

REGULATION

By the Ministry of Finance and the Ministry of Industry and Commerce:
ENFORCEMENT AND AUDIT REGULATION ON SUPPORTING THE
RESEARCH AND DEVELOPMENT ACTIVITIES

SECTION ONE

Purpose, Scope, Basis and Definitions

Purpose

ARTICLE 1 – (1) The purpose of this Regulation shall be to regulate the procedures and principles regarding the enforcement and audit of the Law no 5746 on Supporting the Research and Development Activities dated 28/2/2008.

Scope

ARTICLE 2 – (1) This Regulation shall cover the enforcement and audit procedures and principles regarding the support and incentives for the technology centers established pursuant to the Law no 3624 on the Establishment of the Small and Medium Scaled Industry Development and Support Authority and dated 12/4/1990 (technology center businesses) as well as for the R&D centers in Turkey and the R&D and innovation projects, cooperation projects before competition and techno-initiative capital.

Basis

ARTICLE 3 – (1) This Regulation was drafted based on the paragraph six of the article 4 of the Law no 5746 on Supporting the Research and Development Activities and dated 28/2/2008.

Definitions

ARTICLE 4 – (1) The terms mentioned in this Regulation shall refer to the following definitions:

a) Research and development activity (R&D): Creative studies conducted on a systematic basis in order to increase the knowledge store consisting of research and development, culture, human and society information and to use such information in the design of new processes, systems and practices as well as the activities the outputs of which are composed of original, experimental, scientific and technical contents, which ensure scientific and technological development in the field through environment-friendly product design or software activities and which focus on a scientific and technical uncertainty;

b) R&D center: Those units of the capital companies whose legal or business headquarters are located in Turkey which were organized as a separate unit within the organizational structure, which are engaged in the research and development activities exclusively inside the home country, which employ at least 50 full-time equivalent R&D personnel and which have the sufficient R&D knowledge and capability, including the business places of the limited tax-paying companies in Turkey,

c) R&D personnel: Researchers and technicians who are directly assigned for the R&D activities;

1) Researcher: At least high school graduate experts who are involved in the projects within the scope of the definition of R&D activities and the innovation as well as in the management processes of the projects regarding the design and creation of new information, products, processes, methods and systems as well as the related projects,

2) Technician: Persons who received higher education in the fields of engineering, science and health sciences or who graduated from the technical departments and departments of science and health sciences of the vocational high schools and vocational higher schools, and who have the technical knowledge and experience,

ç) R&D project: That project whose purpose, scope, general and technical description, term, budget, specific terms, the amounts of the contributions in kind and/or cash contributions to be provided to the other institutions, organizations, real and legal entities as well as the distribution principles for the intellectual property rights to arise as a result have been determined and which are developed in a way to determine every

phase of the R&D activities and based on the scientific principles,

d) Evaluation and Audit Commission: The Evaluation and Audit Commission which are formed pursuant to the article 14 in order to evaluate and control the R&D centers and pre-competition cooperation projects and the secretariat of which will be conducted by the Ministry of Industry and Commerce,

e) Support staff: Managers, technical staff, laboratorians, secretaries, workers and similar personnel who participate in the R&D activities or who are directly related to such activities,

f) Entrepreneur: Students who can graduate from an undergraduate programme at any university delivering formal education in a year, postgraduates or doctoral students who applied to the public institution under the related central administration in order to benefit from the techno-initiative capital support or those persons who received their undergraduate, masters or doctorate degrees maximum five years before the preliminary application date,

g) Enterprise: Real and legal persons who can benefit from the support and incentives within the framework of the Law no 5746 through the technology development centers supported within the scope of the Law no 3624 and dated 12/4/1990 on the Establishment of the Small and Medium Scaled Industry Development and Supporting Administration,

ğ) Public institutions and organizations: Institutions and organizations which were assigned with the task of supporting the R&D and/or innovation activities pursuant to the laws on foundation and which have the fund allotted in the annual budget to this end,

h) Public Personnel: Civil servants as well as other public personnel and other personnel who work at the public institutions, special provincial administrations and the municipalities as well as their affiliated institutions, at the local administration associations other than those whose members consist of villages, at the institutions with rotating fund, at the funds protected by the law, at the bbail funds, at the public economic enterprises and their subsidiaries as well as at the institutions more than half of the capital of which belong to the public and at the public institutions with special budget excluded from the scope of the Law no 5018 which are all listed in the tables I, II, III and IV which are annexed to the Public Financial Management and Control Law no 5018 and dated 10/12/2003, excluding those who are employed temporarily and limited to the project term among those who do not have the personel rights granted for the public personnel,

ı) Law: Law no 5746 and dated 28/2/2008 on Developing and Supporting the Research and Development Activities,

i) KOSGEB: Small and Medium Industry development Organization Administration Council,

j) Pre-competition cooperation projects: Projects which will be conducted by more than one institution to develop a common part or system or to form a platform before the competition in order to improve the productivity and to provide higher added value compared to the current situation by designing new processes, systems and applications through benefiting from the scale economy, which will be conducted for the R&D activities and be of scientific and technological nature within the scope of the cooperation agreement based on the feasibility,

k) Technology centers (Technology center enterprises): Those technology development centers supported within the scope of KOSGEB technology development and innovation supports, of the R&D and innovation project owner enterprises where the new and advanced technology-based information is compiled or caused to be compiled, developed and is made available to be used by the enterprises for practice and production by benefiting from the opportunities of the universities and research centers within the scope of the Law no 3624 and dated 12/4/1990 on the Establishment of the Small and Medium Scaled Industry Development and Support Administration and which were established or caused to be established (TEKMER),

l) Techno-initiative capital: Capital contribution in order to encourage those students who will be able to graduate from an undergraduate programme of any university delivering formal education, masters students or doctoral students or those persons who received their undergraduate, masters or doctoral degrees maximum five

years before the preliminary application date to turn their technology and innovation-oriented business ideas into the enterprises which have a high potential of creating added value and qualified employment within the framework of a work plan approved to be supported by the public institutions within the scope of the central administration providing the contribution,

m) TÜBİTAK: Turkish Scientific and Technological Research Board

n) Innovation: The processes created with the idea of a new product, service, practice, method or a business model and the consequences of these processes which will be able to meet the social and economic needs, which can be successfully released to the existing markets or which will be able to create new markets.

SECTION TWO

Issues, Discounts, Exceptions, Supports and Incentives Regarding the R&D and Innovation Activities

R&D and innovation activities

ARTICLE 5 – (1) For an expenditure to be subject to the R&D discount, it should be made within the framework of an R&D and innovation activity. R&D and innovation activities shall refer to the activities which include the innovation processes including the environment-friendly product design and software activities which ensure scientific and technological development in the field, the outputs of which are composed of original, experimental, scientific and technical contents, which focus on a scientific and technical uncertainty in order to increase the knowledge store consisting of research and development, culture, human and society information and to use such information in the design of new processes, systems and practices through conducting creative studies on a systematic basis.

