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R&D Incentives in 100 Questions- 2010

Introduction

Globalization, cooperation, common economy, common defense... Leading countries of the world and the countries which want to share and/or compete on these issues should be obviously engaged in innovative, creative and useful studies in parallel with the technological developments. Today, the countries willing to increase competitive power in international markets are leading countries in terms of innovation capacity and information creation. Countries aiming at integration into the world economy see the innovation as a key for the long term competitive power. And R&D activities lie at the bottom of innovation.

According to the international statistics, countries with high volume of R&D activities and allocating the greatest share for R&D activities from their budget and GDP are much more developed than other countries in terms of wealth and competitive power.

In recent years, many regulations have been introduced for increasing the international competitive power of our country in parallel with our economic development target. The regulations introduced aim at encouraging Research and Development (R&D) and human resource investments (investments in researchers and scientists) with the ultimate aim of reinforcing our technological development level.

First one of these regulations is the Law no 4691 on Technology Development Regions which became effective in 2001. Furthermore, following the R&D Reduction practice added to the Corporate Tax Code in 2004, Law no 5746 on Supporting Research and Development Activities was accepted on 28.02.2008 and became effective on 01.04.2008; with this Law, it is aimed to provide many reductions, exemptions, supports and incentives to the taxpayers who are performing or will be performing R&D activities.

Our study named "R&D Incentives in 100 Questions- 2010" has been prepared in order to provide general information on the incentive elements included under these regulations and to provide answers to possible questions to arise within the framework of basic principles.

Best regards.
Ernst & Young Turkey

The study named "R&D Incentives in 100 Questions- 2010" was prepared by Ernst & Young professionals in order to give general information on R&D incentives within the scope of legislation in force as of 30 September 2010 by taking into account the related provisions of Law no 4691 on Technology Development Regions, Corporate Tax Law no 5520 and Law no 5746 on Supporting Research and Development Activities. Ernst & Young and/or Kuzey Yeminli Mali Müşavirlik A.Ş. cannot be held responsible for the information and explanations included in this study. Since our tax legislation is amended frequently and can be interpreted with different views, we recommend ensuring professional assistance from the experts before taking action in any issue.

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I. Legislation on R&D incentives

1. Which legislation regulates R&D incentives?

Various incentives and supports are provided with regard to certain liabilities of the taxpayers who are engaged in research and development (R&D) activities with the following regulations:

- Law no 4691 on Technology Development Regions,
- Corporate Tax Law no 5520
- Law no 5746 on Supporting Research and Development Activities

2. What is the definition for “R&D, innovation and software activities”?

These concepts are defined differently in each Law, but the most comprehensive definitions are presented below.

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.

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.

Software: All of the documents and services which contain the series of commands or the programs and their code lists, and their operating instructions that enable a computer, communication device or any other device that is based on information technologies to operate and to do the required operations according to the data that is given to it; and all the delivery means of these products and services such as licensing, leasing and transferring with all the rights.

II. R&D incentives within the scope of Law no 4691 on Technology Development Regions

3. What is the aim of the Law no 4691?

The aim of the related Law, through the cooperation of universities, research institutions and the production sector,

- is to create technological information,
- to introduce innovations in products and production methods,
- to raise the quality or standard of products,
- to increase productivity,
- to decrease the costs of production,
- to commercialize technological knowledge,
- to support production and entrepreneurship,
- to enable small and medium-sized enterprises to adapt to new and advanced technologies,

- to create opportunities of investment in technology intensive areas by taking into account the decisions of Science and Technology Higher Council,
- to create job opportunities for researchers and qualified persons,
- to help the transfer of technology, and
- to provide the technological infrastructure which will quicken the entry of the foreign capital which, in turn, will provide high/advanced technology

in order to give the industry of the nation a structure fit for international competition and exportation.

4. What is the scope of the Law no 4691?

The mentioned Law covers the foundation of the Technology Development Regions, and their manner of operation, administration and control. The Law also covers the task, competence and responsibilities of the persons and institutions involved.

5. What are the exemptions and supports provided with the Law no 4691?

Taxpayers operating within the scope of Law no 4691 are granted with corporate tax, income tax, stamp duty and value added tax exemption and insurance premium support.

6. What is the enforcement date and last execution date of the Law?

This Law became effective on 06.07.2001, and the tax incentives granted to the taxpayers with this Law are valid until 31.12.2013. On the other hand, in the Draft Law dated 21.04.2010 on Amendment of the Law on Technology Development Regions which was submitted to the Turkish Grand National Assembly on 06.05.2010, last execution date for the incentives granted within the scope of the Law was stated as 31.12.2023.

7. What do the concepts “Entrepreneur”, “Founding committee” and “Managing company” refer to?

According to the Law no 4691,

Entrepreneur: The real or juridical persons who want to benefit or who are benefiting from the service and opportunities of the Region,

Founding Committee: The Committee which is formed of the representatives of at least one university or higher technological institute or public R&D centre or institute and the representatives of other institutions that are in the Region or in the province where the Region is situated,

Managing Company: The company which is founded in accordance with this Law and as a joint stock company and which is responsible for the administration and management of the Region.

8. What is technology development region?

According to the Law no 4691 on Technology Development Regions, technology development region refers to a site which has an academic, economic and social structure or a technopark which has these characteristics, where companies using high/advanced technology or companies that aim at new technologies produce/develop technology or

software by benefiting from the opportunities of a particular university or higher technology institute or R&D centre or institute, where the companies work to change a technological invention into a commercial product, method or service, thus contributing to the development of the region, which is in the premises or close to the same university, higher technological institute or the R&D centre or institute.

9. What is the scope of income and corporate tax incentive?

The income derived by the taxpayers from their production activities conducted based on R&D and software in technology development regions is exempt from income and corporate tax.

The income derived by the taxpayers operating within the region from their activities conducted out of the region cannot benefit from the exemption, even if it is derived from software and R&D activities.

While determining whether a certain activity is considered within the scope of exemption or not, the definitions of “R&D” and “Software” given under the Law will be taken into account.

10. Can ordinary and extraordinary operational income be considered within the scope of exemption?

The income to be derived by the taxpayers operating within the region within the scope of their ordinary commercial transactions rather than their main field of activities and their extraordinary income cannot be considered within the scope of exemption. Accordingly, interest income resulting from the valuation of cash, exchange rate differences resulting from the foreign currency assets, and the income resulting from the disposal of economic assets are not considered within the scope of exemption. Furthermore, income derived from installation, testing, repair, training, technical service and advisory services realized out of the region within the scope of R&D and software activities cannot be considered within the scope of exemption.

