

**LAW**

**ON INCENTIVES FOR RESEARCH AND INNOVATION DEVELOPMENT**

**Subject-matter**

**Article 1**

The present Law shall prescribe the conditions for acquiring the status of the beneficiary of the right to incentives, the conditions for approving, renewing and revoking the status of the beneficiary of incentives, types of incentives, as well as other issues of relevance for exercising the right to incentives.

**Incentives for research and innovation development**

**Article 2**

Incentives for research and innovation development shall be the measures that encourage the exercise of scientific research and innovation activities, as well as investments in these activities.

The incentives referred to in paragraph 1 of this Article shall be aimed at encouraging economic growth, technological development, innovation and entrepreneurship through employment, especially of young, highly-qualified persons, strengthening existing innovative companies and creating start-ups and spin-offs, and promoting export, especially in medium and high technology sectors, knowledge-based services, as well as creating a more favourable environment for scientific research and innovation activities.

**Availability**

**Article 3**

The incentives for research and innovation development shall be available to everyone under the conditions prescribed by the present Law.

**Use of gender-sensitive language**

**Article 4**

The terms used in the present Law for individuals in the masculine gender shall equally refer to the same terms in the feminine gender.

**Definitions**

**Article 5**

The terms used in the present Law shall have the following meanings:

- 1) **Research and development (R&D)** – creative and systematic activities undertaken to increase the pool of knowledge and to devise new applications of available knowledge. In order for an activity to be considered R&D, it must be: novel, creative, uncertain,

systematic and transferable and / or reproducible. The term R&D encompasses three types of research: basic research, applied research and experimental development;

- 2) **Innovation** – a new or improved product or process, or a combination thereof, which differs significantly from existing or previous products or processes and has been made available to potential users (product) or brought into use (process);
- 3) **Product innovation** – a new or improved product or service that differs significantly from the previous products or services of legal entities or individuals and that has been introduced on the market;
- 4) **Innovative activities** – any scientific, technological, organisational, financial and commercial processes that result, or are intended to result, in an innovation development or implementation, including: innovative research and development activities and innovative activities that are not research and development;
- 5) **Innovative project** – a set of activities, created by legal entities and / or individuals, with a clearly defined objective, project management model, resources needed, timeframe and results expected, whose implementation implies the realisation of innovation and scientific research activity programmes and encourages the development of new or improved products, services or processes and their introduction to the market or use;
- 6) **Innovative programme** – a set of innovative projects and activities created by the innovation activity entities, with a clearly defined objective, priorities, organisation of work, resources needed, timeframe and expected results. The implementation of an innovative programme implies the realisation of a development strategy of an innovation activity entity and implementation of its strategic orientation towards innovation as a factor of strengthening competitiveness;
- 7) **Technology transfer** – the process of knowledge and technology transfer that takes place between scientific institutions, scientific institutions and the economic sector, as well as between the businesses on the domestic or international market, all with a view to facilitate further development of products, services, processes and technologies, protection of intellectual property and provision of support for their commercialisation;
- 8) **Entity performing innovation activities** – a legal entity established in accordance with a separate law and based in Montenegro, as well as an individual who creates innovations, places new knowledge and technologies on the market, applies scientific results and modern technological processes in an original and systematic manner in order to create or apply innovations;
- 9) **Innovation infrastructure** – facilities, technical and technological equipment, software and knowledge network in support of the implementation of innovation activities, provided by relevant entities with the aim of spreading knowledge and awareness of innovation, supporting the formation and strengthening of innovative businesses, utilising R&D results, improving innovative capacity of the economy and universities, providing for internationalisation of business and scientific activities, facilitating cooperation between the economic, scientific, academic and public sectors and strengthening the scientific base of society;

- 10) **Start-up** – a newly formed business entity that has existed for five years or less and creates, develops and brings into use innovations with high international market growth potential;
- 11) **Spin-off** – a newly formed business entity resulting from scientific research or technology transfer, created through separation from an existing legal entity, with the aim of commercial utilisation of research or innovation results;
- 12) **Inventor** – an individual who performs innovation activities independently and is engaged in research and creation of a conceptual design, a new or significantly improved product, service or technology, prototype, new methods or other forms of intellectual property that may be protected at the national or international level;
- 13) **Innovator** – an individual who performs innovation activities independently and uses the results of his research and creation of a conceptual design, a new or significantly improved product, service or technology, prototype, new methods or other forms of intellectual property that may be protected at the national or international level, for commercialisation purposes;
- 14) **Freelancer** – a domestic or foreign individual residing in Montenegro who independently performs innovative activities by providing intellectual services for the needs of domestic and foreign legal entities and individuals;
- 15) **Investor in scientific research and innovation activities** – legal entity or individual who invests in other entities performing innovation activities, with investment being made in shares or stocks of start-ups, spin-offs and venture capital funds for investment in entities performing innovation activities, or donates funds to scientific research institutions or innovation infrastructure entities. An individual can also be a “business angel”, who, in addition to financial resources, also invests his own knowledge, experience and network of contacts in order to improve innovation activities; and
- 16) **Venture capital** – includes formal and informal risk capital that is invested by owners in companies with high growth potential with the aim of launch, early development or expansion of business operations, subject to the inherent risks and with the intention of achieving high profit return on the invested capital.