Non- R&D and innovation activities

ARTICLE 6 – (1) The activities listed below shall not be considered within the scope of the R&D and innovation activities for the enforcement of this Regulation:

- a) Marketing activities, market surveillance market research or sales promotion,
- b) Quality Control,
- c) Researches in the field of social sciences,
- ç) Petroleum, natural gas, metal reservoir search and drilling activities,
- d) Clinical studies at least two stages of which are not conducted at home country before the drug production permit as well as the clinical studies that are conducted after the production permit,
- e) Utilization of the existing processes invented or developed outside the scope of a R&D project,
- f) Formal modification which include the formal, color, decoration and similar aesthetic and visual modifications which are not realized for the purposes listed in the article 5,
- g) Software development activities which are conducted by using the existing software which helps in the development of internet systems and similar systems excluding the programming languages and communication systems,
- ğ) Ordinary and repeated activities which do not include scientific and/or technological developments or the solution for the technological uncertainties regarding the software,
- h) Research expenses regarding the foundation and organization at the initial establishment stage,
- i) Activities conducted to protect the intellectual property rights on the product or process developed through R&D and innovation activities except for the acquisition of such rights,
- ı) Consumer tests to get and distribute copies from the prototypes to be given as sample and to advertise,
- j) Investment activities for the production and production infrastructure, expenditures regarding the planning of commercial production and serial production process,
- k) Direct or embedded technology transfer which do not serve to the creation of a

new process, system or product not within the scope of a R&D project.

Scope of R&D and innovation expenditures

ARTICLE 7 – (1) The expenditures considered to be within the scope of the R&D and innovation activities shall be as follows:

a) Raw materials expenses:

1) Such expenses shall cover the costs of all and any direct raw materials, auxiliary materials, operating materials, intermediate products, spare parts, prototypes and similar costs as well as the costs regarding the acquisition of the tangible assets which are not possible to be subject to depreciation pursuant to the Tax Procedure Law no 213 and dated 4/1/1961.

2) The costs regarding that part of the raw materials and other material stocks which are actively used in the R&D and innovation activities shall be covered by R&D and innovation expenditures. For this reason, those raw materials and other materials which have been used, sold or disposed of shall be tracked down by deducting from the stock accounts in the stock accounts of the cost amounts regarding the raw materials and other materials which have not been used in the R&S and innovation activities yet.

b) Depreciations:

1) It shall cover the depreciations which are allocated for the depreciable economic assets that have been acquired in order to conduct the R&D and innovation activities.

2) Depreciations regarding the machinery and equipment used also for the other activities other than the R&D and innovation activities shall be calculated according to the days when such machinery and equipment are used for the R&D and innovation activities.

c) Personnel costs:

1) Wages which are incurred for the R&D personnel employed in order to conduct the R&D and innovation activities realized within the scope of the law as well as the expenses of similar nature.

2) The wages of the support personnel participating in the R&D and innovation activities and directly related to such activities insofar that such amount shall not exceed 10% of the number of the full-time R&D personnel as well as the other expenses of similar nature shall be covered within the personnel costs.

3) For part-time employment, the amounts of the wages calculated by considering the proportion of the time allocated by the personnel for the R&D and innovation activities to the total working time shall be considered to be R&D and innovation expenditure.

ç) Overall expenses:

1) Overall expenses shall cover the costs incurred in order to maintain the continuation of the activities conducted in the R&D centers such as electricity, water, gas, maintenance- repair, communication, transportation expenses exclusively for the R&D centers as well as the maintenance and repair expenses of the machinery and equipment used in such centers.

2) Insurance expenses, expenditures for the books, journals and similar scientific publications shall be covered as well. However, expenses for the consumables such as office and stationary materials shall not be covered.

3) For such expenses to be considered as R&D and innovation expenditures it shall be fixed and certified that such expenses are actively made in the R&D center. The shares to be calculated over the overall operating costs based on various criteria shall not be considered within this scope.

d) Outsourced benefits and services: These expenditures shall be the payments made to purchase professional or technical assistance from the other national or foreign institutions and organizations outside the enterprise regarding the R&D and innovation activities or the payments made for the analysis conducted by such institutions and organizations as well as other payments, excluding the ordinary maintenance and repair expenses. The expenditures regarding the purchase of consultancy services and other services obtained in such way shall not exceed 20% of the total expenditure amount realized within the scope of R&D and innovation expenditures.

e) Taxes, levies and charges: Such expenses shall cover the taxes, levies and charges which are directly related to the R&D and innovation activities and which can be

considered as cost in determining the income or corporate tax base pursuant to the Income Tax Law no 193 and dated 31/12/1960 and the Corporate Tax Law no 5520 and dated 13/6/2006. The taxes paid for the immovables in which the R&D and innovation activities are directly conducted, customs taxes for the imported goods in order to use for the R&S and innovation activities as well as similar taxes, levies and charges shall be covered as well.

(2) In the pre-competition cooperation projects, the amounts which are transferred to the special account of such cooperation by the institutions forming such cooperation shall be recognized as the R&D and innovation expenditure of the contributing institution in the period when such expenditure is realized on condition that such expenditure shall be within the scope of the expenditures listed in the first paragraph.

Principles for applying R&D discount

ARTICLE 8 – (1) All of the R&D and innovation expenditures made in the technology center enterprises, R&D centers, R&D and innovation projects which have been established by the public institutions and organizations pursuant to the law and supported by the international funds as well as in the pre-competition cooperation projects and by the enterprises which benefit from the techno-initiative capital supports shall be subject to discount in the determination of the corporate profit pursuant to the article 10 of the Corporate Tax Law and of the commercial profit pursuant to the article 89 of the Income Tax Law until 31/12/2023.

(2) In the R&D centers employing 500 and more full-time equivalent R&D personnel, the half of increase of the R&D and innovation expenditure made in that year compared to the previous year shall be separately subject to discount in the determination of the corporate profit or commercial profit. Provided that an enterprise has more than one R&D center established in separate locations, the total number of the R&D personnel of the enterprise shall be considered to be the total number of the R&D personnel working in such centers.

(3) Those who benefit from the R&D discount within the scope of the law shall not benefit from the provision specified in the sub-paragraph (9) of the article 89 of the Income Tax Law as well as in the sub-paragraph (a) of the first paragraph of the article 10 of the Corporate Tax Law Kanun kapsamında.

(4) The R&D calculated discount, shall be written in the related line of the income statements or corporate tax statements as well as the provisional tax statements.

(5) The amount of the R&D discount which could not be subject to discount to the insufficiency of the profit in the related period shall be transferred to the subsequent accounting periods. The transferred amounts which belong to the periods after the date of entry into force of the Law shall be taken into consideration by increasing in the proportion of revaluation determined every year pertaining to the Tax Procedure Law in the subsequent years.