11. Can taxpayers benefit from the exemption for the projects they commenced before they started operation within technology development region?

The income derived by the taxpayers from their projects based on software and R&D they completed as of the date when they start operation in the region cannot be considered within the scope of the exemption.

On the other hand, the income derived by taxpayers from their projects based on software and R&D which they have commenced before they start operation in the region but which is still continued after they have started operation in the region can benefit from the exemption only for the income related to the part of the project realized within the region.

12. How will the common general expenses and depreciations be distributed?

If the activities covered by the exemption and the activities not considered within the scope of exemption are conducted together, common general expenses will have to be distributed based on the proportion of the related activities to the costs incurred within the current year.

Depreciation for the equipments, machines and transportation vehicles used by the taxpayer in common for their covered and non-covered activities will be distributed based on the number of days when these are used for each activity.

13. How to determine the amount of income to benefit from the corporate tax exemption?

The exemption granted with the Law on Technology Development Regions is an income exemption. Therefore, the exemption amount will be calculated by deducting the project cost from the revenue derived from the projects considered within the scope of exemption.

14. Can the income corresponding to marketing activities benefit from the corporate tax exemption?

If the companies engaged in R&D and software activities in technology development regions market the products they find as a result of these activities through mass production, the income derived can benefit from the exemption only for the portion corresponding to the intangible rights such as license and patent. Therefore, all the elements included within the costs sales price of the products/services must be differentiated based on transfer pricing principles and the exemption amount must be determined by this way. The remaining portion of the income resulting from the production and marketing organization cannot be considered within the scope of exemption.

15. What are the other activities covered by the exemption?

The income derived from activities such as adoption, installation, development, revision and additional software which are not bound to intangible rights such as license and patent will be considered within the scope of exemption.

16. How will the bookkeeping activities be realized?

In terms of determination of the income to be considered within the scope of exemption, the accounting entries must be kept in order to ensure that income of the taxpayers related to the production activities which are covered by the exemption and the income of these taxpayers derived from their non-covered activities can easily be differentiated.

In terms of determination of the amount of the income to be exempted and the income or corporate tax base, revenues, costs and expense items related to the covered and non-covered activities must be followed separately.

17. Are the branches operating in the regions obliged to keep their books and print their documents individually?

For the branches located out of the central region, it is not obligatory to keep books and print documents separately. On the other hand, for the application of the exemption, the recording system must be formed in a way to ensure that activities of the headquarters and branches are followed separately and the income and expenses to be assigned to the headquarters and branches are not mixed. To this end, books can be kept and documents can be printed separately.

18. Under which line of the declaration the exempted income will be shown?

The income covered by the exemption will be shown under the line “Income Derived in Technology Development Regions” included under the section “Exemptions to be Deducted Even if There is Loss” of the corporate tax return.

19. Is it possible to deduct project losses from the income derived from other activities?

If the projects covered by the exemption are completed with loss, these losses cannot be deducted from the income derived from other activities. The related amount of losses must be considered as additional item in the determination of the corporate income.

20. Is it possible to apply the exemption as per advance tax periods?

The explanations made related to the exemption practice based on the annual taxation period are also valid in terms of the determination of income to be calculated as per advance tax periods.

21. How will the supports and donations granted externally for the projects conducted within the region be regarded in the determination of the income?

The supports granted to the taxpayers operating in the region as capital aid with condition of repayment are in the nature of debt, therefore they are not taken into account in the determination of the commercial income. On the other hand, aid amounts given to the taxpayers operating in the region as donation by organizations like TÜBİTAK related to the R&D projects covered within the scope of exemption and grants or donations in this nature given by other organizations will be included within the corporate income and benefit from the exemption.

22. Can managing companies benefit from the exemption?

The income derived by managing companies within the scope of the Law no 4691 is exempt from the corporate tax. Exempted income of managing companies is derived from the activities performed for the establishment, management and operation of the region within the scope of the Law no 4691.

23. What is the scope of the income tax incentive for the wages?

Wages of the researchers, software developers and R&D personnel employed within the region are exempt from the income tax.

Wages paid to these personnel for their tasks not related to the research, software and R&D activities cannot be considered within the scope of exemption.

Wage payments made to the other personnel employed in the region, other than researchers, software developers and R&D personnel, are not exempted from the income tax. On the other hand, in the Draft Law dated 21.04.2010 on Amendment of the Law on Technology Development Regions, it is stipulated that directors, technical staff, laboratory assistants, secretaries, workers and other related support personnel who are engaged in R&D activities or directly related to such activities can benefit from this exemption.

24. Can income tax exemption be applied for the wages earned by the personnel from their studies performed out of the region?

If the personnel are employed for the projects realized both within and out of the region, the portion of wages corresponding to the period of working time only within the region will be exempted from the income tax. The wages earned related to the period of work performed out of the region are subject to income tax. On the other hand, in the Draft Law dated 21.04.2010 on Amendment of the Law on Technology Development Regions, it is stipulated that with regard to the tasks of the R&D personnel, employed within the project, performed within the region, a certain portion of their wages corresponding to the period of work performed out of the region can be exempted from the income tax with the approval of the managing company.

For marketing the projects developed within the region, the working time spent out of the region cannot be included within the scope of exemption.

25. Can exemption be applied for the weekend holiday, annual paid leave and additional payments?

Wages earned by the researchers, software developers and R&D personnel employed within the region within their legal leave periods can be also exempted from the income tax.

The payments made by the taxpayers to these personnel under various names and which can be considered as wage (premium, bonus etc) will be considered within the scope of exemption.

26. What is the scope of the stamp duty incentive?

Wages of the researchers, software developers and R&D personnel employed within the region are exempt from stamp duty, but exemption is not stipulated for the other papers which are subject to stamp duty.

On the other hand, Managing Company has all tax, duty and fee liabilities in the transactions related to the application of the Law.

27. Does the managing company have responsibility for the application of the exemption on wages?

Managing company controls whether the people benefitting from the wage income exemption are actually working within the region or not. If it is detected that exemption is applied for those not actually working in the region, managing company will be also responsible for the tax loss and related penalties.

28. What are the conditions for benefitting from the insurance premium support?

As long as the income tax exemption is applied for the personnel who are actually working and whose wage is exempt from the income tax within the scope of the Law no 4691, half of the insurance premium employer's share calculated over the exempted wage amounts will be paid from the allowance to be contributed to the budget of the Ministry of Finance for five years for each employee.