### **Beneficiaries of the right to incentives**

#### **Article 6**

Any domestic and foreign legal entities and individuals performing scientific research and innovation activities in Montenegro, as well as other legal entities and individuals who invest funds or are otherwise connected to these activities, may be the beneficiaries of the right to incentives, in accordance with the conditions prescribed by the present Law and the law governing state aid.

### **Conditions for acquiring the status of the beneficiary of incentives**

#### **Article 7**

A legal entity performing innovation activities may acquire the status of the beneficiary of incentives if:

- 1) It is included in the Central Register of Business Entities;

- 2) It has a scientific research or innovative programme or project, worth at least EUR 25,000, which deals with innovation that is novel to the domestic or international market and which began to be implemented after the entry into force of the present Law;
- 3) It has, by the day of submitting the request for acquiring the status of the beneficiary of incentives, settled the liabilities related to the payment of taxes and contributions, i.e., if it has been approved a deferral of payment of taxes and contributions in accordance with a separate regulation;
- 4) No bankruptcy or liquidation proceedings have been initiated; and
- 5) It is not the founder or co-founder of a scientific research institution and an innovation activity entity and the persons related to them who have already exercised the right to incentives pursuant to the present Law.

An individual performing innovation activities may acquire the status of the beneficiary of incentives if:

- 1) he meets the conditions referred to in paragraph 1, item 1, 3 and 5 of this Article; and
- 2) he is the holder of intellectual property rights and/or has a contract on providing intellectual services under an innovative project based on which he generates revenues.

A legal entity providing innovation infrastructure may acquire the status of the beneficiary of incentives if:

- 1) it meets the conditions referred to in paragraph 1, item 1, 3, 4 and 5 of this Article; and
- 2) it has an innovative programme approved by the state administration body responsible for science and innovation (hereinafter: the Ministry).

A legal entity investing in innovation activities may acquire the status of the beneficiary of incentives if:

- 1) it meets the conditions referred to in paragraph 1, item 1, 3, 4 and 5 of this Article; and
- 2) it invests a minimum of EUR 5,000 in scientific research or innovative project included in the Register of Scientific Research Projects, or Register of Innovation Activities.

An individual investing in innovation activities may acquire the status of the beneficiary of incentives if:

- 1) he meets the conditions referred to in paragraph 1, item 1, 3 and 5 of this Article; and
- 2) he invests a minimum of EUR 2,500 in scientific research or innovative project included in the Register of Scientific Research Projects, or Register of Innovation Activities.

The Innovation Fund of Montenegro (hereinafter: the Fund) may acquire the status of the beneficiary of incentives if:

- 1) it meets the conditions referred to in paragraph 1, item 1, 3, 4 and 5 of this Article; and
- 2) it has an annual work programme.

Detailed conditions for acquiring the status of the beneficiary of incentives shall be prescribed by the Ministry.

## **Activities for which the incentives shall not be approved**

### **Article 8**

The incentives may not be approved to legal entities and individuals performing the following activities:

- 1) Production and sale of weapons and military equipment;
- 2) Organisation of games of chance;
- 3) Production and trade of any products or activities that are considered illegal or harmful to the environment and/or human health;
- 4) Activities that are considered prohibited pursuant to the law;
- 5) Production and trade of excise goods;
- 6) Activities of political parties; and
- 7) Activities that violate human dignity.

## **Initiating the procedure for acquiring the status of the beneficiary of incentives**

### **Article 9**

Legal entities and individuals meeting the conditions referred to in Article 7 of the present Law shall submit a request for acquiring the status of the beneficiary of incentives to the Ministry.

Along with the request referred to in paragraph 1 of this Article, legal entities shall submit evidence of fulfilment of the conditions referred to in Article 7, paragraph 1, item 4 of the present Law.

