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Should the United States Enact a Patent Box?

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November 1, 2016

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EXECUTIVE SUMMARY

- Patent box systems attract innovation to countries by reducing the tax rate on income from intellectual property assets.
- Many countries have enacted patent box systems to maintain their economic advantage and compete with low-tax jurisdictions.
- Despite seeing more companies move assets to

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these other tax jurisdictions, the United States has not yet enacted a patent box system.

- The United States can take advantage of adopting a patent box system later by looking at the experience earlier adopters have had with patent boxes and adapt its system to get the best results.

International tax law is going through significant change as countries improve the competitiveness of their tax regimes by reducing their statutory corporate income tax rates, tightening anti-abuse regimes, and granting preferential treatment on special sources of expense or income such as from research and development (R&D) and intellectual property (IP).¹ IP is of particular relevance because it is highly mobile, and, as such, companies often relocate their research and innovation activities (and associated revenue) offshore to minimize tax. Many countries have felt the significant economic impact of losing high-tech companies to more attractive locations for their research and development.

Facing increased competition, several countries have implemented preferential tax systems called “patent boxes” over the last decade to bolster incentives to keep research and innovation activities onshore.² However, those regimes have not reached the United States; patent box legislation has been introduced by Congress several times but has not been enacted. This could soon change; in July 2015, Reps. Charles Boustany, R-La., and Richard Neal, D-Mass., introduced a discussion draft of the Innovation Promotion Act of 2015. Citing pressures introduced by the current economic climate, this act again aims to introduce a patent box to the Internal Revenue Code.

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While a U.S. patent box could become an essential tool for reviving America's tax base, there are also risks. Congress must carefully design a patent box regime to avoid its becoming a proverbial curate's egg—good in parts but on the whole bad. This article examines the background of the patent box concept, how it works, and how it could benefit or disadvantage the United States.

The Patent Box

A patent box is a preferential tax system that allows companies to elect a reduced rate of corporate tax on income derived from qualifying IP assets.³ The rationale behind a patent box is to benefit a country's local economy by ensuring economic activities will continue to be undertaken in the country. The economic theory behind this is based primarily on two factors: market failure and increasing global tax competition.

First, while the market is supposed to reward commercialization after IP development, market failure may still exist because competitors may reap the benefits of innovation without incurring the development costs. Despite the presence of R&D tax benefits, one firm's efforts bringing an innovation to market can create a spillover effect to firms that did not commit the investment in R&D.⁴ Apple's iPad offers an example: Despite being protected by patents in the United States and Europe, once the device became popular, similar competing tablets quickly emerged, suggesting that Apple was not able to capture anywhere near all of the returns from its innovation.⁵

Patent boxes reduce the cost of this spillover by increasing the potential profit of innovating, and thus they increase the incentive to develop new products. As such, a patent box complements R&D tax credit systems by creating tax incentives to spur the commercialization of research outcomes.⁶ As stated in a 2013 Organisation for Economic Co-operation and Development (OECD) report, "International cooperation should extend . . . to . . . statutory policies for supporting . . . through tax credits and patent boxes."⁷

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Second, global tax competition is a major reason behind the implementation of patent boxes. As mentioned earlier, because IP is highly mobile, innovation takes place on an increasingly global scale. In light of this, countries seek to prevent domestic firms from holding IP and its resulting profits in foreign low-tax jurisdictions to avoid taxation, and realize the need for competitive tax systems to counter these actions.⁸

However, tax system competition is of interest to governments not only because of a loss in tax revenue, but also because of its wider social and economic impact. Encouraging companies to hold patents locally, governments hope, will, in addition to reducing tax avoidance, establish and retain high-value development, manufacturing, and jobs. The government of the United Kingdom, for example, became concerned about the negative impact on employment, innovation, and national competitiveness after departures of multinationals with headquarters in the United Kingdom.⁹

A preferential tax regime such as a patent box thus is seen as one that complements other tax policies and improves the competitiveness of the national tax system to reduce tax evasion, increase innovation, and retain correspondingly high-value jobs and economic activity.

International Adoption

The European Union in 2000 developed a plan known as the Lisbon Strategy with the aim of making the economic bloc “the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion.”¹⁰ Subsequently, some EU states, such as France, the Netherlands, Belgium, Luxembourg, and Spain, introduced patent box policies.¹¹ Ireland, the United Kingdom, and Italy are among the most recent adopters.¹² These governments all saw the regime as a way to encourage investment in innovation activity within their countries.