29. What is the scope of the value added tax exemption?

According to the temporary article 20 of the VAT Law, the deliveries and services in the form of system management, data management, work practices, sectoral, internet, mobile and military command and control application software by the entrepreneurs operating in the technology development regions according to Law No. 4691, which are exclusively produced in this region within the period in which the income of taxpayers is exempt from income or corporate taxes, are exempt from the value added tax.

30. Are the VAT amounts incurred related to the exemption procedures to be adjusted?

According to article 30/a of the VAT Code, taxpayers cannot deduct the value added taxes incurred for the exempted transactions from the value added tax amount calculated over the taxable transactions, as the exemption is within the scope of partial exemption in terms of VAT Code. However, the value added tax amount which is not deducted can be considered as expense or cost item depending on the nature of the transaction.

31. What is the scope of declaration liability according to the provisions of the Law?

Under article 37 of the Technology Development Regions Application Regulation promulgated in the Official Gazette dated 19.06.2002, it is explained that the managing company must apply to the Ministry of Finance following the announcement of its juridical personality at the Trade Register Gazette by completing its establishment; in order to render their incomes exempt from the income and corporations tax for five years beginning from the beginning of operations, taxpayers working in software engineering and R&D in the Region must apply to the Ministry of Finance, documentation proving the employment of the taxpayers in the Region and their fields of occupation is attached to the application for informative purposes; the associated entrepreneurs must provide the Ministry of Finance with a list approved by the Managing company, of all the researchers, software engineers and R&D personnel they employ, with descriptions of their functions, attributes and duration of their employment at the R&D projects, on a monthly basis.

In the mentioned regulation, the authority to be applied to and to be notified is specified as Ministry of Finance, but these declarations will be submitted to the tax offices that the taxpayers operating in the region are affiliated to in terms of corporate tax. Furthermore, a copy of the document must be submitted to the tax office that they are affiliated to in terms of withholding tax return. Tax offices will not issue any document for the application of exemption to the taxpayers.

III. R&D Reduction within the scope of Corporate Tax Law no 5520

32. What is the aim of the regulation introduced with the Law no 5520 with regard to R&D activities?

With the related provision of the Law, it is aimed that the sources emerging with the decrease of corporate tax burden, which is ensured as the enterprises are allowed to deduct a certain percentage of their R&D expenditures from their corporate income, are directed to R&D activities.

33. How is R&D reduction practice performed?

100% of the research and development expenses of companies incurred exclusively for the search of new technology and information is deducted as “R&D reduction” from the corporate tax base.

34. Under which line of the declaration the R&D reduction will be shown?

This reduction is shown under the line “R&D Reduction” in the section “Exemptions and Deductions to be Deducted If there is Profit” of the corporate tax return.

35. Can R&D deduction be carried forward to the following periods when there is not sufficient profit?

R&D reduction which could not be deducted due to insufficient profit in the related period is carried forward to the following fiscal periods. As there is no time limitation for this transfer, deduction can be realized during the first following period when there is sufficient profit. However, the carry-forward amount cannot be increased in any way (through revaluation or at the rate of PPI).

36. Is it possible to deduct the R&D Reduction in following periods although it was not deducted in the related period even if the corporate profit was sufficient?

R&D reduction amounts calculated can be considered as deduction only in the determination of the corporate income of the related period when the expenses are incurred. R&D reduction amounts not deducted although there was sufficient corporate income cannot be deducted in the following years.

37. Is it possible to apply the reduction as per advance tax periods?

R&D reduction calculated over the expenses incurred as of the advance tax periods of the taxpayer can be deducted from the income in the tax return of the related advance tax period.

38. Which activities are accepted as R&D activities?

- Obtaining new technical information for the development of science and technology with the aim of clarifying the ambiguities in scientific and technological fields,
- Developing new products, materials, supplies, devices, equipments, procedures and systems through new methods and producing new techniques and prototypes through design and drawing studies,
- Software activities based on new and original designs,
- Researching and developing new productions, methods, processes and procedures,
- Researching new techniques/technologies decreasing the cost of a product while increasing its quality, standard or performance,
- Measuring the usability of the products obtained during the phase of final product formation and testing them within and out of the enterprise and making necessary adjustments.

39. Which activities are NOT accepted as R&D activities?

- Market research or sales promotion,
- Quality control,
- Researches on social sciences,
- Exploration and drilling activities for petroleum, natural gas and mine reserves,
- Use of already-invented or already-developed processes,
- Formal changes (aesthetic or visual changes such as form, color and decoration),
- Routine activities not leading to scientific or technological innovation (routine adjustments of the prototypes produced such as programs and software used for routine data collection and routine analyses),
- Research expenses regarding incorporation and organization during the incorporation process,
- Protection of the intellectual rights of the product developed at the end of the project,
- Copying the prototypes and distributing them as samples, and consumer tests with advertising purposes,
- Planning future commercial production of the output obtained at the end of the R&D activities and expenses related to the mass production process.

40. Where is the application authority for benefitting from the R&D reduction?

With the application to be made to the General Directorate of the Revenue Administration in line with the provisions of the Corporate Tax General communiqué series no 1, taxpayers can start to benefit from corporate tax reduction.

41. Which documents are required during the application?

The report to be issued related to the R&D activities in line with the format specified in attachment no 1 of the Corporate Tax General Communiqué series no 1 must be submitted in two copies to the General Directorate of the Revenue Administration by hand or by mail. This report must be submitted until the submission date of the advance tax return pertaining to the period when the R&D reduction will be started to be applied.

42. What are the further steps following the application?

After the Ministry evaluates the report in general, they will send it to the Scientific and Technological Research Council of Turkey (TÜBİTAK) and/or to universities and research institutions for determining whether the project is actually conducted for new information and technology research. A letter will be sent to the taxpayer regarding payment of 3 per thousand of the project budget to the institution making this inspection, but this amount will not exceed TL 15.000.

The institution to conduct the inspection on R&D project may have this inspection performed within a short period through other institutions to be assigned or its own experts by requesting additional information or documents, if needed. A copy of the evaluation report issued according to the format specified under attachment 2 of the mentioned communiqué will be sent to the General Directorate of Revenue Administration and a copy of the report will be sent to the applicant.

43. Can R&D expenses incurred before the application date be considered within the scope of R&D reduction?

R&D reduction can be applied for R&D expenses incurred as of the beginning of the advance taxation period including the application date in case it is found appropriate and application is made during any phase of the project when the studies have been started and expenses have been incurred. Applications made after the end of the R&D project are not taken into account.

