

Corporate Tax Out of Control?

EU Tax Protectionism and the Digital Services Tax

Brussels, 21 February 2019

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Outline

1. Why this study and why we are here
2. Fairness in corporate taxation: lessons from effective corporate tax rates
3. Tax code complexity and the “incidence” of corporate taxes
4. Tax protectionism and the real obstacles to fundamental reform



Why this study and why we are here

12 March 2018

EU publishes tax havens' commitments in step towards greater blacklist transparency

The global hunt to tax Big Tech

Germans 'Have to Be Concerned' About EU Digital Tax, Official Says

OECD boss – a first draft at global digital services tax ready for June?

Countries mull new international tax rules on tech titans

Russia's key agricultural firms suspected of tax evasion

In the limelight of media, politics and finance ministries

- “Tax Evasion” and “Tax Dodging” (illegal)
- Tax avoidance (legal)
- Big Tech
- The rise of the digital economy and the “need” to combat base erosion
- The “immorality” of companies that don’t pay their fair share

Why this study and why we are here

The Corporate Income Tax is Most Harmful for Growth and Wages

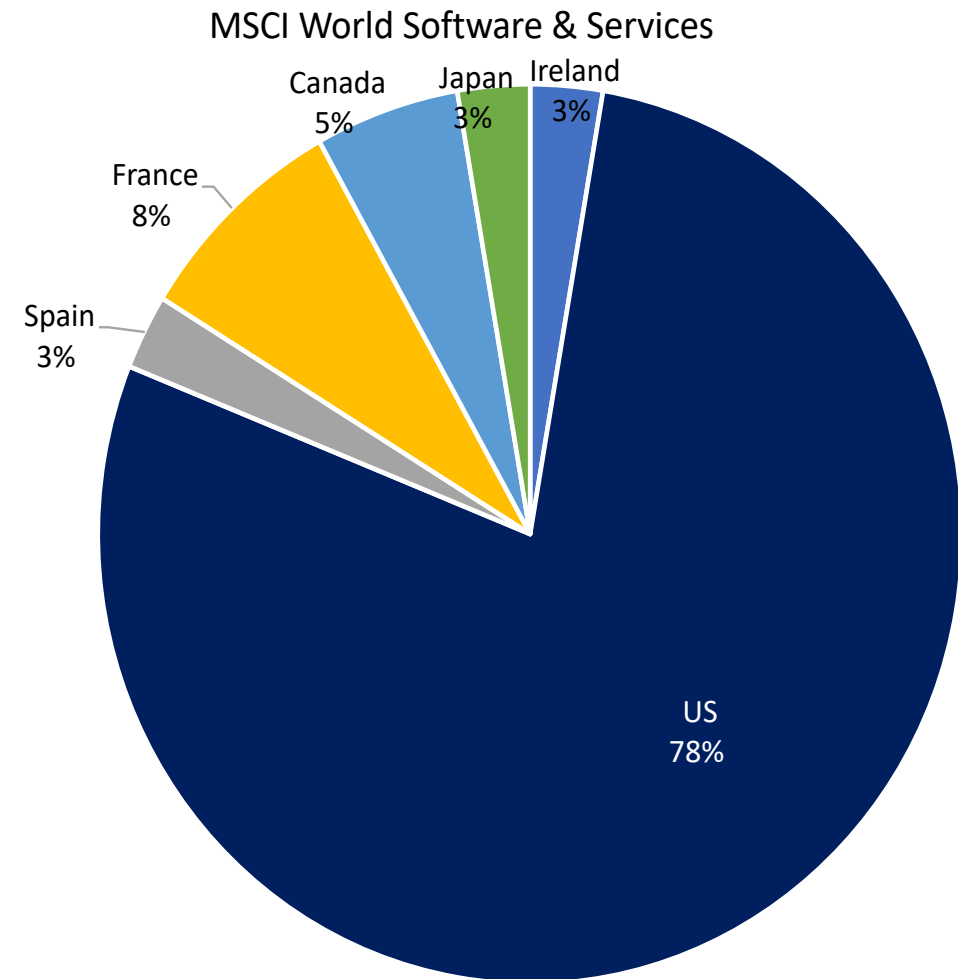
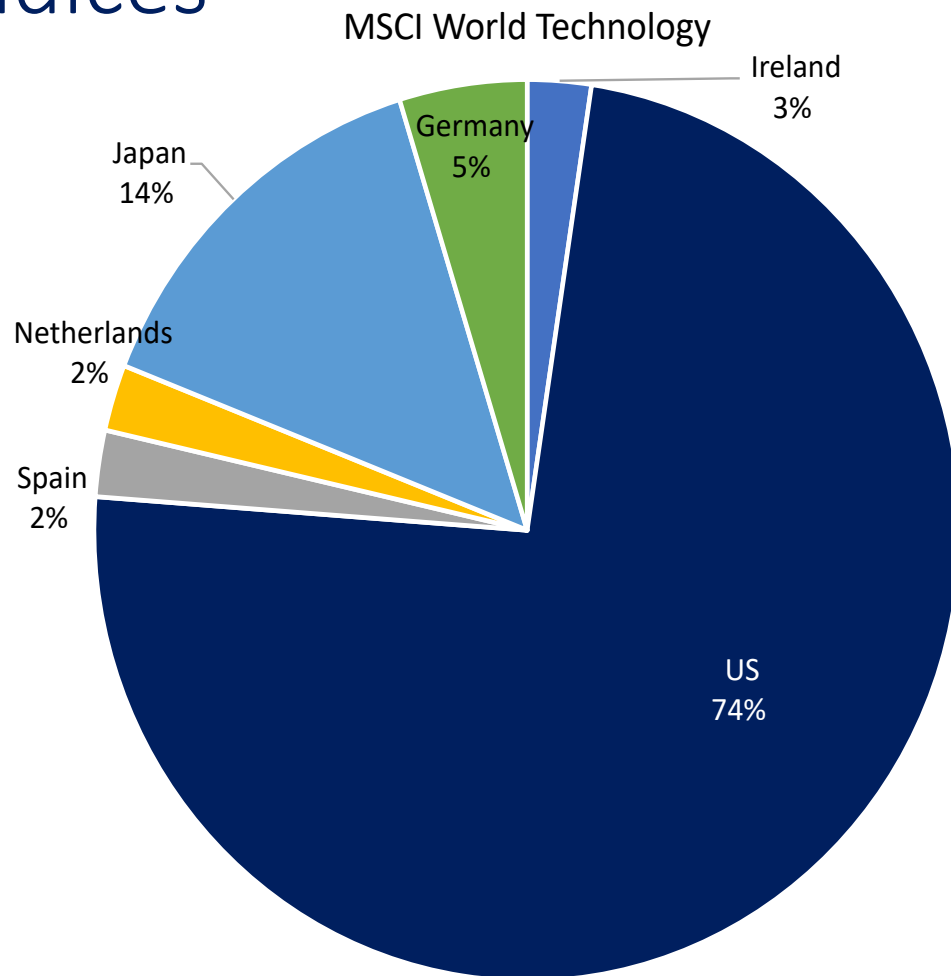
The Cure for Wage Stagnation

A plethora of studies from around the world agree: Lower corporate tax rates equal higher wages.

