



# **TAX INCENTIVES REGARDING RESEARCH & DEVELOPMENT IN TURKEY**

**ANKARA - 2009**





**TAX INCENTIVES REGARDING  
RESEARCH & DEVELOPMENT  
IN TURKEY**

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## **OUR MISSION**

To collect enough revenue in the principles of justice, neutrality, efficiency to support the increase of social welfare, to simplify the tax system and contributing increment of harmonization and to give quality service to tax payers.



## **OUR VISION**

To become globally leader and an example administration developing and comprehending every kind of activity and economical structure through a reliable, effective, and transparent way.



## **OUR PRINCIPLES**

The following shall be the basic values for all the staff of Revenue Administration when carrying out their tasks in order to reach our vision:

Reliability

Justice

Neutrality

Efficiency (Speed, flexibility and productivity)

Transparency

Sense of responsibility

Solution oriented

Competency

Continual Development

Attendance



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## INDEX

PREFACE .....	5
INTRODUCTION .....	6
<b>A) Arrangements Laid Down In Income Tax and Corporation Tax Law .....</b>	<b>7</b>
1. Definitions .....	7
1.1. R&D activity .....	7
1.2. R&D project .....	7
2. Implementation of R&D deduction .....	8
3. Monitoring R&D expenditures in records .....	8
4. Accounting expenditures in R&D projects .....	9
5. Transfer of capitalized assets .....	9
6. Office of application, necessary documents and other particular points .....	9
7. Supports for R&D provided by other institutions .....	10
8. R&D expenditures made in developing technology zones and in free trade zones .....	10
<b>B) Regulations in Law No: 5746 Concerning the Support of Research and Development Activities .....</b>	<b>11</b>
1. Definitions .....	11
1.1. R&D activity .....	11
1.2. Innovation activities .....	12
1.3. R&D center .....	12
1.4. Technology centers .....	12
1.5. R&D project .....	12
1.6. Cooperation projects before pre-competition .....	12
1.7. Capital of techno enterprise .....	12
1.8. R&D staff .....	13
1.9. Back-up staff .....	13
2. R&D deduction .....	13
2.1. Scope of implementation .....	13
2.2. The position of taxpayers benefit from the R&D deductions in scope of Law No. 5746 in view of Law No 193 and Law No 5520 .....	14
2.3. Showing calculated R&D deduction in the return .....	14
2.4. The R&D discount that was not made the subject of discount in the pertinent fiscal year due to the inadequacy of profit .....	14



2.5. Redeeming of the expenditures in scope of R&D and innovation activity and projects that are not worked out by various reasons.....	14
2.6. Transferring projects of R&D and innovation .....	15
2.7. Support incentives received related to R&D and innovation activities.....	15
2.8. Accounting R&D and innovation expenditures.....	15
2.9. Office of application and necessary documents.....	15
3. Income tax stoppage incentives .....	15
4. Insurance premium support .....	16
5. Stamp duty exemption .....	16
<b>C) Regulations Laid Down In Technology Developing</b>	
<b>Zones Law No: 4691 .....</b>	<b>17</b>
1. Exemption related to the income obtained in the zone.....	17
2. Income tax exemption .....	17
3. Value added tax exemption .....	17
<b>Annex-1: Law Related To the Support of Research and Development Activities .....</b>	<b>19</b>
<b>Annex-2: Regulation of Application and Supervising on the Support of Research and Development Activities .....</b>	<b>25</b>
<b>Annex-3: No. 1 General Communiqué of Law Numbered 5746 (Replaced with General Communiqué numbered 2).....</b>	<b>35</b>

## PREFACE

Several incentives are ensured to R&D expenditures in Turkey by targeting ensuring of sustainable growth, increasing of competitive power, rising of R&D expenditures share in GDP, increasing of goods and service production which its added value is higher, decreasing of manufacturing costs by increasing of productivity, supporting of employment qualified workforce, encouraging of employment in domestic of Turkish researcher in abroad, expediting of entering to Country of direct foreign investments within the R&D, developing and encouraging of cooperation project pre-competition.

Arrangements has aimed that, composing the economic environment which has high-level competitive and productivity by producing of products which have high added value in the full employment by focusing on innovatively. And we aimed that composing the infrastructure which is suitable to the developments in the world for rising of international competitive power, decreasing of import dependence, rising of export, expanding of innovation capacity of Turkey and abetment of enterprise, innovation and productivity.

Arrangements made by Law on the Support of Research and Development Activities No: 5746 in effect from 01.04.2008 raised tax incentives on research and development activities and ensured new additional incentives.

Incentives ensured with Law on The Support of Research and Development Activities No: 5476 and arrangements and implementations related to research and development deduction in Income Tax Law No: 193, Corporation Tax Law No: 5520 and incentives laid down in Technology Development Zones Law No: 4691 are explained in this study.



## INTRODUCTION

Taxpayers have begun to benefit from primarily R&D deduction and other incentives after Law no. 5746 came into force.

There is no difference between calculated R&D deduction amounts according to two Laws because the rate is %100 in both Laws numbered 5746 and 5520. However, there are some differences in indexing of R&D deduction, writing off supports provided as grant in the form of income and accepting expenditures as R&D expenditures such as matters on the basis of the Law enforcement.

In corporate tax return two lines have been established in the form of R&D deductions according to the Law no: 5520 and Law no. 5746. The choice is taxpayer's if the requirements are provided.

Taxpayers should apply to Revenue Administration in the scope of Corporate Tax Law No. 5520 to benefit from R&D deduction with the application file prepared in accordance with series of no: 1 Corporate Tax General Declaration. If there is a Project supported by TUBITAK, R&D deduction can be benefited by adding support, decision text to the Sworn in Certified Public Accountant report without applying Revenue Administration.

The detailed information about the necessary documents to make the R&D expenditures performed in R&D centers, cooperation projects pre-competition, R&D and innovation projects supported by public bodies and institutions and foundations established by Law or international funds or executed by TUBITAK and in the support of techno enterprise capital subject of the R&D deduction is given in Implementation Regulation no: 5746 Relating to Supporting Activities of R&D.



## A) ARRANGEMENTS LAID DOWN IN INCOME TAX AND CORPORATION TAX LAW

R&D deduction,

- in the subparagraph (9) of first paragraph of article 89 of Income Tax Law,

- in the (a) subparagraph of first paragraph of article 10 of Corporate Tax Law,

that shall be calculated %40 of tax payer's expenditures concerning new technology and information research oriented research and development shall be deducted from declared income (corporate income) is regulated as a tax advantage.

The amount that shall be calculated over R&D expenditures R&D deduction rate has been raised from %40 to %100 by the amended article 5 of Law no: 5746 which came into force on 1/4/2008.

By this amendment %100 of tax payers' expenditures beginning from 2008 fiscal period can be taken into consideration as R&D deduction while determining the declared income (corporate income).

The income tax exemption is applied by canceling from withholding tax return and by canceling over the income tax of the wages of these persons accounted after applying minimum living discount for the %90 of the ones who have doctorate and %80 of the others for the personnel of R&D and back-up until 31/12/2013 in scope of the article 3 of the 5746 numbered Law about the Supporting of the Development Activities and the Temporary article 75 added to the Income Tax Law.

### 1. Definitions

#### 1.1. R&D activity

Research and development (R&D) activity means to get the new information providing the development of science and technology or to produce new materials, products and means with the available information or to create new system, process and services including software production or the regular studies to be performed in order to improve the available technology.

#### 1.2. R&D project

The project, which its aim, scope (general and technical definition), budget, special condition, amount of assistance in-kind and in-cash provided by natural and legal persons, principles of sharing of intellectual property rights are determined and are prepared in the framework of scientific principles and in a condition determining each stage of the R&D activities is an R&D project.

## 2. Implementation of R&D deduction

- R&D deduction shall be applied for both annual and advance tax return from the beginning of R&D activity.

- Calculated R&D deduction amount shall be deducted from profit writing by related taxpayers into line of provisional tax return and annual income (corporation) tax return.

- The amount of R&D deduction which could not be a matter of deduction because of inadequacy of income shall be transferred to the oncoming fiscal years.

## 3- Monitoring R&D expenditures in records

- Enterprises are obliged to capitalize the whole research and development expenditures made for intangible properties in an accounting period.

- But the expenditures, which are not aimed at intangible properties do not have to be capitalized in the framework of the provisions of Tax Procedure Law, could be directly accounted as expense.

