

СУЧАСНІ МЕТОДИ ОБЛІКУ, АУДИТУ ТА ОПОДАТКУВАННЯ

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TAX INSTRUMENTS FOR STIMULATING INNOVATIVE ENTREPRENEURSHIP AND INTELLECTUAL PROPERTY PROTECTION IN THE SYSTEM OF POST-WAR SPATIAL RECOVERY OF UKRAINE'S REGIONS: IMPLEMENTATION OF EUROPEAN EXPERIENCE

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Abstract. *The aim of the article is to substantiate, on the basis of a critical analysis of European experience, the conceptual foundations of a spatially differentiated mechanism of tax incentivization for innovative entrepreneurship and intellectual property protection within the system of Ukraine's post-war regional recovery, and, on this basis, to develop a Three-Level System of Spatial Tax Incentives together with a corresponding package of draft amendments to the Tax Code of Ukraine introducing a super-amortization mechanism for R&D equipment and a domestic Patent Box regime compliant with the OECD Modified Nexus Approach. It is substantiated that overcoming high spatial disparities and restoring the economic potential of regions require a shift from passive forms of subsidization toward an incentive-driven tax policy harmonized with European Union norms. A critical analysis of the European experience in applying tools to incentivize R&D expenditures and providing tax preferences for income generated from the commercialization of intellectual labor was*



carried out. The necessity of developing a Three-Level System of Spatial Tax Incentives has been proven, taking into account the differentiation of regional security risks, the level of destruction of production infrastructure, and the existing scientific and technological potential of territories. A comprehensive package of legislative amendments to the Tax Code of Ukraine is proposed regarding the introduction of a super-amortization mechanism for R&D equipment and a domestic preferential Patent Box regime in strict compliance with the international Modified Nexus Approach.

Keywords: *tax instruments, tax incentives, innovative entrepreneurship, intellectual property, Patent Box, R&D equipment, super-amortization, post-war recovery, regional development, spatial disparities, European integration, Modified Nexus Approach.*

Introduction and Problem Statement. The post-war reconstruction of Ukraine's economy requires a qualitative reconsideration of traditional approaches to regional development and fiscal regulation. A conceptual orientation solely toward the physical restoration of damaged industrial facilities, material-intensive manufacturing, and transport and logistics infrastructure would reproduce an outdated commodity-based economic model. The strategic imperative for macroeconomic progress and national security must be a large-scale structural and technological transformation of the national economy based on an innovation-oriented knowledge economy.

The destruction and temporary loss of a significant portion of town-forming enterprises in basic industries across eastern and southern regions necessitate the formation of a new spatial configuration for the allocation of productive forces. Innovative entrepreneurship serves as the primary driver of post-war growth, the deployment of which directly depends on the efficiency of creating, legally protecting, and commercializing objects of intellectual property rights (IPRs).

At the same time, attracting private domestic and foreign capital into research and experimental development (R&D) in the post-war period is significantly hampered by high security, military, and investment risks, long payback periods, and the uncertainty of final technological outcomes. Under such conditions, the state must assume an active facilitating and compensatory role. A well-balanced, spatially differentiated system of tax incentives must become the primary institutional instrument, capable of minimizing financial barriers at the initial stages of the R&D cycle, creating a favorable fiscal environment for the legalization and commercialization of patents and know-how, and smoothing out deep spatial disparities between Ukraine's macro-regions.

Analysis of Recent Research and Publications. The theoretical and methodological foundations of fiscal regulation of innovation processes, the commercialization of intellectual property objects, and the assessment of their impact on spatial economic development are at the center of attention of numerous domestic and foreign scholars.

The fundamental basis for forming modern preferential tax regimes for intellectual property (Patent Box / IP Box) lies in the developments of the Organisation for Economic Co-operation and Development (OECD) [10]. In the OECD BEPS Action 5 Final Report, the «Modified Nexus Approach» is detailed, requiring the alignment of tax incentives strictly with actual research and development (R&D) expenditures [1]. This prevents the exploitation of IP Box regimes for aggressive tax planning and base erosion.