The DST will to a large extent be passed on to German users

EU Digital Tax Proposal Endangers EU-U.S. Trade Relations

Place of headquarter of constituent companies of MSCI World Technology and MSCI World Software and Services indices



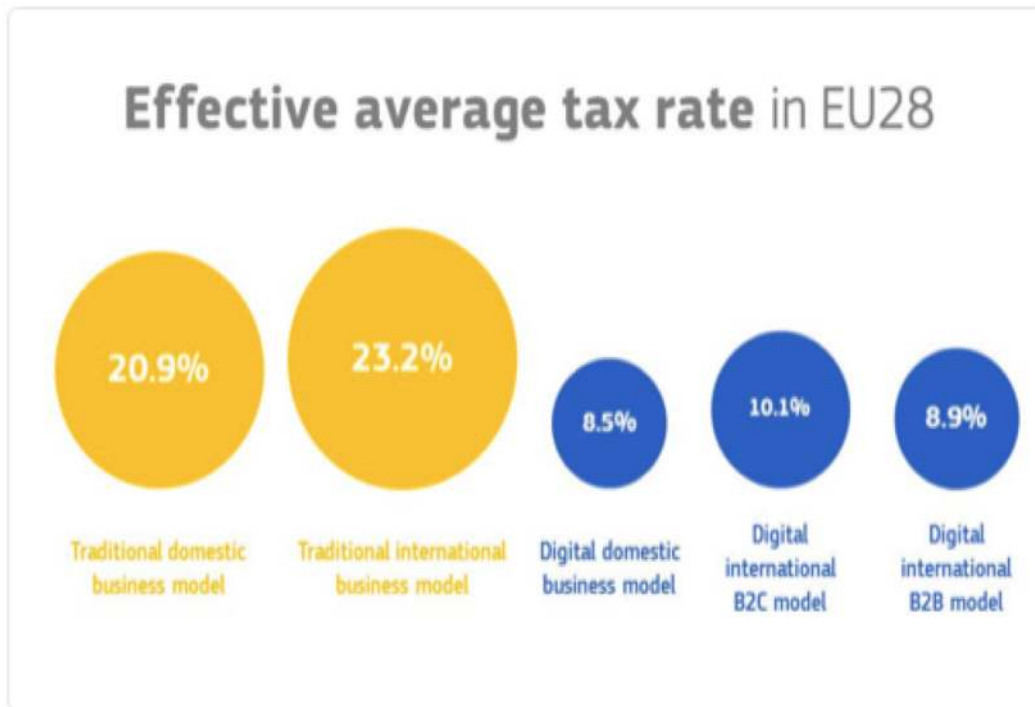
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What is #FairTaxation?

European Commission @EU_Commission · 7. März
Domestic digitalised business models are subject to an effective tax rate of only 9%. This is less than half compared to traditional business models facing an effective tax rate of 21%.
We will tackle this issue at the #FairTaxation roundtable today.

Original (Englisch) übersetzen



9 56 65

Pierre Moscovici @pierreemoscovici · 3. März
D-18 to @EU_Commission's proposal for #FairTaxation of #digital economy: "Between now and the 21st of March, I plan to regularly share my thoughts with you on this strategic subject. So stay tuned!" #DigiTax

Original (Englisch) übersetzen



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The European Commission's political statement

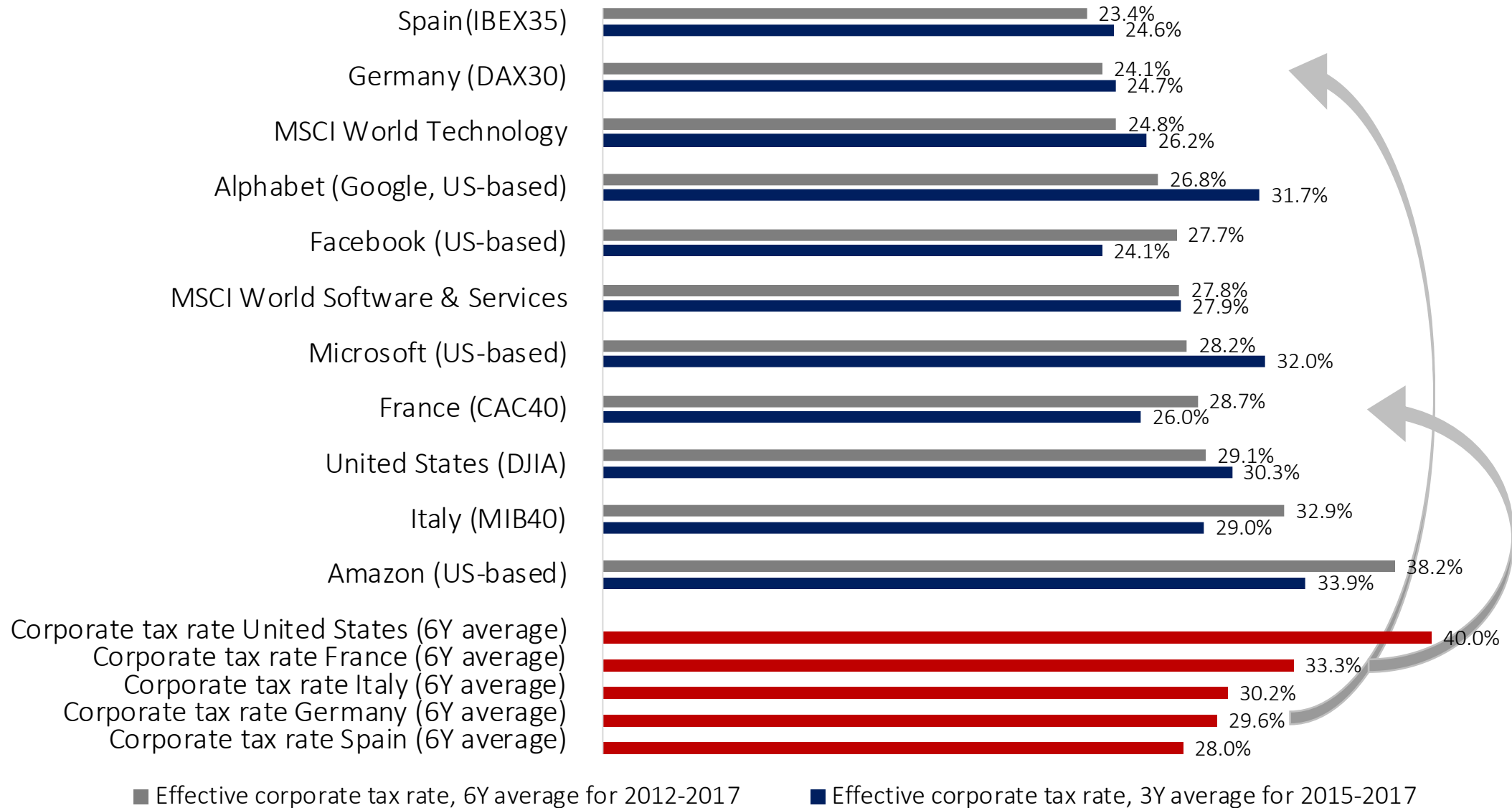
21 September 2017: Communication "A Fair and Efficient Tax System in the European Union for the Digital Single Market"

