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IFA Austria

International Tax Competition in the Field of Research and Development

Welcome!

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Agenda

Growth Strategies of the European Union and OECD

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Lisbon Strategy

EU Growth Strategy 2000 – 2010 and the Raise of IP Boxes

- The **Lisbon Strategy** was an action and development plan devised in 2000, for the economy of the EU between 2000 and 2010
- Its aim was to make the EU 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
- Already in 2009 it was admitted that even progress has been made the Lisbon Strategy has been a failure
- Official appraisal of the Lisbon Strategy took place in March 2010 at a European Summit, where the new **Europe 2020** strategy was also launched
- Based on the **Lisbon Strategy**, however, the **Netherlands** was the first Benelux country to **introduce an IP box** regime in 2007

Europe 2020 Strategy

EU Growth Strategy 2010 – 2020

- **Europe 2020** is the **EU growth strategy** for the coming decade
- The strategy aims achieving the target of investing 3% of GDP in R&D in particular by improving the conditions for R&D investment by the **private sector**
- **Communication from the Commission** (COM(2014) 130 final) of 5 March 2014:
  - Expenditure on R&D in the EU has **recently been slightly increasing**, but remains lower than the 3% Europe 2020 target
  - Currently, EU gross domestic expenditure on R&D as a percentage of GDP **remains almost 1 percentage point below the 3% target**
  - **Recent progress** towards the 3% target results mainly from **policies at EU and Member State level**

Europe 2020 Strategy

EU Growth Strategy 2010 – 2020

- Communication from the Commission (Cont'd):
  - They aim to **foster private investment in R&D**, notably through increased leverage via public funding, improved framework conditions and **fiscal incentives**
  - Compared to international competitors, Europe's shortfall mainly derives from **low levels of private investment**

Knowledge-Based Capital

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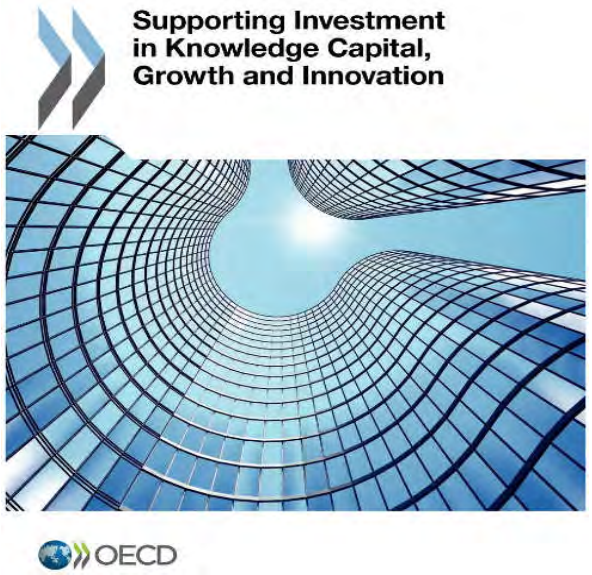
Supporting Investment in Knowledge Capital
Background

- Besides BEPS, the OECD made another important publication in 2013 regarding knowledge-based capital



- The work shows that **business investment** in **knowledge-based capital** is a **key to future productivity growth** and **living standards**

Supporting Investment in Knowledge Capital
Background

- **Investment and growth** in OECD economies is **increasingly driven** by investment in **intangible assets**, also know as **knowledge-based capital**