Along with the request referred to in paragraph 1 of this Article, individuals shall submit evidence of fulfilment of the conditions referred to in Article 7, paragraph 2, item 2 and paragraph 5, item 2 of the present Law.

The evidence of fulfilment of conditions referred to in Article 7, paragraph 1, item 1, 3 and 5 of the present Law shall be obtained by the Ministry ex officio.

## **Verification of requests and evidence submitted**

### **Article 10**

The Ministry shall verify the requests for acquiring the status of beneficiary of incentives and evidence referred to in Article 7 of the present Law within 15 days following the request submission.

The Ministry shall forward the complete requests with evidence to the Commission for Granting the Status of the Beneficiary of Incentives (hereinafter: the Commission) for further procedure.

## **Commission**

### **Article 11**

The Ministry shall form a Commission, which shall have the power to:

- 1) Make an expert assessment of a scientific research, or innovative programme or project;
- 2) Propose to the Ministry to grant, renew or revoke the status of the beneficiary of incentives, in accordance with the present Law;
- 3) Supervise the use of incentives prescribed by the present Law; and

- 4) Perform other tasks related to monitoring the implementation of a scientific research or innovative programme or project.

The act on formation of the Commission shall determine the composition, manner of appointment and dismissal of the members of the Commission, as well as other issues of relevance for work of the Commission.

Members of the Commission shall be entitled to remuneration for their work.

### **Granting the status of the beneficiary of incentives**

#### **Article 12**

Following the expert assessment of a scientific research or innovative programme or project implemented or invested into by an innovation activity entity, or of an innovation infrastructure entity's innovative programme, or of a Fund's work programme, the Commission shall adopt a proposal for granting the status of the beneficiary of incentives.

The Commission shall submit the proposal referred to in paragraph 1 of this Article to the Ministry, for the purpose of adoption of a decision.

The Ministry shall, within 15 days from the day of receipt of the proposal referred to in paragraph 1 of this Article, issue a decision on granting the status of the beneficiary of incentives, or a decision on refusing the request for acquiring the status of the beneficiary of incentives.

The status of the beneficiary of incentives shall be granted for a period of up to three years from the day of issuance of the decision on granting the status of the beneficiary of incentives.

The decision referred to in paragraph 4 of this Article shall be entered in the Register of Innovation Activities and the Register of Measures kept by the authority responsible for competition protection.

### **Record-keeping**

#### **Article 13**

The beneficiaries of incentives shall keep separate records on scientific research, or innovative programme or project individually, in accordance with the regulations governing the field of accounting.

### **Renewing the status of the beneficiary of incentives**

#### **Article 14**

The status of the beneficiary of incentives shall be renewed under the procedure for granting the status of the beneficiary of incentives, in accordance with the present Law.

### **Change in activity of the beneficiary of incentives**

#### **Article 15**

In case of change in activity on the basis of which he/it received the status of the beneficiary of incentives, the beneficiary of incentives shall submit to the Ministry a request for

amendment to the decision on granting the status of the beneficiary of incentives, within 30 days following the change in activity.

Along with the request referred to in paragraph 1 of this Article, in addition to evidence of fulfilment of the conditions referred to in Article 7 of the present Law, the beneficiary of incentives shall also submit evidence of change in activity.

### **Revoking the status of the beneficiary of incentives**

#### **Article 16**

On proposal of the Commission, competent tax inspector or other interested persons, the Ministry shall revoke the status of the beneficiary of incentives ex officio when it determines that the beneficiary:

- 1) Does not perform the scientific research or innovation activity for which he/it was granted the incentives;
- 2) Does not fulfil the conditions referred to in Article 7 of the present Law;
- 3) Does not keep separate records on scientific research or innovative programme or project individually, in accordance with the regulations governing the field of accounting;
- 4) Abuses the status of the beneficiary of incentives for purposes that are contrary to the present Law.

In addition to the data prescribed by law, the decision on revoking the status of the beneficiary of incentives shall also contain the reason why the status is revoked.

The detailed manner and procedure of granting, renewing and revoking the status of the beneficiary of incentives shall be prescribed by the Ministry.

### **Verification of conditions fulfilment**

#### **Article 17**

The Commission shall verify the fulfilment of the conditions referred to in Article 7 of the present Law by the beneficiary of incentives at least once in two years, and shall submit a report thereon to the Ministry.

### **Control over the use of incentives**

#### **Article 18**

The Commission shall control the use of incentives approved under the present Law, and shall notify the Ministry and the state administration body responsible for finance thereon.