An important influence on the design of patent boxes was the resolution of the OECD's base erosion and profit shifting (BEPS) project. On Oct. 5, 2015, the OECD presented the final package of the 15-step *Action Plan on Base Erosion and Profit Shifting*. Among many other things, the Action Plan introduces new minimum standards on country-by-country reporting and rules to curb harmful tax practices, particularly in the area of intellectual property.¹³

For patent boxes, the agreed-upon "modified nexus" approach requires a direct nexus between the income receiving tax benefits and the activities producing the income, meaning that reduced tax rates can only apply where the actual R&D activity is undertaken by the business itself. Patent box regimes must comply with these requirements starting July 1, 2016. Naturally, this will be an important influence on any patent box legislation in America, as the United States is a member of the BEPS project and has signed on to the new rules.

Patent Box Proposals in the United States

A patent box has been considered in the United States previously but has not been implemented. The Treasury first formally considered the concept in 2007,¹⁴ when it was reported that American multinational corporations had greater incentive to exploit a patent overseas because the royalties paid to the U.S. parent may be exempt from domestic taxation.¹⁵ The report suggested a territorial system with a lower business tax rate, which would "both level the playing field for U.S. businesses operating abroad and, at the same time, make the United States a more attractive place to invest."¹⁶ The Manufacturing Innovation in America Act of 2012 (and another attempt in 2013) was introduced to amend the Code to allow a taxpayer to elect to deduct the lesser of 71% of the patent box profit or taxable income for the tax year.¹⁷ However, in all cases, the legislation failed to gain traction.¹⁸

Finally, in July 2015, Sens. Rob Portman, R-Ohio, and Chuck Schumer, D-N.Y., drafted legislation to provide a concession on intellectual property in the United

States that aims to stop companies from fleeing the country for more attractive tax jurisdictions.¹⁹ Their “innovation box” plan proposes a shift to a “territorial system,” which would leave foreign earnings untaxed and impose new rules to prevent companies from shifting income out of the United States.²⁰ The proposed innovation box would cover patents, inventions, formulas, processes, designs, patterns, know-how, motion picture films or videotapes, and computer software.²¹ The tax rate on this profit is said to result in an effective tax rate of approximately 10% on innovation box profits, with profit being determined by subtracting costs of goods sold and other expenses, losses, or deductions attributable to qualified gross receipts from qualified gross receipts, which include the sale, lease, or license of qualified assets.²² Furthermore, the proposal would also allow companies to bring overseas IP back into the United States, tax free.

Despite earlier unsuccessful attempts to implement a patent box, the current political climate may lend more support to the latest proposal. Many lawmakers believe that tax inversions and takeovers by foreign companies threaten the domestic tax base.²³ Furthermore, the recently released 2016 federal budget showed that chairmen of both tax-writing committees suggested that this year would be critically important for comprehensive tax reform.²⁴ With the austere budgetary landscape that shapes U.S. ventures and severe competition for cheap resources, taxation of patents in the United States needs to be reexamined.

Expected Benefits

While interest in patent boxes has increased, in most cases, they have been enacted too recently for extensive research of their effectiveness.²⁵

Nevertheless, some notable literature and studies do exist that indicate patent boxes are positively correlated with patent holdings. A 2015 study, which used firm-level data from 2000-2011, found that the favorable tax treatment afforded by patent boxes had a strong effect attracting patents, especially “high quality” patents.²⁶ A study that covered active patent boxes found that

patent boxes have a statistically positive effect on both foreign and domestic patent applications in Europe, indicating increases of 10% to 20%, and promoting commercialization of R&D.²⁷

A 2010 study found that the introduction of patent boxes in the Benelux countries (Belgium, Netherlands, Luxembourg) led to significant shifts in patent holdings toward those countries and away from other countries, and in the United Kingdom, patent registrations by German companies went up 27% after the introduction of its patent box.²⁸ The authors of the study extrapolated an example by considering own-tax elasticity (the percentage change in the probability that a company will choose a particular country if the tax rate decreases by 1%), finding a -1.2 elasticity in the United Kingdom (meaning reducing the corporate tax rate by 20% would increase the proportion of new patents by 24%).²⁹ Furthermore, the patent box has appeared to be very successful in attracting economic activity in the United Kingdom so far: A study among U.K. companies found that some companies have already been able to make significantly more from a patent box than the amount they have budgeted to spend on patents.