Table 1. Classification of the forms of KBC and their effects on output growth

Type of KBC asset	Mechanisms of output growth for the investor in the asset
Computerised information	
Software	Improved process efficiency, ability to spread process innovation more quickly, and improved vertical and horizontal integration.
Databases	Better understanding of consumer needs and increased ability to tailor products and services to meet them. Optimised vertical and horizontal integration.
Innovative property	
Research & Development	New products, services and processes, and quality improvements to existing ones. New technologies.
Mineral explorations	Information to locate and access new resource inputs - possibly at lower cost - for future exploitation.
Copyright and creative assets	Artistic originals, designs and other creative assets for future licensing, reproduction or performance. Diffusion of inventions and innovative methods.
New product development in financial services	More accessible capital markets. Reduced information asymmetry and monitoring costs.
New architectural and engineering designs	New designs leading to output in future periods. Product and service quality improvements, novel designs and enhanced processes.
Economic competencies	
Brand-building advertisement	Improved consumer trust, enabling innovation, price premia, increased market share and communication of quality.
Market research	Better understanding of specific consumer needs and ability to tailor products and services.
Worker training	Improved production capability and skill levels.
Management consulting	Externally acquired improvement in decision making and business processes.
Own organisational investment	Internal improvement in decision making and business processes.

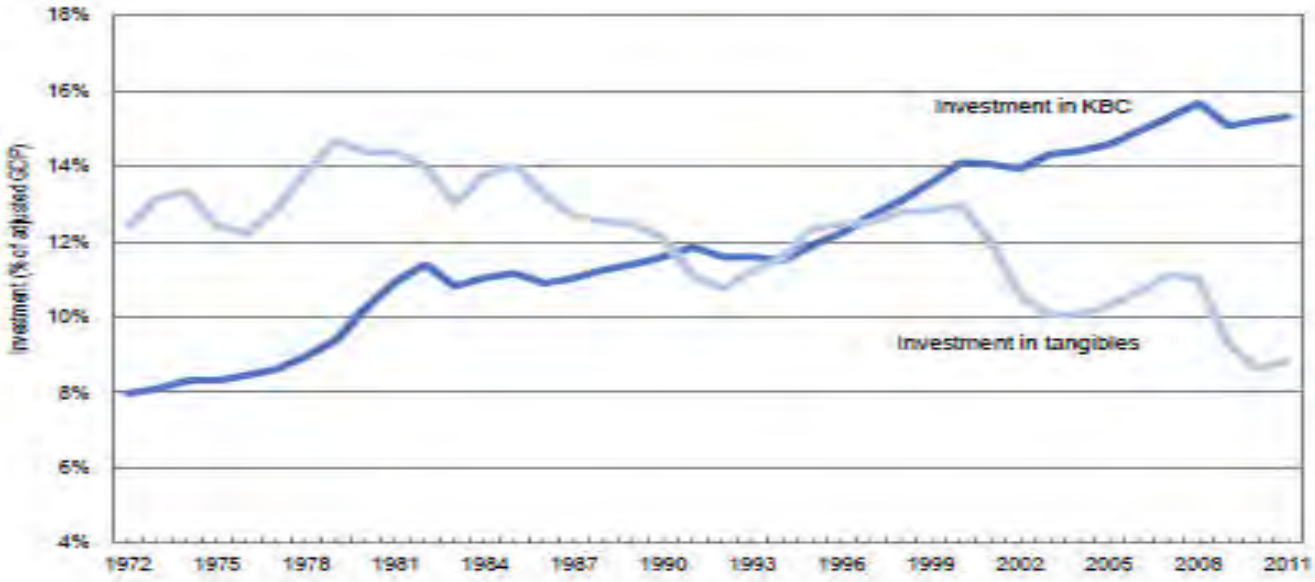
Source: left column, C.A Corrado, C.R. Hulten and D. Sichel (2005), *Measuring Capital and Technology: An Expanded Framework*. in C. Corrado, J. Haltiwanger and D. Sichel (eds), *Measuring Capital in a New Economy*, National Bureau of Economic Research and University of Chicago Press.

Source: OECD KBC Synthesis Report 2013

Supporting Investment in Knowledge Capital
Background

- In many OECD countries, **firms now invest as much or more in KBC** as they do in physical capital such as machinery, equipment and buildings

Figure 1. Business investment in KBC and tangible capital, United States, 1972-2011 (% of adjusted GDP)



Note: Estimates are for private industries excluding real estate, health and education.

