

Law on support for innovation companies **Nr. 152/2009.**

Chapter 1. **General provisions.**

Article 1 *Objectives.*

The objective of this Act is to improve the competitive conditions of innovation companies and foster research and development work by, on one hand, providing innovation companies with a right to tax credits in respect of costs of innovative projects and, on the other hand, encourage persons and legal parties to invest in them, subject to certain conditions.

Article 2 *Sphere of application.*

This Act covers certified innovation companies, but not the following:

1. Universities, public agencies (nature preservation and research agencies, Foundations Engaging in Business Operations/self-owned institutions et.al.) or official public limited liability companies.
2. Companies that do not qualify under the conditions of Chapter II of this Act.

Article 3 *Definition of terms.*

For the purposes of this Act the terms below shall have the following meaning/In this Act, the following terms mean:

Increase in share capital: Increase in share capital as defined in Chapter V of the Limited Company Act no. 2/1995 and Chapter V of the Private Limited Company Act no. 13/1994.

Contribution to innovation: Expenses paid in respect of research and development projects.

Share purchases: The purchase of shares to increase the share capital of a company under Chapter V of the Limited Company Act no. 2/1995 and Chapter V of the Private Limited Company Act no. 13/1994.

Innovation: Activity that leads to a new or improved product, service or procedure and a marketing advantage.

Innovation companies: Legal parties pursuant to Paragraphs 1 and 2, Article 2 of the Income Tax Act no. 90/2003 that are engaged in innovation activities.

Public limited liability companies: Limited companies or private limited companies that are directly or indirectly owned by the state, local governments or agencies on their behalf.

Rannís: The Icelandic Centre for Research is a state agency under the auspices of the Minister of Education, Science and Culture.

Research: Experiments or intellectual research engaged in to acquire new knowledge of the basis of phenomena and events.

Research and development costs: Direct costs, such as of specialised staff, equipment, premises, purchased research and development work and inputs.

Taxpayer: A taxable person or party pursuant to Chapter I of the Income Tax Act no. 90/2003 who is entitled to deductions according to Articles 30 and 31 of the same Act.

Tax credit: A deduction from the income tax base on account of share purchases in an innovation company, cf. Article 30 and 31 of the Income Tax Act.

Tax deduction: A deduction from the assessed income tax, or a reimbursement in accordance with the Income Tax Act no. 90/2003.

Workflow procedures: The organisation chart of development tasks that cover the development work described in the work description of staff that have the training and experience in research and provided that facilities are at hand for such work.

Business plan: A report on the business plan of a company, its operations and possibilities.

Development: Systematically organised work, based on existing knowledge acquired through research or practical experience aimed at producing new materials, goods or equipment.

Chapter II **Application procedure.**

Article 4

Applications to Rannís.

Applications according to this Act shall be sent to Rannís on application forms for this purpose or in another comparable manner.

A legal party that wishes to obtain the confirmation of Rannís for being considered an innovation company according to this Act shall file an application to that effect with Rannís no later than on September 1st each year. The application shall note whether a confirmation regarding tax deductibility cf. Article 5 or an increase in share capital cf. Article 6 is being applied for. The same legal party can apply for both.

Article 5

Confirmation for tax deduction purposes.

Rannís shall grant a confirmation to a legal party as an innovation company under the provisions of this Article, subject to the following conditions:

1. The concept of a value-adding good/service and a business plan must be well defined, and
2. that documentation must demonstrate that at least 5 million ISK will be allocated to research and development over a twelve-month period, and
3. that workflow procedures be well defined and that there will be staff at hand with training and experience in research work and that facilities be at hand.

If research work is purchased from other confirmed companies, universities or institutions, Rannís may take such costs into consideration, provided that sufficient documentation is at hand.

Article 6

Confirmation regarding a share capital increase.