(6) Furthermore, the expenditures made within the scope of the R&D and innovation activity shall be redeemed by way of amortization by capitalizing pertaining to the Tax Procedure Law.

(7) Provided that any economic value does not occur due to the fact that it is not possible to complete the projects because of force majeure or that the projects result in failure hâllerinde, the amounts which have been made within the scope of the R&D and innovation activity and were capitalized in the previous years shall be directly written off.

(8) Provided that the completed R&D and innovation project is transferred, the amounts which have been capitalized by the enterprises transferring the project shall be considered as the cost item in the determination of the earning amount. The expenditures made within the scope of the project by the enterprises taking the transfer of the R&D and innovation project after the date of transfer shall be subject to R&D discount. If any other amount has been paid for the transfer of the project, such amount shall not be subject to the R&D discount.

(9) Provided that a completed R&D and innovation project is transferred, the enterprise which takes the delivery of the R&D and innovation project shall not benefit from the R&D discount.

(10) The contributions received from the public institutions and organizations, foundations established by the law as well as the international funds for the R&D and

innovation activities shall be kept in a special fund account. The amounts in such fund shall not be considered as income in the determination of the taxable earning and as R&D expenditure in the determination of the R&D discount pursuant to the Income Tax Law and the Corporate Tax Law. The expenditures made from such complimentary funds provided in this way shall be recognized as direct expense or depreciable economic value based on the where such expenditure is made.

(11) It shall be obligatory that the R&D and innovation expenditures be separated from the expenditures of the other activities of the enterprises and be recognized in a way to make it possible to calculate the R&D discount accurately.

Method to be Pursued in implementing the R&D discount

ARTICLE 9 – (1) Those enterprises to benefit from the R&D discount shall submit the following documents as an annex to the annual income or corporate tax statement to the tax office they are affiliated to. Such documents shall be approved by the public institutions, organizations and administrations or the foundations established by law providing the support for the enterprises benefiting from the techno-initiative capital support through R&D and innovation projects; by the public institutions which are applied for the the R&D centers pre-competition cooperation projects; by the Technology Center Directorate for the technology center enterprises; by TUBITAK for the R&D and innovation projects which are financially supported from the bilateral or multilateral international R&D cooperation program funds that Turkey is a party.

a) “R&D Center Licence” shall be requested from the R&D centers that will benefit from the R&D discount for the first time pursuant to the law; “R&D and Innovation Project Evaluation Report” issued by the technical institutions or “Pre-Competition Coopertaion Project Evaluation and Audit Commission Decision” or the project contract shall be requested from those who will benefit from project-based R&D discount. However, those enterprises which have submitted the R&D Center Licence or R&D and Innovation Evaluation Report previously to the tax department and which continue to benefit from the R&D discount in the same scope shall not be requested to submit such documents again in the subsequent taxation periods.

b) Documents demonstrating at what stages are the R&D and innovation project or projects as well as the pre-competition cooperation project or projects, project contracts and the annexed work pplan approved by the public institution under the central administration providing the support for the enterprises benefiting from the techno-initiative capital, R&D and innovation projects conducted at the R&D centers and technology center enterprises are, and documents demonstrating the implementation status of such projects or work plans,

c) List presenting the annual amounts of the expenditures subject to R&D discount in main groups and detailed breakdown of such expendiures,

ç) The list indicating the number and quality of the employees working at the R&D centers, technology center enterprises, R&D and innovation projects as well as pre-competition cooperation projects and enterprises benefiting from the techno-initiative capital support, the terms of service and wages of such personnel as well as the deducted and exemted tax amounts of such personnel,

d) Regarding the outsourced consultancyi erpertise and similar services, the list showing the name, Republic of Turkey identity card number/ tax identity number of the peson/institution providing the service, the cost of the service received, date and number of invoice, withholding tax and VAT amounts.

(2) It shall be obligatory to submit the certified public account attestation report including the documents provided for in the first paragraph shall be submitted to the tax department that is affiliated to in due times specified in the related legislation in order for the R&D discount to be applied for the R&D centers and pre-competition cooperation projects; furthermore, the abovementioned documents shall not be required to be sumitted separately together with the statement for the R&D centers and pre-competition cooperation projects.

(3) Provided that the documents specified in the first paragraph for the R&D discount are provided in the annex to the full attestation report, it shall not be required to prepare a separate attestation report for the R&D discount.

SECTION THREE

Implementation of Income Tax Withholding Incentive and Insurance Premium Support

Implementation of Income Tax Withholding incentive

ARTICLE 10 – (1) 90% of the wages received by the doctorate degree holder employees and 80% of other employees working in the technology center enterprises, R&D centers, R&D and innovation as well as pre-competition cooperation projects which are supported by the public institutions and organizations, foundations established by law or the international funds or conducted by TUBITAK, and in the enterprises benefiting from the techno-initiative capital supports, which they get as a result of their services shall be exempted from income tax. In the calculation of such exemption, the time allocated by the personnel within this scope for actively getting involved in the R&D and innovation activities shall be taken into consideration as the total working time.

(2) The number of the full-time equivalent of the support personnel to benefit from the income tax exemption shall not exceed 10% of the total number of full time R&D personnel. The fractions shall be completed to whole number. Provided that the number of the support personnel exceeds 10% of the total number of the full-time R&D personnel, the exemption shall be applied starting from the wage of the support personnel whose gross wage is the least. Provided that the gross wage is the same, the personnel for whom the income tax exemption will be applied shall be determined by the employer.

(3) The public staff assigned in the projects specified in the first paragraph and/or working in the enterprises shall not benefit from the concerned exemption.

(4) In the implementation of the incentive, the exemption shall be applied to the wage base regarding the work within the scope of the R&D and innovation activity and only the amount which is withheld over the taxable wage shall be reflected to the withholding tax return statement. The notification the content of which shall be determined by the Ministry of Finance for the wage earners who benefit from the exemption shall be filled in by the employers and shall be submitted to the tax department that they are affiliated.

(5) The same provisions specified in the Law no 5084 and dated 29/1/2004 on Promotion of Investments and Employment and Amendment to Certain Laws shall not be applied in the same taxation period for the personnel who benefit from the income tax exemption within the scope of the law. However, Provided that the required conditions are met for the personnel other than the R&D and support personnel as well as the full-time equivalent support personnel the number of whom exceeds 10% of the number of R&D personnel, the provisions on support and incentive provided for in the Law no 5084 can be applied.

