intellectual property regimes that may facilitate base erosion and profit shifting (BEPS) and therefore have the potential to have an unfair impact on the tax base of other jurisdictions. **The Action 5 Report emphasizes the substantial activity requirement to benefit from a preferential regime and the nexus approach is the substantial activity requirement developed for IP regimes. The nexus approach requires a link between the income benefiting from the IP regime and the extent to which the taxpayer has undertaken the research and development activities that generated the IP asset.** In addition to the nexus approach, peer reviews also consider characteristics of the regimes, such as separation from the national economy and lack of transparency[10].

According to the OECD, based on the characteristics of the regime, IP regimes are considered either harmful (because they do not comply with the nexus approach), not harmful (where the regime complies with the nexus approach and other factors in the review process) or potentially harmful (where the regime does not comply with the nexus approach and/or other factors in the review process, but an economic impact assessment has not yet taken place). The *peer* review process is still ongoing and to date most jurisdictions have modified or removed their regimes to ensure that they are fully aligned with the minimum standard of Action 5. This process is carried out by an *Inclusive Framework*, a body set up by the OECD which brings together all member countries and jurisdictions on an equal footing in the Committee on Fiscal Affairs and all its subsidiary bodies.

[9] https://www.oecd-ilibrary.org/taxation/harmful-tax-practices-2018-peer-review-reports-on-the-exchange-of-information-on-tax-rulings_8ae3f8bd-en;jsessionid=3On8niOwsEW1LXYHn3kSGkhvqgUatx5lTw4F0gr7.ip-10-240-5-99

[10] https://qdd.oecd.org/subject.aspx?Subject=IP_regimes

Schemes that have already been closed to new entrants in 2018 (according to the *peer* reviews approved by the Inclusion Framework in November 2018) are categorized as "abolished", although continued benefits may be offered for a defined period of time to companies already benefiting from the scheme. Since the BEPS project started, the Forum on Harmful Tax Practices ("FHTP") has reviewed a significant number of preferential regimes. The results of these regimes are published in the BEPS Action 5 report (OECD, 2015), the 2017 Progress Report (OECD, 2017) and regularly on the OECD website as new results become available[11].

Members of the Inclusion Framework are committed to ensuring that their preferential arrangements do not involve any of the key factors used in the review process and, if found to do so, are committed to ensuring that they are amended or removed. There are five key factors and five additional factors of issues to be avoided in establishing a preferential regime:

Five key factors

- The scheme imposes no or low effective tax rates on income from financial and other geographically mobile service activities.
- The regime is isolated from the national economy.
- The regime lacks transparency.
- There is no effective exchange of information on the regime.
- The scheme does not require substantial activities.

[11] https://www.oecd-ilibrary.org/docserver/9789264311480-en.pdf?expires=1704372397&id=id&accname=guest&checksum=C602596EF509DF8BCB6D16CFF5DA4D6A

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Five Additional Factors

- An artificial definition of the tax base.
- Failure to respect international transfer pricing principles.
- Income from foreign sources exempt from taxation in the country of residence.
- Tax rate or negotiable tax base.
- Existence of secrecy *provisions*.

A detailed description of each of the criteria is available on the OECD website.

OECD Recommendations in Brief

In the case of schemes that provide benefits for intellectual property income, this requirement means that the activity must comply with the nexus approach as detailed in the BEPS Action 5 Report 2015. The *nexus* approach requires a link between the income benefiting from the IP regime and the extent to which the taxpayer undertook the underlying research and development that generated the intellectual property. Thus, in order to benefit from a preferential regime, the taxpayer must have directly engaged in the activities that generated the income subject to the preferential regime, and the activities must be carried out in the same jurisdiction in which the tax relief specific to IP regimes is claimed.

a) Best Practice Models

Poland

The IP Box regime in Poland, introduced in 2019, offers a reduced tax rate of 5% for qualifying activities, compared to the standard rate of 19%. The Polish regime aligns with the international guidelines set by the OECD under the BEPS initiative. The main objective of this regime is to increase the attractiveness of Poland for conducting research and development activities for both Polish and foreign companies. This initiative aims to stimulate the development of a knowledge-based economy in the long term.