GlaxoSmithKline relocated £500 million (\$770 million) worth of R&D efforts to the United Kingdom—with a further £200 million (\$300 million) investment announced afterward.³⁰ These early findings suggest that corporate tax rates do indeed influence patent registration and increase the number of patents held within a country; thus, a U.S. patent box tax regime could similarly result in an increased number of new patents in the United States.

U.S. Benefits

Anti-Tax Avoidance

As mentioned earlier, a patent box is seen as a key tool in the drive against tax avoidance. It has become an especially popular topic of discussion in the United States since the government has been scrutinizing corporate accounts, requiring increased transparency

and disclosure. In particular, the government considers the offshoring of IP to cut a company's effective tax rate to be detrimental to the United States.³¹ The public has also been growing increasingly aware of these activities and increasingly dissatisfied with what they see as multinationals improperly reducing their tax obligations. Proponents of a patent box see it as an effective tool to address the issue of tax avoidance. An opinion piece in *The New York Times* argues the creation of a patent (or "innovation") box is an important measure to combat tax avoidance: "Having corporations pay their fair share by closing tax loopholes is necessary."³²

Boosting Innovation and Economic Activity

U.S. lawmakers, however, are thinking about more than recouping lost tax revenue: They believe that the transfer of these patents overseas ultimately means more companies moving their research and high-end manufacturing jobs overseas. For example, Rep. Paul Ryan, R-Wis., then-chairman of the House Ways and Means Committee, said, in endorsing the Portman-Schumer proposal, "Our tax code is costing us jobs, depressing wages, and chasing companies out of the United States."³³ By attracting patent and innovation activity, a patent box tax regime will hopefully establish and retain valuable economic development, including manufacturing and other well-paying jobs.

The existing R&D tax credit created an additional \$1.10—\$2.90 for every dollar spent on domestic R&D when Congress enacted it in 1981. By projecting this impact onto a patent box regime that addresses *potential* profits, the study predicted that a patent box would encourage investment in U.S. factories and the innovation process as a whole.³⁴ In 2013, a report by the Berkeley Research Group predicted that a move to a patent box system would increase dividends repatriated from previously accumulated foreign earnings and as a result "increase annual GDP by about \$6.4 billion and will create about 45,000 new jobs per year."³⁵ These figures suggest some significantly positive effects on the U.S. economy.

Increased Research Outcomes

Domestic research in particular is facing concern over a lack of funding for high-risk, long-term, or proof-of-concept research.³⁶ With industry-funded research going international because companies have identified foreign countries as “appropriate jurisdictions for patent entities,”³⁷ most innovation and research in the United States occurs within universities, frequently with federal funding. Private funding for domestic incubators is rare during high-risk phases of research. However, since July 2013, the federal government began treating R&D expenses as investments rather than expenses in calculating GDP, and their contribution to the national economy is now highly visible and significant. Retrospective calculations using this new definition showed that the U.S. GDP would have been an average of 2.7% larger each year during 1998 to 2007 than was previously reported.³⁸ This revision of GDP calculations highlighted the importance to the national economy, with respect to taxation and revenue, of both public and private investments in innovation

A patent box complements R&D tax credit systems by creating tax incentives to spur commercialization of research outcomes.³⁹ After 35 years as a temporary provision of the Code, the Sec. 41 credit—better known as the R&D tax credit—was made permanent by the Protecting Americans From Tax Hikes (PATH) Act of 2015 in December 2015.⁴⁰ The PATH Act also broadened the credit, making it easier for small businesses, especially new ones, to benefit from the R&D tax credit. For example, eligible startups with less than \$5 million in gross receipts can apply up to \$250,000 of their R&D tax credit against payroll taxes, while eligible small and medium-size businesses with \$50 million or less in gross receipts (based on a three-year average) can apply the R&D tax credit against their alternative minimum tax liability.⁴¹

The R&D tax credit is expenditure-based, focused on subsidizing the R&D activities that lead to IP creation. Patent boxes, on the other hand, support *post*-R&D activities, e.g., the commercialization, management, and exploitation of IP that has been developed, and as such intended as a complementary system to R&D provisions. Supporters of a patent box thus hope to

create tax incentives to spur commercialization of research outcomes.⁴²

Risks

However, despite the promise of improving national innovation and economic activity, there are areas that may need to be addressed if the United States is to successfully reap the benefits of patent boxes.

