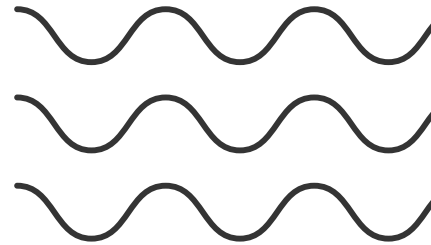


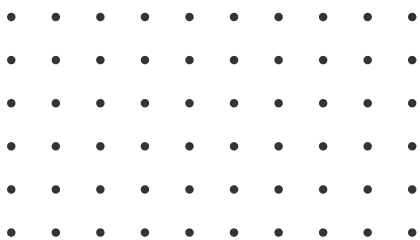


JURISCONSUL
LAW EXPERTISE INNOVATION

THE IP BOX REGIME IN LUXEMBOURG



Presented by
JURISCONSUL LAW FIRM



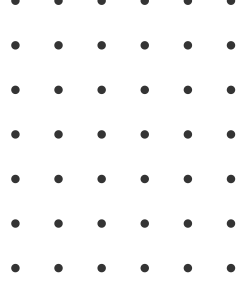
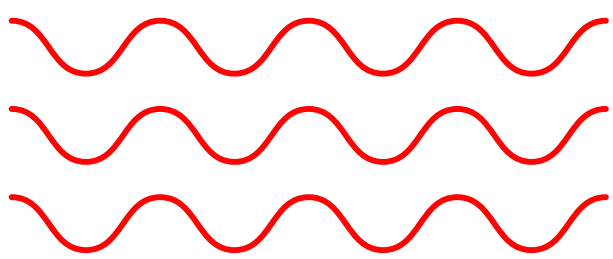
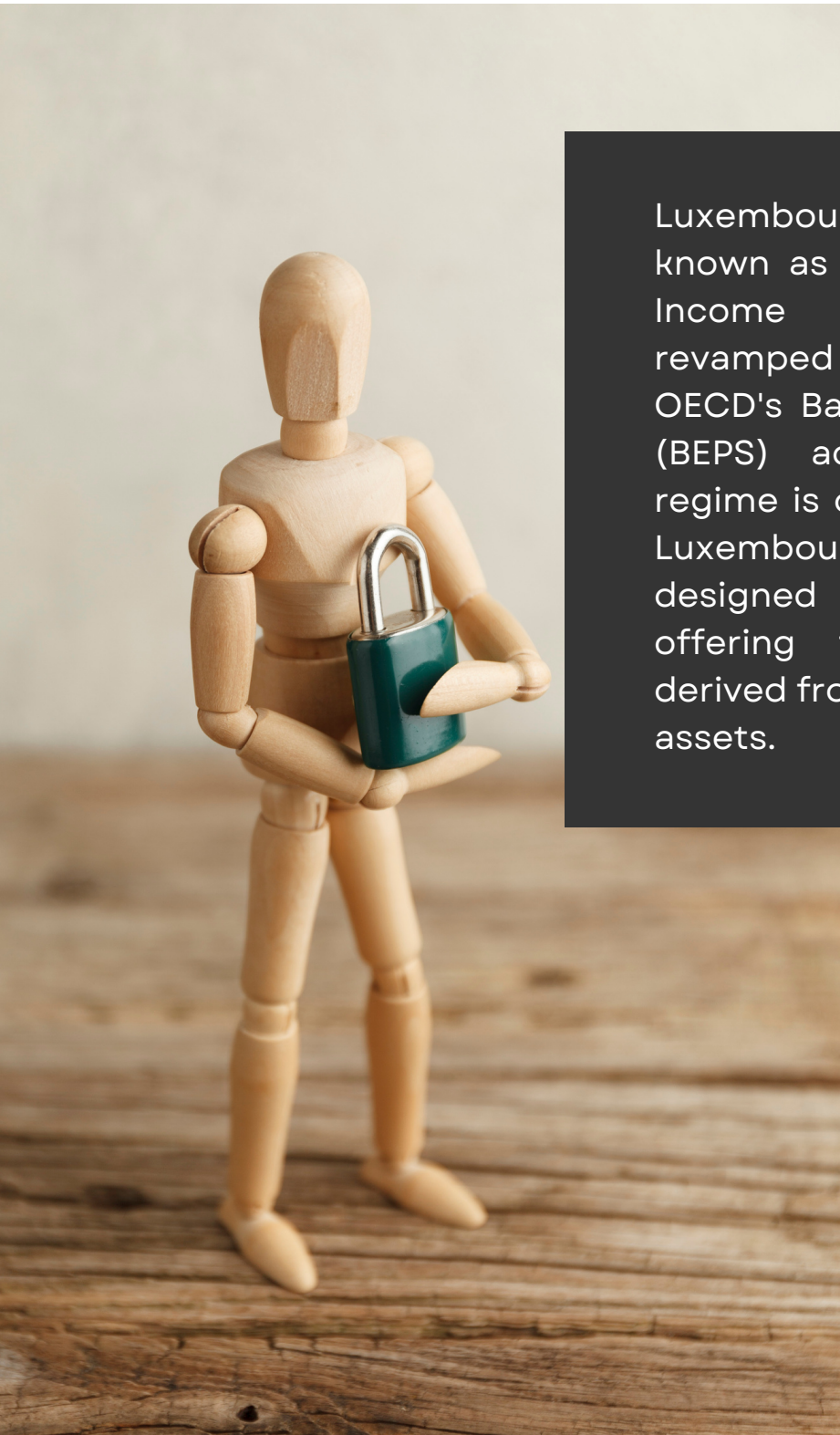