In order to be eligible for the Polish IP Box model, companies must fulfill 4 basic criteria[12]:

- Conduct research and development;
- To provide legal protection for the results of research and development activities according to the list of eligible intellectual property rights. These rights include, for example, patents, utility models, industrial designs, the right to register integrated circuit designs, supplementary protection certificate for a patent for a medicinal product or a plant protection product, copyright for software programs;
- To identify the costs of research and development activities carried out, which led to the entrepreneur obtaining eligible intellectual property rights;
- commercialize eligible intellectual property rights, for example by selling eligible intellectual property rights or charging license fees for them.
- Use of the IP Box incentive will only be possible after an application for legal protection has been submitted to a competent body. If the application is withdrawn or refused, the income generated during that period must be taxed according to the general principles.

Taxpayers who apply the IP Box system in Poland are entitled to benefit from the tax preference until the expiry of the granted intellectual property right (20 years in the case of a patented invention)[13].

It is important to note that the Polish regime applies, according to KPMG[14], both for products created and developed by the taxpayer, as well as for improved products. Another important aspect is that the Polish IP Box regime can be applied in complementarity with the deduction 200% surcharge granted in addition for eligible expenses incurred in research and development activities. A taxpayer who commercializes the results of research and development activities and derives qualified income therefrom within the meaning of the IP Box provisions has the possibility to deduct from the IP Box income the eligible costs incurred for the development of the right covered by the IP Box and will thus benefit from the complementarity of the tax measures aimed at stimulating innovation.

[12] https://www.ayming.pl/en/expertise/innovation/ip-box/
[13] https://taxsummaries.pwc.com/poland/corporate/tax-credits-and-incentives
[14] https://assets.kpmg.com/content/dam/kpmg/ro/pdf/2022/cercetare-dezvoltare-inovare.pdf

KPMG also points out that in Poland there are other instruments to support research, development and innovation, such as tax credits for taxpayers in relation to the salary expenses of highly qualified employees involved in innovation activities and tax credits for expenses for testing in order to produce a new product or commercialize such a product. Poland also offers exemption from payroll tax for employees performing research and development activities. The Polish IP Box model is particularly popular among software developers and other IT industry professions, which has increased the competitiveness of the sector and allowed a higher talent retention rate.

b) The Israeli Model

The Israeli Innovation Box scheme, introduced in 2017 and compatible with the OECD BEPS recommendations, provides substantial tax incentives to encourage intellectual property (IP)-based activities in the high-tech sector. This regime is particularly relevant for Israel, given its significant presence in the high-tech industry and foreign direct investment (FDI) in this sector.

Main features of the Israeli Innovation Box scheme

Reduced corporate income tax rate: The scheme offers a preferential corporate income tax rate of 6% for certain IP-based income and capital gains from future sales of IP. This rate is significantly lower than the standard corporate income tax rate in Israel of 23%. For companies that are part of a group with global revenues more than ILS 10 billion (approximately $2.5 billion), this reduced rate applies. Companies with lower global revenues are subject to a tax rate of 12%, with additional discounts available for operations in Jerusalem and certain northern or southern parts of Israel[15]. The regime also provides for a withholding tax rate of 4% for dividend distributions to foreign shareholders owning at least 90% of the shares, which is lower than the usual rates.

Specifically, the Israeli regime includes the following tax breaks:

- CORPORATE TAX: 6% For Global Firms with Global Turnover Over $2.5 Billion
- DIVIDEND WITHHOLDING TAX: 4% Withholding Tax on Dividends When Distributed to A Foreign Company
- CAPITAL GAINS/ EXIT TAX: 6% For Global Firms with Global Turnover Over $2.5 Billion
- STANDARD CORPORATE TAX RATE OUTSIDE THE SPECIAL REGIME: 23%

Extension to pharmaceutical companies: In 2019, the scheme was extended to include pharmaceutical companies, allowing them to benefit from these tax incentives. This includes products registered under the Israeli Pharmaceutical Products Ordinance or approved by compatible foreign laws, thus extending the scope beyond patented products to include certain products approved by regulatory authorities, whether patented or not. With respect to the registration of non-Israeli products, the Israeli Pharmaceutical Products Ordinance requires the approval of the relevant foreign regulatory authorities and makes direct reference to the US Food and Drug Administration (FDA) approval or the European Conformité Européenne (CE) mark. As a result, pharmaceutical and other life sciences companies can now access the Israeli Innovation Box regime in respect of revenues generated by a potentially wide range of products approved by regulatory authorities[16].