- The capitalized R&D expenditures could be counted as expense by means of depreciation. Either the R&D expenditures are capitalized or accounted directly as expense; R&D deductions made in the concerned period shall be accounted additionally for %100 R&D deduction that shall be calculated separately from the whole R&D expenditures and shall be made a subject of discount.



#### **4- Accounting expenditures in the R&D project**

The taxpayers have to account the expenditures under the R&D Project, separating them from expenditures related to other activities of the corporation, ensuring that the R&D deductions shall be calculated accurately.

#### **5- Transfer of capitalized assets**

In the implementation of R&D deduction, in case of transferring an uncompleted R&D project to other entities, additional expenditures made by the transferee related to this project could be subject to R&D deduction, but in case of transferring a completed R&D project the transferee cannot benefit from R&D deduction.

#### **6- Office of application, necessary documents and other particular points**

- Two copies of the report which shall be prepared in the specified format related to R&D activities shall be sent to the Revenue Administration by hand or mail, being attached to a letter.

- After making a general assessment of the report, The Administration shall transmit the project to The Scientific and Technological Research Council of Turkey (TUBITAK) and/or universities and entities specialized in the field of the subject being researched to determine whether the project is aimed exclusively at a new information and technology search. A letter shall be sent to the taxpayer to make him pay an amount at %0, 3 of the Project budget to the institute carrying out the examination; however the amount shall not exceed the 15.000 TL.

The institution which shall examine the R&D project shall ask for the information and documents necessary if needed, have the experts of their own or other institutes made the necessary examinations in a short term, and send a copy of the assessment report to the Revenue Administration and the owner of application.

There shall be no need for a re-examination regarding the projects examined by TUBITAK before. In this context, it is not required for the taxpayers, who have their projects examined and approved by TUBITAK, to apply to the Revenue Administration for another examination and it shall be sufficient for them to attach the copies of R&D assessment reports to the Sworn in Certified Public Accountant approval report.



## 7- Supports for R&D provided by other institutions

- Under the notification of Research and Development (R&D) Assistance numbered 98/10 published based on the Decree of 09.09.1998, no: 98/16 within the context of the State Aids Decree for Export, numbered 94/6401, assistances with the condition of capital support are equivalent to debt and it's not possible to add them to the commercial gains.

- However under this legislation, amounts of assistance provided as donation and all kind of assistances of other entities in this concept shall be added to the profit as elements of commercial gains.



## 8- R&D expenditures in technology development zones and in free trade zones

Expenditures made to gain profit on which the exemption is to be applied, shall not be assessed within R&D deduction in case of profits occurring in technology development and free trade zones and in case of benefiting from the exemption in the provisional article 2 of Technology Development Zones Law numbered 4691 or the provisional article 3 of Free Trade Zone Law numbered 3218.



## **B) REGULATIONS IN LAW NO: 5746 CONCERNING THE SUPPORT OF RESEARCH AND DEVELOPMENT ACTIVITIES**

Apart from the R&D deduction regulated in Income and Corporation Tax Law, the regulations are introduced under the Law no. 5746 which is more comprehensive and complete in its own and valid from 1. 4.2008.

In order to turn the country economy into a structure that able to meet competition in the international level through the R&D and innovation, the purposes of this Law are fostering and supporting;

- The production of technological information,
- Making innovation in the product and in the production process,
- Raising the quality of product and the standards,
- Increasing the productivity,
- Decreasing the production costs,
- Commercializing the technological information,
- Developing pre-competition cooperation,
- Accelerating the entrance of technology intensive production, entrepreneurship and investments regarding these fields and investments of direct foreign capital for innovation to the country,
- And raising the employment of R&D human resources and labor force with high quality.

### **1. Definitions**

#### **1.1. R&D activity**

Research and development is an activity increasing the information composed of intelligence of culture, human and society and creative studies conducted in a systematic basis for using this in order to conceive new process, system and application, product design or software activities compatible with environment and activities providing



scientific and technological developments in its own field, focusing a technological and scientific uncertainty, having an empirical, scientific and technological content and which its outputs are original.

### **1.2. Innovation activities**

They are activities including the processes meeting the social and economical needs that create new markets which are offered to the existing markets successfully; constituting with the idea of a new product, service, application, method or working model and the consequence of the processes.

### **1.3 R&D center**

Units of the limited liable entities, stock corporations, legal and having business center including business location in Turkey organized separately in the body employing at least fifty full time equivalent R&D staff solely organized making R&D activities domestically with sufficient R&D knowledge and ability.

### **1.4. Technology centers**

In the scope of the Law No. 3624, technology development centers are collecting, evaluating, developing, intending for implementation support information that based on new and advanced technology and set-up or established enterprises, which have R&D and innovation project in the scope of Presidency of Developing and Supporting Small and Medium Size Industry Administration (KOSGEB) and innovation supports by using the opportunities of universities and research centers.

### **1.5. R&D project**

The project which its aim, scope (general and technical definition), budget, special condition, amount of assistance in-kind and in-cash provided by natural and legal persons, principles of sharing of intellectual property rights are determined and are prepared in the framework of scientific principles and in a condition determining each stage of the R&D activities is a R&D project.

### **1.6. Cooperation projects before pre-competition**

Projects having scientific and technologic characteristics executed by entities more than one with the aim of benefiting from economies of scale performed for the R&D activities in the scope of cooperation agreement depending upon feasibility in order to be carried out for establishing a platform or to develop a system or common material in pre-competition for providing more added value tax than the current situation.

### **1.7. Capital of techno enterprise**

The capital of techno enterprise is a capital support to persons; having formal education and graduating from any field of universities





in one year; master students, doctorate students or persons took one of bachelor, master or doctorate degree maximum five years before pre-application, within a framework plan focused on technology and innovation business ideas approved by the public administrations that are included within the scope of the central management for supporting capital to transform to enterprises having high potential in creating added value and qualified personal.



### **1.8. R&D staff**

Researchers and technicians directly charged in R&D activities.

### **1.9. Back-up staff**

The staff such as manager, technical staff, laborant, secretary, workers or similar staff participated in R&D activities and directly related thereto.

## **2. Research and development deduction**

### **2.1. Scope of implementation**

It shall be applied with this Law in all of the R&D and innovation expenditures mentioned below until the date 31.12.2023;

- R&D expenditures incurred in the enterprises functioning as technology centers,
- R&D expenditures incurred in the R&D centers,
- Public institutions, R&D and innovation projects supported by public enterprises and establishments, foundations established pursuant to the Law or projects that supported by international funds,
- Pre-competition cooperation projects,
- Enterprises benefit from the capital support provided to techno enterprises;

The complete R&D expenditures and;

- One half of the increase in expenditures compared to the previous year at R&D centers that recruit 500 and more equivalent full-time R&D personnel,

are made subject of discount while determining the cooperate earning and commercial earning in accordance with article 10 of Cooperate Tax Law and article 89 of Income Tax Law.



## **2.2. The position of taxpayers benefit from the R&D deductions in scope of Law no. 5746 in view of Law no 193 and Law no 5520**

Those enterprises that benefit from deductions envisaged,

- In the scope of Law numbered 5746

shall not separately benefit from the same nature provided in

- Article 89/1-9 of Law Numbered 193 and in Article 10/1-(a) of Law Numbered 5520.

## **2.3. Showing calculated R&D deductions in the return**

Calculated R&D deductions are written on relevant line of income tax returns, corporate tax returns and provisional tax returns.

## **2.4. The R&D discount that was not made the subject of discount in the pertinent fiscal year due to the inadequacy of profit**

- The R&D discount that was not made the subject of discount in the pertinent fiscal year due to the inadequacy of profits can be transferred to the oncoming fiscal years.
- The transferred totals in the following years shall be taken into account by increasing the rate of revaluation determined for each year according to Law No: 213.

## **2.5. Redeeming of the expenditures in scope of R&D and innovation and projects that are not worked out by various reasons**

These expenditures shall be redeemed by depreciation through the Law numbered 213. When there is no opportunity to complete the project or when economic assets are not created because of the failure of the project, the expenditure totals within R&D and innovation that capitalized previous years shall be directly recorded as an expense.



## **2.6. Transferring projects of R&D and innovation**

- Expenses concerning the scope of project made by enterprises performed after the date of transfer taking over R&D and innovation projects are the subjects of R&D deduction.