44. Is it possible to benefit from R&D reduction without applying to the General Directorate of Revenue Administration?

Revaluation is not required for the projects already been evaluated by TÜBİTAK within the framework of the legislation regarding R&D support applied based on the decisions of Money-Loan and Coordination Council. Accordingly, taxpayers having R&D projects already approved by TÜBİTAK for support do not need to apply to the General Directorate of Revenue Administration for the evaluation of these projects.

45. Can R&D Reduction be applied for the projects for which application has been made for TÜBİTAK support but the approval process has not been completed yet?

R&D reduction can be applied for the projects for which application has been made for TÜBİTAK support but the approval process has not been completed yet.

46. Is re-application required for the R&D projects whose support period has expired?

It is not required to make a separate application to the General Directorate of Revenue Administration for the application of R&D reduction for expenses to be incurred after the support period on the condition that the nature of the approved projects is not changed.

47. What are the outcomes if the projects are not accepted as R&D projects?

Tax loss penalty and delay interest will be calculated for the amounts deducted in an unfair way due to the projects which are not accepted as R&D projects by TÜBİTAK and /or universities or other specialized institutions.

48. How to follow the R&D expenses under corporate entries?

Companies have to capitalize the whole research and development expenses incurred related to intangible rights within the fiscal period. However, expenses which are not related to intangible rights and are not required to be capitalized within the scope of Tax Procedures Law can be recorded directly as expense.

If an intangible right emerges at the end of the project, this amount which must be capitalized will be redeemed through depreciation for 5 years. In depreciation practice, taxpayers may apply the “accelerated depreciation” method.

However, if the project is cancelled or it becomes impossible to complete the project in the following years, the company can directly record as expense the expenses incurred within the scope of R&D activities and capitalized in previous years.

49. How are the grants and donations received from other companies treated with regard to R&D projects?

Supports provided as capital aid with repayment condition are not taken into account in the determination of the commercial income as they are in the nature of debt.

On the other hand, aid amounts provided as donation and all support amounts in this nature to be obtained from other institutions will be included in the profit as elements of the commercial income. R&D expenses compensated by this way will be treated under the account R&D reduction. In summary, donations will be recorded as income, and expenses paid through these donations will be included in calculation of the R&D reduction.

50. When does R&D project end?

R&D activities end when the testing process is finished and first production is conducted. R&D project is deemed finished as soon as the product obtained at the end of the project becomes marketable. Expenses incurred after this date will not be considered within the scope of R&D expenses. However, studies to be performed for the development of the product obtained at the end of a completed project will be considered within the scope of a new R&D project.

51. How is the application in case of an R&D project which is not completed yet is sold to another institution?

R&D expenses already capitalized will be considered as cost item in the determination of the income.

In R&D reduction practice, if a R&D project which is not completed yet is sold to another institution, R&D reduction can be applied over the additional expenses incurred by the institution taken over the project. However, reduction cannot be applied for R&D expenses incurred by the transferor institution.

If a completed R&D project is transferred to another institution, the institution taking over the R&D project cannot benefit from the R&D reduction.

52. Is it mandatory to establish a R&D department for benefitting from the R&D reduction?

Enterprises have to establish a separate R&D department in order to deduct the R&D expenses from the corporate income within the scope of article 10 of the Corporate Tax Code.

53. Is it possible to benefit from the R&D reduction, if a common R&D department is used with the other institutions?

R&D activities must be performed within the enterprise.

Nevertheless, R&D activities performed by the common R&D department used jointly with the other enterprises although it is owned by an enterprise will be deemed to have been conducted within the enterprise on the condition that actual use is detected and common expenses are distributed accordingly. R&D activities performed within universities and R&D centers owned by public institutions and organization will also be considered within the same scope on the condition that they are organized by the enterprise.

If professional and technical support is received from the domestic and foreign technical personnel based on the project during the performance of R&D activities or some analyses are outsourced, the payments made related to these activities will be considered as R&D expenses.

54. Can R&D reduction be benefitted from for R&D expenses incurred in technological development regions and free zones?

In terms of R&D reduction practice, the place of R&D department is not important. Expenses incurred in R&D departments established either in the place where the headquarters is located or in another place, or established within technology development regions are considered within the scope of R&D reduction provided that this place is the operational area of the company.

On the other hand, if a profit is obtained as a result of R&D activities performed in technology development regions or free zones and if the exemption specified under temporary article 2 of the Law no 4691 on Technology Development Regions or under temporary article 3 of Free Zones Law no 3218 is benefitted from for this profit, the expenses incurred for the acquisition of such income will not be considered within the scope of R&D reduction.

However, if the R&D activities performed within technology development regions or free zones are related to the own activity field of the company and are not subject to the exemptions included under the mentioned Laws, then the related expenditures will be considered within the scope of R&D reduction.

55. Which expenses are considered within the scope of R&D activities?

Expenses related to raw materials and supplies, personnel expenses, general expenses, external benefits and services, tax, duty and fees, depreciation and depletion allowance and finance expenses.

56. What are raw materials and supplies expenses?

Expenses incurred for direct raw materials, auxiliary materials, operational materials, intermediate products and spare parts, and expenses incurred for the acquisition of tangible and intangible assets that are not subject to depreciation. Costs incurred related to the portion of raw material and other material inventories actually used during R&D activities are within the scope of R&D expenses. Therefore, cost amounts related to the raw materials and other materials not used for R&D activities yet must be followed under the account inventories and those sold or disposed must be deducted from the account inventories.

57. What are the personnel expenses?

Wages accrued for the personnel employed for the performance of R&D activities and having the necessary qualities for that.

Wages paid for the unqualified employees working in the R&D department and the personnel working in the R&D department only for the certain hours of the day although they are not assigned to this department will not be considered within this scope.

58. What are the general expenses?

Other expenses incurred for ensuring the maintenance of R&D activities such as repair and maintenance expenses of the machines and equipments used during R&D activities and electricity, water, gas, repair-maintenance, communication and transportation expenses incurred for the performance of R&D activities. Insurance expenses, rental fees paid for the facility used for the performance of R&D activities and costs related to the books, journals and scientific publications are also considered within this scope.

These expenses will be considered as R&D expense only when it is detected and proved that they are actually used in the R&D department. Shares to be calculated over general operational expenses based on various criteria will not be considered within this scope.

59. What are the external benefits and services?

Payments made for professional or technical support of domestic or foreign third parties to the enterprise performing the R&D activities, apart from usual maintenance and repair expenses, or payments made for the analyses outsourced to such parties, and other payments in similar nature.