Application of Insurance premium support

ARTICLE 11 – (1) Half of the share of the employer for the insurance premium which is calculated of the wages of the R&D personnel as well as the support personnel working in the R&D centers, R&D and innovation projects supported by the public institutions and organizations and foundations established by law or international funds or conducted by TUBITAK and pre-competition cooperation projects as well as in the enterprises benefiting from techno-initiative capital supports that are received in exchange for their works in the scope of the article 5 excluding the public personnel; half of the share of the employer for the insurance premium which is calculated over the wages of the actively working personnel whose wages are exempted from income tax pursuant to the provisional article two of the Law no 4691 and dated 26/6/2001 on Technology Development Regions, which are calculated over the wages which are subject to income tax exemption as long as the income tax exemption is applied shall be covered from the allotment to be integrated to the budget of the Ministry of Finance on condition that it will not exceed five years.

(2) The number of the full-time equivalent support personnel to benefit from the employer share of the insurance premium shall not exceed 10% of the total number of the full-time R&D personnel. The fractions shall be completed to whole number. Provided that the number of the support personnel exceeds 10% of the total number of

the full-time R&D personnel, the incentive for employer share of insurance premium shall be applied starting from the wage of the support personnel whose gross wage is the least. Provided that the gross wage is the same, the personnel for whom the incentive for employer share of insurance premium will be applied shall be determined by the employer.

(3) In order to benefit from the incentive for the employer share of insurance premium, it shall be a condition that the technology center enterprises submit the written document that they receive from TEKMER directorate, from the public institutions/organization or foundation established by law providing support for R&D and innovation projects supported by the public institutions/organization or foundation established by law, from TUBITAK for the R&D and innovation projects supported by international funds or conducted by TUBITAK, from the Ministry of Industry and Commerce for the R&D centers and pre-competition cooperation projects, from the public authorities under the central administration for the enterprises receiving techno-initiative capital support, as well as the enterprises which employ personnel whose wages are exempt from the income tax pursuant to the Law on Technology Development Regions submit the written document that they receive from the managing company in charge of controlling whether the insured worker actively works in the region or not to the Provincial Social Security Directorate (transferred social security authority) that their businesses are affiliated.

(4) The incentive for the employer share of insurance premium shall be used as of the date of receiving the document which is issued by the related institution or company in charge of controlling and which demonstrates that the conditions provided for in the Law are met and they are entitled to receive the support pursuant to the related articles of this Regulation.

(5) It shall be obligatory for the employers to submit the monthly premium and service documents for the insured employees within the scope in due time to the Provincial Social Security Directorate (Transferred SSK) in order to benefit from the support for employer share of insurance premium. Provided that the concerned document is not submitted in due time, they shall not benefit from the support for employer share of insurance premium as provided for in the law and the whole insurance premiums including the shares of the insured and shares of the employer in such documents shall be collected from the employer.

(6) Provided that the annual premium and service documents regarding the insured employees within the scope are submitted in due time, half of the employer share of insurance premium incurred, regardless of whether half of the employer share of insurance premium incurred as well as the share of the insured are paid by the employer or not, the other half of the employer share of insurance premium shall be covered from the allotment in the budget of the Ministry of Finance.

(7) In the calculation of the support for the employer share of insurance premium, the proportion of the time actively allocated by the personnel in this scope for the R&D and innovation activities to the total working time shall be taken as the basis.

(8) Provided that all of the works done by the personnel in this scope are related to the R&D and innovation activities within the concerned month, entitled weekend holiday and the annual pay leave periods shall be considered in this scope. The entitled weekend holiday and annual pay leave periods of the part-time employees in the R&D and innovation activities shall not be taken into consideration in the application of the support for the employer share of insurance premium.

(9) The support for the employer share of insurance premium shall be applied maximum for five years as of the date of first notification to the Social Security Authority on condition that they meet the requirements specified in the Law for every personnel within the scope. This term shall not be extended provided that the personnel suspend working for any reason whatsoever after starting to use the support or if the personnel leaves the job and then starts to work for the same job again after starting to use the support.

(10) The support for the employer share of insurance premium as provided for in the amended article 4 of the Law no 5084 and the article 30 of the Labour Law no 4857 and dated 22/5/2003 shall not be applied due to the insured person for whom the support

for employer share of insurance premium is used within the framework of the law. However, provided that the required conditions are met for the personnel other than the R&D and support personnel as well as the full-time equivalent support personnel exceeding 10% of the number of the full time R&D personnel, support for the employer share of insurance premium in the laws no 5084 and 4857 can be applied.

(11) In the event that it is understood that the enterprise benefiting from the support for employer share of insurance premium does not meet the required conditions in order to benefit from the support for employer share of insurance premium as a consequence of the audits to be conducted by the officers of the Social Security Authority in charge of audit and control or to be conducted pursuant to the article 4 of the Law or as a result of the documents to be received from TEKMER directorate, managing companies or official institutions and organizations, the amounts of the employer share of insurance premium which have already been paid by the Ministry of Finance previously shall be collected from the employers together with the delay fine and default interest to be calculated pursuant to the related provisions of the social security legislation starting from the month following the date when the payment time is up.

(12) In the application of support for employer share of insurance premium which is calculated over the wages of the personnel whose wages were subject to income tax exemption pertaining to the provisional article 2 of the Law on Technology Development Regions and who work in the region actively, other terms shall not be applied other than this article of the Regulation. The managing companies within the scope of the Law on Technology Development Regions shall have the obligation of auditing whether the employers benefiting from such support meet the required conditions pertaining to the related legislation and of notifying to the Provincial Social Security Directorate (transferred SSK) to which they are affiliated in 10 days in the event that they determine that the employers do not meet such requirements.

(13) Provided that the employers falling under the scope of the first paragraph have more than one business place in connection with the R&D and innovation activities, a separate application shall be filed for every business place falling within the scope and every business place shall be evaluated separately. Provided that the business places have more than one R&D center organized as a separate unit under the same organization structure, a separate application shall be filed for every R&D center by registering a new dossier for each.

(14) In the event that an incompleting R&D and innovation project is transferred, the enterprise taking over the R&D and innovation project shall benefit from the support for employer share of insurance premium on condition that such enterprise shall meet the required conditions. On the other hand, in the event that a completed R&D and innovation project is transferred, the enterprise taking over the R&D and innovation project shall not benefit from the support for employer share of insurance premium.

(15) Provided that it is decided that a wage differential be paid by the employers based on the collective bargaining agreement to the insured employees whose services and wages have been notified pursuant to the Law and that the monthly premium and service documents of additional quality regarding the wage differentials for the works related to the R&D and innovation activities are submitted to the Authority till the end of the month following the date of signature of the collective bargaining agreement, the employer may benefit from the support for employer share of insurance premium.

(16) The support for employer share of insurance premium shall not be used for the public personnel assigned in the projects specified in the first paragraph or working in the enterprises, for those who are subject to monthly social security support premium, candidate apprentices, apprentices specified in the Law no 3308 and dated 5/6/1986 on Vocational Education and Training and students receiving training in the enterprises as well as those who are subject to community insurance.