- If there is an additional payment for transferring project, it cannot be the subject of R&D deduction.

- Enterprises which take over R&D and innovation projects cannot benefit from R&D deduction in the case of transferring completed R&D and innovation projects.

## **2.7. Support incentives received related to R&D and innovation activities**

- The supports provided from public enterprises and establishments, foundations established pursuant to the Law or supported by international funds concerning R&D and innovation activities are maintained under a special fund account.

- The above mentioned funds shall not be taken into consideration in determining the taxable profits as income and in determining R&D discount amount as R&D expenditures pursuant to Laws numbered 193 and 5520.

- The expenditures made from the unsecured funds provided in this way are accounted as direct expense or economic assets subjected to depreciation.

## **2.8. Accounting R&D and innovation expenditures**

It's compulsory that R&D and innovation expenditures should be accounted and distinguished from expenditures relating to other activities of the enterprises in order to ensure the calculation of R&D deductions in an accurate way.

## **2.9. Office of application and necessary documents**

Enterprises which shall benefit from R&D deduction give the documents approved by the supporting and applied public body or institution laid down in the regulation or foundation set up by Law to the related tax office in the annex of annual income or corporate tax return.

## **3. Income tax stoppage incentives**

Wages earned by the R&D and back-up personnel recruited in the following enterprises personnel and projects in consideration of their activities shall be cancelled from income tax, accounted after applying minimum living discount, at a rate of %90 for personnel with PhD degrees, and at a rate of %80 for the other personnel, by deducting from the tax accounted over withholding tax return until 31/12/2013:

- Personnel recruited in enterprises that function as technology centers,



- Personnel recruited in the R&D centers;
- Personnel recruited in R&D and innovation projects supported by public enterprises and establishments, foundations established pursuant to the Law or projects that are supported by international funds,
- Personnel recruited in R&D and innovation projects undertaken by The Scientific and Technological Research Council of Turkey (TUBITAK),
- Personnel recruited in enterprises that are entitled to benefit from the capital support provided to technological enterprises,
- Personnel recruited in pre-competition cooperation projects.

However, the scope of the above mentioned income tax exemption shall not be applicable on the personnel employed in the public sector.

#### **4. Insurance premium support**

For each employee, one half of the insurance premium of the employer which is calculated over the wages of the R&D and back-up staff gained in the scope of the R&D and innovation activities shall be funded by a budget of the Ministry of Finance for five years.

Personnel's, whose wages are exempted from income tax pursuant to provisional article 2 of Law numbered 4691 concerning Technology Developing Zones, insurance premium calculated over their exempted wages and also one half of the employer's share of insurance premium shall be funded by a budget of the Ministry of Finance for five years at maximum as long as exemption implemented.

#### **5. Stamp duty exemption**

All documents drawn up in connection of all types of R&D and innovation activities pursuant to Law Numbered 5746 have been exempted from stamp duty. It is sufficient to deliver the list determining and supporting performed transactions in scope of the R&D and innovation activity confirmed by the applied public institution and foundation to the institutions and foundations carrying out transactions during the transaction in order to implement stamp duty exemption. No other document is asked by the institutions.



## C) REGULATIONS LAID DOWN IN TECHNOLOGY DEVELOPING ZONES LAW NO: 4691

### 1. Exemption regarding the income obtained in the zone

The incomes of taxpayer's whose software and R&D activities are in technology development zones are exempted until 31.12.2013 from income and corporate tax by the amendment in provisional article 2 of Technology Development Zones Law no: 4691.

The incomes of technology development manager companies, which are in the scope of implementation Technology Development Zone Law no: 4691, are also exempted from income or corporate tax until 31.12.2013.

### 2. Income tax exemption

The wages of researchers, programmers and R&D personnel working in areas of technology development are exempted from income tax until 31.12.2013. These exemptions are applied for the manager company of TUBITAK-Marmara Research Center Technology Free Trade Zone, income and corporate tax payers operating in this region and for the researchers, programmers and R&D personnel working in this region in terms of wages.

### 3. Value added tax exemption

In accordance with the provisional Article 20 of Value Added Tax Law, within the time that the incomes of the entrepreneurs, who are active in the technology development zone, are exempted from income and institution taxes, also their delivery and service as system management, data management, business applications, sector, internet, mobile, military command control application are exempted from value added tax.







# ANNEX 1

## LAW RELATED TO THE SUPPORT OF RESEARCH AND DEVELOPMENT ACTIVITIES

Law No.: 5746

Date of Acceptance : 28/2/2008

Official Gazette : 12.03.2008-26814

### Purpose and scope

**ARTICLE 1 - (1)** The purposes of this Law are; production of technological information in order to turn the country economy into a structure that able to meet competition in the international level through the R&D and innovation, making innovation in the product and in the process production, raising the quality of product and that of the standards, increasing the productivity, decreasing the production costs, commercializing the technological information, developing pre-competition cooperation, technology-intensive production, accelerating the entrepreneurship and investment in this field and direct foreign investment to R&D and innovation, fostering and supporting of raising R&D human resources and labor force of high quality.

(2) This Law covers; technology centers (enterprises of technology centers) established under the Law no. 3624, dated 12/4/1990, by Presidency of Developing and Supporting Small and Medium Size Industry Administration and R&D centers in Turkey, R&D projects and projects of pre-competition cooperation and supports and incentives regarding capital of techno enterprises.

### Definitions

**ARTICLE 2 - (1)** In the enforcement, this Law implies;

a) Research and Development activities (R&D): Research and development increase the information composed of intelligence of culture, human and society and creative studies conducted in a systematic basis for using this in order to conceive new process, system and application, product design or software activities compatible with environment and activities providing scientific and technological developments in its own field, focusing a technological and scientific uncertainty, having an empirical, scientific and technological content and which its outputs are original,

b) Innovation: Processes meeting the social and economical needs, create new markets or offered to the existing markets successfully;

constituting with the idea of a new product, service, application, method or working model and the consequence of the processes,

c) R&D Center: Units of the limited liable entities, stock corporations, having legal and business center including business location in Turkey organized separately in the body, which employ at least fifty, full time equivalent R&D staff solely organized in domestic, have sufficient R&D knowledge and ability,

ç) R&D Project: The projects whose goal, scope, general and technical description, term, budget, special conditions, amount of assistance in-kind and in-cash provided by natural and legal persons, principles of sharing of intellectual property rights are determined and the project with the content to identify each stage of R&D activities prepared in accordance with scientific basis,

d) Projects of pre-competition cooperation: Scientific and technologic projects executed by entities more than one with the aim of providing more added value than the present one by designing, process system and implementation in the context of cooperation agreement made towards R&D activities and to develop a common part and system and establish a platform.

e) The capital of techno enterprise: Persons; having formal education and graduating from any field of universities in one year; master students, doctorate students or shall have, maximum five years ago, one of bachelor, master or doctorate degree before pre-application, within a framework plan focused on technology and innovation business ideas approved by the public administrations that are included within the scope of the central management for supporting capital to transform to enterprises having high potential in creating added value and qualified staff,

f) R&D Staff: Researchers and technicians directly charged in R&D activities;

1- Researcher: Experts having at least undergraduate certificate taking place in R&D activities and projects in the context of innovation and process of execution of related projects in designing and establishing of new information, product, process, method and systems.

2- Technician: Person having high education and experience in the field of engineering, science and health or graduated from technical departments of science and health of vocational high school or junior technical college;

g) Back-up staff: The staff such as manager, technical staff, laborant, secretary, workers or similar staff participated in R&D activities and directly related thereto,

ğ) TUBITAK: The Scientific and Technological Research Council of Turkey,

The components of deduction, exemption, support and incentive



**ARTICLE 3 - (1) R&D deduction:** In accordance with the article 10 of Cooperate Tax Law numbered 5520, dated 13.06.2006, cooperate earnings and in accordance with article 89 of Income Tax Law numbered 193, dated 31.12.1960 commercial earnings; all of the R&D and innovation expenditures at technology center enterprises, R&D centers, public institutes, R&D and innovation projects supported by public enterprises and establishments, foundations established pursuant to the Law or projects that supported by international funds, pre-competition cooperation projects, enterprises benefit from the capital support provided to technological enterprises; one half of the increase in expenditures compared to the previous year at R&D centers that recruit 500 and more equivalent full-time R&D personnel, can be deducted. These expenditures shall be redeemed by depreciation via capitalization under Tax Procedure Law numbered 213, dated 4.1.1961. In cases when economic assets are not created, the expenditure totals shall be directly recorded as expense. The totals that were not deducted on the pertinent fiscal year due to the inadequacy of profits can be carried forward to the oncoming fiscal years. The said totals shall be applied on the subsequent years with an increase based on the rate of revaluation determined for each year pursuant to the Tax Procedures Law.