The conceptual frameworks for aligning Patent Box preferential regimes with EU State Aid Rules were thoroughly examined by H. Gruber [5], who demonstrates that the synergy between incentives for R&D investment and preferential taxation of income from commercialization creates a powerful multiplier for the high-tech sector. Specific mechanisms of R&D tax credits and their effectiveness for small and medium-sized enterprises within the European Union are analyzed in relevant European Commission reports [3] (European Commission, 2021), while practical aspects of tax rates and tax bases are systematized in the European Tax Handbook [4].

Issues surrounding the development of the intellectual property institution in Ukraine are outlined in the works of S. H. Melnychenko and L. M. Bohad'orova [8], where the scholars emphasize the weak commercialization of domestic patents stemming from imperfections in technology transfer mechanisms and the lack of effective fiscal incentives for investors.

Research by R. Lupak, T. Medynska, and A. Valentieienko [6] proves that intellectual property serves as a pivotal element in the system of financing sustainable development and securing the international competitiveness of enterprises at the sectoral level. Concurrently, research by I. Storonyanska, M. Melnyk, et al. [13] highlights the importance of smart specialization and the efficiency of utilizing EU Structural Funds for regional innovative development, which directly correlates with post-war reconstruction objectives.

A distinct, substantial scientific contribution is represented by studies on spatial disparities under martial law; specifically, the work by M. I. Melnyk et al. [9] analyzes the impact of mass business relocation on the sectoral and spatial structure of Ukraine's regional economies, necessitating a differentiated approach to post-war recovery. The advancement of this thesis is thoroughly elaborated in the sole-authored monograph by T. V. Medynska [7], which conceptualizes the formation of a fiscal environment to incentivize entrepreneurship under macroeconomic instability through both regional and local dimensions.

State endeavors to establish attractive fiscal conditions for technology businesses are reflected in the Law of Ukraine «On Stimulating the Development of the Digital Economy in Ukraine» (dated July 15, 2021, No. 1667-IX), which instituted the «Diia.City» regime [14]. As noted in the study by the IT Ukraine Association [2], this regime played a crucial role in sustaining Ukraine's economy. At the same time, Y. Shevchuk [12], analyzing global experience in financial and economic incentives for the IT sector, points to significant potential in implementing international best practices to expand Ukrainian special regimes beyond mere IT outsourcing.

Despite the thorough examination of specific aspects of tax incentives (both within the Tax Code of Ukraine and the Diia.City regime) [11] and spatial development, a comprehensive vision for implementing R&D super-deduction and Patent Box regimes specifically as instruments of spatial post-war recovery – synchronizing incentives for innovation creation with their commercialization while adhering to OECD requirements – remains absent to date. Addressing this scientific gap constitutes the objective of this article.

Research Objective and Methodology. The aim of the article is to substantiate, on the basis of a critical analysis of European experience, the conceptual foundations of a spatially differentiated mechanism of tax incentivization for innovative entrepreneurship and

intellectual property protection within the system of Ukraine's post-war regional recovery, and, on this basis, to develop a Three-Level System of Spatial Tax Incentives together with a corresponding package of draft amendments to the Tax Code of Ukraine – introducing a super-amortization mechanism for R&D equipment and a domestic Patent Box regime compliant with the OECD Modified Nexus Approach.

The methodological framework of the study is constituted by a comprehensive scientific approach combining general scientific and specialized methods of analyzing financial and economic processes:

- Comparative-legal and comparative-economic analysis was employed to critically evaluate and systematize the operational mechanisms of Patent Box and R&D tax credit regimes in EU Member States (Poland, Belgium, the United Kingdom, Ireland, and France) to identify opportunities for their adaptation into domestic fiscal practice.
- Systemic-structural analysis served as the basis for classifying tax instruments according to the phases of the innovation cycle – distinguishing between expenditure incentives «at the input» (Input-based tools) and final revenue preferences «at the output» (Output-based tools).
- Institutional and spatial modeling was applied to develop a Three-Level System of Spatial Tax Incentive Differentiation, accounting for geographic location, security factors, damage extent, and the existing innovative potential of Ukraine's macro-regions.