- "Failure to address these situations will lead to [...] **erosion of the social budgets**, and it will destabilise the level playing field for businesses."
- "This **puts at risk EU competitiveness**, fair taxation and the sustainability of Member States' budgets."

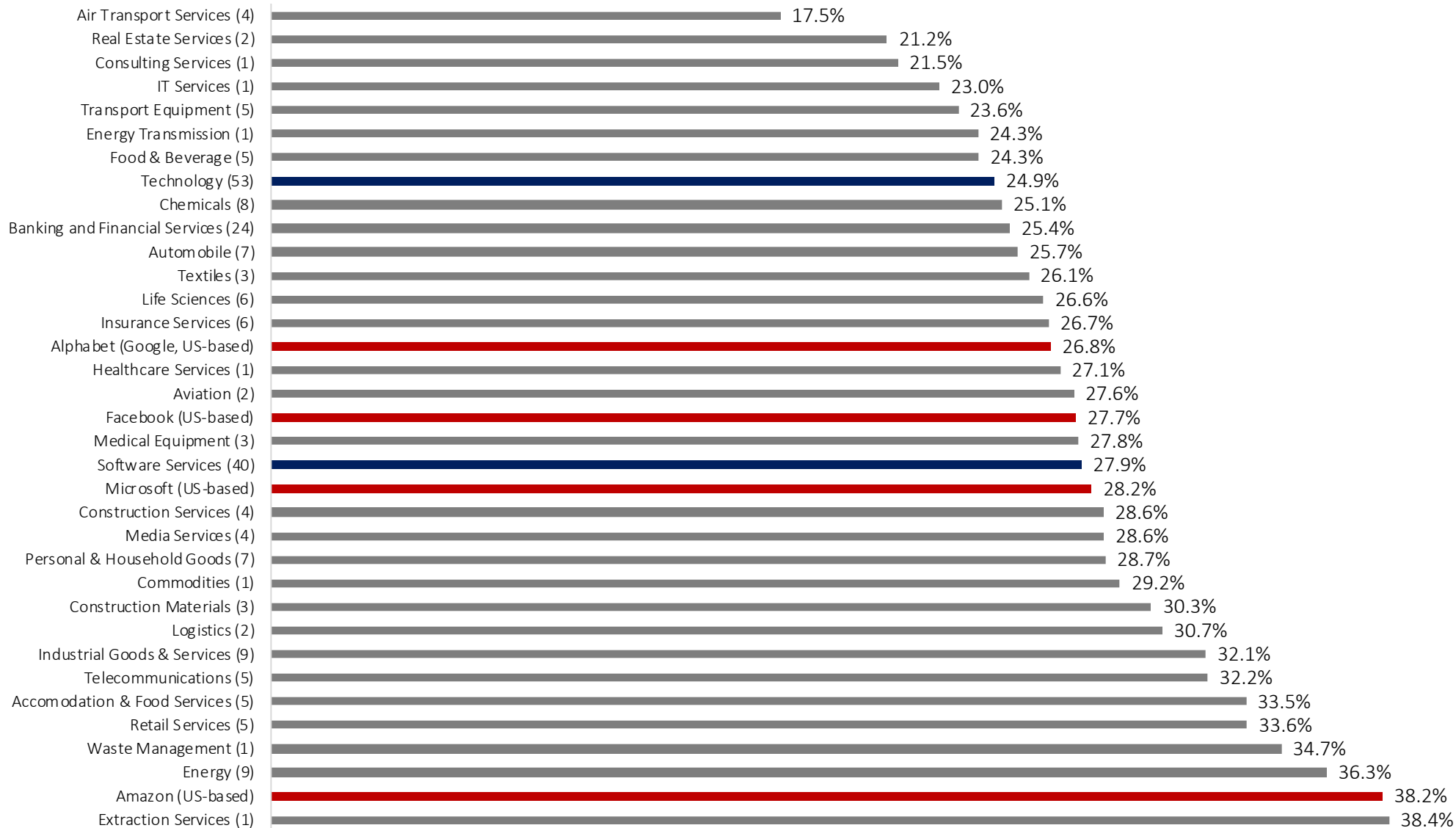
Effective tax rates of hypothetical companies

“The study **does not** calculate EATRs [Effective Average Corporate Tax Rates] **using tax information for actual companies or sectors**; more importantly, the **study cannot be used to compare the tax burdens of ‘digital’ and ‘traditional’ companies**. In interviews with Bloomberg, Law360, and Disco, Prof. Spengel of ZEW made clear that the **study does not support conclusions that the digital sector is undertaxed**. In summary, the ZEW-PwC study enables a comparison of the relative attractiveness of certain countries’ tax regimes for intangible assets developed through R&D, but **does not** analyze the effective tax rates of actual enterprises or **allow conclusions to be drawn regarding corporate taxes paid by the ‘digital sector’.**” (PWC 2018)

