

## **LAW ON SUPPORTING RESEARCH AND DEVELOPMENT ACTIVITIES**

**Law No. 5746**

**Date of Approval: 28/2/2008**

### **Purpose and Scope**

**ARTICLE 1-** (1) The purpose of this Law, is to support and encourage, through R&D and innovation, the production of technological knowledge, innovation in the product and production processes, enhancement in product quality and standards, increase in productivity, reduction of production costs, commercialization of technological knowledge, development of pre-competition cooperation, technology intensive production, acceleration of technology intensive production, entrepreneurship and investments in these areas and inflows of foreign direct investments in R&D and innovation and enhancement of R&D personnel and qualified staff employment for restoring the structure of national economy to become internationally competitive.

(2) This Law covers technology centers established on the basis of Law no 3624 dated 12/4/1990 by Small and Medium Industry Development Organization and R&D centers in Turkey, R&D projects, pre-competition cooperation projects and support and incentives with respect to technoprenurship capital.

### **Definitions**

**ARTICLE 2-** (1) The following terms shall denote the respective definitions in the enforcement of this Law;

a) Research and Development Activity (R&D): creative studies, environment friendly product design or hardware activities conducted on a systematic basis so as to enrich knowledge made up of research and development and knowledge of culture, human and society, and to make use of this in order to design new processes, systems and applications, as well as activities with experimental, scientific and technical content and original outputs, which provide scientific and technical improvement in its field, focus on a scientific and technological uncertainty,

b) Innovation: the processes or process outcomes that could meet social and economic needs, could create new markets or be introduced in new markets, which have been formulated with an idea of a new product, service, application, method or business model,

c) R&D center: the units, having the capacity and knowledge of R&D, of legal equity companies, narrow tax-payer institutions or those the business centers of which are located in Turkey; units which are organized separately within the organizational structure, which are exclusively engaged in R&D activities in the country and those that employ minimum 50 full-time equivalent personnel,

ç) R&D project: the project, whose purpose, scope, general and technical definitions, duration, budget and special terms are identified as well as the amounts to be provided as support by other bodies, institutions, real and legal persons either in kind or in cash and the principles of which to regulate the sharing of intellectual property rights that would arise have been determined, which are prepared in line with scientific principles and capable of determining each step of R&D activities,

d) Pre-competition cooperation projects: projects, scientific and technological in nature, which are under the scope of cooperation agreement regarding R&D activities and based on feasibility, conducted by more than several institutions so as to increase efficiency by designing new process, systems and applications by making use of economies of scale; for the purpose of developing joint apparatus or systems or being able to form a platform before competition in order to provide higher added value considering the current situation,

e) Technopreneurship capital: Capital support provided to encourage students who will graduate from any undergraduate degree of a formal university in a year, Master's or PhD students or those having received one of undergraduate, Master's or PhD degrees maximum 5 years before the date of preliminary application to turn their technology and innovation based business ideas into enterprises with high potentials of creating added value and qualified employment, under a work schedule deemed appropriate for support by the public administrations under the central government providing the support,

f) R& D staff: Researchers and technicians directly in charge of R& D activities;

1) Researcher: Experts having at least an undergraduate degree, who participates in R&D activities and projects under the definition of innovation, in the designing and building up of new knowledge, products, processes, methods and systems and in the management processes of the related projects,

2) Technician: People having a degree in engineering, science and health sciences or having graduated from technical, science and health departments of vocational high schools or higher vocational schools, who are in possession of technical knowledge and experience,

g) Support Staff: Manager, technical staff, laboratorian, secretary, worker and staff as such participating in or directly related to R& D activities,

ğ) TÜBİTAK: The Scientific and Technological Research Council of Turkey.

### **Allowances, Exception, Support and Incentive Matters**

**ARTICLE 3-** (1) R&D allowance: In technology centers, R&D centers, public institutions and bodies and R&D and innovation projects supported by foundations established by law or international funds, in pre-competition cooperation projects; all innovation and R&D expenditures made by beneficiaries of technopreneurship capital support and in R&D centers which employ full time equivalent of 500 or more R&D personnel, and also half of the increase in current year's R&D and innovation expenditures compared to previous years, are deemed as matters of allowance in the identification of public body earnings as per article 10 of the Cooperation Tax Law no 5520 dated 13/06/2006 and in the identification of commercial earnings as per article 89 of the Income Tax Law no 193 dated 31/12/1960. Furthermore, as per Tax Procedure Law no 213 dated 04/01/1961, redemption of these expenditures is done through amortization for capitalization. Unless an economic value occurs, it is directly written as

expenses. The amount which could not be a matter of allowance due to inadequate earning in the relevant accounting period, is transferred to the following accounting periods. These transferred amounts are taken into consideration in the following years with an increase calculated by the re-valuation ratio which is determined in every year as per Law No. 213.