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INTRODUCTION

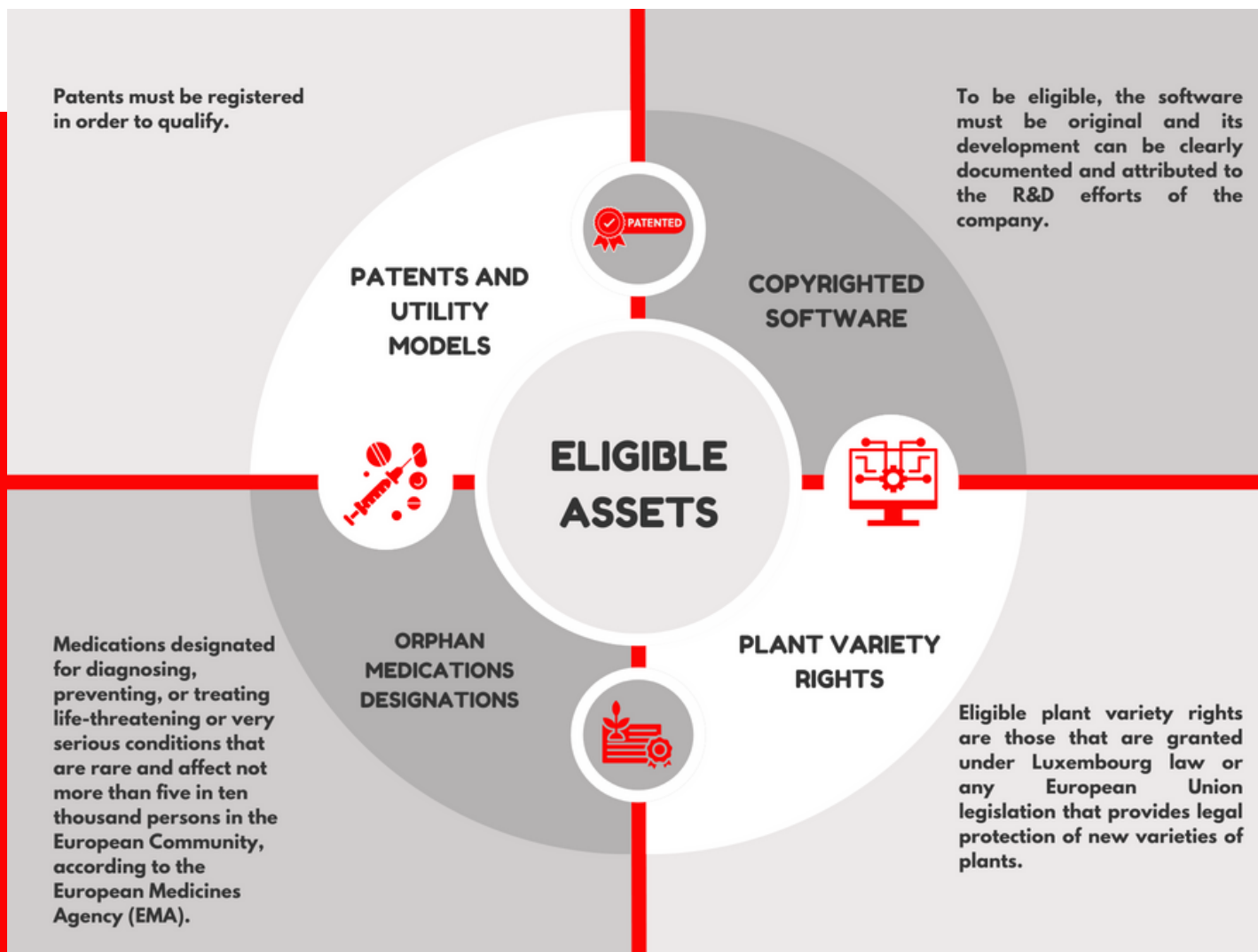


Luxembourg's IP Box regime, officially known as the "Intellectual Property (IP) Income Deduction" system, was revamped and adapted to meet the OECD's Base Erosion and Profit Shifting (BEPS) action 5 requirements. This regime is outlined in Article 50ter of the Luxembourg Income Tax Law (LITL) and is designed to promote innovation by offering tax incentives for income derived from certain intellectual property assets.