(17) Payments made to the insured employees falling within the scope of the Law other than their wages shall not be included into the earning which is basis of the premium specified in the monthly premium and service document as prepared pertaining to the Law. Such payments shall be notified to the Social Security Authority together with the monthly document on premium and service not covered by the support.

(18) Support for employer share of insurance premium shall not be applied for the

unemployment insurance premiums which incur due to the monthly documents on premiums and services prepared pursuant to the Law.

(19) Stamp duty shall not be collected for the monthly premium and service documents to be prepared for the insured employees falling within the scope of the Law.

(20) The amounts of the support for insurance premium arising within the framework of the abovementioned provisions shall be notified by the Social Security Authority to the General Directorate of Budget and Financial Control in quarters as of the calander year following the date of entry into force of this Regulation.

SECTION FOUR

Techno-Initiative Capital Support

Application of Techno-Initiative capital support

ARTICLE 12 – (1) Techno-initiative capital support can be applied by the students who can graduate from a undergraduate programme at a university delivering formal education in a year, masters student or doctoral student or those persons who have received their bachelor's, masters or doctorate degrees maximum five years before the preliminary application date.

(2) The condition of “to be able to graduate in one year” provided for in the first paragraph shall be authenticated through a letter issued by the authorized units of the university in the name of the public institution under the central administration requesting such demand for the techno-initiative capital support and the condition of “receiving the degree maximum five years before the preliminary application date” shall be authenticated through the graduation certificate or diploma issued by the universities.

(3) The support can be benefited by the enterprise which has been formed in compliance with the work plan accepted by the public institution under the central administration and after the application for the support and for which the entrepreneur is authorized to represent and bind.

(4) The authorized official of the enterprise is the one who is authorized to represent and bind the enterprise which creates added value at the corporate level and which belong to one or more real or legal entities on his own and in the broadest way.

(5) Techno-initiative capital support upto the amount of “00.000.- New Turkish Liras can be provided by the public institution under the central administration to the enterprises meeting the conditions mentioned in the third paragraph just for once and without receiving any guarantee and as a grant.

(6) Provided that the R&D and innovation projects of the enterprises benefiting from the techno-initiative capital support are supported by the public institutions and organizations, the amount of the support provided as techno-initiative capital shall not be deducted from the expenditures or support of R&D and innovation project.

(7) The public institution under the central administration which has taken the decision of support may divide the capital support in the form of grant to installments, may impose the condition of meeting various success criteria in order to get the support payments, may determine the technological areas that it will support as a priority.

(8) Pursuant to the law, the total amount of the payments made by all of the public institutions under the central administration which have allotment in the annual budget in the form of grant in order to support the R&D expenditures shall not exceed 10.000.000.- New Turkish Liras for every calendar year. This issue shall be taken into account and shall be pursued in preparing and implementing the central administration budget.

(9) The fixed amount specified in the fifth and eight paragraphs shall be taken into account by increasing the revaluation rate determined every year pursuant to the Tax Procedure Law in the subsequent years.

SECTION FIVE

Stamp Duty Exemption

Application of stamp duty exemption

ARTICLE 13 – (1) All and any papers issued in connection with the all kinds of R&D and innovation activities within the scope of the law shall be exempt from stamp

duty.

(2) In order to apply the stamp duty exemption, it shall be sufficient to submit the list indicating the transactions to be conducted within the scope of the R&D and innovation activity and the public institution and organization providing the support and approved by the public institution applied for the R&D centers as well as pre-competition cooperation projects; by TEKMER directorate for technology center enterprises; by TUBITAK for the R&D and innovation projects supported by international funds or conducted by TUBITAK to the transacting institutions and organizations such as notary, official agencies, other public institutions and organizations during the transaction and the transacting institutions or organizations shall not demand any other document.

(3) During the transaction, if the concerned approved list is not submitted for any reason whatsoever, the stamp duty for the papers shall be paid by the related persons.

(4) Provided that the supports and incentives are used for any reason other than the intended purposes, conditions are violated or the evaluation reports regarding the projects are determined to be negative, the stamp duty which is subject to the exemption shall be collected from the enterprises falling under the scope of the article 23. While applying the exemption during the transaction, submission of the concerned approved list shall not affect this application.

(5) The institutions and organizations which transact by applying the stamp duty exemption within the scope of the law shall be obliged to submit the notification the content of which shall be determined by the Ministry of Finance for the stamp duty which was not caused to be paid by the related persons due to exemption or which was not attached during payment, to the tax department that they are affiliated to in terms of corporate and income taxes of the related persons in one month following the date of transaction.

(6) The papers which have been issued regarding the R&D and innovation activities and subject to exemption as well as the documents which constitute the basis for the application of the exemption shall be kept for 5 years following the date of issuance of such papers and shall be submitted to the related persons and institutions when required.

SECTION SIX

Evaluation and Audit Commission, Issues related to the R&D Centers as well as Pre-Competition Cooperation Projects

Evaluation and Audit Commission

ARTICLE 14 – (1) Evaluation and audit of the R&D centers and pre-competition cooperation projects shall be conducted by the Evaluation and Audit Commission.

(2) The Evaluation and Audit Commission shall be composed of the following five members:

- a) One member to be determined by the Ministry of Finance in 1 year,
- b) Industry Research and Development General Director of the Ministry of Industry and Commerce or if there is an excuse his/her deputy,
- c) Two members to be selected among at least 20 academicians to be determined by the higher education institutions upon the request of the Ministry of Industry and Commerce in one year and who have expertise in the fields of technology and who will be selected according to the subject related to the center or pre-competition cooperation project whose applications will be evaluated,
- d) One member to be selected by the Ministry of Industry and Commerce among at least 10 scientists to be advised by the Union of Chambers and Commodity Exchange of Turkey (TOBB) upon the request of the Ministry of Industry and Commerce for one year and who have expertise in the fields of technology and who preferably work in the universities or research institutions according to the subject related to the center or pre-competition cooperation project whose applications will be evaluated.

(3) The Evaluation and Audit Commission shall execute its evaluation and audit duties by assigning arbitrators who have technological knowledge, expertise and experience in the field of R&D centers or pre-competition cooperation projects whose applications are to be evaluated and audited. Such arbitrators shall be selected among the scientists who have a career and assigned preferably at the universities or at the research

institutions. The arbitrators assigned during the evaluation of the application of a R&D center or pre-competition cooperation project shall not be assigned for auditing the same center or project.

(4) The arbitrators assigned for evaluating the application of or auditing the R&D centers or pre-competition cooperation projects shall submit their reports that they have prepared by conducting on-site examination and audits to the Evaluation and Audit Commission.

(5) The Evaluation and Audit Commission shall convene at least once in every 15 days in order to determine the arbitrators to be assigned for the evaluation and audit of the applications and to decide upon the reports prepared by the arbitrators.