Effective tax rates, US-based digital corporations vs. average effective tax rates large EU-based companies



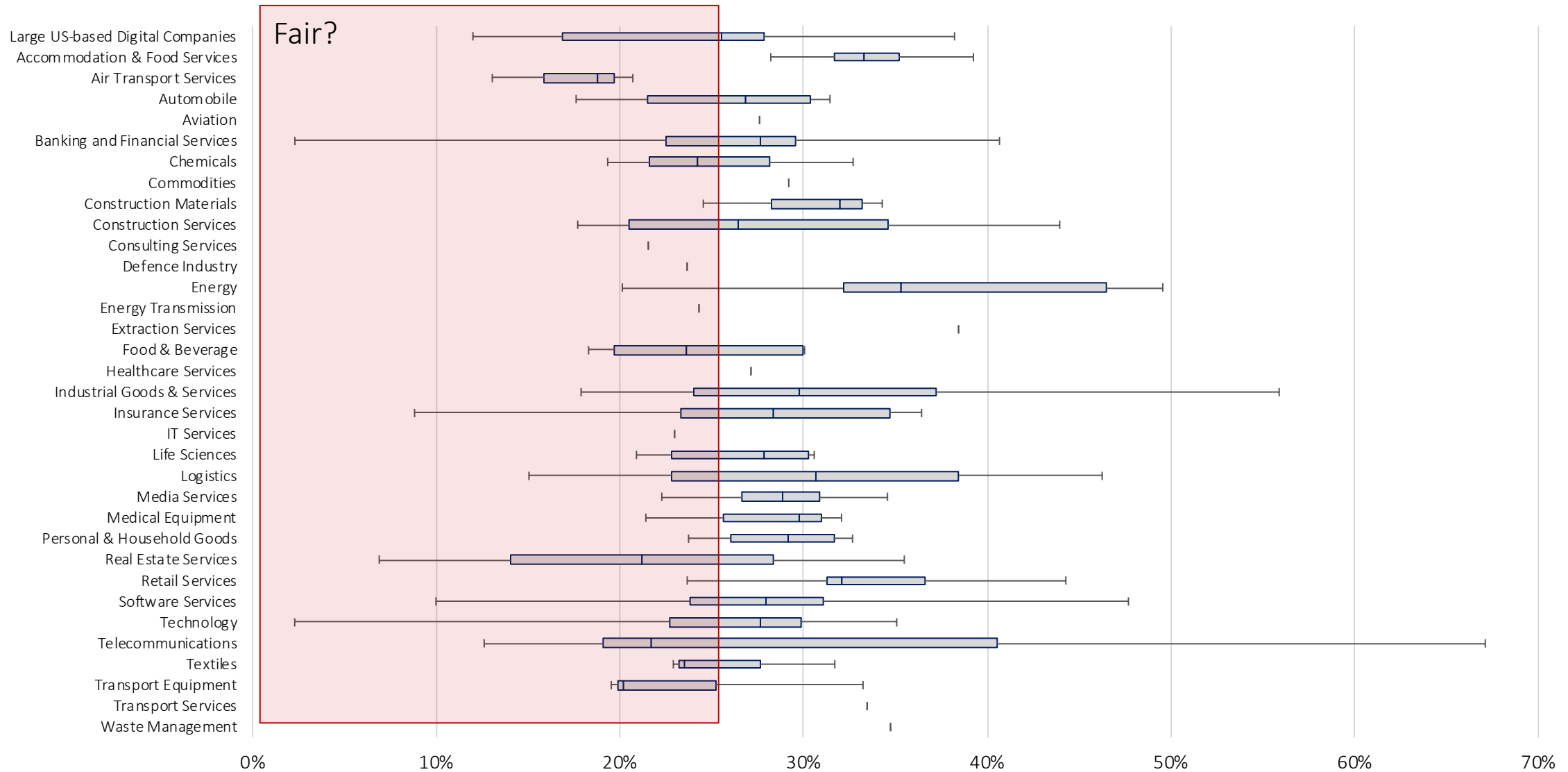
Effective corporate tax rates of digital corporations vs. average ECTRs by sector, 6Y period 2012 -2017*



*Average numbers.
Number of companies
in brackets.

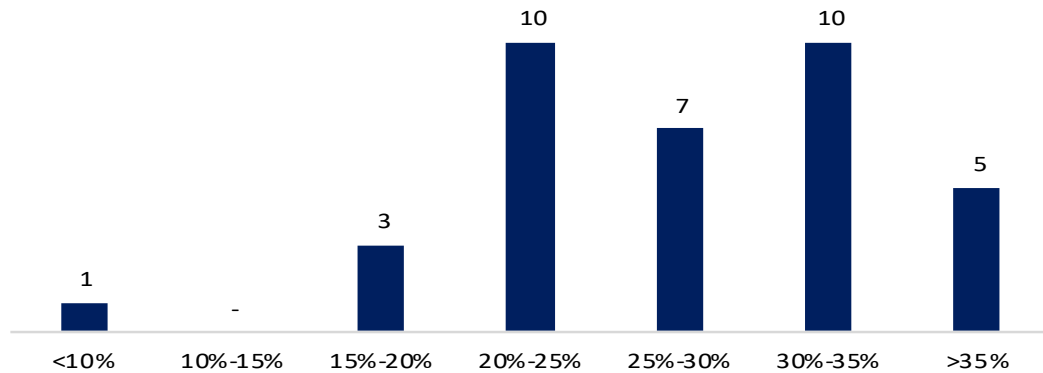


Distribution of effective corporate tax rates, by sector, 6Y avg.