IP ASSETS

The eligibility of assets for the IP Box regime in Luxembourg is specifically defined to include only those assets that are the result of substantial research and development activities. Below is a detailed look at these assets:



Excluded IP assets

Trademarks, designs, and models are not considered eligible IP assets under Article 50ter LITL. Inventions that are not patented or patentable do not qualify for the regime either.

Substantial Activity Requirement

To align with the "Nexus Approach" recommended by the OECD, Luxembourg requires that there must be a substantial economic activity to justify the tax benefits. The income eligible for the IP Box regime must directly correspond to the R&D expenses undertaken by the taxpayer. This correlation enforces the principle that the benefits should only apply to income genuinely created through the taxpayer's innovation efforts.

Calculation of Benefits

The eligible net income from IP assets benefits from an 80% exemption under the IP Box regime. This means that effective tax rates could be significantly reduced, enhancing Luxembourg's attractiveness as a location for innovative companies. The specific formula for calculating this benefit ties the tax advantages to actual R&D expenditure, thereby promoting genuine innovation.





EXAMPLE OF IP BOX REGIME TAXATION CALCULATION

Let's consider an example where a company based in Luxembourg City earns €100,000 from eligible IP assets and has €60,000 in associated R&D expenses:

- IP Income Earned: €100,000
- Associated R&D Expenses: €50,000
- Corporate Income Tax Rate: 17%
- Municipality Tax Rate (Luxembourg City): 6.75%

The General formula is :

Net income = (Qualifying Expenditure and 30% Uplift / Overall Expenditure) x Net Adjusted and Compensated Income

Net Eligible Income

The net eligible income is the gross income derived from the commercialization of the qualifying IP rights minus the directly related expenses.

- Net Eligible Income = €100,000 - €60,000 = €40,000

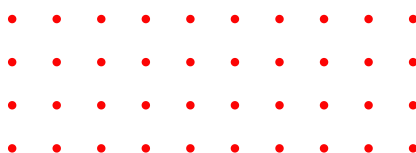
Qualifying Expenditure and 30% Uplift

Qualifying Expenditure includes R&D expenses directly related to the IP asset. The company can benefit from a 30% uplift on these expenses, capped at the amount of the Overall Expenditure.

- Qualifying Expenditure = €60,000
- 30% Uplift = €60,000 × 30% = €18,000
- Total Qualifying Expenditure = €60,000 + €18,000 = €78,000

Overall Expenditure

The overall expenditure includes all expenses incurred in generating the IP income, such as R&D costs, acquisition costs, and other related expenses. In this example, the overall expenditure is €60,000.





Net Adjusted and Compensated Income

The net adjusted and compensated income is calculated by multiplying the net eligible income by the Nexus Ratio of qualifying expenditure with uplift to overall expenditure.

- Nexus Ratio = Qualifying Expenditure with Uplift / Overall Expenditure
- Nexus Ratio = €78,000 / €60,000 = 1.3 (capped at 1)
- Net Adjusted and Compensated Income = Net Eligible Income × Nexus Ratio
- Net Adjusted and Compensated Income = €40,000 × 1 = €40,000

IP Box Exemption

80% of the Net Adjusted and Compensated Income is exempt from Corporate Income Tax and Municipal Business Tax.

- Exempt Income = €40,000 × 80% = €32,000
- Taxable Income = €40,000 - €32,000 = €8,000