2) **Income Tax Stoppage Incentives:** R&D and back-up personnel with PhD degrees shall be exempted from income tax at a rate of %90 of their income and %80 for the others who work at techno enterprises excluding the government officers, R&D centers, innovation and R&D projects supported by public institutes and foundations which are established by Law or international funds or executed by TUBITAK, enterprises which are using technology capital support and the ones who works on pre-competition cooperation projects.

(3) **Insurance premium support:** Half of employer's share of insurance premium calculated over the wages of works that performed by the personnel whose wage is exempted from income tax in accordance with the provisional article 2 of the 4691 numbered Technology Development Zones Law and R&D or back-up staff working in the technology center enterprises, R&D centers, and R&D and innovation projects and pre-competition cooperation projects which are operated by foundations that established by public institutions and bodies or supported by international funds or operated by TUBITAK and enterprises benefiting from techno entrepreneur capital support, shall be funded by a fund allocated in Ministry of Finance for five years for each employee.

(4) **Stamp duty exemption:** All documents drawn up in connection of all types of R&D and innovation activities pursuant to Law Numbered 5746 have been exempted from stamp duty.

(5) **Techno enterprise capital support:** The techno enterprises that fulfill the conditions referred to in paragraph (e) of Article 2/1 of the



Law shall be granted techno enterprise capital support of up to 100,000 TL as a donation for once, without the demand for a guarantee, by the public administrations that are included within the scope of the central management. The total payments to be extended by the public administrations that are included within the scope of the central management that allocate support incentives to the R&D projects, shall not exceed 10,000,000 TL for each calendar year. The above mentioned totals shall be applied on the subsequent years with an increase based on the rate of revaluation determined for each year pursuant to the Tax Procedures Law.

(6) The contributions of cooperated institutions in the pre-competition cooperation projects shall be maintained under a special account to be open behalf any institution specified by cooperation protocol. The said amounts to meet requirements transferred into a special account shall be accepted as a R&D expenditure of contributed institutions in the spending period and cannot be used other than the project for any purpose whatsoever. The amounts as revenue is not taken into account in calculation profit of institution having project special account.

(7) The support incentives to be received from the public enterprises and establishments, foundations established pursuant to the Law or projects that from international funds, shall be maintained under a special fund account by those who are engaged in R&D and innovation activities. The above mentioned fund shall not be taken into consideration in the determination of the taxable profits pursuant to the Income Tax Law and Corporation Tax Law, and in the determination of the R&D expenditures borne on the relevant year. In the Law, it is stated that if the fund in question is withdrawn from the enterprise or transferred to any other account due to whatever reason other than adding up into the capital for a period of five years, the taxes that have accrued on the relevant fiscal years shall be deemed to have been lost.

### **The fundamental principles of execution and auditing**

**ARTICLE 4** - (1) Findings for meeting required conditions of beneficiaries from support and incentives within the scope of this Law are confirmed as per a two-year period.

(2) Under article 3 of this Law; the number of the full time equivalent of the support personnel who shall be entitled to the incentives relating to the income tax withholding and employer's share of insurance premiums, shall not exceed %10 of the total number of the full-time R&D personnel.

(3) During the determination of the minimum number of the R&D personnel, the average number of personnel who are currently employed on full time and actual time basis on quarterly period shall be taken as basis.

(4) In case of a breach in the conditions or abusing of incentives and the support components envisaged in this Law, the taxes that have not been accrued on time shall be considered as tax loss. If the support components other than tax exemptions, they shall be collected according to provisions of Law numbered 6183 Concerning the Method of Collection of Public Receivables, together with a delay surcharge.

(5) Those enterprises that have become entitled to benefit from deductions, exemptions, support and incentives envisaged in Law numbered 5746, shall not become separately entitled to benefits of the same nature provided in Article 89/1-9 of Law numbered 193, article 10/I-(a) of Law numbered 5520 and the relevant provisions in Law numbered 5084, dated 29.1.2004 Concerning the Encouragement of Investments and Employment and Introducing Amendments to Certain Laws.

(6) The procedures and principles relating to the implementation and supervision of Law no. 5746 shall be determined in regulation which shall be jointly prepared by the Ministry of Finance and the Ministry of Industry and Commerce, through consultation with The Scientific and Technological Research Council of Turkey (TUBITAK).

#### **Amended provisions**

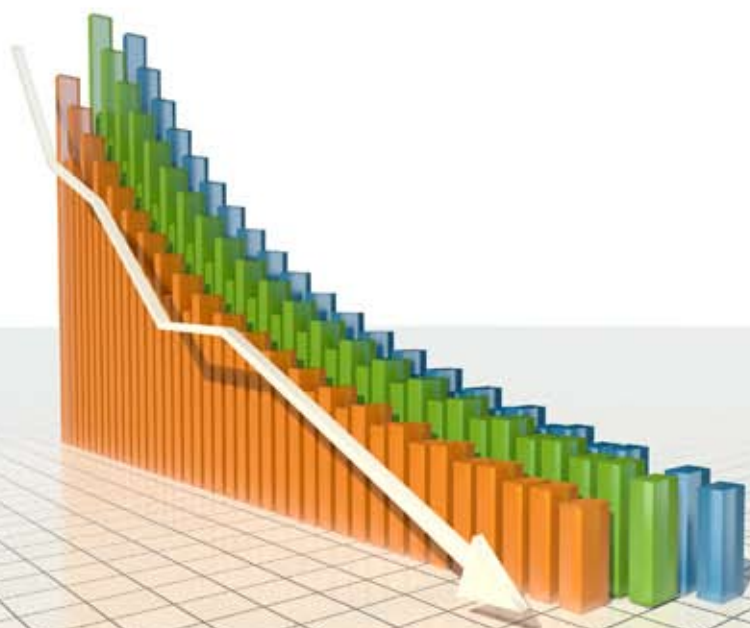
**ARTICLE 5 - (1)** The phrase of “%40 of the research and development expenses” which was in Article 89/1-9 of Law numbered 193, Article 10/I-(a) of Law numbered 5520 was changed to “%100 of the research and development expenses”.

#### **Enforcement**

**ARTICLE 6 - (1)** This Law shall enter into force that on which beginning of the month and shall expire on 31/12/2023

#### **Execution**

**ARTICLE 7 - (1)** The provisions of this Law are executed by Council of Ministers.





# ANNEX 2

## REGULATION OF APPLICATION AND SUPERVISING ON THE SUPPORT OF RESEARCH AND DEVELOPMENT ACTIVITIES

*(The articles concerning tax incentives of supporting R&D activities related to implementation and auditing regulation which is published in the official gazette 31.7.2008 No: 26953)*

### CHAPTER 1

#### Purpose, Scope, Legal Base and Definitions

##### Purpose

**ARTICLE 1 – (1)** The purpose of this Regulation is to regulate the procedure and fundamental principles on execution and supervising of the Law on the Support of Research and Development Activities No. 5746 dated 28/2/2008.

##### Scope

**ARTICLE 2 – (1)** This Regulation covers; technology centers (enterprises of technology centers) established under the Law no. 3624, dated 12/4/1990, by Presidency of Developing and Supporting Small and Medium Size Industry Administration and R&D centers in Turkey, R&D and innovation projects and projects of pre-competition cooperation and procedure and fundamental principles of execution on supports and incentives regarding capital of techno-enterprises.

##### Legal Base

**ARTICLE 3 – (1)** This Regulation has been arranged under the Law no. 5746 dated 28/2/2008 regarding the Support of Research and Development Activities.

(...)

## CHAPTER 2

### Matters Regarding the R&D and Innovation Activities, Deduction, Exemption, Support and Incentive Factors

(...)