(6) The Evaluation and Audit Commission shall convene under the presidency of the Industry Research and Development General Director of the Ministry of Industry and Commerce or of his/her deputy when s/he has an excuse.

(7) The Evaluation and Audit Commission shall convene with the participation of at least four members and decide upon the same vote of three members.

R&D centers

ARTICLE 15 – (1) The following conditions shall be required for the applications in order to benefit from the supports and incentives provided for in the law to get R&D Center Licence.

a) Employment of at least 50 full-time equivalent R&D personnel regardless of the number of the personnel actively working in the technology development regions established pursuant to the Law on Technology Development Regions,

b) Implementation of the R&D activities of the R&D centers within the scope of the Law at home country,

c) That the applying enterprise shall have the sufficient R&D management and technological assets, R&D human resources, management capacity and capability for intellectual rights, projects and information resources,

ç) That the R&D centers shall have the mechanisms to conduct the physical controls to establish that the R&D and support personnel works in the R&D center,

d) That the subject, term, budget and personnel needs of the R&D centers have been identified, and they shall have the R&D and innovation programme and projects, ,

e) That the R&D centers are organized as a separate unit and located in a single place or physical location,

f) That the R&D centers shall be outside the technology development regions established pursuant to the Law on Technology Development Regions,

(2) Provided that the enterprises have more than one R&D center organized as a separate unit under the organization structure, a separate application shall be filed for every R&D center.

(3) It shall not be a condition for the enterprises to establish a R&D center in order to exclusively conduct the R&D activities to have a separate business place which is engaged in production or trading in Turkey.

(4) The enterprises requesting to benefit from the support or incentives shall deliver the application file to the Ministry of Industry and Commerce in hand or via mail.

(5) The Ministry of Industry and Commerce shall be authorized to realize arrangements regarding the documents to be requested for application, the form and content of such documents as well as the methods to be followed for applications and other issues by taking the approval of the Ministry of Finance.

(6) The Ministry of Industry and Commerce shall conduct the preliminary examination of the application files in terms of form and content, if it finds missing information or document, it shall have the identified deficiencies completed in maximum 15 days and submit one copy to the members of the Evaluation and Audit Commission.

(7) The Evaluation and Audit Commission shall evaluate and decide upon the application in maximum 2 months. If the decision is positive, the result shall be notified by the Ministry of Industry and Commerce to the Presidency of the Social Security Authority and the applicant enterprise in 7 days.

(8) If the decision of the Evaluation and Audit Commission is negative, the result shall be notified in writing by the Ministry of Industry and Commerce to the enterprise.

(9) The R&D Center Licence of the enterprise the R&D Center application of which has been approved by the Evaluation and Audit Commission shall be given by the Ministry of Industry and Commerce.

(10) The enterprise whose application has been approved and which has received R&D Center Licence shall benefit from the supports and incentives provided for in the Law following the date of issuance of the Licence.

Audit of R&D centers

ARTICLE 16 – (1) The audit of the R&D centers shall be realized by the Evaluation and Audit Commission.

(2) The number of the full-time equivalent R&D personnel working at the R&D center shall be calculated by dividing the total working time in quarterly basis according to the working times of actively working personnel to the quarterly full-time working time of a person. Working hours above 8 hours a day and 45 hours a week and additional working times shall not be take into account. Quarterly periods shall be the provisional taxation periods of the enterprise having the R&D center under ints organization.

(3) The enterprises having a R&D center shall submit the list of the personnel working at such centers to the tax department that they are affiliated to and related Provincial Social Security Directorate (Transferred SSK) until the end of the subsequent month following the provisional taxation periods separately for every month.

(4) The enterprises infringing the condition of employing the minimum number of R&D personnel in any quarterly period shall not benefit from the supports and incentives provided for in the Law until when they fulfill the infringed requirement again.

(5) R&D centers shall be audited maximum every 2 years.

(6) R&D center shall send the activity report regarding the activities it has conducted every year to the Ministry of Industry and Commerce in the subsequent month following the calendar mont when the document is submitted.

(7) The Ministry of Industry and Commerce shall conduct the preliminary examination of the activity report in terms of form and content and if it determines any missing information or document, it shall have the identified deficiencies completed maximum in 15 days and shall submit one copy of the application file to the members of the Evaluation and Audit Commission.

(8) The transactions to be conducted by the Evaluation and Audit Commission for the audit of the R&D center shall be completed in 45 days.

(9) As a consequence of the evaluation by the the Evaluation and Audit Commission, the Licence shall be cancelled according to the degree of the deficiency and infringement found in the audit or time shall be extended to 3 months for the related enterprise in order to complete the deficiencies. The enterprise shall not benefit from the support or incentives provided during this period of time.

(10) Provided that the identified deficiencies are not completed within the period of time granted, the R&D Center Licence given to the enterprise shall be cancelled. The enterprise shall not benefit from the support and incentives provided fror in the Law following the date when the conditions were infringed.

(11) Provided that it is established that the R&D center does not meet the basic conditions specified in the first paragraph of the article 15, the R&D Center Licence shall be cancelled by the Ministry of Industry and Commerce.

(12) The enterprises whose R&D Center Licence has been cancelled can apply for the “R&D Center Licence” earlist in 1 year following the calcellation of the Licence.

(13) The fact that the enterprises do not meet the required conditions as a consequence of the audits shall be notified to the Revenue Administration and Presidency of the Social Security Authority in 10 days by the Ministry of Industry and Commerce.

(14) Provided that the established units lose their condition of being R&D centers, infringes the conditions provided for in this Regulation or misuse the support and incentives, the enterprises shall not use the support and incentives provided to the R&D centers by Law as of the date when the conditions were lost, infringement is made or the support and incentives were misused.

Pre-competition cooperation projects

ARTICLE 17 – (1) It shall be obligatory to have more than one institution in the pre-competition cooperation projects.

(2) In order to benefit from the supports and incentives granted to the pre-competition cooperation projects within the scope of the law, the managing enterprise shall submit the project application to the Ministry of Industry and Commerce in hand or via mail within 3 months following the date of preparation of the protocol.

(3) The Ministry of Industry and Commerce shall be authorized to make arrangements for the documents to be requested for application, the form and content of such documents, methods to be pursued during the application and other issues upon the approval of the Ministry of Finance.

(4) The form and content of the application file shall be subject to preliminary examination by the Ministry of Industry and Commerce, if missing information or document is identified, such deficiencies shall be completed in 15 days at the latest.

(5) The evaluation of the application shall be completed by the Evaluation and Audit Commission maximum in 2 months.

(6) If the decision of the Evaluation and Audit Commission is positive, project contract shall be concluded by and between the Ministry of Industry and Commerce and the enterprise. The enterprises shall benefit from the supports and incentives provided by Law as of the date of entry into force of the pre-competition cooperation project contract and during the project.