Will Not Increase Innovation

One major concern is that businesses' decisions on patent registration may have little to do with developing research and innovation and a lot to do with tax planning.⁴³ While there is evidence that patent boxes increase patents and investment in a country, concerns that they exert a significant effect on patent location without a change in real research activity nevertheless remain. Initial studies appear to confirm a disproportional bias. For example, one study found that the tax attractiveness of patent boxes is larger the broader their scope.⁴⁴

Despite this, there are two factors to keep in mind. First, the development of the modified nexus approach in the BEPS project, which both the United States and the European Union have signed on to, will reduce the bias. While the rule on a nexus approach did not go into effect until June 2016, the study above found that nexus conditions appear to dampen the effects of the tax advantage of a patent box on patent location while encouraging local inventors.⁴⁵

Second, EU countries, unlike the United States, are prohibited from requiring activities to take place within just one nation's borders.⁴⁶ However "there is no equivalent law that would limit the United States' ability to require a company to engage in domestic production to avail itself of the lower tax rate in a patent box tax regime."⁴⁷ This could provide the United States more flexibility in designing further measures to ensure domestic activity takes place.

Will Not Include Enough IP

The scope of “qualifying IP” needs to be investigated and decided, e.g., whether to cover only patents or include other forms of IP. Taking a narrow approach would emphasize patent-based technological innovation, whereas a broader approach focuses on retaining IP for the sake of the national tax base.⁴⁸

Granting the patent box treatment for acquired or preexisting patents that contain embedded royalties seems to make patent location even more sensitive to the tax advantages offered by patent boxes.⁴⁹ The same result occurs with patent boxes that broaden their scope to other rights such as trademarks, design and models, copyrights, or domain names.⁵⁰

Even supporters of the patent box urge the government to implement a patent box program that provides protections to a diverse range of IP.⁵¹ Doing so would allow the United States to be competitive on a number of technology fronts, as the tax legislation could apply to a wide range of intangible assets. Corporate executives such as Jeff Bergmann of NetApp Inc. think that the United States should act now “to develop a box with a broad definition of qualifying income so it can be ‘first in line’ to tax its companies’ income from intellectual property.”⁵² Like investment advice generally, a diverse IP strategy may ensure greater innovation and hedge against possible negative outcomes.

Patent Box Needs to Suit the U.S. and Compete With Other Patent Boxes

Competition between different countries’ patent boxes is another risk that a patent box proposal needs to address. Competition should enhance the free movement of best practices, which applies to legislative measures, too. Thus, as more and more countries implement a patent box, the first countries may lose their competitive advantage.⁵³ Consequently, it may not necessarily be enough for the United States to merely “adopt” a patent box; the government must consider practices and how to improve upon them to compete with existing and future patent box regimes to

create a national sustainable competitive advantage. As part of this strategy, it should be kept in mind that while the EU serves as a possible case study for a patent box in the United States, the differences between the United States and the European Union need to be considered; such as differing economic, cultural, and political environments, and that the United States is not limited in its ability to place stipulations on domestic activity.

Conclusion

The United States is considering following in its European cousins' footsteps by introducing a patent box regime to make its tax system more competitive, incentivize domestic innovation and R&D, and create jobs. The idea of a U.S. patent box is not new, but interest in the idea has been rekindled by the Innovation Promotion Act of 2015 discussion draft introduced by Boustany and Neal. Unlike when previous attempts were made, the current economic climate, and indications from the 2016 U.S. budget, are adding traction to the movement toward comprehensive tax reform.

There are risks to consider, though. A major criticism of patent boxes is that while they increase patent registrations, they may not necessarily increase domestic activity. Even though the European Union may serve as a possible case study for a U.S. patent box, a U.S. regime will also need to not only learn from, but also compete with these other patent box countries. Complicated factors such as defining the scope of IP qualification, identifying generated gross receipts and expenses, handling acquired IP, and calculating economic benefits need to be carefully addressed to avoid a U.S. patent box ending up as an arduous and ineffective compliance burden.