#### The fundamental principles of execution of R&D deduction

**ARTICLE 8 -** (1) In accordance with the article 10 of Law numbered 5520, dated 13.06.2006 Cooperate Tax Law, cooperate earnings and Article 89 of Law Numbered 193, dated 31.12.1960 Income Tax Law commercial earnings; all of the R&D and innovation expenditures at technology center enterprises, R&D centers, Public institutes, R&D and innovation projects supported by public enterprises and establishments, foundations established pursuant to the Law or projects that supported by international funds, pre-competition cooperation projects, enterprises benefit from the capital support provided to technological enterprises; can be deducted until 31/12/2023.

(2) In determination of cooperate earnings or commercial earnings; one half of the increase in expenditures compared to the previous year at R&D centers that recruit 500 and more equivalent full-time R&D personnel, also can be deducted. If there is more than one branch of a business established in different campus, the total of R&D staff number of business is considered as the total of R&D staff working in these centers.

(3) Beneficiaries from R&D deduction within the scope of this Law cannot separately benefit from provisions in Article 89(9) of Income Tax Law and Article 10(1) (a) of Cooperate Tax Law.

(4) Calculated R&D deductions are written on relevant line of yearly income tax or corporate tax returns and advance tax returns.

(5) The totals of R&D deduction that were not deducted on the pertinent fiscal year due to the inadequacy of profits can be carried forward to the oncoming fiscal years. The said totals shall be applied on the subsequent years with an increase based on the rate of revaluation determined for each year pursuant to the Tax Procedures Law.

(6) Besides, these expenditures shall be redeemed by way of depreciation via capitalization in accordance with Law numbered 213, dated 4.1.1961 Tax Procedure Law.

(7) When there is no opportunity to complete the project or when economic assets are not created because of the failure of the project, the expenditure totals within R&D and innovation that capitalized previous years shall be directly recorded as expense.

(8) In the case of transferring uncompleted R&D and innovation projects, the amounts capitalized by companies realizing the turnover are regarded as cost items in determining the profit amounts. Expenditures

made in the context of project and after the date of turnover shall be subjected to the R&D deductions. In the case of transferring a completed R&D and innovation projects, enterprises which take over R&D and innovation projects cannot benefit from R&D deduction.

(9) In the case of transferring a completed R&D and innovation projects, enterprises which take over R&D and innovation projects cannot benefit from R&D deduction.

(10) The support incentives concerning R&D and innovation activities supported by public enterprises and establishments, foundations established pursuant to the Law or supported by international funds shall be maintained under a special fund account. The mentioned fund shall not be taken into consideration in the determination of the taxable profits pursuant to the Income Tax Law and Corporation Tax Law determining R&D expenditures as R&D expenditures. Expenditures made by complimentary funds either shall be directly recorded or shall be redeemed by way of economic assets.

(11) It's compulsory that R&D and innovation expenditures should be accounted, distinguished from expenditures relating to other activities of the enterprises, to ensure the R&D deductions will be calculated accurately.

#### **The method to follow in the implementation of R&D deduction**

**ARTICLE 9 - (1)** Enterprises which benefit from R&D deduction, shall submit those documents attached to annual income or corporate tax return mentioned below, to the tax offices that they are linked. Those documents are needed to be approved by foundations, R&D centers, innovation and R&D projects supported by public institutes and foundations which are established by Law or international funds or executed by TUBITAK, enterprises which are using technology capital support and the ones who work on pre-competition cooperation projects.

a) R&D centers which shall benefit from R&D deduction for the first time under the Law are asked for "R&D Center Certificate" and those which will benefit from project-based R&D deduction are asked for "R&D and Innovation Project Evaluation Report" or "Pre-competition Cooperation Evaluation Report and Audit Commission Decision or Project Agreement." However the companies which submitted R&D Center document or R&D and innovation project evaluation report to the tax office previously and kept on R&D Deduction are not asked to resubmit these documents in the following taxation terms.

b) Documents regarding the R&D and Innovation Project and pre-competition project or projects and the project agreement and its attachment, business plan approved by the public administration under the central management giving the assistance for the enterprises



benefiting from technological capital assistance, and the documents indicating at which stage R&D and innovation projects have been carried at the R&D centers and technology center companies and the documents regarding the implementation of these projects or business plan,

c) The list indicating the annual and detailed presentation of the expenditures being subject to R&D deduction under main groups,

ç) The list indicating the number and qualifications of the staff employed at R&D centers and technology center companies regarding projects, which benefit from assistance of R&D and innovation project or projects and pre-competition cooperation projects and techno enterprises capital assistance, and task durations of the staff, their salaries and tax amounts withheld and exempted,

d) The list consisting of person/entity name providing services, citizenship/tax identity number, character of the service received, invoice date, number, amount and stoppage and VAT amount regarding the assistance, expertise and similar services taking from outside.

2- To implement the R&D deduction at the R&D centers and pre-competition cooperation projects its obligatory to give sworn in certified public accountant approval report including the necessary documents specified in the first subparagraph to the tax office related and in the term specified in the legislation and documents mentioned above should not be asked with the return separately for the R&D centers and pre-competition cooperation projects.

3- If documents specified in the first subparagraph have been submitted attached to the full approval report; it is not required to edit an approval report additionally regarding the R&D deduction.

## CHAPTER 3

### Income Tax Stoppage Incentive and Implementation of Insurance Premium Support

#### Implementation of income tax stoppage incentive

**ARTICLE 10** - (1) %90 of the wages of the R&D and back-up staff who have their doctorate and %80 of the others are excluded from income tax if they work at technology center enterprises, R&D centers, R&D and innovation projects and cooperation projects before competition which are operated by foundations that established by public bodies and establishments or supported by international funds or operated by TUBITAK and the enterprises that benefit from techno enterprise capital support. The ratio of the time which staff in this scope has actually spent for R&D and innovation activities to the total working hours shall be taken into consideration while calculating this exemption.

(2) Full-time equivalent number of the back-up staff who shall benefit from the exemption cannot exceed %10 of the total full-time R&D personnel. Decimal numbers are rounded up. If the number of back-up staff exceeds %10 of the total full-time R&D personnel, the exemption is applied starting with the back-up staff that has minimum gross wage. If all the gross wages are equal, the back-up worker whom shall be applied the exemption is determined by the employer.

(3) The public servants who work at the projects and/or work for enterprises which are defined within the first subparagraph cannot benefit from the exemption.

(4) In the implementation of incentive, exemption is only applied related to tax basis of the wage in the scope of working at R&D and innovation activities and only the amount deducted on the wage subject to tax is shown on concise statement. In the appendix of the concise statement, the declaration of which the context is determined by the Ministry of Finance relating to staff who benefits from this exemption is filled by the employers and given to the related tax office.

(5) For the staff who benefits from the income tax exemption within the Law cannot also benefit from 29.01.2004 dated 5084 numbered The Law about Incitement of Investment and Employment, having the same provisions in the same taxation period. But the staff excluding the R&D and back-up staff, and the full-time equivalent back-up staff which exceeds %10 of the fulltime R&D staff can benefit from support incentive factors in the 5084 numbered Law, if they provide necessary requirements.

### **Insurance premium support implementation**

**ARTICLE 11 -** (1) Half of employer's share of insurance premium calculated over the wages of works, earned in scope of article 5, that performed by the personnel whose wage is exempted from income tax in accordance with the provisional article 2 of the 4691 numbered Technology Development Zones Law and R&D or back-up staff working in the technology center enterprises, R&D centers, and R&D and innovation projects and pre-competition cooperation projects which are operated by foundations that established by public institutions and bodies or supported by international funds or operated by TUBITAK and enterprises benefiting from techno entrepreneur capital support, shall be funded by a fund allocated in Ministry of Finance for five years for each employee.

(2) The number of the full-time equivalent back-up staff who shall benefit from Employer's Share Insurance Support cannot exceed number of the total full-time R&D personnel. Decimal numbers are rounded. If the number of back-up staff exceeds %10 of the R&D personnel, employer's share insurance support incentive begins to be applied starting with the back-up staff who has minimum gross salary. If all the gross wages are equal the back-up staff that shall be applied

the employer's share insurance support incentive is determined by the employer.

(3) In order to benefit from the assistance of insurance premium employer share, employers who employ personnel whose wage is exempted from income tax, have to apply written to Provincial Insurance Directorate of Social Security Organization (transferred SSK) with the document they take from the administrator company which has the obligation to control whether the insured virtually works or not, within the context of Law on technology development regions. Central technology enterprises shall take this document from the directorship of TEKMER, public associations and institutions and the innovation and R&D projects supported by funds established by Law shall take from the public associations/institutions or from the fund established by Law, for the R&D and innovation projects conducted by TUBITAK or assisted by international funds from TUBITAK, for the projects of cooperation before competition with R&D centers from the Ministry of Industry and Commerce, for the enterprises that receive techno initiative capital assistance from public administration offices in the scope of central administration.