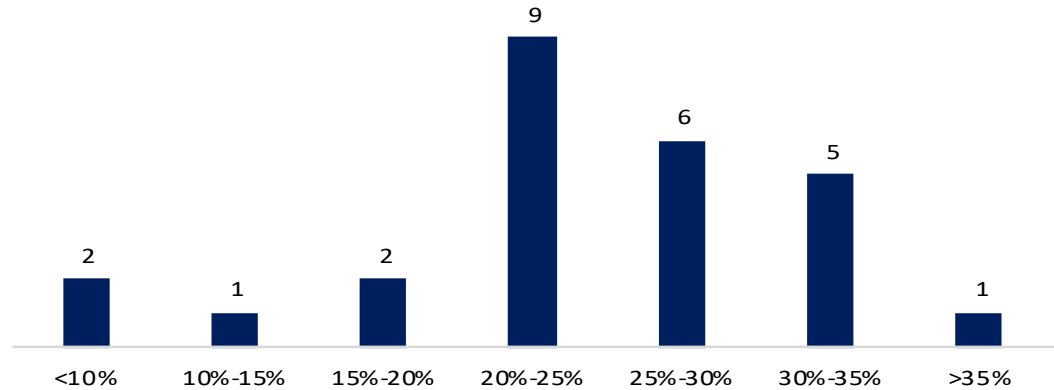


Distribution of effective corporate tax rates, 6Y averages, 2012-2017

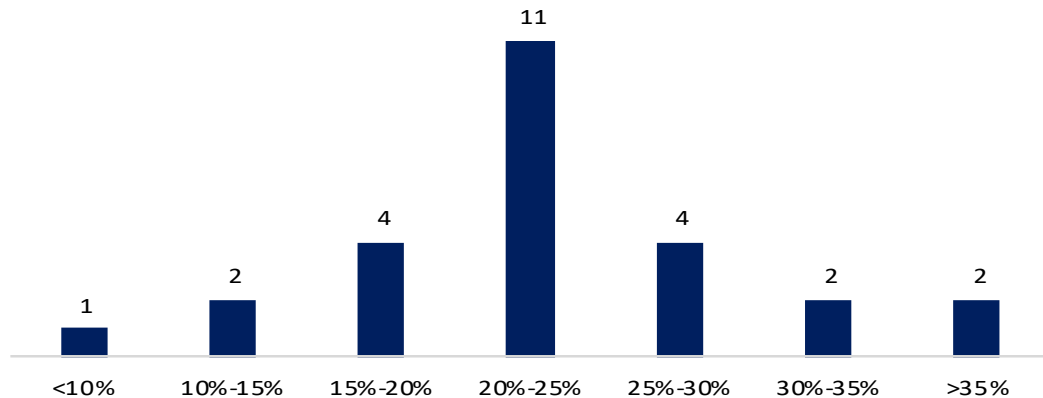
France (CAC40; statutory corporate tax rate 2017: 33.3%)



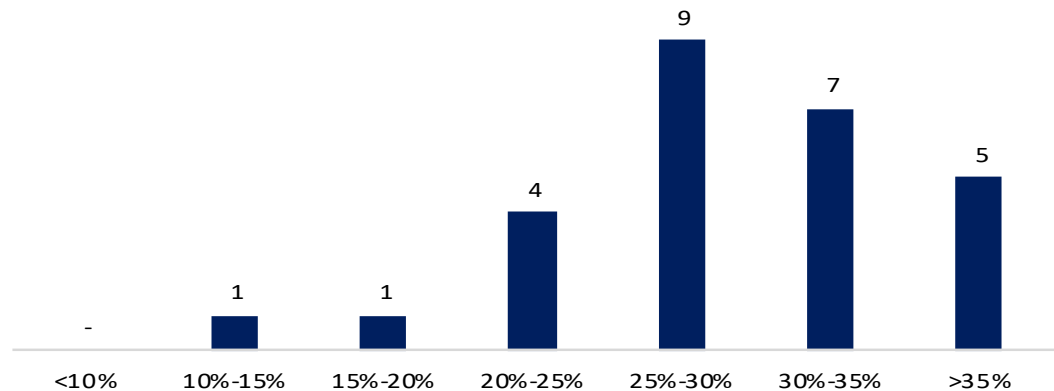
Germany (DAX30; statutory corporate tax rate 2017: 29.7%)



Spain (IBEX35; statutory corporate tax rate 2017: 25%)

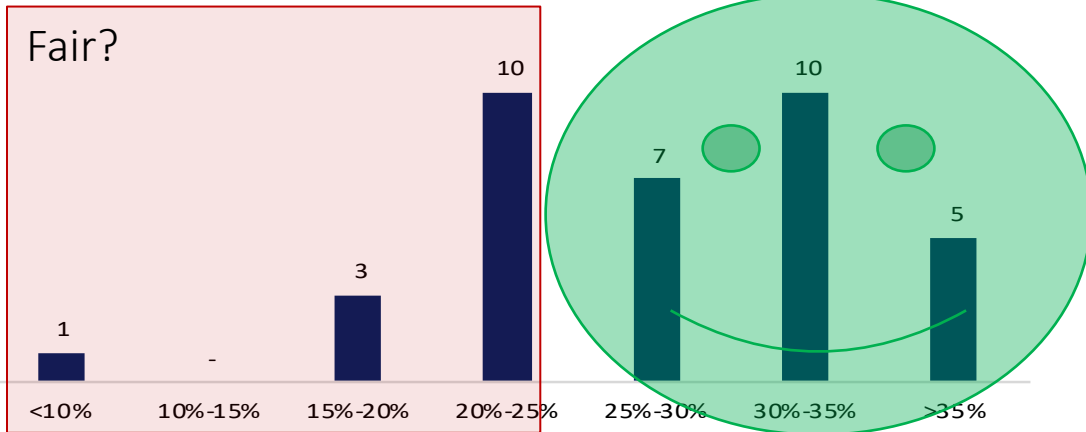


United States (DJIA; statutory corporate tax rate 2017: 40.0%)