Presentation of the Main Material. In modern European financial practice, tax regulation tools for innovative activities are categorized into two key directions according to the phase of the innovation process:

1. Expenditure Incentive Tools:
 - *R&D Tax Credits* – allow for a direct reduction in the calculated corporate income tax liability in proportion to the volume of incurred research expenditures.
 - *Super-deductions / Super-amortization* – provide a statutory right to deduct more than 100% (up to 200% in Poland, up to 180% in Italy) of funds allocated to R&D, researcher payroll, and the acquisition of specialized laboratory equipment from taxable income.
 - *Accelerated Depreciation* – shortening the statutory useful life of fixed assets and intangible assets involved in R&D (down to 1-2 years).
2. Output Incentive Tools:
 - *Patent Box / IP Box* – establishing a reduced corporate income tax rate (3.75–10% compared to standard rates of 15–25%) applied to income derived from the commercialization of IPRs (royalties, patents, license fees, know-how, and registered software).

In accordance with international OECD standards (BEPS Action 5), a mandatory element of a modern IP Box regime is the principle of qualifying expenditures (Modified Nexus Approach). Under this rule, a preferential tax rate is applied exclusively to IP income proportional to the share of R&D expenditures incurred directly by the taxpayer or through

unrelated parties within the jurisdiction of registration, making it impossible to use the regime for base erosion and profit shifting.

To evaluate the effectiveness of different models, a comparative analysis of fiscal regimes in leading European countries was conducted (Table 1).

Table 1

Comparative Analysis of R&D and IP Tax Incentive Regimes in European Countries*

Country	Expenditure Incentive Instrument (Input)	IP Income Preferential Regime (Patent Box)	Effective Tax Rate on IP Income (%)	Standard Corporate Income Tax Rate (%)
Poland	200% Super-deduction (250% for R&D centers)	IP Box (Innovation Box)	5.00	19.00
Belgium	Accelerated depreciation + R&D payroll tax exemption	Innovation Income Deduction (IID) (85% exemption)	3.75	25.00
United Kingdom	186% R&D deduction (for SMEs)	UK Patent Box	10.00	25.00
Ireland	30% R&D Tax Credit	Knowledge Development Box (KDB)	6.25	12.50
France	30% R&D Tax Credit (CIR)	IP Box («10%» regime)	10.00	25.00

*Source: developed by the authors based on [1–4].

The analysis indicates that the implementation of a Patent Box allows European countries to reduce the effective corporate income tax rate on IP commercialization by 2.5 to 6.6 times. None of the investigated nations limits itself to Output incentives alone: advanced innovation ecosystems combine Output preferences with robust Input expenditure support (super-deductions or tax credits). For Ukraine, the experience of Poland is the most relevant, where the combination of a 200% super-deduction with a 5% IP Box rate ensured significant foreign direct investment (FDI) inflows and the shadow-economy reduction of the knowledge-intensive sector.

Currently, the primary special legal and tax regime for the technology sector in Ukraine is «Diia.City.» Despite its evident benefits (a 9% exit tax on distributed capital, a 5% personal income tax rate, and a unified social contribution of 22% of the minimum wage), it is predominantly oriented toward the service IT industry. However, the regime is weakly integrated with classical science-intensive manufacturing, physical research laboratories, and the patenting of tangible inventions in mechanical engineering, instrumentation, defense technology, and biotechnology.

The complementation and comparative impact of R&D tax instruments at the firm and regional levels are summarized in Table 2.