OECD BEPS compliance: The scheme is in line with OECD Action 5 on Combating Base Erosion and Profit Shifting (BEPS), which emphasizes a nexus approach. This means that tax benefits are conditional on the extent of research and development activities undertaken by the benefiting taxpayers of these benefits.

This compliance ensures that the regime is aligned with international efforts to prevent tax base erosion and profit shifting. As Israel is a global R&D center for hundreds of multinationals, including many life sciences companies, this development could provide additional opportunities to qualify for BEPS benefits. Moreover, even companies with limited activity in Israel may be able to qualify by transferring certain IP and related business activity to Israel[17].

Eligibility and application: Companies eligible for this scheme must demonstrate that they carry out significant research and development and meet specific criteria set by the Israeli Innovation Authority. These include owning eligible intellectual property assets that are developed in Israel and meet the criteria of the *nexus* approach. The main objective of this scheme is to stimulate R&D activities in Israel, making it an attractive destination for innovation in the high-tech and pharmaceutical sectors

[15] https://taxnews.ey.com/news/2019-1234-israel-expands-its-innovation-box-regime-to-pharmaceutical-companies
[16] https://www.ey.com/en_gl/tax-alerts/israel-expands-its-innovation-box-regime-to-pharmaceutical-companies

[17] https://www.ey.com/en_gl/tax-alerts/israel-expands-its-innovation-box-regime-to-pharmaceutical-companies

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For a company to be eligible for the Innovation Box scheme, it must meet the following conditions[18]:

- 7% of turnover over the last three years has been invested in research and development (as recorded in the financial statements), i.e. 20 million dollars in R&D expenditure per year;

and **one of the following conditions** is **also** met:

- 20% of employees work in research and development and their salaries are paid and recorded exclusively as R&D expenditure, or 200 R&D employees per year.
- venture capital investments of at least 2 million dollars.
- **average annual sales growth of 25% over three years, with an average business of at least $2.5 million in each of these years as well as in the current year.**
- **25% average annual growth in the number of employees over three years**, with a minimum of 50 employees per year in each of these years, as well as in the current year**.**

There is also a mechanism for exceptions to be accepted if a company does not meet the above requirements but is still aligned in terms of innovation with the international standards of the sector to which it belongs.

Eligible types of intellectual property: Patents; copyrighted software; plant breeders' rights; other rights determined by the Minister of Finance; other R&D-based IP that has been approved by the Israeli Innovation Authority, only to the extent that the taxpayer is part of a group with an overall turnover of less than -$53 million and where the taxpayer does not itself earn more than $8 million per year; The taxpayer may either be the owner or co-owner of the qualifying IP asset, or may own a right in the qualifying IP asset.

Eligible types of income: royalty income such as license fees, sales of software and products, sales of related products, sale of related products, fees for related services, SaaS, R&D services (limited to 15% of total income), compensation income (other than capital gains), income from R&D focused IP that has been approved by the competent authority, and other types of income to be determined by the Israeli Ministry of Finance.

Thus, the Israeli Innovation Box scheme is comprehensive, flexible and clearly defined, and is designed as an effective tool to encourage research and innovation activities by entities operating in Israel.

V. IP box for Romania

IP Box Proposed for Romania

Based on the examples of good practices presented in this analysis, we propose a vision for the implementation of an IP Box regime in Romania. We also propose a possible timetable for implementation, including the main agents that could be involved in each of the phases of this process (see Annex B).

The vision is not meant to be exhaustive, but rather illustrative to serve as a starting point for a possible process of implementation in Romania of a special regime for intellectual property revenues.

We begin by outlining the general objectives and the form such a regime might take in Romania.

OBJECTIVE: Encourage R&D and innovation in key sectors, align with OECD standards and catalyze growth through technological progress.

TAX RATE: A low corporate tax rate, potentially between 5-10%, would incentivize companies to engage in research and development. This rate should be competitive with other European countries while maintaining fiscal sustainability.