However, should the United States patent box be designed carefully and effectively, it could serve as a powerful complementary tool to existing R&D credits that curbs tax avoidance, boosts the commercialization of research outcomes, and bolsters domestic innovation. While patent boxes are a recent concept,

relatively speaking, initial studies and reports suggest they have tremendous potential to increase the amount of patents held in the country, the number of IP companies located in the country and the amount of money they invest here, and economic activity as a whole.

Footnotes

¹Kessler and Eicke, “The Emergence of R&D Tax Regimes in Europe,” 50-10 *Tax Notes Int’l*, p. 845 (June 9, 2008).

²Atkinson, *Patent Boxes: Innovation in Tax Policy and Tax Policy for Innovation*, p. 5 (Oct. 4, 2011). Patent boxes are also sometimes referred to as “innovation boxes” or “knowledge development boxes.”

³See Shanahan, “Is It Time for Your Country to Consider the ‘Patent Box’?” PwC’s Global R&D Tax Symposium on Designing a Blueprint for Reducing the After-Tax Cost of Global R&D, Dublin, Ireland, p. 3 (May 23, 2011).

⁴Atkinson, *Patent Boxes: Innovation in Tax Policy and Tax Policy for Innovation*, pp. 4-5 (Oct. 4, 2011).

⁵*Id.*, p.6.

⁶*Id.*, p.2.

⁷OECD, *Growth, Innovation and Competitiveness: Maximising the Benefits of Knowledge-Based Capital*, p. 7 (Feb. 13-14, 2013).

⁸Atkinson, *Patent Boxes: Innovation in Tax Policy and Tax Policy for Innovation*, pp. 4-6 (Oct. 4, 2011).

⁹Davies and Williamson, *Background to the Patent Box Regime*, p. 1 (2015).

¹⁰Lisbon European Council 23 and 24 March 2000, Presidency Conclusions.

C, “European Patent Box Regimes” (April 2013).

¹²2015 Finance Bill (eff. Jan. 1, 2016) [Ireland]; 2015 Finance Act (eff. Jan. 1, 2015) [Italy]; 2012 Finance Act (eff. April 2013) [United Kingdom].

¹³OECD press release, "OECD Presents Outputs of OECD/G20 BEPS Projects for Discussion at G20 Finance Ministers Meeting" (Oct. 5, 2015).

¹⁴U.S. Treasury Dep't, *Approaches to Improve the Competitiveness of the U.S. Business Tax System for the 21st Century*, "Chapter III: Business Tax Reform With Base Broadening/Reform of the U.S. International Tax Rules," p. 43 (Dec. 20, 2007).

¹⁵*Id.* at 46.

¹⁶*Id.*

¹⁷H.R. 6544 (112th Cong.), Manufacturing Innovation in America Act of 2012, introduced Sept. 21, 2012.

¹⁸H.R. 2605 (113th Cong.), Manufacturing Innovation in America Act of 2013.

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²⁰*Id.*

²¹Nowak, "U.S. Patent Box: Will It Be a Box of Chocolates or Pandora's Box for Taxpayers?" *alvarezandmarsal.com* (Oct. 6, 2015).

²²*Id.*

²³Rubin, "Latest U.S. Tax Break Fad Means Today's Winners Would Score Anew," *Bloomberg Business* (June 24, 2015).

²⁴Parven, "Congressional Outlook 2016: Tax, Health, Trade," *law360.com* (Feb. 12, 2016).

²⁵OECD, *Growth, Innovation and Competitiveness: Maximising the Benefits of Knowledge-Based Capital*, p. 13-14 (Feb. 13-14, 2013).

²⁶Alstadsæter, et al., “Patent Boxes Design, Patents Location and Local R&D,” Center for Economic Studies and Ifo Institute Working Paper No. 5416 (June 2015).

²⁷Hassbring and Erdwall, “The Short-Term Effect of Patent Box Regimes,” p. 37 (May 15, 2013).

²⁸Griffith, Miller, and O’Connell, “Corporate Taxes and Intellectual Property: Simulating the Effect of Patent Boxes,” Institute for Fiscal Studies Briefing Note 112, pp. 5, 7 (2010); Gilleard, “Germany Wants European Patent Box Regimes Withdrawn,” *International Tax Review* (September 2013).

²⁹*Id.* at 5.

³⁰Kumar, “Glaxo Pledges to Invest £500m in UK After ‘Patent Box’ Reforms,” *Independent* (Nov. 29, 2010).