Source: Unpublished update on Corrado, C.A. and Hulten, C.R. (2010), How do you Measure a 'Technological Revolution?, *American Economic Review: Papers & Proceedings* 100 (May 2010): 99–104.

Source: OECD KBC Synthesis Report 2013

Supporting Investment in Knowledge Capital
Background

- This shift reflects a variety of **long-term economic and institutional transformations** in OECD economies

> Knowledge-based capital is composed of various types of assets and is increasingly the foundation of modern economies.

Source: OECD KBC Synthesis Report 2013

- Global value chains have changed the nature of production and competition and KBC is a driver of success in global value chains
- Many policy frameworks and institutions are still best suited to a world in which physical capital drove growth
- New thinking is needed to **update a range of policy frameworks**, from **tax and competition policies** to **corporate reporting** and intellectual property rights

Supporting Investment in Knowledge Capital
Illustration (Video)

Economic relevance of knowledge-based capital by the example of Nestlé:


Untitled.mp4

Source: www.oecd.org, Growth, Innovation And Competitiveness: Maximising The Benefits Of Knowledge-Based Capital, 13-14 February 2013, OECD Conference Centre Paris

Observation:

- EU and OECD follow similar growth strategies. Both forums consider IP and KBC to be a centerpiece for growth, including fiscal incentives in this regard
- KBC is not limited to patents only

Input and Output Incentives

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Input and Output Incentives

Foster private investment in R&D through fiscal incentives

- Fiscal incentives for R&D can be distinguished between **input incentives** and **output incentives**
- Most EU Member States have implemented input incentives such as super deductions, which are also **strongly supported by OECD** from a policy perspective
- IP boxes provide an **incentive on the basis of reduced tax** for firms to retain and commercialise existing intangibles as well as to develop new innovate products and processes protected by relevant IP rights in a jurisdiction, or to perform services
- This hence encourages firms to **locate value added** in form of **high-value jobs** associated with these functions in the jurisdiction

Input and Output Incentives

Foster private investment in R&D through fiscal incentives

- In doing so, IP boxes can **lower costs** and make investments in innovation more attractive compared to other investments
- About a dozen EU Member States have implemented IP box solutions
- Numerous other States outside the EU, such as China, have implemented IP boxes. Thus, IP boxes have become a **political and economic reality**

Country	Eff. Tax Rate	Country	Eff. Tax rate
Belgium	6.8%	Nidwalden	8.8%
Liechtenstein	2.5%	Netherlands	5%
Luxembourg	5.84%	UK	10%

Input and Output Incentives
Overview

Country	R&D Tax Credit	R&D Super Deduction	IP Box
Australia	Yes		
Austria	Yes		
Belgium	**Yes**		**Yes**
Brazil		Yes	
Canada	Yes		
China		**Yes**	**Yes**
Cyprus			Yes
Czech Republic		Yes	
Denmark		Yes	
France	**Yes**		**Yes**
Hungary		**Yes**	**Yes**

Input and Output Incentives
Overview

Country	R&D Tax Credit	R&D Super Deduction	IP Box
India		Yes	
Ireland	Yes		
Italy	Yes		
Japan	Yes		
Korea	Yes		
Liechtenstein			Yes
Luxembourg			Yes
Mexico			
Netherlands		**Yes**	**Yes**
Poland		Yes	
Portugal	**Yes**		**Yes**

Other Selected IP Box Regimes
Overview

Country	R&D Tax Credit	R&D Super Deduction	IP Box
Romania		Yes	
Russia		Yes	
Singapore		Yes	
Romania		Yes	
South Africa		Yes	
Spain	**Yes**		**Yes**
Switzerland (Canton Nidwalden)			Yes
Turkey		Yes	
United Kingdom	**Yes**	**Yes**	**Yes**
United States	Yes		