Table 2

**Comparative Characteristics of R&D Tax Incentive Instruments
in the Context of Regional Recovery***

Instrument	Mechanism of Action	Firm-Level Impact	Impact on Regional Recovery
Patent Box	Reduction of corporate income tax rate on IP revenues (down to 5–7%)	Stimulates domestic registration and commercialization of patents	Attracts high-tech businesses and forms innovation clusters
R&D Super-deduction	Deduction of 150–200% of R&D expenses from the taxable base	Reduces the net cost of conducting scientific research	Increases contract volume for local universities and research institutes
Accelerated Depreciation	Reduction of useful lifespan for R&D fixed assets (down to 1–2 years)	Accelerates capital recovery invested in high-tech equipment	Expedites the technological modernization of local manufacturing capacities

*Source: developed by the authors based on [5; 10].

Table 2 systematizes and compares three key fiscal instruments for R&D stimulation across three dimensions: the mechanism of action, the firm-level impact, and the effect on regional recovery. The Patent Box regime targets the «output» stage of the innovation cycle by reducing the tax burden on IP-derived income (down to 5–7%), thereby stimulating patent commercialization.

R&D Super-deduction and Accelerated Depreciation operate at the «input» stage: the former reduces the net cost of research by deducting 150–200% of expenses from the taxable base, while the latter accelerates capital recovery invested in equipment within 1–2 years.

Collectively, these instruments generate a complex multiplier effect for local territories – ranging from attracting high-tech businesses and forming innovation clusters to increasing contract volume for local HEIs/R&D institutes and expediting the technological modernization of regional manufacturing capacities.

To overcome interregional disparities and account for security factors, we have developed a Three-Level System of Tax Incentives (Table 3).

Table 3

Three-Level System of Tax Incentives in the Context of Ukraine's Post-War Spatial Recovery*

Zone Level (Recovery Zone)	Territory Characteristics and Selection Criteria	Key Tax and Customs Instruments	Expected Economic Effect
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>
Zone I. Frontline and De-occupied Territories (Kharkiv, Zaporizhzhia, Mykolaiv, Sumy, Chernihiv Regions)	• High level of destruction. • Proximity to combat zones or state borders. • Critical security and investment risks.	• 0% VAT and import duties on new laboratory and testing equipment. • 100% exemption from land tax and property tax (3-5 years). • Preferential 5% personal income tax rate for engaged scientists and engineers. • Exemption from environmental tax during the reconstruction period.	• Rapid inflow of essential capital. • Halting the brain drain of qualified human capital. • Initial physical and technological recovery of enterprises.

Table continued 3

1	2	3	4
Zone II. Recovering Regions (Center and South: Poltava, Kirovohrad, Dnipropetrovsk, Odesa Regions, etc.)	• Moderate degree of damage. • Significant industrial and agro-industrial potential. • Need for deep technological modernization.	• R&D Super-deductions: inclusion of 150–200% of R&D expenses in gross deductions. • Accelerated depreciation of R&D fixed assets (1-2 years). • Tax credit for establishing local research laboratories. • Preferential regime for industrial parks.	• Stimulating private sector research and development. • Modernization of traditional industries (agro-processing, machinery). • Strengthening collaboration between business and local higher education institutions.
Zone III. Rear Innovation Hubs (West: Lviv, Zakarpattia, Ivano-Frankivsk, Ternopil Regions)	• Relatively high level of security. • High concentration of relocated businesses, universities, and IT sector.	• Ukrainian Patent Box regime: reduced 5-7% corporate income tax rate on IP commercialization income. • Application of the Modified Nexus Approach rule. • Expansion of «Diia.City» regimes to science-intensive manufacturing and deep-tech startups.	• Transformation of R&D into high-value serial manufacturing. • Inflow of foreign direct investment into the technology sector. • Shadow-economy reduction and domestic patenting of royalties and licenses.

*Source: developed by the authors.