(2) Income Tax Withholding Incentive: Except public sector personnel; wages of personnel as a result of their working in the technology centers, R&D centers, public bodies and entities and foundations established by the law or the R&D and innovation projects supported by international funds or conducted by the Scientific and Technological Research Council of Turkey, the enterprises benefiting from technopreneurship capital supports and as R&D and support personnel in pre-competition cooperation projects are exempted from income tax, which is 90% for those having a PhD degree and 80% for the others.

(3) Insurance Premium Support: Except the public sector personnel; in the technology centers, R&D centers, public bodies and entities and foundations established by the law or the R&D and innovation projects supported by international funds or conducted by the Scientific and Technological Research Council of Turkey, the enterprises benefiting from technopreneurship capital supports and R&D and support personnel in the pre-competition cooperation projects and the personnel whose wages are exempted from the income tax as per temporary article 2 of the Technology Development Regions Law no 4691 dated 26/06/2001; the insurance premium of half share of the employer, which is calculated through their wages as a result of their working, is to be paid by the appropriation which is put on the budget of the Ministry of Finance for 5 years for each employee.

(4) Stamp Duty Exemption: The stamp duty tax is not levied on the papers arranged on all sorts of R&D and innovation activities within the scope of this Law.

(5) Technopreneurship Capital Subsidy: Technopreneurship capital subsidy up to 100.000 New Turkish Liras is granted for once only to those who meet the conditions defined in the article 2, first sub-section paragraph (e) of this Law, by the public administrations under the central government. As per this paragraph, the total payment of the all public administrations at the central government, which have appropriations in the relevant year to support the R&D projects, can not exceed 10.000.000 New Turkish Liras for each calendar year. These amounts are applied in the following years with an increase calculated by the re-valuation ratio which is determined in each year according to Law no 213.

(6) In the pre-competition cooperation projects, the contributions of enterprises constituting cooperation shall be monitored through a private account to be opened on behalf of the enterprise set in the cooperation protocol. These amounts transferred to private account shall be deemed R&D expenditure of enterprises having contributed in the expenditure period and can not be used for any purposes except for the project. The amounts collected in project account shall not be taken into account as revenue in determining the profit of the enterprise that opened the private project account.

(7) The support provided to those engaged in R&D and innovation by public bodies and institutions, foundations established on the basis of law and international funds shall be kept in a private fund account. This fund shall not be taken into account in determining the taxable profit on the basis of Laws no 193 and 5520 and R&D expenditure in relevant

year. In the event that this fund is transferred to another account by any means other than additions made onto the capital in five years time following the account period in which the fund is acquired or withdrawal of this fund from the enterprise, taxes not accrued within the respective time period shall be deemed loss.

### **Principles of Enforcement and Control**

**ARTICLE 4-** (1) Whether those benefiting from support and incentives under this Law meet the conditions stated in this Law shall be determined in two-year-time periods at the latest.

(2) The number of full time equivalent of support staff, who makes use of the incentives concerning income tax withholding and insurance premium share of employer stated in Article 3 of this Law, shall not exceed 10% of the number of total full time R&D staff.

(3) The calculation of the minimum number of R&D staff shall be based on the quarterly average of actual and full time working staff.

(4) In the event of violation of the conditions stated in this Law or misuse of support and incentives, through taxes not accrued on proper time, tax loss occurrence shall be considered. Support provided other than tax shall be collected according to the provisions of Law on Procedures for Recovery of Public Receivables no 6183 dated 21/7/1953, through applying default interest.

(5) Those benefiting from the allowances, exemptions, support and incentives under this Law shall not benefit from sub-clause (9) of the first paragraph of article 89 of Law no 193, sub-clause (a) of the first paragraph of article 10 of Law no 5520 and provisions concerning the same subject matter of Law on the Encouragement of Investments and Employment and Amendment of Certain Acts no 5084 dated 29/1/2004.

(6) The procedures and principles concerning enforcement and control of this Law shall be set out in a regulation jointly prepared by Ministry of Finance and Ministry of Industry and Commerce through taking the opinion of TUBITAK.

### **Amended Provisions**

**ARTICLE 5-** (1) “at the ratio of 40% of research and development expenditures” in sub-clause 9 of the first paragraph of article 89 of Law no 193 and in sub-clause (a) of the first paragraph of article 10 of Law no 5520 is amended as “at the ratio of the 100% of research and development expenditures”.

### **Date of Effect**

**ARTICLE 6-** (1) This Law, shall be in effect to be implemented until 31/12/2023, at the beginning of the month following its publication.

### **Enforcement**

**MADDE 7-** (1) The provisions of this Law shall be enforced by the Council of Ministers.