Source: Dr. Marco Felder: IP Boxes from a European, Liechtenstein and Swiss Perspective

Liechtenstein IP Box

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Liechtenstein IP Box
Legal framework

- The IP box provides for a **tax deduction of 80% on profits** in respect of relevant IP rights, which results in a reduced effective tax rate of 2.5% on these relevant profits
- It applies to taxpayers that **use, realise or sell** relevant IP rights, such as:
  - Patents
  - Utility models
  - Supplementary Protection Certificates (SPC)
  - Trademarks
  - Designs
  - Software, and
  - Technical and scientific databases

Liechtenstein IP Box
Legal framework

- A taxpayer can benefit from the IP box where it **holds relevant IP rights** or a **license** in respect of such relevant IP rights
- Certain relevant IP rights are further required to be protected by **entry in a domestic, foreign or international register**
- The IP box only applies to relevant IP rights created or acquired from **1 January 2011**
- There is **no development condition** under the Liechtenstein IP box. Yet, Liechtenstein dynamically follows OECD Transfer Pricing Guidelines
- A **substance over form** and thus an effective economic approach prevails in the practical application of the IP box
- **Recapture rule** requires that relevant IP expenditures over different assessment periods must be offset with relevant IP income. Only then the IP box benefits become applicable

Liechtenstein IP Box
Legal framework

- Five specific **categories of income** can qualify as relevant IP income:
  - Income from sales (embedded income)
  - License fees and royalties
  - Income from the sale or disposal of relevant IP rights
  - Amounts received from others accused of infringing relevant IP rights, and
  - Other compensation
- The IP box also applies to **self-employed persons, partnerships, joint ventures and cost sharing arrangements**
- EFTA Surveillance Authority (ESA) qualified the Liechtenstein IP box as **non-selective tax measure** in its formal decisions of 1 June 2011 and 12 December 2012

Liechtenstein as Global IP Hub in Europe

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Liechtenstein as Global IP Hub in Europe (Goal)

Strategy Map by the Example of Singapore

A hub for IP transactions and management

Develop a IP marketplace by attracting top IP intermediaries, and supporting promising initiatives to catalyse the development of the marketplace

Facilitate IP transactions by increasing access to IP financing, and enhancing transparency and certainty in IP transactions

A hub for quality IP filings

Create a strong value proposition to attract IP filings by offering world-class services, and strengthening international collaborations with other IP offices

A hub for IP dispute resolution

Develop Liechtenstein as a choice venue for IP dispute resolution, through a strong IP Court and deep IP alternative dispute resolution capabilities

Enabler 1: Skilled manpower resources networked to Liechtenstein and beyond

Build a globally competitive IP workforce that is equipped with specialised IP skill set and networked to other markets

Enabler 2: A conducive and progressive environment for IP activities

Enhance the tax environment to attract and anchor IP portfolios and substantive management activities

Takeaway

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Takeaway

- R&D tax incentives should rather be recognized as **drivers to growth** than drivers to international tax competition
- Investment in **knowledge-based capital** and thus the underlying R&D tax policies should be widely supported
- For countries poor in natural resources, knowledge-based capital as well as innovation capacity is an **economic lifeline**
- Liechtenstein should complement its innovation framework/IP box with an **R&D input incentive** to increasingly become a global IP hub in Europe
- **BEPS** is likely to have an impact on current Liechtenstein IP box legislation. Liechtenstein favours Transfer Pricing to (modified) Nexus approach
- **Close cooperation** between Liechtenstein, Switzerland and Austria is a decisive factor in the strength and innovation capacity of our common economic area

Any questions?

Dr. Marco Felder
Director, Leader Tax and Legal Liechtenstein

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Vadianstr. 25a/Neumarkt 5
CH – 9001 St. Gallen

Direct: +41 58 792 44 18
Mobile: + 41 79 614 91 00
Email: marco.felder@ch.pwc.com

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