(4) Insurance premium employer's share is benefited from the date of receiving the document that shows having necessary requirements of Law and related articles of this regulation to qualify for benefiting from this support and is prepared by related establishment, institution or the company that is charged of controlling.

(5) It is obliged for employers to give their monthly premium and service documents regarding the laboring of the insured within the legal time to Provincial Insurance Directorate of Social Security Organization so that they can benefit from the assistance of insurance premium employer's share. In case of such document is not given within the legal time limit the assistance of insurance premium employer's share stated in Law cannot be benefited and all the employer shares are collected from the employers.

(6) In case of the monthly premium and service documents regarding the insured in scope are given within the legal time, the other half of the insurance premium employer's share is paid by the allowance from the budget of Ministry of Finance without looking at whether the half of the insurance premium employer's share is paid or not and share of the insured is paid by the employers.

(7) Total work hours is taken into consideration in accounting the assistance of insurance premium employer's share, proportion of the time actually spared for R&D and innovation activities of the personnel in this scope.

(8) In case of all the works of the personnel in this scope in a month are related to R&D and innovation activities, qualified week holidays and annual paid vacations are assessed in this scope. Qualified week



holidays and annual paid vacations of the personnel who work part-time in R&D and innovation activities are not taken into consideration.

(9) Assistance of insurance premium employer share is applied on the condition that each personnel in scope of meeting the requirements stated by Law, for not to exceed five years starting with the date it is declared to Social Security Organization for the first time. Suspending the work for any reason after assistance has been started to be benefited or quitting and starting the same job after assistance has been started to be benefited or starting to work in another business in the scope of Law does not extend this period.

(10) As envisaged in article 4 of Law numbered 5084 and dated 22.05.2003 and in article 30 of Labor Law numbered 4857 assistance of insurance premium employer's share shall not be benefited on account of the insured who also provide for employers to benefit the assistance of insurance premium employer share in the scope of Law. However, in the case that the necessary requirements are possessed for the personnel excluding the R&D and support personnel and full time equivalent support personnel exceeding %10 of the number of full time R&D personnel, assistance of insurance premium employer share envisaged by the Law numbered 5084 and 4857 can be benefited.

(11) Corporations that benefit from employer's share of insurance premium support after checking by civil servants of Social Security Organization charged of auditing and controlling or as a result of an audit according to article 4, or in case of finding out the documents required from TEKMER administration, manager company, official associations not to have the necessary requirements to benefit employer's share of insurance premium support, the amounts of employer's share of insurance premium that was financed by Ministry of Finance before shall be collected from employers provided in social security Law with late fee and penalty for delay from the date of following month of the payment term's end.

(12) According to the provisional article 2 of Developing Technological Zones Law, insurance premium which is estimated by wages exempted from income tax and the wage of actually working personnel other requirements except from this article of regulation shall not be asked for manager companies under Developing Technological Zones Law are obliged to check if the employers benefit from this support have the necessary requirements or not and in case of not having the requirements they are obliged to inform the related Social Security Local Health authority (assigned Social Security Association) within 10 days.

(13) If employers under first subparagraph have more than one business related to innovation activity respective applications for every business shall be made and evaluated. If business has more than one R&D centre in the form of separate units in the same organizational

structure, respective application shall be made for every R&D centre by registering new business files.

(14) In case of handling over an incomplete innovation project, taking over enterprise shall benefit from employer's share insurance premium support if it has the necessary requirements. But in case of handling over a completed innovation project, taking over business can not benefit from employer's share insurance support.

(15) Insured people that their information was informed to the services and wages supported by labor agreement according to the Law, can benefit employer's share insurance support in case of making a decision to pay wage differential and giving the service documents and additional monthly premium about wage differential related to innovation activity up to end of the month that labor agreement is signed.

(16) Public servants who worked in the projects provided for in the first subparagraph or work in enterprise, people subjected to monthly social security premium support, candidate apprentice, apprentice and students that receive vocational training provided for in No: 3308 Vocational Training Law of 6 June 1986 cannot benefit from insurance premium support.

(17) Fringe benefits of insured people subject to Law shall not be included in main income provided for in monthly premium and the service document regulated under Law. These benefits are informed to Social Security Association with the document of monthly premium and service document that are not within the scope of support.

(18) Employer's share insurance premium support shall not be implemented related to unemployment insurance premium that accrued by monthly premium and service document within the meaning of Law.

(19) Stamp duty shall not be levied for monthly premium and service documents that are regulated within the meaning of Law.

(20) Insurance premium amounts occurred within the framework of provisions above, are informed to the General Directorate of Budget and Financial Control from the date of coming into force of this regulation as at trimester of a calendar year by Social and Security Association.

(...)

## CHAPTER FIVE

### Stamp Duty Exemption

#### Stamp duty exemption implementation

**ARTICLE 13** - (1) All documents drawn up in connection of all types of R&D and innovation activities within the meaning of the Law are exempted from stamp duty.

(2) For the implementation of stamp duty exemption, presenting to enterprises and establishments during transaction such as public notary, public offices, other public body and institutions in transaction of list ratified from public body and institutions giving support and specifying transactions to be done within the context of R&D and innovation activities, public body which recourse authority for R&D centers and pre-competition cooperation projects, TEKMER directorate for technology center enterprises, TUBITAK for R&D and innovation projects supporting by international funds or executing by TUBITAK is enough and another document is not asked for from executive enterprises and establishments.

(3) During transactions, in case of not being able to present the list ratified by any inducement, stamp duty related to documents shall be paid by persons concerned.

(4) In case of using out of purpose of support and incentive factors, violation of clauses or determining the complication of evaluation reports related to projects; stamp duty which is subject of exemption shall be collected from enterprises within the context of article 23. Presenting the list doesn't affect this implementation while implementing the exemption during the transaction.

(5) Enterprises and establishments transacting by implementing stamp duty exemption under the Law are forced to inform the notification form of which the content is determined by Ministry of Finance relating to stamp duty which is not paid or deducted during payment because of exemption in the following one month from the date of transaction to the related tax office depending on corporate and income tax.

(6) Papers arranged related to R&D and innovation activities and subject to exemption and documents which resource exemption implementations shall be protected for 5 years and presented to persons and institutions concerned in case of necessity.

(...)



## CHAPTER NINE

### Different and Final Provisions

#### Monitoring of cash supports

**ARTICLE 24** - (1) Grants and supports derived by executor of R&D and innovation activities from public enterprises and establishments, foundations established pursuant to the Law and international funds shall be monitored in a special account in accordance with the provisions of legislation subject to support.

(2) The amounts in this special account shall not be considered as income for determining of taxable event and as R&D expenditure for determining of R&D deduction amount. Expenditures made from this unsecured funds relating to where it made shall be accounted as depreciable asset or directly as expense.

(3) In case of drawing away from enterprise or transferring to another account except adding to the capital of this special account in 5 years following accounting period which this account is opened, taxes not assessed previously shall be collected from enterprise with tax loss penalty and default interest.

(4) Recycled supports derived by executor of R&D and innovation activities from public enterprises and establishments, foundations established pursuant to the Law and international funds shall not be considered in this scope.

(...)

#### Arrangement authority

**ARTICLE 27** – (1) Presidency of Revenue Administration on taxation and Presidency of Social Security Organization on insurance premium support are authorities to make an arrangement on the execution.

#### Enforcement

**ARTICLE 28** – (1) This Regulation, which is prepared by taking legal opinion of Court of Auditors, comes into force on 01.08.2008.

#### Execution

**ARTICLE 29** – (1) The provisions of this Regulation are jointly executed by Minister of Finance and Minister of Industry and Trade.

# ANNEX 3

Replaced with 5746 numbered General Communiqué<sup>1</sup> of Law  
Serial Numbered 2

## NO. 1 GENERAL COMMUNIQUÉ OF LAW NUMBERED 5746

Official Gazette: 6/8/2008- 26959

### 1. Introduction

Implementation of withholding incentives is the subject of this communiqué. Wages relating to personnel, who work at the technology center enterprises, R&D centers, public institutes, R&D and innovation projects supported by public enterprises and establishments, foundations established pursuant to the Law or projects supported by international funds, pre-competition cooperation projects, enterprises benefit from the capital support provided to technological enterprises, as R&D and back-up personnel mentioned as Law no. 5746, dated 28.02.2008 Concerning the Support of Research and Development Activities is implemented according to this communiqué.