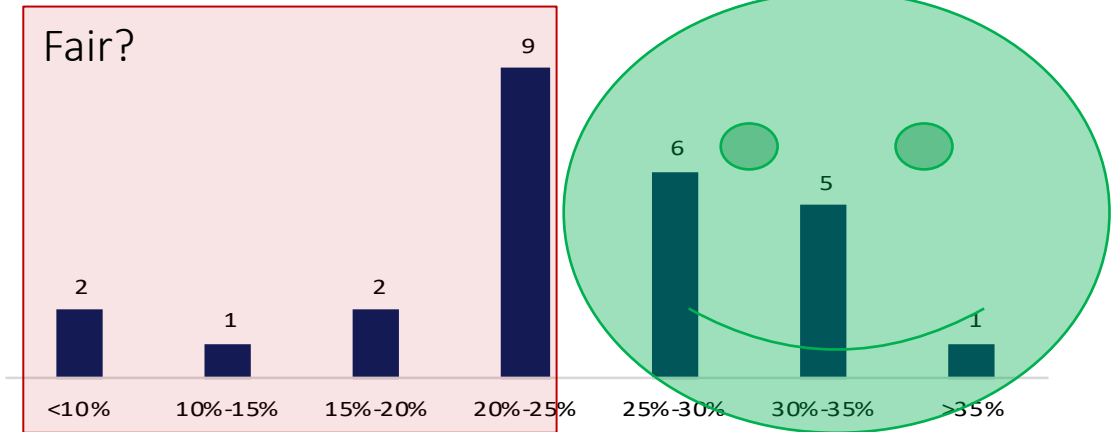


Fairness in the distribution of effective corporate tax rates

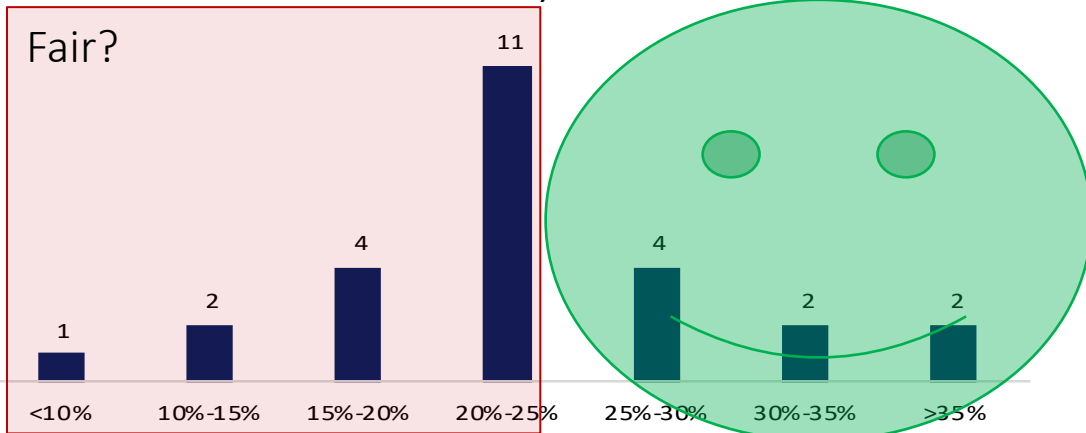
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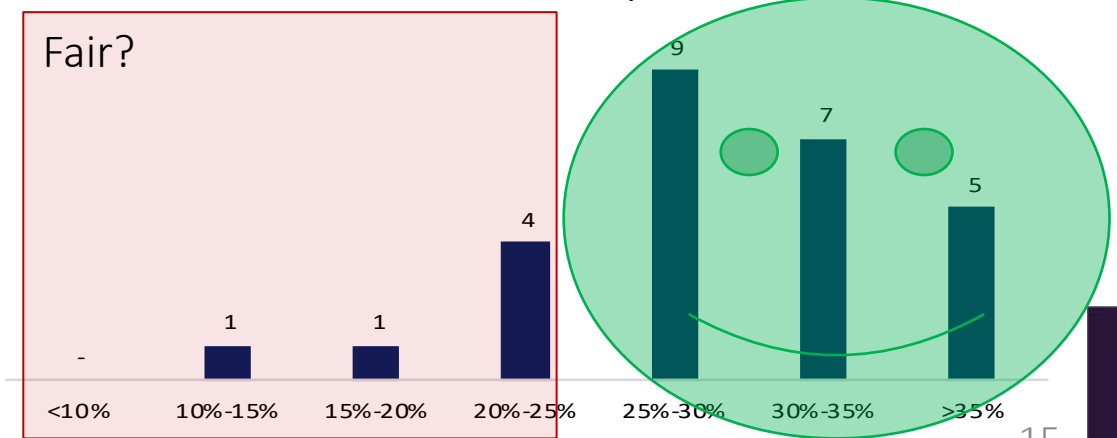
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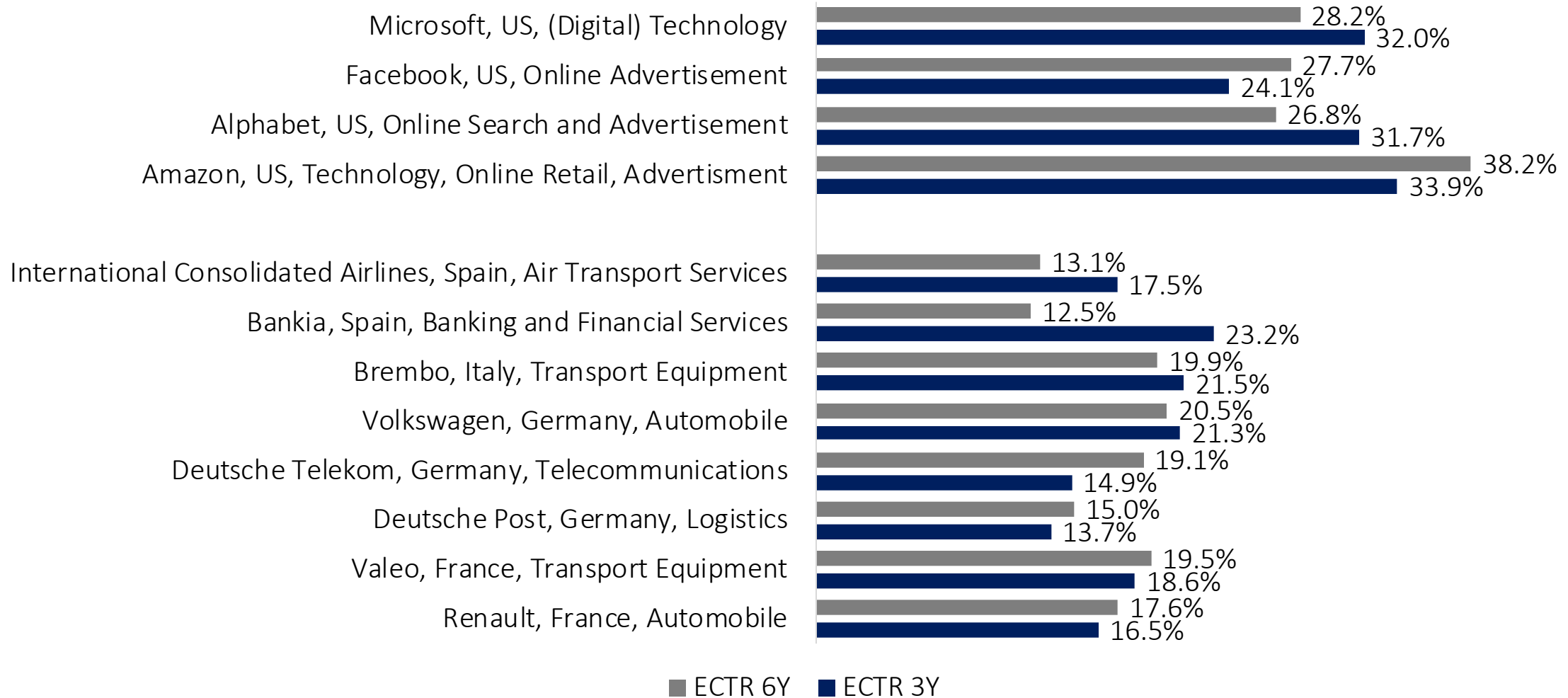
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Differences in ECTRs, Renault vs. Alphabet (Google)