(7) One copy of the project contract shall be sent to the Revenue Administration, Presidency of Social Security Authority and applicant enterprise in 7 days by the Ministry of Industry and Commerce.

(8) The term of the pre-competition cooperation project shall be maximum 36 months and the additional time extension shall be maximum 12 months.

Audit of the Pre-Competition Cooperation Projects

ARTICLE 18 – (1) Pre-competition cooperation projects shall be audited by the Evaluation and Audit Commission. The audit process shall be commenced upon the submission of the development report to be prepared by the enterprise conducting the project in 12-month periods to the Ministry of Industry and Commerce till the end of the month following that period. During this period, the enterprises that have not prepared the development report and commenced the audit process shall not benefit from the discounts, exemptions, supports and incentives provided for in the Law as of the subsequent month.

(2) The Ministry of Industry and Commerce shall execute the preliminary examination of the development report in terms of form and content, if it identifies any missing information or document, it shall have the deficiencies be completed in maximum 15 days and submit one copy to the Evaluation and Audit Commission.

(3) The Evaluation and Audit Commission shall decide upon the continuation or cancellation of the project maximum in 45 days by examining the development report.

(4) As a consequence of the evaluation by the Evaluation and Audit Commission, if it is determined that the project has lost its quality of being pre-competition cooperation, the project contract shall be cancelled.

(5) In the event that the project contract is cancelled, the Ministry of Industry and Commerce shall submit the cancellation letter to the Revenue Administration and Presidency of Social Security Authority and to the managing enterprise in 10 days.

(6) The enterprises included in the pre-competition cooperation project shall not benefit from the support and incentives provided for in the Law in the event that the project is terminated for any reason whatsoever as of that date and if the project contract is cancelled they shall not benefit from the abovementioned items as of the commencement date of audit.

(7) In the pre-competition cooperation projects, the contributions made by the enterprises composing such cooperation shall be followed in a special account to be opened in the name of one of the enterprises determined in the cooperation protocol.

(8) The amounts which are transferred to the special account shall not be used for any other purpose. The amounts collected in the project account shall not be taken into consideration as income in the determination of the earnings of the enterprise opening

the special account.

SECTION SEVEN

Technology Centers, R&D and Innovation Projects and Techno-Initiative Capital Support, Audit

Technology Centers (technology center enterprises)

ARTICLE 19 – (1) The enterprises shall apply to the technology centers with their R&D and innovation projects in order to benefit from the supports provided within the scope of the KOSGEB support legislation.

(2) Enterprise applications shall be subject to examination and evaluation within the framework of the Regulation on the Supports of the Small and Medium Scaled Industry Development and Supporting Administration (KOSGEB) published in the Official Gazette no 25795 and dated 24/4/2005 and it shall be decided whether to support such enterprise or not.

(3) The enterprises deemed to be appropriate to support pursuant to the related legislation shall benefit from the support and incentives provided by Law following the date when the R&D and innovation project has been approved and during the project.

(4) In the events that the projects conducted under the KOSGEB technology center enterprise terminate for any reason whatsoever or the support provided for the projects are halted, the R&D and innovation activity shall be deemed to have been finished and the supports and incentives provided by Law shall not be benefited from that date on. This case shall be notified by the technology center boards to the tax department and Provincial Social Security Authority (Transferred SSK) that the enterprise is affiliated to in 10 days.

R&D and innovation projects

ARTICLE 20 – (1) The R&D and innovation projects shall be evaluated by the public institution applied to as well as the foundations established by law pursuant to their own legislations. The R&D and innovation projects conducted at the technology center enterprises and R&D centers and supported by the public institutions and organizations as well as the foundations established by law or conducted by TUBITAK shall start to benefit from the supports and incentives provided by Law on the date when the support decision letter is issued for the R&D and innovation projects or the project contract enters into force without being subject to reexamination.

(2) The enterprises conducting the R&D and innovation projects financially supported through the funds of the bilateral and multilateral international R&D cooperation programs that Turkey is a party via the treaties and which are not covered by the first paragraph shall benefit from the supports and incentives provided by Law within the scope of the concerned project and during the project support. In order for the R&D projects supported by International R&D cooperation programs to benefit from the supports and incentives provided by Law, the project application filed to the international program, information regarding the program applied to, support letter or contract and the contribution of the enterprises to benefit from the incentive in the project shall be submitted to TUBITAK for examination.

(3) The enterprises benefiting from the supports and incentives provided for in the second paragraph shall benefit from the supports and incentives provided by law as of the date when the approval letter of TUBITAK is issued.

(4) The supports and incentives shall be benefited as a whole for the R&D and innovation projects supported by the public institutions and organizations and foundations established by law or international funds for the R&D activities realized within the Technology Development Regions within the scope of the Law on Technology Development Regions. In this case, the supports and incentives provided pursuant to the Law on Technology Development Regions shall not be used separately.

(5) In the R&D and innovation projects, provided that the project is terminated for any reason whatsoever or the support provided for the projects are halted, the R&D and innovation activity shall be deemed to have been finished and the supports and incentives provided by Law shall not be benefited from that date on.

Techno-initiative capital support

ARTICLE 21 – (1) Techno-initiative capital support shall be provided by the

public institutions under the central administration.

(2) The preliminary application for the techno-initiative capital support shall be made to the public institution under the related central administration by preparing the information regarding the subject and purpose of the project, scientific and technological nature of the project, experience and infrastructure of the entrepreneur, market estimations for the business field planned by the entrepreneur to be established and success criteria in compliance with the form determined in the practical principles.

(3) The preliminary evaluation of the application shall be made by taking into account the R&D nature, innovative aspects, purpose and results of the business idea, probable technological contribution of the enterprise planned to be established at the national and international levels and technological and economic estimations of the enterprise by the related public institution.

(4) The holder of the preliminary application document deemed to be appropriate in terms of content and form after the preliminary evaluation shall be requested to submit the work plan.

(5) The enterprise whose preliminary application is accepted shall prepare the work plan in compliance with the form determined by the public institution under the related central administration.

(6) The work plan shall include the detailed information, analyses and estimations regarding the subject and purposes, success criteria, scientific and technological nature of the business, experience and infrastructure as well as the market estimations of the entrepreneur regarding the business field, and the 12-month action plan as well as the short, medium and long term management and marketing strategies of the enterprise planned to be established.

(7) The work plan prepared by the entrepreneur shall be evaluated by a commission composed of at least 5 members from universities, research institutions, industrial institutions and similar institutions and organizations on condition that such members shall have the expertise and experience in the fields of technology that are related to the work plans most of which are to be selected from outside the public administration under the central administration. The business ideas which are not deemed to be sufficient in terms of technological innovation and competitiveness shall be rejected by the commission.