³¹See, e.g., Statement of Senator Carl Levin (D-Mich) Before U.S. Senate Permanent Subcommittee on Investigations on Offshore Profit Shifting and the U.S. Tax Code—Part 2 (Apple Inc.) (May 21, 2013).

³²Mandell, Op-Ed, “Obama’s Corporate Tax Blunder,” *The New York Times* (June 9, 2015).

³³House Ways and Means Committee, press release, “Ryan Welcomes Portman-Schumer Framework for New International Taxation System” (July 8, 2015).

³⁴Atkinson, *Patent Boxes: Innovation in Tax Policy and Tax Policy for Innovation*, p. 2 (Oct. 12, 2011).

³⁵Berkeley Research Group, *Implications of a Switch to a Territorial Tax System in the United States: A Critical Comparison to the Current System*, p. 18 (November 2013).

³⁶National Research Council, “Capturing Change in Science, Technology, and Innovation: Improving Indicators to Inform Policy,” Litan, Wyckoff, and Fealing (eds.), Panel on Developing Science, Technology, and Innovation Indicators for the Future, Committee on National Statistics, Division of Behavioral and Social Sciences and Education, Board on Science,

Technology, and Economic Policy, Division of Policy and Global Affairs (The National Academies Press 2013).

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³⁸U.S. Bureau of Economic Analysis, *Toward Better Measurement of Innovation and Intangibles* (2010).

³⁹Atkinson, *Patent Boxes: Innovation in Tax Policy and Tax Policy for Innovation*, p. 2 (Oct. 4, 2011).

⁴⁰Sec. 41(h) as amended by the Protecting Americans From Tax Hikes Act of 2015, Division Q of the Consolidated Appropriations Act, 2016, P.L. 114-113, §121(a)(1).

⁴¹Secs. 41(h) and 3111(f) as amended by the PATH Act §121(c); Sec. 38(c)(4)(B)(ii) as amended by the PATH Act §121(b).

⁴²Atkinson, *Patent Boxes: Innovation in Tax Policy and Tax Policy for Innovation*, p. 2 (Oct. 4, 2011).

⁴³Alstadsæter, et al., "Patent Boxes Design, Patents Location and Local R&D," Center for Economic Studies and Ifo Institute Working Paper No. 5416 (June 2015).

⁴⁴*Id.* at 19 (examining whether acquired patents, embedded royalties, and existing patents qualify for tax advantages).

⁴⁵*Id.* at 18.

⁴⁶Directorate General for Internal Policies, European Parliament, *Intellectual Property Box Regimes*, p. 7 (October 2015).

⁴⁷Knight, "It Is Time for the United States to Implement a Patent Box Tax Regime to Encourage Domestic Manufacturing," 19 *Stanford J. of Law, Business & Fin.* 18 (Fall 2013).

⁴⁸McKinnon, "Lawmakers Embrace Patent Tax Breaks," *Wall Street Journal* (May 5, 2015).

⁴⁹Alstadsæter, et al., “Patent Boxes Design, Patents Location and Local R&D,” Center for Economic Studies and Ifo Institute Working Paper No. 5416, p. 18 (June 2015).

⁵⁰Id.

⁵¹Hendrie, Property Rights Alliance, “US to Consider Patent Box Legislation,” (May 7, 2015). See generally Shanahan, J., “Is It Time for Your Country to Consider the ‘Patent Box’?” PwC’s Global R&D Tax Symposium on Designing a Blueprint for Reducing the After-Tax Cost of Global R&D, Dublin, Ireland, p. 9 (May 23, 2011); Hill, “The Patent Box as the New Innovation Incentive for the Several States: Lessons From Intellectual Property-Tax Competition,”⁴² *AIPPLA Q.J.* 13 (Winter 2014) (“Two broad categories of innovation incentives have developed over time. The first is the North American model adopted by Canada and the United States. The North American model for innovation incentives generally rewards front-end activity, such as R&D, through tax credits or accelerated deductions based on qualifying R&D expenditures.”).

⁵²Rubin, “Talks Under Way to Add Patent Box to U.S. Tax Code,” *Bloomberg Business* (June 25, 2015).

⁵³Kessler and Eicke, “The Emergence of R&D Tax Regimes in Europe,” 50-10 *Tax Notes Int’l*, p. 845 (June 9, 2008).

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