60. What are tax, duty and fees?

Taxes, duties and fees in kind considered as expense in the determination of corporate tax base which are directly related to R&D activities. Taxes paid for the immovable properties in which the R&D activities are directly performed, customs duties of the imported goods to be used within R&D project and other similar taxes, duties and fees are within this scope.

61. What are depreciation expenses?

Depreciation and depletion allowances set aside for tangible and intangible fixed assets which are directly used in R&D activities such as building, machinery and equipments, devices, vehicles, furnishing and fixtures. On the other hand, the economic asset must be used exclusively and continuously for R&D activities. Depreciations related to the economic assets which are also used for other activities out of the R&D department are not considered within the scope of R&D expenses.

62. What are finance expenses?

Finance expenses related to the loans obtained from domestic, foreign and international enterprises within the scope of the R&D project.

IV. R&D incentives within the scope of Law no 5746 on Supporting Research and Development Activities

63. What is the purpose of the Law no 5746?

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.

64. What is the scope of the Law no 5746?

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 techno-enterprise capital.

65. What are R&D incentive elements?

- a) R&D reduction
- b) Income tax withholding incentive
- c) Insurance premium support
- d) Stamp duty exemption
- e) Techno-enterprise capital support

66. What is the enforcement date and last execution date of the Law?

The Law became effective on 01.04.2008 to be in force until 31.12.2023.

67. When to start benefitting from the support and incentive elements introduced with the Law?

- In technological center enterprises, these elements will be benefitted from as of the date when the R&D and innovation project is approved and during the term of the project,
- In R&D centers, as of the date when the R&D Center Certificate is obtained,
- For the R&D and innovation projects supported by public bodies and foundations established by the law, as of the date when the support decision letter is issued and during the term of the project,
- In R&D projects managed by TÜBİTAK, as of the date when the project contract becomes into force and during the term of the project,
- In projects supported financially by mutual or multi-party international R&D cooperation funds to which Turkey is also a party through contracts, as of the date when TÜBİTAK approval letter is issued and during the term of the project.

68. What is R&D center?

The units, having the capacity and knowledge of R&D, of legal equity companies, narrow taxpayer 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.

69. How is number of full time equivalent personnel calculated?

Number of full time equivalent R&D personnel employed in R&D center is calculated through dividing the total working period as per quarters according to the working periods of the personnel actually employed by the quarterly full time working period of a person. Working time over 8 hours a day and 45 hours a week and additional working periods are not taken into account.

70. Who are the R&D staffs?

Researchers and technicians directly in charge of R& D activities are treated as R&D staff.

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.

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.

Manager, technical staff, laboratorian, secretary, worker and staff as such participating in or directly related to R& D activities are treated as supporting staff.

71. Who can benefit from R&D reduction and what is the reduction rate?

All innovation and R&D expenditures made by beneficiaries of techno-enterprise capital support in

- Technology centers,
- R&D centers,
- public institutions and bodies; R&D and innovation projects supported by foundations established for the purpose of supporting R&D projects or established by law or the R&D and innovation projects supported by international funds,
- in pre-competition cooperation projects,

are deemed as 100% deductible expenses in the calculation of corporate income as per article 10 of the Cooperation Tax Law 5520 and in the identification of commercial earnings as per article 89 of the Income Tax Law.

72. Do previous year's R&D expenses impact the R&D reduction of the current period?

In R&D centers employing 500 or more full time equivalent R&D personnel, half of the increase of the R&D and innovation expenses of the current year when compared to the previous year is also considered within the scope of R&D reduction.

73. How is the number of personnel calculated in enterprises having more than one R&D center?

If an enterprise has more than one R&D centers established in different premises, total number of R&D personnel of the enterprise is considered as the total R&D personnel employed in these centers.

74. Which expenses are considered within the scope of R&D and innovation activities?

a. Raw materials and supplies expenses

All direct raw materials, auxiliary materials, operational materials, intermediary products, spare parts, prototypes and similar expenses and expenses related to the acquisition of the economic assets which cannot be subject to depreciation according to Tax Procedures Law.

Among the raw material and other materials inventories, the costs related to the portion actually used in R&D and innovation activities are within the scope of R&D and innovation expenditures. Therefore, the cost amounts related to the raw material and other materials that have not been used in R&D and innovation activities should be followed in the inventory accounts; and those used, sold or sold off should be followed by being deducted from the inventory calculations.

b. Depreciations

Depreciations set aside for the economic assets that are subject to depreciation and acquired for the maintenance of R&D and innovation activities.

Depreciations for the machines and equipments used in other activities rather than R&D and innovation activities are calculated based on the number of days they are used in R&D and innovation activities.

Accordingly, the Law also covers the assets used partially in R&D activities as well as the assets which are exclusively used for these activities. However, what is important here is that calculation of days is made and substantiated accurately.

c. Personnel expenses

Wages accrued related to R&D personnel employed to conduct the R&D and innovation activities within the scope of the Code and expenses in this nature.

Wages of the supporting staff taking part in R&D and innovation activities and directly related to these activities –not to exceed 10% of the number of the full time R&D personnel- and expenses in this nature are also within the scope of the personnel expenses.

In case of partial employment, the amounts of wages calculated by taking into account the proportion of the time spent by the personnel for R&D and innovation activities to the total working time are deemed as R&D and innovation expenses.

d. General expenses

This group covers the expenses made for the maintenance of the activities conducted in these centers such as electric, water, gas, maintenance-repair, communication and transportation expenses of exclusively R&D centers and maintenance and repair expenses of machines and equipments used in these centers.

Insurance expenses related to R&D and innovation activities, and expenses related to books, journals and similar scientific publications are also within the scope of these expenses. However, expenses related to consumables such as office and stationery supplies are not considered within the same scope.

In order that these expenses are considered within the scope of R&D and innovation expenses, it should be determined and documented that they are actually used in the R&D center. Shares to be calculated over the general operating expenses according to various criteria are not considered within this scope.

e. Benefits and services rendered by third parties

Except for the normal maintenance and repair expenses, receiving professional or technical support from other domestic or foreign institutions and corporations related to R&D and innovation activities; or the payments made related to the analyses that are conducted by these parties and other payments in this nature.

f. Tax, duty and fees

This category includes taxes, duties and fees that are directly related to R&D and innovation activities and that can be considered as expense in the determination of the income and corporate tax bases in accordance with the Income Tax Code and Corporate Tax Code.