The manner of exercising the control referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

### **Types of incentives**

#### **Article 19**

Incentives for research and innovation development, within the meaning of the present Law, shall be the reduction, exemption from or relief in relation to:

- 1) personal income tax and surtax;
- 2) contributions for compulsory social insurance;

- 3) corporate income tax;
- 4) fees for developing communal infrastructure at construction land;
- 5) use of real estate and / or land owned by the state; and
- 6) real estate tax.

The total amount of all reductions, exemptions or reliefs exercised through the use of incentives referred to in paragraph 1 of this Article may not, for a single legal entity or individual, exceed EUR 300,000 over a three-year period.

Innovation activity entities may use several incentives at the same time, provided that the total amount of incentives does not exceed the permitted limit, in accordance with the law governing state aid.

Innovation activity entities that are classified in the category of large enterprises in accordance with the law governing accounting may use only the incentive referred to in paragraph 1, item 3 of this Article, doing so only for investments in other innovation activity entities in accordance with the present Law.

A detailed manner of using the incentives referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

## **Limitations**

### **Article 20**

The right to incentives referred to in Article 19 of the present Law may not be used by scientific research institutions and innovation activity entities established by organisations that have already exercised any of these rights, or where these rights have been exercised by founders or co-founders of scientific research institutions and innovation activity entities or persons related to them, nor can it be used by the taxpayers who are beneficiaries of state aid granted due to business operations difficulties in accordance with the law governing state aid.

Related persons within the meaning of paragraph 1 of this Article shall refer to persons between whom there are special relations that may have a direct impact on the conditions or economic results of transactions between these persons, in accordance with the law governing the tax administration.

Notwithstanding paragraph 1 of this Article, legal entities and individuals may use the incentives referred to in Article 19 of the present Law if they are developing an innovative product and / or service that is different from the product and / or service for which incentives have already been exercised.

## **Right to exemption from personal income tax and surtax**

### **Article 21**

The right to exemption from personal income tax and surtax may, in accordance with the law, be exercised by:

- 1) start-ups and spin-offs for their employees or hired persons;
- 2) persons performing innovative activity for the needs of foreign legal entities and individuals (freelancers), as well as inventors or innovators who generate income from innovation activity; and

- 3) persons who, in performing an independent activity, invest funds in the entities included in the Register of Innovation Activities.

The calculated personal income tax and surtax referred to in paragraph 1 of this Article shall be reduced:

- 1) by 100% for persons referred to in paragraph 1, item 1 of this Article for a total period of up to five years from the date of incorporation;
- 2) by 80% for persons referred to in paragraph 1, item 2 of this Article during the use of the status of the beneficiary of incentives;
- 3) in the amount of the funds invested, and up to a maximum of EUR 20,000 per year for the persons referred to in paragraph 1, item 3 of this Article.

The right to exemption from personal income tax and surtax may also be exercised by individuals referred to in paragraph 1, item 1 of this Article who generate revenues in the form of stocks or shares.

### **Right to exemption from contributions for compulsory social insurance**

#### **Article 22**

The right to exemption from contributions for compulsory social insurance may, in accordance with the law, be exercised by:

- 1) start-ups and spin-offs for their employees;
- 2) persons employed in scientific research institutions and entities implementing scientific research or innovation activity, who are additionally hired on scientific research or innovative programmes or projects;
- 3) persons employed or hired in scientific research institutions and entities performing innovation activity, working on scientific research or innovative programmes or projects, who do not exercise the right to social insurance with another legal entity; and
- 4) persons performing innovative activity for the needs of foreign legal entities (freelancers), as well as inventors and innovators who generate income from innovation activity.

The right to exemption from contributions for compulsory social insurance may also be exercised by individuals referred to in paragraph 1, item 1, 2 and 3 of this Article, who generate revenues in the form of stocks or shares.

The persons referred to in paragraph 1, item 1 of this Article shall be exempted from paying contributions for compulsory social insurance borne by the employer, for a total period of three years from the date of issuance of decision on granting the status of the beneficiary of incentives.

The persons referred to in paragraph 1, item 2 of this Article shall be exempted from paying contributions for compulsory social insurance borne by the employee and the employer, exclusively for the amount of remuneration for work on the project, for the period of duration of the project, but no longer than up to three years per project.

The persons referred to in paragraph 1, item 3 of this Article shall be exempted from paying contributions for compulsory social insurance borne by the employer, for the period of duration of the project, but no longer than up to three years per project.

The contributions for compulsory social insurance of persons referred to in paragraph 1, item 4 of the present Law shall be reduced by 80% of the calculated contributions for compulsory social insurance, for a period of duration of the status of the beneficiary of incentives.