		2015	2016	2017
Renault	Pre-tax income	1.96	2.96	3.3
<i>Fiscal year is January-December. All values in billion EUR.</i>	Total income tax	0.366	1.06	0.891
	Income Tax - Current Domestic	0.527	0.728	0.634
	Income Tax - Current Foreign			
	Income Tax - Deferred Domestic	-0.161	0.327	0.257
	Income Tax - Deferred Foreign			
	Income Tax Credits			
	ECTR total	18.7%	35.8%	27.0%
	ECTR current	26.9%	24.6%	19.2%
	3Y average 2015 - 2017, ECTR total	28.2%		
	3Y average 2015 - 2017, ECTR current	23.0%		
Alphabet (Google)	Pre-tax income	19.65	24.15	27.19
<i>Fiscal year is January-December. All values USD billions.</i>	Total income tax	3.3	4.67	14.53
	Income Tax - Current Domestic	2.84	3.83	12.61
	Income Tax - Current Foreign	0.723	0.966	1.75
	Income Tax - Deferred Domestic	-0.241	-0.07	0.22
	Income Tax - Deferred Foreign	0.017	-0.05	-0.043
	Income Tax Credits			
	ECTR total	16.8%	19.3%	53.4%
	ECTR current	18.1%	19.9%	52.8%
	3Y average 2015 - 2017, ECTR total	31.7%		
	3Y average 2015 - 2017, ECTR current	32.0%		

ECTRs of selected companies headquartered in Large EU Member States vs. large US-based “digital companies”, 2012 – 2017 and 2015 - 2017



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Tax code complexity

- Complexity, de facto opacity, and inefficiency have in the past appeared to be governments' **principle guidelines** for the design of corporate tax rules
- 2017 survey on tax practitioners from 108 countries shows that tax complexity results from two main drivers:
 1. corporate tax code **opaqueness** and
 2. **frequent changes** of tax regulations
- **Inconsistent decisions among tax officers** (tax audits) or **retroactively applied tax law amendments** significantly increase the level of complexity companies have to deal with

Tax incidence: It's us paying the corporate tax

Companies (GAFA + Uber + AirBnb + ...)

Formally required
to pay

Consumers (B2B, B2C, final consumers)

Workers (directly, indirectly, 50-70% of burden)

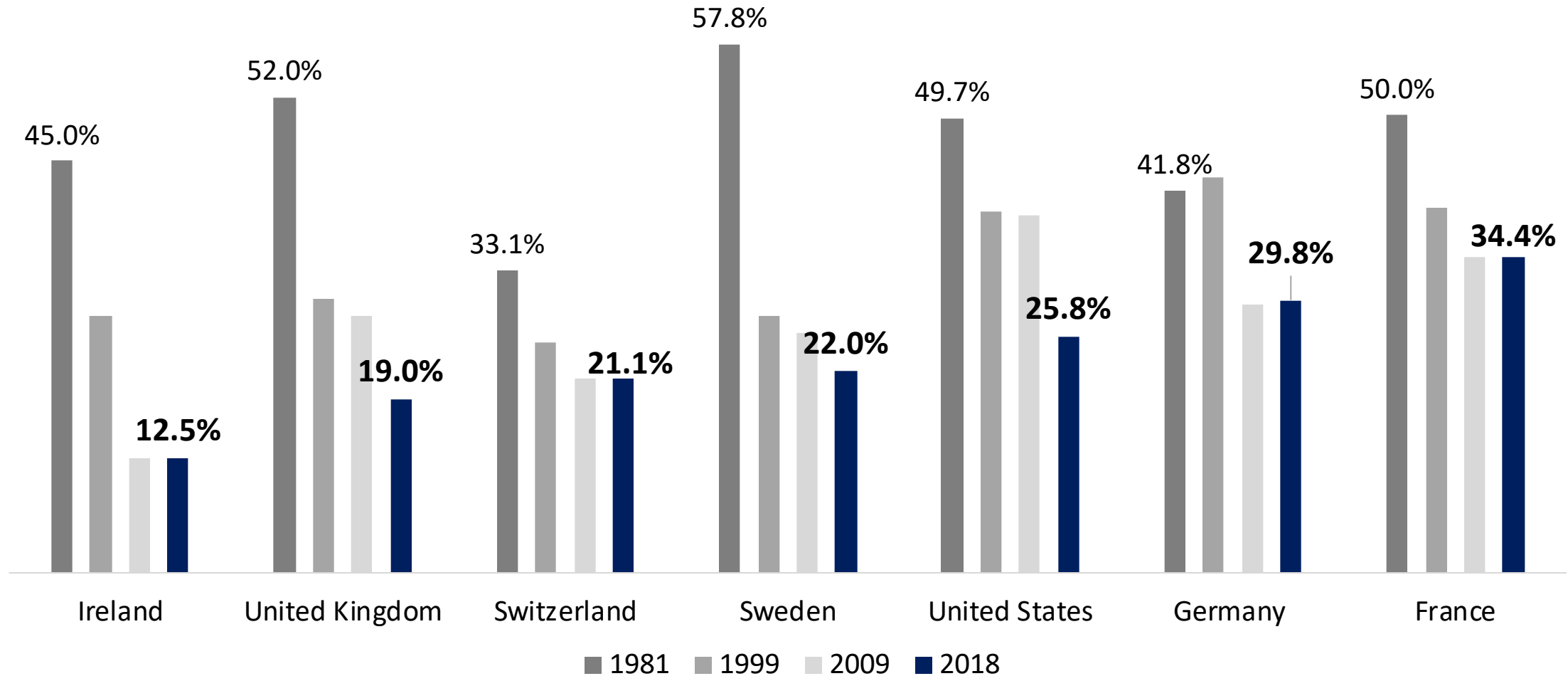
Owners (shareholders)