Taxes paid for immovables in which the R&D and innovation activities are directly conducted, customs duties related to the goods imported to be used in the R&D and innovation activities and similar taxes, duties and fees are within this scope.

75. Is there a limit for R&D expenses?

Except for the benefits and services received from third parties, there is no limitation for R&D expenses which are in line with the provisions of the Law and Regulation. For the benefits and services received from third parties, cannot exceed 20% total R&D and innovation expenses. According to the view of the Tax Authority, this limitation (20 %) should be considered separately for each project and over the total expenses within the total period of the project.

76. Which activities are NOT considered within the scope of R&D and innovation activities?

- Marketing activities, market survey, market research or sales promotion,
- Quality control,
- Researches on social sciences,
- Exploration and drilling activities for petroleum, natural gas and mine reserves,

- Clinical studies that at least 2 phases before the production license is obtained are not conducted within Turkey and clinical studies performed following the production license,
- Use of already-invented or already-developed processes,
- Formal changes (aesthetic or visual changes such as form, color and decoration),
- Except for languages and operating systems of the programs, software development activities performed by using available software for the preparation of websites and other similar media,
- Routine and ordinary activities related to the software which do not include any scientific and/or technological development or any solution to the technological ambiguities,
- Research expenses regarding incorporation and organization during the incorporation process,
- Protection of the intellectual rights of the product developed at the end of the project,
- Copying the prototypes and distributing them as samples, and consumer tests with advertising purposes,
- Planning future commercial production of the output obtained at the end of the R&D activities and expenses related to the mass production process,
- Direct or embedded technology transfer which does not lead to production of a new process, system or product and which is not included within the scope of an R&D project.

77. How will the expenses incurred within the scope of R&D and innovation activities be recorded and subjected to depreciation?

Expenses within the scope of R&D and innovation activities which must be capitalized according to the Tax Procedures Law are redeemed through depreciation. The depreciation rate is 20%. In depreciation practice, taxpayers may prefer “accelerated depreciation” method.

If projects cannot be completed due to compelling reasons or if economic asset does not emerge because of failure of the project, amounts incurred within the scope of R&D and innovation activities and capitalized in previous years are recorded directly as expense.

On the other hand, R&D and innovation expenses must be differentiated from the other expenses of companies and must be recorded in a way to ensure accurate calculation of the R&D reduction.

The support provided to those engaged in R&D and innovation activities 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. Expenses made through such funds are recorded directly as expense or economic asset subject to depreciation depending on the field of expense.

78. How will R&D reduction applied in case the project is transferred?

If R&D and innovation project is transferred in an incomplete way, the amounts capitalized by the transferor company will be considered as cost item in the determination of the income.

Expenses incurred by the company taking over the R&D and innovation project after the transfer date will be subject to R&D reduction. If an additional amount is paid for the transfer of the project, this amount is not accepted within the scope of R&D reduction.

If a completed R&D and innovation project is transferred, the enterprise taking over the R&D and innovation project cannot benefit from the R&D reduction.

79. Can R&D reduction be carried forward to the following periods when there is not sufficient profit?

The amount which could not be deducted due to insufficient profit in the related period is carried forward to the following fiscal periods. The carried forward amounts are taken into account in following years by increasing at the revaluation rate determined each year according to the Tax Procedures Law.

80. What is the scope of income tax withholding support?

Excluding the public staff, in technology center enterprises, R&D centers, public institutions and organizations, and R&D and innovation projects supported by foundations established by law or international fund, or conducted by TUBITAK, in establishments which benefit from the techno-enterprise capital aid and in pre-competition cooperation projects, 90% of the income tax calculated after applying minimum living allowance over the wages gained in return for such studies by those having a doctorate of R&D staff and support staff shall be cancelled by deducting from the tax accrued over the withholding tax return to be submitted. This rate shall be 80% for others.

The full time equivalent number of support staff employed by the employer to benefit from the incentives for income tax withholding cannot exceed 10% percent of the total number of full time R&D staff. The fractions in calculations are made up to the whole number.

If the full time equivalent number of support staff exceeds ten percent of the total number of full time R&D staff, the staff to benefit shall be determined by starting from the wage of the support staff with the lowest gross wage. If the wages of those within the scope of benefit are equal, the determination shall be performed by employers.

81. How is income tax withholding incentive calculated?

An example of insurance premium and tax calculation for the personnel benefitting from the incentive is presented below.

In the R&D center of (X) Joint Stock Company, 70 full time equivalent R&D personnel and 6 full time equivalent support staff are employed. 9 of R&D personnel have doctorate degree. Personnel Mr. (A) who has doctorate degree and is single receives a gross salary of TL 2.000 for his work within the scope of R&D activities.

Exemption practice for Mr. (A) employed within the scope of R&D activities from the salary payments of (X) A.Ş. is presented below.

Gross wage amount	2.000,00 TL
Social Security Institution (SSI) withholding (2.000 x % 15) (SSI premium employee share %14 + unemployment insurance premium employee share %1)	300,00 TL
Taxable wage base (2.000 - 300)	1.700,00 TL
Income tax calculated over wages (1.700 x %15)	255,00 TL
Minimum living allowance amount to be deducted	54,68 TL
Amount remaining after the deduction of minimum living allowance (255,00 - 54,68)	200,32 TL
Amount to be cancelled (200,32 x % 90)	180,29 TL
Amount to be paid to the tax office (200,32 - 180,29)	20,03 TL

Therefore, TL 180,29 which is 90% of the tax amount remaining after the deduction of minimum living allowance from the income tax amount deducted from the wage income of Mr. (A) employed within the R&D center, will be cancelled, and the income tax TL 20,03 remaining after the cancellation will be paid to the tax office.

Calculation for the cancellation amount will be made separately for each personnel employed within the scope of R&D activities either with doctorate degree or not and will be shown under the table named "Declaration on Income Tax Withholding Incentive within the scope of R&D"; these declarations will be filed to the related tax office in the attachment of the withholding tax return.

82. How is minimum living allowance treated in calculation of income tax withholding incentive for the part-time personnel?

The portion of the minimum living allowance corresponding to the wage within the scope of R&D activities must be determined based on the proportion of the wage income of the part-time personnel with regard to R&D activities to the total wage income amount. The incentive amount to be cancelled must be determined based on this amount; and minimum living allowance amount related to the wage incomes not included within the scope of R&D activities must be deducted according to the principles specified under Income Tax General Communiqué series no 265.