The persons referred to in paragraph 2 of this Article shall be exempted from paying contributions for compulsory social insurance borne by the employee and the employer for the revenues they generate in the form of stocks or shares.

### **Right to exemption from corporate income tax**

#### **Article 23**

The right to exemption from corporate income tax may, in accordance with the law, be exercised by:

- 1) legal entities included in the Register of Innovation Activities that are reinvesting the funds from income made in their scientific research or innovative projects;
- 2) legal entities that invest funds in other innovation activity entities, as follows: in stocks or shares of start-ups, spin-offs and venture capital funds for investing in entities performing innovation activities or donating funds to scientific research institutions and innovation infrastructure entities.
- 3) legal entities providing innovation infrastructure; and
- 4) the Fund.

The calculated corporate income tax referred to in paragraph 1, item 1, 3 and 4 of this Article shall be reduced by 100% for income reinvested by a legal entity into its scientific research or innovative projects, innovative programmes of innovation infrastructure entities or work programme of the Fund, for a period of duration of the status of the beneficiary of incentives.

The calculated corporate income tax referred to in paragraph 1, item 2 of this Article shall be reduced by 100% of the funds invested in:

- 1) shares or stocks of start-ups and spin-offs;
- 2) donations to scientific research institutions and innovation infrastructure entities for projects and scientific research infrastructure;
- 3) the Fund and/or other investment funds in Montenegro which invest in entities performing innovation activities.

The incentive referred to in paragraph 3, item 1 of this Article may be used if the ownership share in innovation activity entities cumulatively does not exceed 49%.

The legal entities referred to in paragraph 3 of this Article should be included in the Register of Innovation Activities.

### **Right to reduction in the fees for developing communal infrastructure at construction land**

#### **Article 24**

The right to reduction in the fees for developing communal infrastructure at construction land may, in accordance with the law, be exercised by legal entities as innovation activity entities, for a single business facility which is of no public interest, provided that at least 75% of its total

net area is used for implementation of innovative programmes or projects or innovative programmes of innovation infrastructure entities.

The calculated amount of the fee referred to in paragraph 1 of this Article shall be reduced by 50%.

If the legal entity referred to in paragraph 1 of this Article changes the purpose of the facility within ten years from the date of receiving the decision on granting the status of the beneficiary of incentives, it shall reimburse the funds in the amount of incentive received.

### **Right to use of real estate and / or land owned by the state**

#### **Article 25**

The right to use real estate and / or land owned by the state free of charge or under conditions that are more favourable than the market ones may, in accordance with the law, be exercised by legal entities and individuals referred to in Article 7, para. 1, 3 and 6 of the present Law which have received the status of the beneficiary of incentives, in accordance with the law governing the disposal of state property.

### **Right to reduction in real estate tax**

#### **Article 26**

The right to reduction in tax on real estate registered as business premises may, in accordance with the law, be exercised by legal entities as innovation activity entities provided that the real estate is used for implementation of scientific research or innovative programme or project, an innovation infrastructure entity's innovative programme, or a Fund's work programme, on the basis of which the status of the beneficiary of incentives was obtained.

The calculated amount of the tax referred to in paragraph 1 of this Article shall be reduced by 50% for the duration of the status of the beneficiary of incentives.

### **Independent external audit**

#### **Article 27**

The independent external audit of the scientific research or innovative programme and project on the basis of which the incentives determined by the present Law have been granted shall be carried out by the Ministry, after the completion of the programme and project.

### **Supervision**

#### **Article 28**

Supervision over the procedure for acquiring the status of the beneficiary of incentives shall be performed by the Ministry, and supervision over the procedure for approval of financial statements shall be performed by the state administration body responsible for finance.

### **Administrative measures**

#### **Article 29**

The beneficiary of incentives who had the right to incentives revoked pursuant to Article 16 of the present Law shall be imposed an administrative measure of obligation to pay any amount due that the beneficiary of incentives would have paid if he had not used the incentives

established by the present Law, as well as an administrative measure of loss of the right to incentives established by the present Law, lasting up to three years.

The administrative measures referred to in paragraph 1 of this Article shall be imposed by the state administration body responsible for finance, by a decision.

### **Deadline for adoption of by-laws**

#### **Article 30**

The regulations for the implementation of the present Law shall be adopted within one year from the day of entry into force of the present Law.

### **Entry into force**

#### **Article 31**

The present Law shall enter into force on the eighth day following that of its publication in the Official Gazette of Montenegro.