ELIGIBLE ASSETS:

- MAIN OBJECTIVE: Software, patents (especially in ICT, pharmaceuticals and green technologies) and possibly industrial designs and models.
- SIDE OBJECTIVES: Consideration should be given to the inclusion of creative industries, such as games and multimedia, where Romania has growth potential.

ELIGIBLE SECTORS: The focus should be on sectors where Romania has demonstrated strength or potential, such as ICT, automotive, biotechnology and renewable energy. Emerging sectors that align with Romania's economic development objectives should also be encouraged.

COMPLIANCE WITH INTERNATIONAL STANDARDS: Adherence to the OECD's modified approach to interdependence linkages is needed, ensuring that R&D activities and intellectual property revenues are closely linked. Transparency and avoidance of harmful tax practices must also be ensured.

IMPLEMENTATION MECHANISM:

There is a need to establish clear guidelines on the qualification and application of the regime to ensure a clear and predictable regime from the outset.

Active support and guidance for SMEs to access the scheme is desirable.

Incorporating regular assessments to align with evolving OECD guidelines and economic needs are mechanisms that would ensure efficiency and the viability of the regime.

WIDER ECONOMIC IMPACT:

Such a regime is expected to stimulate foreign and domestic R&D investment, with the main objective of closing the innovation gap and enhancing global competitiveness. The scheme could lead to job creation in high-tech sectors and stimulate broader economic development. This proposed structure aims to build on Romania's existing strengths while responding to its need to increase investment in innovation and R&D. The regime should be flexible enough to adapt to changing economic and technological landscapes.

The roadmap available in Annex B presents a multi-step approach for the development and implementation of an IP Box regime in Romania. By involving a wide range of stakeholders and establishing robust monitoring mechanisms, Romania can ensure that the IP Box regime is effective, sustainable and adaptable to the changing global economic landscape.

This vision provides a framework that can be further detailed and adapted to the specific context of the legal, economic and sectoral environment in Romania. It should be elaborated in collaboration with all relevant stakeholders to ensure the successful engagement and uptake of the IP Box regime.

VI. Conclusions

By offering tax incentives for intellectual property income, Romania could attract more investment in high-tech sectors such as IT, biotechnology and renewable energy, boosting economic growth and global competitiveness.

A well-structured IP box regime in Romania should have a low tax rate, possibly between 5-10%, to be competitive at the European level and include a broad spectrum of eligible assets, such as patents, software copyrights, and possibly industrial designs and models. It would also be essential that the regime conforms to international standards, such as the OECD's *nexus* approach, to ensure that the benefits are granted in a fair and transparent manner.

The implementation of such a regime in Romania could reduce the innovation gap with other economic competitors and capitalize on the country's strong ICT sector to promote technological breakthroughs and innovation-driven economic growth. This would not only contribute to Romania's economic development, but also improve its position on the international stage in the fields of research and innovation. The best practice models presented in this document and the existence of such regimes in many European countries show the need to open a discussion on the implementation of an IP box regime in Romania as well, so that the economy can benefit from the same advantages and incentives as the economies of competitor countries.

VII. Annex

Annex A

	Eligible IP assets			Rate of tax applicable to the scheme special	General tax rate
	Patent	Software	Other		
Albania		✓		5%	15%
Belgium	✓	✓		3.75%	25%
Cyprus	✓	✓	✓	2.5%	12.5%
France	✓	✓		10%	25.83%
Hungary	✓	✓		4.5%	9%
Ireland	✓	✓	✓	6.25%	12.5%
Lithuania	✓	✓		5%	15%
Luxembourg	✓	✓		4.99%	24.94%
Malta	✓	✓		1.75%	35%
Netherlands	✓	✓	✓	9%	25.8%
Poland	✓	✓		5%	19%
Portugal	✓	✓		4.73%	31.5%
Serbia	✓	✓	✓	3%	15%
Slovakia	✓	✓		10.5%	21%
Spain (federation)	✓	✓		10%	25%
Spain - Country Basque	✓	✓		7.2%	24%
Spain - Navarre	✓	✓		8.4%	28%
Switzerland (c)	✓			Varies from canton to canton, up to 90% exemption tax	Varies from canton to canton; from 11.9% until 21.6%
Turkey (d)	✓			10.0%	20%
United Kingdom	✓			10%	25%

Notes:

(a) "Other" refers to IP assets that are not obvious, useful and new. These can be applied only to small and medium-sized businesses.