### 2. Legal Regulation

According to the article 3/2 and article 4 of The Support of Research and Development Activities Law which was put into effect from 01.04.2008, Law no. 5746 dated 28.02.2008 are as follows;

*"(2) Income tax stoppage incentives: R&D and back-up personnel with PhD degrees shall be exempted from income tax at a rate of %90 of their income and %80 for the others who work at the technology center enterprises excluding the government officers, R&D centers, innovation and R&D projects supported by public institutes and foundations which are established by Law or international funds or executed by TUBITAK, enterprises which are using technology capital support and the ones who works on pre-competition cooperation projects"*

*"ARTICLE 4 - (1) Findings for meeting required conditions of beneficiaries from support and incentives within the scope of this Law are confirmed as per a two-year period.*

*(2) Under the article 3 of this Law; the number of the full time equivalent of the support personnel who will be entitled to the incentives relating to the income tax withholding and employer's share of insurance premiums, shall not exceed %10 of the total number of the full-time R&D personnel.*

<sup>1</sup> Published on Official Gazette, numbered 27179, dated 24.03.2009.

(3) *During the determination of the minimum number of the R&D personnel, the average number of personnel who are currently employed on full time and actual time basis on quarterly period shall be taken as basis.*

(4) *In case of a breach in the conditions or abusing of incentives and the support components envisaged in this Law, the taxes not been accrued on time shall be considered as tax loss. If the support items other than tax exemptions, they shall be collected according to provisions of Law Numbered 6183 dated 21.07.1953 Concerning the Method of Collection of Public Receivables, together with a delay surcharge.*

(5) *Those enterprises that have become entitled to benefit from deductions, exemptions, support and incentives envisaged in Law numbered 5746, shall not become separately entitled to benefits of the same nature provided in article 89/1-9 of Law numbered 193, article 10/I-(a) of Law numbered 5520 and the relevant provisions in Law numbered 5084, dated 29.1.2004 Concerning the Encouragement of Investments and Employment and Introducing Amendments to Certain Laws.*

(6) *The procedures and principles relating to the implementation and supervision of Law no. 5746 shall be determined in regulation which will be jointly prepared by the Ministry of Finance and the Ministry of Industry and Commerce, through consultation with The Scientific and Technological Research Council of Turkey (TUBITAK)."*

The procedures and principles relating to the implementation and supervision of support and incentives were determined by Regulation of the implementation and supervision to support of Research and Development Activities which was published on 31.07.2008, numbered 26953 on official gazette.

The income tax exemption is applied by deducting from withholding tax return and by canceling over the income tax of the wages of these persons accounted after applying minimum living discount for the %90 of the ones who have doctorate and %80 of the others for the personnel of R&D and back-up in scope of the article 3 of the 5746 numbered Law about the Supporting of the Development Activities and the Temporary article 75 added to the Income Tax Law. The provision: "No provisions against this article shall be applied" takes place during this period.

### **3. Income Tax Withholding Incentives Implementation**

#### **3.1. Principles of Implementation**

According to the Law numbered 5746, its' obligatory to employ at least 50 fulltime equivalent R&D staff at the R&D centers to obtain R&D certificate. For this reason it's required to employ at least 50 fulltime equivalent R&D staff at the R&D Centers to benefit from income tax incentives.



Except the R&D centers, there is no restriction on staff to benefit from Income Tax Withholding Incentives R&D and Innovation projects of technology center companies, enterprises benefiting from technological capital and on pre-competition projects.

While accounting the income tax stoppage incentives, the personnel in this context, whose actual time on R&D and innovation shall be based on the share of total working time. In the case that whole works of the staff having activities under this Law the deserved weekend and annual salaried leave terms will be taken into consideration in the implementation of income tax stoppage. But working times exceeding 8 hours for a day and 45 hours for a week and added working hours are not to be considered in calculating 50 equivalent full-time.

In case of partial employment, considering the rate of the time which the staff allocated to the R&D and Innovation activities the total working time shall be held as R&D and innovation expenditure. Weekly and annual salaried vacations of partly employed personnel are not to take into consideration.

Minimum living discount shall be applied for the tax amounts of the R&D and back-up personnel credited over the wages earned in scope of R&D and innovation activities including overtime in the framework of the principles and rules mentioned in the General Communiqué of Income Tax serial number 265. After crediting the minimum living discount, %90 of the remaining income tax amount for the workers who have PhD, and %80 of remaining income tax amount for the others shall be subjected cancellation by deducting from the accounted tax on basis of each worker.

The number of equivalent full-time back-up personnel who benefit from income tax withholding incentives shall not be more than %10 of total full-time R&D personnel. Fraction come from calculating shall be completed to full. When the number of equivalent full-time back-up personnel more than %10 of total full-time R&D personnel, it is determined starting from the personnel having the lowest gross wage which personnel shall benefit. Wages to equal work are determined by employers within the scope of beneficiaries.

**Example 1:**

At R&D center which belongs to (X) joint-venture corporation has 70 equivalent full-time R&D personnel and 6 full-time equivalent back-up personnel and 9 of R&D personnel with doctorate degree. Mr. (A) is paid 2.000,00 TL as gross wage within the scope of R&D working.

The implementation of exemption for Mr. (A), who is single and with doctorate degree and whose wage payments made by (X) joint-venture corporation within the scope of R&D, as follows:



a	Amount of Gross Wage	2.000,00 TL
b	The Taxable Wage [ a - ( a x %15=) ]*	1.700,00 TL
c	The Amount of Income Tax Calculated over Wages (b x %15=)	255,00 TL
d	The Amount Of Minimum Living Discount Which Shall Be Credited	49,95 TL
e	The Amount Remaining After Accounting Minimum Living Discount (c-d=)	205,05 TL
f	The Amount Which Shall Be Cancelled (e x %90=)	184,55 TL
g	Amount To Be Paid To Tax Office (e – f=)	20,50 TL

\* (SSK Premium Worker Share %14 + Unemployment Insurance worker share %1=%15)

Thus, Mr. (A) working in R&D center whose wage income of 184, 55 TL shall be cancelled from income tax, wage base excluding exemption of 20,50 TL income tax because of minimum living allowance shall not be paid to tax office.

#### Example 2:

One of two R&D projects which have applied for a year has been decided to support by (M) public body and Supporting Decision Document has been designed as of 01.03.2009. Ms (B) who is a researcher and single taking 3.000 TL as gross wage, the exemption related to this amount is calculated as follows:

a	Amount of Gross Wage	3.000,00 TL
b	The Taxable Wage [ a - ( a x %15=) ]	2.550,00 TL
c	The Amount of Income Tax Calculated over Wages (b x %15=)	382,50 TL
d	The Amount Of Minimum Living Discount Which Shall Be Credited	49,95 TL
e	The Amount Remaining After Accounting Minimum Living Discount (c-d=)	332,55 TL
f	The Amount Which Shall Be Cancelled (e x %80=)	266,04 TL
g	Amount To Be Paid To Tax Office (e – f=)	66,51 TL

Thus; Ms (B) working on R&D Project, supported by public body, %80 of the remaining tax amount, 266,04 TL, after crediting minimum living discount from his wage from 01/03/2009 shall be subjected to cancellation and the 66,51 TL, income tax amount remaining out of the exemption shall be paid to the tax office.

Calculation regarding the cancellation amount shall be demonstrated in the Annex:1 "Communiqué Related to the Income Tax Stoppage in scope of R&D" table by calculating for each of the personnel, having PhD or not, separately and these notifications shall

be submitted to the concerning tax office in the annex of withholding tax return.

Taxpayers shall demonstrate the sum of "Amount that shall be subjected to cancellation" taking place in the last column of Annex:1 "Communiqué Related to the Income Tax Stoppage in scope of R&D" in the (18/c) numbered line, cancelled amount of the stoppage over the wage payments in accordance with the Law numbered 5746, of the "Basis and Tax Notification" part of Table 1. This amount shall be deducted from sum of income tax deduction demonstrated in line numbered (17/b) and the amount of remaining income tax after cancellation shall be demonstrated in line numbered (19).