The implementation of tax preferences requires institutional safeguards to minimize budget revenue losses:

- Patent Box Regime – preventing artificial profit shifting by strictly adhering to the *Modified Nexus Approach* principle (OECD BEPS Action 5) – preferences are granted strictly in proportion to R&D expenditures incurred domestically.
- Super-deductions and Depreciation – preventing the misclassification of routine operational expenses as R&D by verifying projects against the criteria of the OECD Frascati Manual.
- Time Limitations (*Sunset Clauses*) – establishing clear terms of validity for tax preferences (3–5 years for Zone I; 10 years for Zones II–III) accompanied by annual performance audits.

Short-term reductions in corporate income tax revenues during the first 1–2 years are compensated in the medium term (years 3-5) due to a multiplicative effect: growth in personal income tax and social security contributions from newly created high-paying R&D jobs, expansion of the VAT base from the sale of high-value products, and increased revenues for local budgets.

Conclusions.

1. Strategic Role of EU Integration for Innovation Tax Preferences. The adaptation and implementation of leading European practices in tax incentives for innovative activity serve as a critical prerequisite for the successful structural transformation and modernization

of Ukraine's economy. Applying a comprehensive approach ensures the transition from a raw-material model to a high-tech knowledge-based economy.

2. Synchronization of «Input» and «Output» Incentives in the R&D Cycle. The highest efficiency is demonstrated by a systematic combination of preferences at the expenditure stage (*R&D Super-deductions* / super-amortization) and preferential taxation of income from the subsequent commercialization of created intellectual property assets (*Patent Box*). This synergy creates a closed-loop system of innovation support, encourages the shadow-economy reduction of science-intensive businesses, and prevents offshore capital flight.

3. Spatial Differentiation and Adaptation to Security Risks. The introduction of a Three-Level System of Spatial Incentivization allows for flexible consideration of regional security factors:

- *Frontline Territories (Zone I)* – focusing on fundamental customs and tax relief to maintain baseline economic activity and business relocation.
- *Recovering Regions (Zone II)* – implementing super-deduction instruments (following Poland's successful 200% R&D deduction model) to stimulate private capital investment in corporate R&D laboratories and industrial re-tooling.
- *Rear Innovation Hubs (Zone III)* – launching a Patent Box regime extended not only to traditional royalties and patents but also to software copyrights and trade secrets (know-how), aligning with the experience of Belgium (IID) and the United Kingdom.

4. Compliance with International Transparency Standards (BEPS/OECD). A fundamental condition for the operation of innovation incentives is the prevention of tax abuse. Mandatory implementation of the qualifying expenditure principle (Modified Nexus Approach) guarantees that preferences are granted strictly in proportion to actual R&D expenditures undertaken directly by the taxpayer. This prevents the European Commission from classifying the Ukrainian Patent Box as a «harmful tax practice.»

5. Assessment of Budgetary and Economic Efficiency. According to the findings, despite short-term revenue losses during the initial 1–2 years due to preference granting, a sustained cumulative effect emerges in the medium term (years 3–5). Increased private R&D investment, expansion of the taxable base, and the creation of highly productive jobs ensure a net positive revenue growth for both the State and local budgets.

To practically implement the proposed mechanism of tax incentives for research and experimental development (R&D), it is recommended to introduce the following amendments to Chapter III of the Tax Code of Ukraine:

1) Supplement Sub-item 138.3.2 of Item 138.3 of Article 138 of the Tax Code of Ukraine with a paragraph worded as follows:

«Corporate income tax payers shall have the right to apply a coefficient of 1.5 (super-amortization) to the expenses incurred for the acquisition and/or creation of Group 4 fixed assets (machinery and equipment) and Group 9 fixed assets (other fixed assets) utilized directly in scientific research and experimental development activities, with a useful operational lifespan of no less than two years.»