83. What are the covered and non-covered payments within the scope of income tax withholding incentive practice?

In the calculation of income tax withholding incentive, the proportion of the time actually spent by the covered personnel for R&D and innovation activities to the total working time is taken as the basis. If the total monthly working time of the personnel working within the scope of the Law is related to R&D and innovation activities, weekend holidays and annual paid leaves qualified for by the personnel will be considered within this scope in the calculation of 50 full time equivalent personnel and will be taken into account in the income tax withholding incentive practice. However, working time over 8 hours a day and 45 hours a week and additional working periods are not taken into account in the calculation of 50 full time equivalent employees.

In case of part-time employment, the wage amounts calculated by taking into account the proportion of the time spent by the personnel for R&D and innovation activities to the total working time will be taken into account as the R&D and innovation expenses. Weekend

holidays and annual leave periods of the part-time personnel are not taken into consideration.

In incentive practice, the exemption will be applied over the base of the wage amount paid to R&D and support personnel for the working period including overtime spent for R&D and innovation activities. As a result of this, taxable wage amount and withholding amount applied over this wage amount will be reflected to the withholding tax base.

Hence, income tax withholding incentive will not be applied for the following payments:

- Wage payments related to the works not in the scope of R&D and innovation activities,
- Wage payments made to the public officers assigned for R&D and innovation projects and/or employed within the enterprises,
- Wage payments corresponding to the weekend holidays, annual paid leaves and casual leaves qualified for by the part time personnel within a month within the scope of R&D and innovation activities.

84. Can income tax withholding incentive be benefitted from for the additional payments made to the R&D personnel employed within the R&D center, such as premiums and bonuses?

If the total monthly working time of the personnel working in the R&D center within the scope of the Law is related to R&D and innovation activities, income tax withholding incentive must be applied for premium, bonus, in-kind benefits and similar additional payments which are included in the wage base. In premium payments made as of certain periods (like every 3 months), as the premium is accepted as the wage related to the month when it is accrued, in the calculation of the time spent for R&D and innovation activities, the period of accrual should also be taken into account.

In case of part-time employment, income tax withholding incentive will be applied as per the wage base to be determined as a result of the calculation to be made in proportion to the total working period.

85. Can income tax withholding incentive be applied for the wage amounts corresponding to the local and foreign travels of the R&D personnel employed in the R&D center?

If the full time personnel of the R&D center are assigned within country or abroad due to training or technical inspection purposes or other similar purposes as required by their work within R&D center, they cannot benefit from the income tax withholding incentive within the scope of Law no 5746 for the periods spent out of the R&D center. However, such personnel must be considered as full time personnel and weekend holidays and annual paid leaves of such personnel should also be taken into account in income tax withholding incentive practice.

86. When to start benefitting from the income tax withholding incentive practice?

Income tax withholding incentive practice became effective on 01.04.2008. Incentive practice will be benefitted from within the framework of the procedures and principles of the "Regulation on Application and Inspection with regard to Supporting Research and Development Activities".

Therefore, within the framework of the provisions of the mentioned regulation;

- In R&D centers, income tax withholding incentive will be benefitted from as of the date when the R&D Center Certificate is issued,
- In pre-competition cooperation projects, as of the date when the project contract is enforced,
- In technological center enterprises, as of the date when the R&D and innovation project is approved,
- In enterprises supported with techno-enterprise capital aid, as of the date when the working plan is approved by the public administration,
- For the R&D and innovation projects supported by public bodies and foundations established by the law or international funds, or managed by TÜBİTAK, as of the date when the support decision letter is issued or when the project contract is enforced.

On the other hand, in R&D and innovation projects initiated before the date when the Law no 5746 became effective;

- If the support decision letter or project contract related to the R&D and innovation projects supported by public bodies and foundations established by the law or international funds, or managed by TÜBİTAK become effective before the date 01.04.2008, tax withholding incentive will be benefitted from as of 01.04.2008, and
- For the R&D and innovation projects conducted in R&D centers, as of the date when R&D Center Certificate is issued.

87. In which cases does the income tax withholding practice end?

According to the Law no 5746, to be accepted as a R&D center, a unit must employ minimum 50 full time equivalent personnel in quarters (the advance taxation period). As of the advance taxation period when this condition is violated, income tax withholding incentive will not be benefitted from;

- In R&D and innovation projects, in cases where the project is terminated due to some reason or support of the project is ended, as of the termination date as the R&D and innovation activities will also be deemed to have been ended,
- If the projects conducted at KOSGEB technology center enterprises are terminated due to some reason or support of the project is ended, as of the termination date as the R&D and innovation activities will also be deemed to have been ended,
- For the enterprises in pre-competition cooperation projects, if the project is terminated due to some reason, as of the termination date; if the project contract is cancelled, as of the date when the inspection is started.

88. Does income tax incentive continue in case the project is transferred?

If an incomplete R&D and innovation project is transferred, the transferee of the project can benefit from the income tax withholding incentive within the framework of the principles specified under General Communiqués series no 1 and 2 on Supporting the Research and Development Activities.

89. Can the personnel already benefitting from the income tax withholding incentive also benefit from similar supports within the scope of the Law no 5084?

For the personnel benefitting from the income tax withholding incentive within the scope of the Law no 5746, employers cannot also benefit from the provisions of Law no 5084 within the same taxation period. However, if the required conditions are fulfilled, the support and incentive elements under the Law no 5084 can be benefitted for the support personnel exceeding 10% of the number of full time R&D personnel and the personnel other than R&D and support personnel.

90. What is the scope of 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 techno-enterprise 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.

Full time equivalent of the support personnel to benefit from the employer share insurance premium cannot exceed 10% of the number of total full time R&D personnel. The fractions in calculations are made up to the whole number. If the number of the support personnel exceeds 10% of the total full time R&D personnel, insurance premium employer's share incentive is applied starting from the wage of the support personnel with the lowest gross salary. If the gross salaries are the same, the support personnel to benefit from the insurance premium employer's share incentive is determined by the employer.

91. Until when the insurance premium support can be benefitted from?

Within the scope of the Law no 5746, insurance premium support can be utilized for five years for each employee until 31.12.2023.

However, what is important here is that the income tax incentive regulated under temporary article 2 of the Technology Development Regions Law will end on 31.12.2013 and therefore the insurance premium employer's share support to be applied to the wages of the R&D personnel working in these regions will also end on this date.