### 3.2. Initial of the Application

Implementation of income tax withholding incentive has been put into effect from 01.04.2008. It shall be benefited within the framework procedures and rules of "Implementation Regulation and Auditing for the Support of Research and Development Activities" published under that Law from incentive implementation.

Therefore; under the provisions of the mentioned regulation;

- At R&D centers, when R&D certificate is drawn ;
- on pre-competition cooperation projects, when project contract come into force;
- At technology center enterprises, when R&D and innovation project is accepted;
- When business plan is accepted by public administration capital support provided to technological enterprises;
- On R&D and innovation projects supported by public enterprises and establishments, foundations established pursuant by Law or projects that supported by international funds or executed by TUBITAK when support decision document is written or project contract come into force;

shall be benefited from income tax incentives from the date mentioned above.

On the other hand; in the R&D and innovation projects starting before from effective date of Law no 5746;

- In the case of putting into effect before 01.04.2008 the support decision document or the project contract's for the R&D and innovation projects supported by public enterprises and establishments, foundations established pursuant by Law or projects that supported by international funds or executed by TUBITAK, from 01.04.2008;

- On R&D and innovation projects executed at R&D centers, when R&D certificate is drawn;

shall be benefited from incentive provisions for the income tax withholding from that date.



## **4. Payments except from Incentives Implementation and Circumstances Ended Incentives**

### **4.1. Payments except from Incentives Implementation**

According to Income Tax Law numbered 5746, while personnel who work at Technology center enterprises excluding the public body personnel, R&D centers, innovation and R&D projects supported by public institutes and foundations which are established by Law or international funds or executed by TUBITAK, enterprises which are using technology capital support and the ones who works on pre-competition cooperation projects shall benefit from income tax incentives, those shall not benefit from income tax incentives in some circumstances mentioned beneath:

- Wages payments excluding within the scope of R&D and innovation,
- Salaries made to public personnel who serve at innovation and R&D projects and/or work enterprises,
- Wages payments encountered the deserved weekend leave, annual salaried leave and casual leave of partial time personnel working in a month, within the scope of R&D and innovation activities.

### **4.2. Circumstances Ended Incentives**

Income Tax Incentives shall not be applied in these circumstances mentioned as follows:

- According to the Law numbered 5746, the condition of being center of R&D is required to employ at least 50 fulltime equivalent R&D personnel for period of three months including advance tax returns. Breaching conditions that number of personnel which mentioned as the Law as at period of advance tax returns,
  - At Project R&D and innovation, in the case of project finished by any reasons or support ended, the activity of R&D and innovation is assumed as finished as of that time,
  - Project executed by enterprises of KOSGEB technology centers finished by any reasons or support ended, the activity of R&D and innovation is assumed as finished as of that time,
  - Enterprises in pre-competition cooperation projects in the case of project finished by any reasons from that time, in the case of project contract cancelled as of the date of audit,
- shall not be exempted from Income Tax Incentives.

## 5. Other Subjects

In the case of transferring R&D and innovation project, which is not completed, enterprise taking over the R&D and innovation project shall benefit from income tax incentives in the framework of the third part of this regulation.

For the personnel benefiting from Income Tax Incentives in accordance with the scope of Law numbered 5746, employer shall not separately benefit from provision of Law numbered 5084 at the same taxation period. However, except from the R&D and innovation personnel, back-up personnel over than %10 full-time R&D personnel, if they have necessary qualifications, they can benefit from component of supports and incentives.

Between the dates, Law numbered 5746 came into force and launching this regulation, although ones who fulfill all conditions in the Law and provisions of regulation relating to the Law, ones haven't benefited from Income Tax Incentives, if they demand to, the procedure of correction will be done according to correction provisions in Law numbered 213, Tax Procedure Law.

Ones benefiting from Income Tax Incentives as inequitable, in spite of not having necessary qualifications, amount of inequitable incentives shall be collected according to the provisions of Law numbered 6183 Concerning the Method of Collection of Public Receivables, together with a delay surcharge.

The provisions taking place in the Temporary article 5 added to the Income Tax Law related to the second paragraph of the article 3 of the 5746 numbered Law about the Supporting of the Research and Development Activities and 5338 numbered Law about Amendments in Several Laws shall be applied between 01/03/2009 and 31/12/2013.

This is to summon.

## (ANNEX 1) FRONT PAGE

### INFORMATION ABOUT SALARIED EMPLOYED

#### With Doctorate (Minimum Salaried)

Line	Name Surname	T.R. ID Number	Insurance Number	Commencement Date	Gross Wages	
					Wages Excluding R&D and Innovation Activities	Working Wages About the Scope of R&D and Innovation
1						
2						
				TOTAL		

#### With Doctorate (Other Salaried)

Line	Name Surname	T.R. ID Number	Insurance Number	Commencement Date	Gross Wages	
					Working Wages Excluding R&D and Innovation Activities	Working Wages About the Scope of R&D and Innovation
1						
2						
				TOTAL		

#### Others (Minimum Salaried)

Line	Name Surname	T.R. ID Number	Insurance Number	Commencement Date	Gross Wages	
					Working Wages Excluding R&D and Innovation Activities	Working Wages About the Scope of R&D and Innovation
1						
2						
				TOTAL		

#### Others (Other Salaried)

Line	Name Surname	T.R. ID Number	Insurance Number	Commencement Date	Gross Wages	
					Working Wages Excluding R&D and Innovation Activities	Working Wages About the Scope of R&D and Innovation
1						
2						
				TOTAL		



## (Annex 2) BACK PAGE

# NOTIFICATION FOR THE EXEMPTION OF WAGE PAYMENTS AS PART OF R&D AND INNOVATION ACTIVITIES

(Replaced with 5746 numbered General Communiqué<sup>2</sup> of Law Serial Numbered 2)

### Information of Taxpayer

Taxpayer's*	
T.R. ID Number	
Tax Office	
Surname (Title)	
Name	

Period of Notification	
Tax Office Given the Notification	

Date

Signature

.../.../200...

### Information for Workplace within the scope of Notification

Taxpayer's Province	District	Tax Office	Total Number of R&D Staff	SSK Register Number of workplace	The Address of workplace

### Information for Cancellation Amount

	Line	TC ID Number of the Worker (a)	Starting date of employment (b)	Total Gross Wage as Part of R&D and Innovation (c)	Working in scope of R&D and Innovation Activity		Accounted Minimum Living Deduction (**) (f)	Tax Amount After Crediting Minimum Living Discount (g) = (e) - (f)	Cancellation Rate (h)	Cancelled Amount (***) (i) = (g) x (h)
					Tax assessment of wage (d)	Amount of Accounted Tax (e)				
With PhD Degrees	1								% 90	
	2									
	3									
	4									
	5									
Others	1								% 80	
	2									
	3									
	4									
	5									
TOTAL										

\* TC ID Number shall be used for real persons.

\*\* Amounts of minimum living discounts calculated for each worker in scope of incentive in the Minimum Living Discount Payroll prepared in accordance with General Communiqué of Income Tax Law serial number 265 shall be demonstrated in this line.

\*\*\* The results find as the multiplying of cancellation rate with the remaining amount after accounting of the minimum living discount. The sum of these lines shall be transferred to the part of "Cancelled Amount of the Stoppage over the Wage Payments in Accordance with the Law Numbered 5746"

<sup>2</sup> Published on Official Gazette, numbered 27179, dated 24.03.2009.

## THE RELATED INSTITUTIONS AND CONTACT INFORMATION OF ORGANIZATIONS

Prime Ministry	<a href="http://www.basbakanlik.gov.tr">www.basbakanlik.gov.tr</a>
Ministry of Finance	<a href="http://www.maliye.gov.tr">www.maliye.gov.tr</a>
Revenue Administration	<a href="http://www.gib.gov.tr">www.gib.gov.tr</a>
Ministry of Industry and Trade	<a href="http://www.sanayi.gov.tr">www.sanayi.gov.tr</a>
Undersecretariat of Treasury	<a href="http://www.hazine.gov.tr">www.hazine.gov.tr</a>
The Scientific and Technological Research Council of Turkey (TUBITAK)	<a href="http://www.tubitak.gov.tr">www.tubitak.gov.tr</a>
Investment Support and Promotion Agency	<a href="http://www.invest.gov.tr">www.invest.gov.tr</a>





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