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Innovation for a New Tax Incentive: Patent Box Regime Turkey and the EU Application

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Abstract

Countries make reductions in direct tax rates to attract foreign investments. In order to avoid this situation leading to an unfair tax competition, instead of decreasing the corporation tax wholly, tax incentives for industrial property rights which contribute innovation are preferred. The dynamism of industrial property rights is higher compared to the other production factors and it is more susceptible to tax incentives. Lately, countries have begun tax incentive applications called either “patent box regime” or “innovation box regime” in order to attract innovative international companies to themselves. For the first time in 1973, “patent box regime” began to be implemented in Ireland and spread rapidly. In this content, this application was entered into force in such countries: France (2000), Hungary (2003), Belgium and the Netherlands (2007), Spain, Luxembourg and China (2008), Malta (2010), Liechtenstein (2011), England (2013), Portugal, Italy and Turkey (2014). Patent box regime is a promoting factor which proposes low taxation for the earnings from directly commercialized patents and from the other industrial property rights. In addition, its structure is result-oriented and incites innovation. In this study, “patent box regime”, a kind of a tax incentive which is provided by the countries in order to enhance their international competitive capacities in the field of innovation, will be examined. In this content, the applications in Turkey and in the European Union will be discussed comparatively and potential difficulties in the application will be mentioned.

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1. Introduction

Innovation is defined as an output of a creation process of new and important economic assets that will provide a significant increase in the objective functions, welfare and the earnings of the economical units like individuals, companies, states, global community (Saridoğan, 2010: 118). Novelties which cannot be converted into a significant economic assets are not accepted as innovation (Turanlı and Saridoğan, 2010:14). Today, there is a competitive global environment in which the industrial society transforms into an information society. In this environment, economic units should follow science-technology innovation based political economy strategies in order to protect and improve their competitiveness and be successful (Turanlı and Saridoğan, 2010:333). Countries that save enough resource for R&D, protect their inventions with patent rights as a result of R&D and convert these inventions into advanced technology products productions which will create added value, can reach sustainable economic development and prosperity (Özbek & Atik, 2013: 207). International competition that occurred because of globalization, challenges states to attract foreign investors producing advanced technology to their countries. Countries make reductions in direct tax rates to attract foreign investments to themselves. Because of this fact, OECD and EU criticise countries for causing harmful tax competition. The dynamism of industrial property rights is higher compared to the other production factors and it is more susceptible to tax incentives. Lately, countries have begun tax incentive applications called either “patent box regime” or “innovation box regime” in order to attract innovative international companies to themselves. For the first time in 1973, “patent box regime” began to be implemented in Ireland and spread rapidly. In this content, this application was entered into force in such countries: France (2000), Hungary (2003), Belgium and the Netherlands (2007), Spain, Luxembourg and China (2008), Malta (2010), Liechtenstein (2011), England (2013), Portugal, Italy and Turkey (2014). However, the patent box regimes applied in England and Ireland are criticised by OECD due to the fact that the regimes applied in these countries show contradiction to OECD Base Erosion and Profit Shifting Action Plan. In this study, “patent box regime” , a kind of a tax incentive which is provided by the countries in order to enhance their international competitive capacities in the field of innovation, will be examined. In this content, the applications in Turkey and in the European Union will be discussed comparatively and potential difficulties in the application will be mentioned.

2. Concepts

2.1. Intellectual Property Rights

Intellectual Property in the economic literature is used to refer intangible assets at the disposal of economic actors. In the legal literature, it refers to intellectual property rights (Odman Boztosun, 2007:3). In the literature, the idea of unity in terms that will be used to represent intellectual products owners’ rights on these products, has not been achieved (Yüce, 2000). Intellectual property rights are also used as an umbrella term to cover the industrial property rights (Arikan, 2007: 152). Intellectual property right is interpreted as a right to obviate the other individuals’ use of the intellectual products apart from their owners (Berzek, 1996:65-69; Yüce, 2001:85). Intellectual labour products are defined by modern legal systems as “intangible goods” that has economic value like physical labour products, may be a subject to legal regulations ve procedures (Yüce, 2001: 85). Industrial property allows the inventions in the industry and agricultures, the innovations, the new designs and the original work to be registered on behalf of their early implementors, and it also allows the indications that will ensure proper identification of the manufacturer or seller of the goods produced and sold in commercial field to be registered on behalf of the owners. In short, “Industrial Property” is an intangible right providing the early implementors to have the right of producing and selling their products for a certain time. (Tayşı, 2012: 8) Protected intellectual products, such as patent, utility model, trade and service lines, industrial design, trade name and bussiness name, geographical indications, topography of semi-conductor products, new plant species and so on, are generally considered within “Industrial Rights” (Yüce, 2001: 87, for detailed information; Güneş, 2009).

2.2. Patent Box or Innovation Box

“Patent box regime” also called as “innovation box regime” is a promoting factor which proposes low taxation

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