(b) The Spanish regions 'País Vasco' and 'Navarra' have separate corporate tax regimes and therefore separate IP regimes.

(c) In 2020, Switzerland has introduced a "patent box" regime at cantonal level, which provides for a maximum 90% reduction of the tax base for income from patents and similar rights developed in Switzerland. Cantons can opt for a lower reduction.

(d) Turkey has a second intellectual property regime which allows a full tax deduction (effective tax rate of 0%) for qualified intellectual property income resulting from research and development activities that have been carried out in the technological development zones of Turkey.

Source table: Taxfoundation.org

Annex B

The roadmap for implementation presented below proposes a structured approach for the introduction of an IP Box regime in Romania. It identifies key milestones, stakeholders and monitoring mechanisms to ensure effective take-up and ongoing evaluation of the impact of the regime.

Phase 1: Preparation and planning

Objective: To establish a solid basis for the IP Box regime by conducting preliminary research and involving key stakeholders.

- **Stakeholders:** Government policy makers, tax authorities, industry experts and employers' organizations, chambers of commerce, research and development institutions and other representatives of the business community.
- **Actions:**
    - Conduct a comprehensive analysis of existing IP Box models globally.
    - Workshops with stakeholders to gather input and align with objectives.
    - Drafting initial legislation with expert legal advice.
- **Deadline for implementation:** 6 months.
- **Monitoring:** Regular meetings with stakeholders to track progress against milestones.

Phase 2: Defining the legislative framework

Objective: Develop and implement the legal framework for the IP Box regime.

- **Stakeholders:** Parliament, legal experts, international advisory bodies and industry leaders.
- **Actions:**
    - Presenting and debating the bill in Parliament.
    - Refine policies based on feedback and benchmarking.
    - Official enactment of the IP Box legislation.
- **Implementation deadline:** one year.
- **Monitoring:** Legal reviews and public consultations to ensure compliance and effectiveness.

Phase 3: Communication and training

Objective: To ensure that all potential beneficiaries are informed and that tax authorities are prepared to administer the scheme.

- **Stakeholders:** Tax authorities, businesses, R&D entities and educational institutions.
- **Actions:**
    - developing information campaigns to raise awareness of the new regime.
    - Training programs for tax officials and tax advisors.
    - Seminars and educational materials for businesses.
- **Deadline for implementation:** 6 months.
- **Monitoring:** surveys and feedback forms to measure the effectiveness of communication efforts.

Phase 4: Implementation and launch

Objective: *To* officially launch the IP Box scheme and facilitate its take-up.

- Tax authorities, businesses and accountants**.**
- **Actions:**
    - Start processing and accepting applications for the IP Box scheme.
    - Provide support and guidance for businesses making the transition to the new regime.
    - Ensuring that the necessary IT systems and processes are in place for compliance and reporting.

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- Deadline for implementation: 1 year.

- **Monitoring:** Initial reports by tax authorities on the adoption and administration of the scheme.

Phase 5: Review and Refine

Objective: To assess the initial performance of the scheme and make the necessary adjustments.

- **Objective: To** assess the initial performance of the scheme and make the necessary adjustments.
- **Actions:**
  - Collect data on the impact of the regime on R&D expenditure and intellectual property revenues.
  - Analyze the effectiveness of the regimen and its administration.
  - Adjust policies and procedures based on feedback and performance data.
- **Deadline for implementation:** Indefinite, with a first review after 2 years.
- **Monitoring:** Regular reporting and analysis, with specific performance indicators linked to R&D investment and economic impact.

Phase 6: Evaluation and long-term evolution

Objective: Ensure that the IP Box regime remains competitive, efficient and aligned with international standards.

- **Stakeholders:** government, international economic organizations and business representatives.
- **Actions:**
  - Ongoing assessment in line with international developments and fiscal trends.
  - regular updates of legislation and administrative practices.
  - Long-term studies on the impact of the regime on national competitiveness.
- **Timeframe:** Indefinite, with evaluation every 5 years.
- **Monitoring:** comprehensive economic impact studies and benchmarking with other nations.

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