Effectively bearing
the burden of the
tax

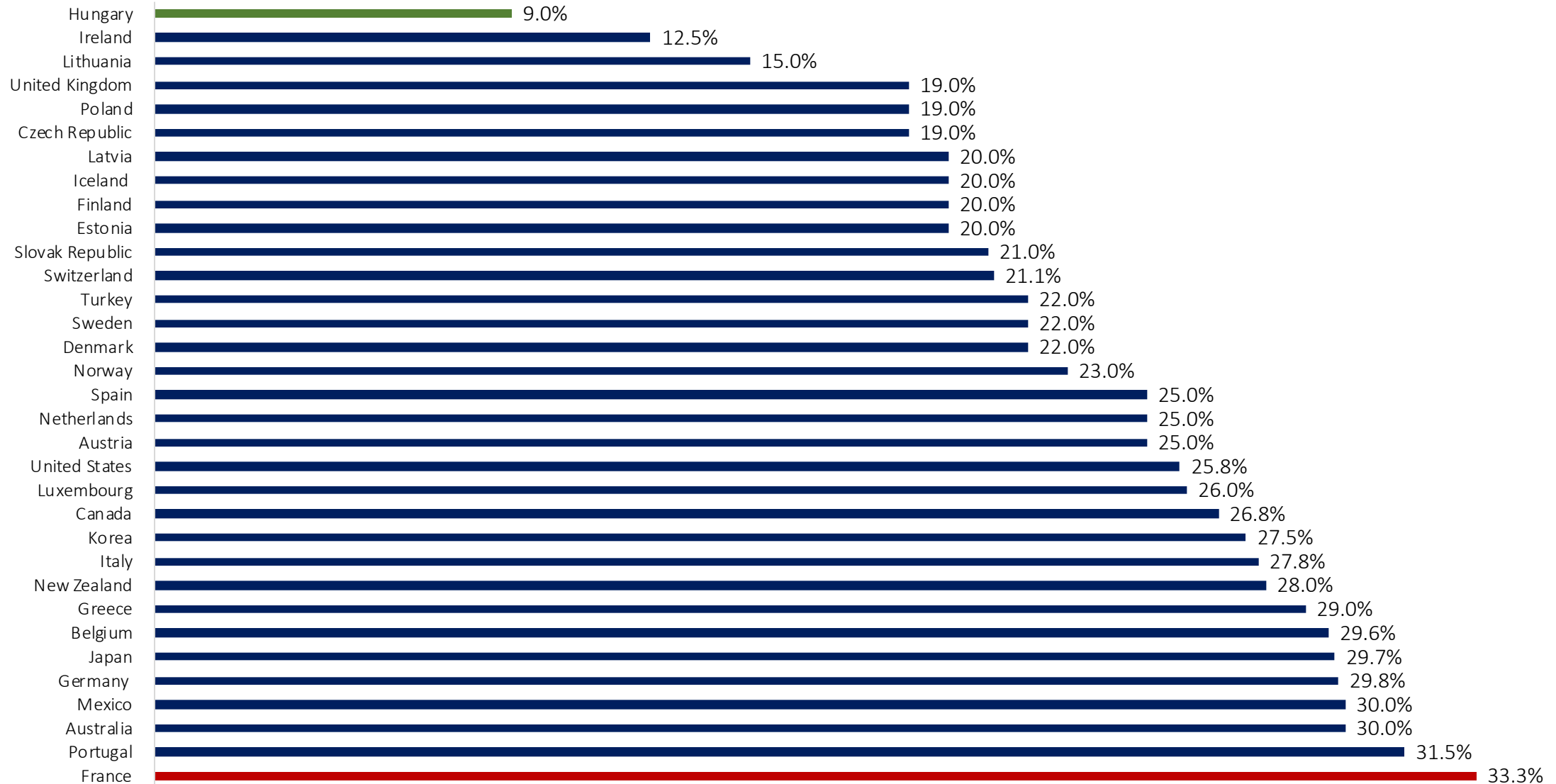
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Decreasing statutory corporate tax rates worldwide



Tax competition: statutory corporate tax rates in the EU



Governments competing for tax revenue

– Biggest obstacle for fundamental reform **towards a simpler, more transparent and fairer tax system** is governments competing for

1. Domestic tax revenues
2. Domestic business activity
3. Domestic investment
4. Domestic jobs

– Tax competition is generally a good thing

– Not future-proof because of regional conflicts regarding the right to tax

Tax planning practices encouraged by EU governments

- In 2013, the European Commission's Directorate-General for **Competition** set up a dedicated Task Force on Tax Planning Practices to investigate the discriminatory tax ruling practices of EU Member States
- Formal investigations have been **launched against the governments** of **Belgium** (excess profit exemption), **Ireland** (state aid, Apple), **Luxembourg** (state aid, McDonalds, ENGIE), **The Netherlands** (state aid, Starbucks, IKEA, Nike), and the **United Kingdom** (UK tax scheme for multinationals)
- Companies benefit from the **fiat of national governments - lawful agreement**
- **None** of these cases explicitly takes aim on **companies with digital business models**

Concluding remarks

- Close to **impossible to make judgments about fairness in international corporate taxation**, including for tax experts of governmental institutions
- BEPS implementation adding **additional layers of complexity** to an overall opaque tax code; same is true for ideas of marketing intangibles
- Country-by-country reporting: **plus in transparency**, but reputation challenge for some businesses
- Improved **transparency doesn't resolve** tax code complexity, the tax incidence and compliance costs
- US tax reforms “Tax Cuts and Jobs Act” negatively impacts on **competitiveness** of non-US companies, including companies headquartered in the EU

Concluding remarks

- **Tax fairness is important** – feeds back on the **perception** of open markets and international trade, **reallocation** of tax rights could increase “perceived” fairness
- CC(C)TB, minimum tax & abolishment of unanimity rule **undermine** tax competition – could even raise anti-EU sentiments in Member States
- Challenge in the EU: finding the **right balance** between tax competition and harmonisation, while keeping national sovereignty over matters of taxation
- New special taxes on digital services: **another complex layer** of tax code on an overly complex corporate tax system
- Corporate tax code **effectively out of control** of elected lawmakers?