92. Which items are included in the tax base in calculation of the insurance premium employer's share support?

Insurance premium employer's support is calculated over the wages of the covered policyholders that they earn for their work related to R&D and innovation activities. Non-wage payments made to the covered policyholders (like premiums and bonuses) and the wages earned by the covered policyholders for their works NOT related to the R&D and innovation activities are not considered within the scope of this support; therefore, such payments are declared to the Social Security Institution with the monthly premium and service certificate to be issued without selecting any type of Law.

In calculation of insurance premium employer's share support, the proportion of the hours spent actually by the covered personnel for R&D and innovation activities to the total working hours is taken into account.

If the whole work of the covered personnel within the month is related to R&D and innovation activities, the weekend holidays and annual paid leaves that they qualify for are also considered within this scope. Weekend holidays and annual paid leaves qualified for by the part time personnel engaged in R&D and innovation activities are not taken into account in insurance premium employer's share support.

Employer's share insurance premium support is not applied for the unemployment insurance premiums accrued due to the monthly premium and service documents within the scope of the Law.

93. Are non-wage payments made to the personnel included in the calculation?

Non-wage payments made to the policyholders covered by the Law are not included within the income subject to premium as presented in the monthly premium and service document within the scope of the Law. These payments are declared to the Social Security Institution with the monthly premium and service document not covered by the support. Premiums and other similar payments which are made with certain intervals and at fixed amounts are not included in the calculation of the incentive as they are not deemed wage by the Directorate of the Social Security Institution.

94. For the part time R&D personnel for whom insurance premium employer's share support is utilized, is it also possible to benefit from the incentive introduced with the Law no 5510 for their works not being related to R&D activities?

For the covered part time R&D personnel, insurance premium employer's share support introduced within the scope of the Law no 5746 can be utilized for their R&D work and 5-point premium allowance introduced with the Social Insurance and General Health Insurance Law no 5510 can also be utilized at the same time for their works not related to R&D and innovation activities, provided that it is not repeated.

95. In which cases 5-year period in which insurance premium employer's share incentive will be utilized is suspended or extended?

Employer's share insurance premium support is applied for maximum five years as from the date when the first declaration is made to the Social Security Institution according to the Law provided that the conditions specified under the Law are fulfilled for each covered personnel. After starting to benefit from the support, if employment is suspended for some reason or if the employee leaves the job and starts the same job again or starts to work at another work place covered by the Law, this will not prolong the term.

96. Is it obligatory to pay stamp duty over the service documents issued for the personnel benefitting from the insurance premium employer's share support?

Papers issued due to the wage payments made to the personnel employed for the R&D and innovation activities covered by the Law and regulation for their work performed for the mentioned activities are exempted from the stamp duty; therefore, the service documents issued for the related personnel are also exempt from the stamp duty.

97. What is stamp duty exemption?

All kinds of documents issued in relation to R&D and innovation activities within the scope of the Law (including the documents issued for the wage payments made to R&D personnel) are exempt from stamp tax.

For applying the stamp tax exemption; it is sufficient that the list approved by the public institution applied for R&D centers and pre-competition cooperation projects, by "TEKMER" directorate for technology center establishments, and by TUBITAK for R&D and innovation projects supported by international funds or carried out by TUBITAK is submitted to institutions and organizations that conduct the transactions, such as notary, state offices, other public institutions and organizations during the transaction. No other documents are required by institutions or organizations that conduct the transaction.

98. Is it possible to apply exemption on other contracts and tender decisions of the enterprises which are already benefitting from the stamp duty exemption?

Contracts to be issued and tender decisions to be taken related to the R&D or innovation activities and projects conducted within the scope of the Regulation can also benefit from the stamp duty exemption. However, the Authority stipulates that for the contracts and tender decisions covering purchase/sales of the elements other than R&D and innovation activities of the products to be obtained at the end of the project as well as the R&D or innovation activities, the stamp duty exemption cannot be benefitted from within the scope of the mentioned Law.

99. What is techno-enterprise capital aid?

A techno-enterprise capital refers to the capital aid given to the students, graduate students or doctoral students who are to graduate within one year from any department of the universities which provide formal education, or persons who have taken one of the degree, graduate or doctor decrees within five years at maximum before the pre-application date, for encouraging them to transform their technology and innovation-based business ideas into initiatives with high potential of added value and qualified employment opportunity, within the framework of a business plan approved to be supported by the public bodies within the scope of the central management granting the aid.

The enterprise which is established after the aid application and in compliance with the business plan approved by the public body within the scope of the central management and in which the entrepreneur has representation and binding power by himself can also benefit from this aid.

Techno-enterprise capital aid up to TL 100.000 can be given for once by the public bodies within the central management to the mentioned enterprises as nonrecurring gift, without demanding guarantee.

As per this Law, 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, cannot exceed 10.000.000 Turkish Liras for each calendar year. This is taken into account and followed during the preparation and application of the central government budget.

100. What are the main differences between the R&D incentives granted with the Law no 5746 and Law no 5520?

- With the Law no 5746, stamp duty exemption, insurance premium support, income tax withholding incentive and R&D reduction in terms of corporate tax are introduced, whereas with the Law no 5520, only R&D reduction incentive is introduced.
- According to the Law no 5746, R&D reduction practice will be valid until 31.12.2023, whereas according to the Law no 5520, there is no time restriction for R&D reduction practice.
- According to the Law no 5746, R&D reduction amounts carried forward to the following years can be indexed with the re-valuation rate, whereas according to the Law no 5520, indexing cannot be realized for the R&D reduction amount.
- According to the Law no 5746, grants and donations (cash supports) granted by institutions such as TÜBİTAK shall be kept in a private fund account and shall not be transferred to any other account other than addition to the capital within 5 years or shall not be withdrawn from the business. On the other hand, according to the Law no 5520, the mentioned grants and donations shall not be taken into account in determining the commercial profit and recorded as income.
- As per the Law no 5746, finance expenses are not taken into account in calculation of R&D reduction, whereas as per the Law no 5520, these expenses can be subject to R&D reduction.
- In line with the Law no 5746, half of the increase of the expense in the current year in proportion to the previous year in R&D centers employing 500 and more full time equivalent R&D staff is treated as additional deduction, whereas the Law no 5520 does not stipulate such practice.
- Pursuant to the Law no 5746, the whole amount of R&D expenses can be considered as expense in the corporate records through depreciation by being capitalized according to the Tax Procedures Law. On the other hand, according to the Law no 5520, only expenses related to intangible rights (for example formulation of a cancer drug) must be capitalized and it is optional to capitalize the expenses not being related to the intangible rights. Therefore, these expenses can be considered directly as expense in the corporate records.