(8) The applicants shall submit list including the project name, purpose and subject of the projects determined to be supported by the public institutions under the central administration providing the techno-initiative capital support as well as the one copy of the meeting minute in which the decision regarding the support has been taken to the Ministry of Industry and Commerce. Such information shall be recorded in the information registry on techno-initiative capital support to be formed by the Ministry of Industry and Commerce.

(9) Provided that the enterprise filing the application for techno-initiative capital support and/or project which are found to be appropriate to be supported are found to be repeating, such case shall be notified to the related administrations.

(10) Techno-initiative contract shall be concluded with the enterprises found to be appropriate for support after eliminating the repetitions.

(11) The public administrations under the central administration providing the techno-initiative capital support shall submit the contract concluded with the enterprise and the work plan annexed thereto to the Revenue Administration, General Directorate of Budget and Financial Control and Presidency of Social Security Authority maximum in 1 month following the date when the fund is allocated.

(12) The enterprises shall benefit from the techno-initiative support just for once. This case shall be explored from the information registry on techno-initiative capital support by the related administrations and shall be taken into consideration during the preliminary evaluation.

(13) The public administration under the central administration providing the techno-initiative capital support shall prepare the practical principles regulating the following issues and shall provide the support pursuant to such practical principles.

a) Support period and application dates,

b) Reduction of the other non-repayable supports received from the public

institutions from the techno-initiative capital support,

- c) The date when the applications will be accepted,
- ç) Form of the preliminary application document,
- d) Procedures and principles for evaluating the preliminary applications,
- e) Form of the work plan document,
- f) Procedures and principles for evaluating the applications,
- g) Procedures and principles for operation of the commission,
- ğ) Contract terms,
- h) Procedures and principles for monitoring the enterprise provided with the support,
- i) Procedures and principles on financial documentationi audit and payment transactions,
- i) Procedures and principles on the collection of unfair and extra payments,
- j) Responsibilities of the parties,
- k) Codes of conduct,
- l) Issues related to confidentiality, intellectual and industrial property rights,
- m) Procedures and principles for maintaining the documents related to the support and auditing such documents after the support.

(14) The contracts shall be drafted by the public institutions under the central administration in a way that the techno-initiative capital support will be paid in the related financial year. The contracts transferring to the subsequent years regarding th techno-initiative capital support shall not be prepared.

(15) The enterprises benefiting from the techno-initiative capital support shall benefit from the supports and incentives provided by the Law as of the date when the work plan is approved and during the period in which they are supported by the public institution under the related central administration.

Audit

ARTICLE 22 – (1) The audits of the enterprises benefiting from the techno-initiative capital support shall be realized annually till the date when the work plan received while providing the techno-initiative capital support is concluded, by the public institutions under the central administration providing the support in compliance with the procedure specified in the audit guidelines to be prepared by the Ministry of Industry and Commerce.

(2) The audits of the R&D and innovation projects supported by the public institutions and organizations as well as the foundations established by law shall be realized annually by the institution, organization or foundation providing the support within the framework of the legislation on the support.

(3) The audit of the technology center enterprises shall be realized by KOSGEB for maximum 2 –year periods.

(4) The audit of he projects conducted by TÜBİTAK or supported by international funds shall be realized by TÜBİTAK.

SECTION EIGHT

Infringement of the Terms

Infringement of the temrs and Misuse of the supports and incentives

ARTICLE 23 – (1) The enterprise shall accept and undertake that all the information and documents that it provided within the scope of the Law and this Regulation are accurate and; provided that the enterprise does not submit accurate information and documents within this scope, projects are cancelled as a result of the wrong intention, fault or negligence of the enterprises, the provisions of the Law shall be deemed to have been infringed.

(2) Provided that the provisions of the Law are infringed or the support and incentives are misused, tax loss shall be deemed to have arisen in terms of the taxes not incurred previously and the lost taxes shall be collected together with the delay interest and tax loss fine.

(3) Extra-tax supports provided shall be collected pursuant to the provisions of the Law no 6183 and dated 21/7/1953 on the Procedure of Collecting the Public Receivables and by applying delay interest.

SECTION NINE

Various and Final Provisions

Monitoring the cahs supports

ARTICLE 24 – (1) The grant supports received by the R&D and innovation activities from the public institutions and organizations, foundations established by law and international funds shall be monitored in a special account pursuant to the provisions of the legislation that the support is subject to.

(2) The amounts in this account shall not be taken into account as income in the determination of the taxable earnings pursuant to the Income Tax Law and Corporate Tax Law and as R&D expenditure in the determination of the R&D discount amount. The expenditures made from the non-repayable funds provided in this manner shall be recognized as expenditure or depreciable economic assets based on where they are made.

(3) Provided that this account is transferred to any other account in any way whatsoever in 5 year following the accounting period when this account was obtained or is withdrawn from the enterprise, the taxes which have not been incurred previously shall be collected together with the lost tax fine as well as delay interest.

(4) The repayable supports received by those engaged in the R&D and innovation activities from the public institutions and organizations, foundations established by law and international funds shall not be evaluated in this scope.

Commission members and payments to the arbitrator

ARTICLE 25 – (1) The lecturers of higher education institutions assigned as the commission member or arbitrator in the evaluation, audit and monitoring of the projects within the scope of R&D center, pre-competition cooperation projects and techno-initiative capital support shall be appointed pursuant to the article 38 of the Law no 2547 and dated 4/11/1981 on Higher Education and their wages shall be paid for every meeting that they attend within the scope of this article. The wages of the industry members who are assigned in the meetings and who do not have any public duty shall be determined by the Ministry of Industry and Commerce in a way not to exceed the wage to be provided to the lecturers.

(2) The allowances of the members participating from outside Ankara shall be paid pursuant to the provisions of the Allowance Law no 6245 and dated 10/2/1954.

Confidentiality

ARTICLE 26 – (1) The information and documents presented to the persons assigned in the processes of evaluation and monitoring of the applications made for the supports and incentives shall be accepted as “confidential commercial information” of the enterprise or “service-specific information” and shall not be transferred to the third parties in any way whatsoever.

(2) The persons and institutions acting contrary to the confidentiality provisions shall not benefit from the supports and incentives provided for in the Law and shall by no means be assigned in the projects taken under the scope of the supports and incentives save as the provisions of the Law no 3568 and dated 1/6/1989 on Independent Accountant and Financial Advisor and Certified Public Accountant, Law no 5846 and dated 5/12/1951 on Intellectual and Artistic Works and other legislations.

Regulation authority

ARTICLE 27 – (1) Regarding the implementation, the Revenue Administration shall be authorized in the tax matters and the Presidency of Social Security Authority shall be authorized in the matters related to the insurance premium supports to realized regulations.

Enforcement

ARTICLE 28 – (1) This Regulation prepared upon the approval of the Court of Accounts shall enter into force on 1/8/2008.

Execution

ARTICLE 29 – (1) The provisions of this Regulation shall be executed by the Minister of Finance and Minister of Industry and Commerce.