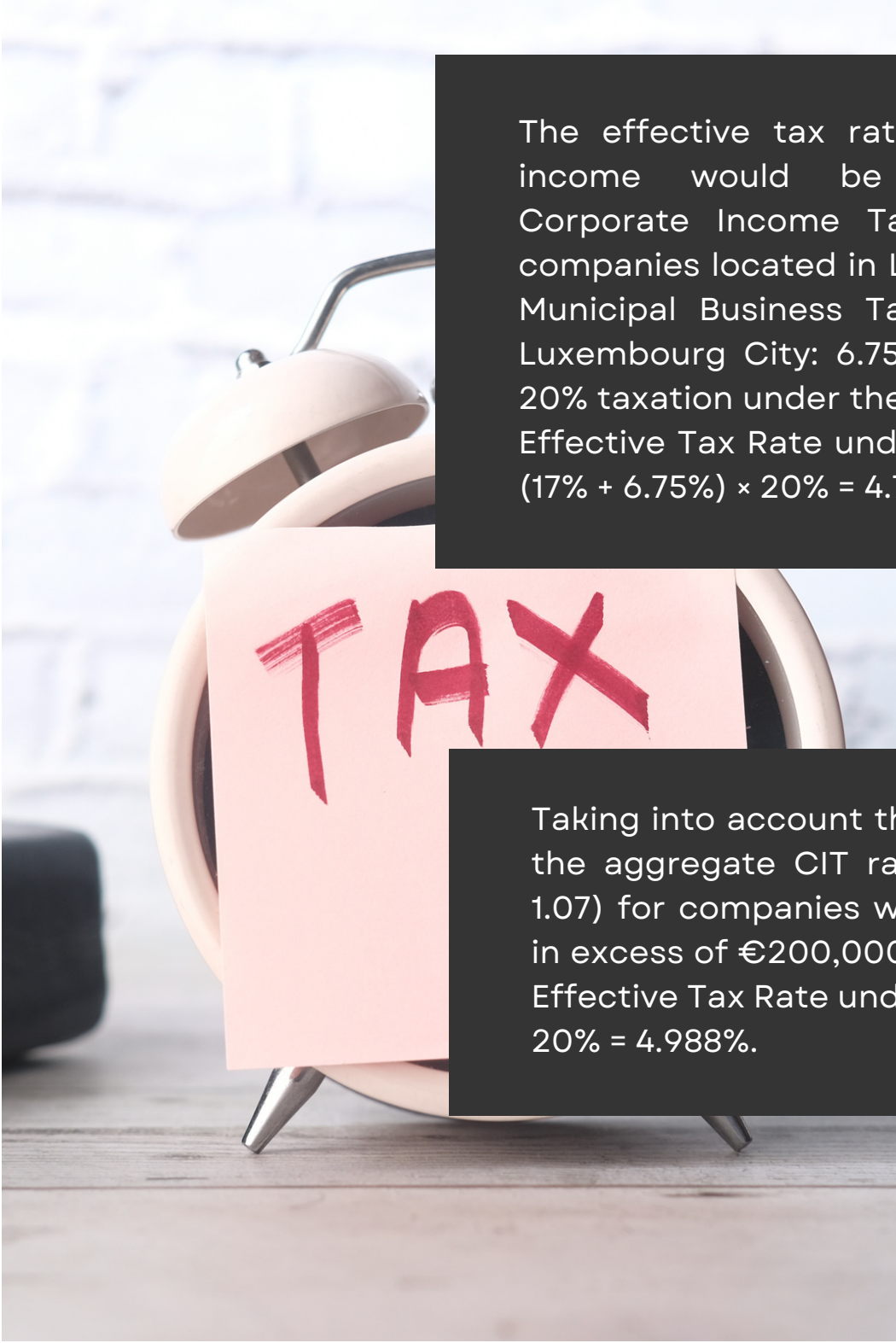
SUMMARY TABLE

Applying the Luxembourg City municipal business tax rate of 6.75% and the corporate income tax rate of 17% (for the 2023 tax year).

The breakdown according to the above example:

Description	Calculation	Amount (€)
IP Income Earned		100,000
Qualifying R&D Expenses		60,000
30% Uplift on Qualifying R&D	€60,000 x 30%	18,000
Overall Expenditures	€60,000 + €18,000	78,000
Net Eligible Income	€100,000 - €60,000	40,000
Income Eligible for Tax Exemption	€40,000 x 80%	32,000
Taxable IP Income	€40,000 - €32,000	8,000
<i>Corporate Tax Due</i>	€8,000 x 17%	1,360
<i>Municipality Tax Due</i>	€8,000 x 6.75%	540
TOTAL TAX DUE	Corporate Tax + Municipality Tax	1,900

THE EFFECTIVE TAX RATE UNDER IP BOX



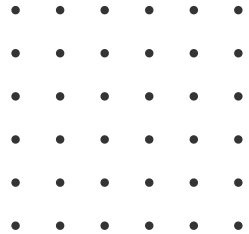
The effective tax rate on the taxable income would be the combined Corporate Income Tax (CIT) rate for companies located in Luxembourg City + Municipal Business Tax (MBT) rate for Luxembourg City: 6.75%. Applied to the 20% taxation under the IP Box regime the Effective Tax Rate under IP Box regime = $(17\% + 6.75\%) \times 20\% = 4.75\%$.

Taking into account the solidarity surtax, the aggregate CIT rate is 18.19% ($17\% \times 1.07$) for companies with taxable income in excess of €200,000. In which case the Effective Tax Rate under IP Box = $24.94\% \times 20\% = 4.988\%$.





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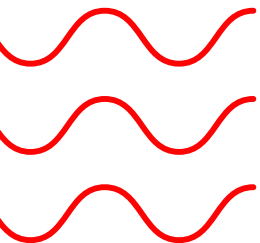
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