2) Supplement the Tax Code of Ukraine with Article 142¹ worded as follows:

«Article 142¹. Specifics of Taxation of Income Derived from the Commercialization of Objects of Intellectual Property Rights (Patent Box Regime)

142¹.1. The profit of a taxpayer derived from the utilization of objects of intellectual property rights (patents for inventions, utility models, trade secrets, registered computer software) shall be taxed at a rate of 5 percent, subject to compliance with the qualifying expenditure principle (*Modified Nexus Approach*).

142¹.2. The procedure for calculating the proportion of qualifying expenditures and maintaining separate accounting of income and expenses for each object of intellectual property rights shall be approved by the Ministry of Finance of Ukraine.»

Future research in this direction should focus on developing a detailed economic and mathematical model to quantify potential budget losses alongside the direct and indirect long-term gains for national and local budgets resulting from the implementation of Patent Box regimes and R&D super-deductions. Special attention should be devoted to substantiating the criteria for differentiating fiscal incentives based on the level of destruction, innovative potential, and smart specialization of specific territorial communities and regions of Ukraine. Another crucial direction for future studies lies in establishing the regulatory, legal, and organizational framework to adapt the OECD's «Modified Nexus Approach» into domestic tax legislation, ensuring the prevention of tax base erosion and profit shifting.

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ПОДАТКОВІ ІНСТРУМЕНТИ СТИМУЛЮВАННЯ ІННОВАЦІЙНОГО ПІДПРИЄМНИЦТВА ТА ЗАХИСТУ ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ У ПОВОЄННОМУ ПРОСТОРОВОМУ ВІДНОВЛЕННІ РЕГІОНІВ УКРАЇНИ: ТРЬОХРІВНЕВА СИСТЕМА НА ОСНОВІ ЄВРОПЕЙСЬКОГО ДОСВІДУ

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Анотація. Мета статті полягає в тому, щоб на основі критичного аналізу європейського досвіду обґрунтувати концептуальні засади просторово диференційованого механізму податкового стимулювання інноваційного підприємництва та захисту інтелектуальної власності в системі повоєнного відновлення регіонів України, а також розробити на цій основі трьохрівневу систему просторового податкового стимулювання разом із відповідним пакетом законопроектних змін до Податкового кодексу України щодо запровадження механізму суперамортизації R&D-обладнання та вітчизняного пільгового патентного режиму (Patent Box), що відповідає міжнародному принципу модифікованого підходу Нексус (Modified Nexus Approach). У статті теоретично обґрунтовано та розроблено практичні рекомендації щодо формування й імплементації ефективного механізму податкового стимулювання інноваційного підприємництва та захисту інтелектуальної власності в умовах повоєнного просторового відновлення регіонів України на основі адаптації європейського досвіду. Обґрунтовано, що подолання високої просторової диспропорційності та відбудова економічного потенціалу регіонів потребують відходу від пасивних форм субсидіювання на користь стимулюючої податкової політики, гармонізованої із нормами Європейського Союзу. Здійснено критичний аналіз європейського досвіду застосування інструментів стимулювання витрат на НДДКР та пільгування доходів від комерціалізації результатів інтелектуальної праці. Доведено необхідність розробки Трьохрівневої системи просторового податкового стимулювання, яка враховує диференціацію регіональних безпекових ризиків, рівень руйнування виробничої інфраструктури та наявний науково-технічний потенціал територій. Запропоновано комплексний пакет законодавчих змін до Податкового кодексу України щодо впровадження механізму суперамортизації R&D-обладнання та вітчизняного пільгового патентного режиму із суворим дотриманням міжнародного принципу модифікованого підходу Нексус.

Ключові слова: податкові інструменти, податкове стимулювання, інноваційне підприємництво, інтелектуальна власність, пільговий патентний режим, R&D-обладнання, суперамортизація, повоєнне відновлення, регіональний розвиток, просторові диспропорції, європейська інтеграція, модифікований підхід Нексус.

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