Rannís shall issue a confirmation to a legal party as an innovation company under the provisions of this Article, subject to the following conditions:

1. Research and development costs according to annual accounts of the legal party for the past two years out of three prior to the year of application shall have exceeded 1.5 per cent of current income or current expenditures,

- whichever amount is higher, or that not less than 40 million ISK has been spent on research and development a year for the past two years, and
2. that workflow procedures are well defined, i.e. that work is organised to include development work in the work description of staff members that possess training and experience in research work and that facilities are at hand for such work, and
 3. that a shareholder meeting has decided on the increase in share capital according to Chapter V of the Limited Company Act no. 2/1995 and Chapter V of the Private Limited Company Act no. 13/1994.
 4. that information to investors will be assured in order to protect investors, ensure the proper participation of innovative companies in the market and promote normal price formation and liquidity.

If research work is purchased from other confirmed companies, universities or institutions, Rannís may take such costs into consideration, provided that sufficient documentation is at hand.

If the research and development costs are not shown separately in annual accounts, the applicant shall report on it in another proven manner.

Article 7

Joint projects.

In the case of a joint project of more than one applicant, each shall have received the confirmation of Rannís, cf. Article 5 and/or Article 6.

Article 8

Case processing.

Special committee, established by Rannís, consisting of highly experienced men in the field of innovation is involved in the proceedings according to this act

Within two months of having received an application, Rannís shall decide whether a legal party receives a confirmation cf. Articles 5 and 6 and inform the applicant of its decision.

Rannís shall inform the Directorate of Internal Revenue whether a legal party has fulfilled the conditions of Article 5 and/or Article 6.

The Director of Internal Revenue shall keep a register of those legal parties that have received the confirmation Rannís and the register shall be accessible to all.

The processing of applications by Rannís shall be according to this Act and other acts that apply to the agency.

Decisions reached by Rannís according to this Act shall be final at the administrative stage.

Article 9

The period of validity of a confirmation.

The confirmation of Rannís according to Article 5 and/or Article 6 shall be based on the year of application and shall be valid for that calendar year. An application for an extension of the confirmation shall be filed annually no later than April 1st. Rannís must consider an application for extension within two months from its receipt. Should Rannís consent to the extension, it shall be valid for that year.

Chapter III. Implementation.

Article 10

Tax credit.

A innovation company that has received the confirmation of Rannís for the income year according to Article 5 has the right to a special tax credit against assessed income tax of 15 per cent of the paid cost of its research and development projects, provided that it constitutes a deductible current cost of operation as defined in Paragraph 1, Sub-paragraph 1 of Article 31 of the Income Tax Act no. 90/2003, cf. The maximum cost for the calculation of a deduction shall be 50,000,000 ISK in a year of operation. In the case of purchased services from a confirmed party, cf. Paragraph 2, Article 5, the maximum cost shall be 75,000,000 ISK. In the case of a joint project, cf. Article 7, the same maximum shall apply for the project as a whole, whereas the deduction shall be divided *pro rata* between the innovation companies that participate in the joint project.

The research and development cost shall be kept separate from other expenses of the innovation company in order to qualify for a tax credit and such records shall be accessible to tax authorities when they so request, cf. Chapter X of the Income Tax Act no. 90/2003.

Cost not covered in enterprise-related research and development creates no deduction right dealer, provided such moves cost to deductions for the buyers.

The annual cost of research and development shall be recorded in a tax return in a manner decided by the Director of Internal Revenue. The cost report shall be signed by an accountant, an examiner or a certified bookkeeper.

The Minister of Finance shall, by Regulation, set further rules regarding the division and handling of indirect costs, including depreciation and financing costs and wage costs incurred due to research and development projects in this context.

Article 11

The payment of tax credit.

A tax credit according to Article 10 shall be credited against assessed income tax at the assessment of public imposts on legal parties cf. Article 71 of Act no. 90/2003. In a case where the assessed income tax is lower than the determined tax credit or if no income tax is imposed on a legal party due to a tax loss, the tax credit shall be paid, having regard to Article 112 of the Income Tax Act no. 90/2003. In determining a tax loss in this context, regard shall only be made to operating losses of the innovation company concerned as of the year of operation that has received a confirmation according to Article 5.

Article 12

Public grants and research sold

If a legal party has received a grant from a public party for the same innovation project as an application for a tax credit according to Article 5 is being applied for, the tax credit according to Paragraph 1, Article 10 plus the grant amount can never exceed 70 per cent of the maximum cost of the project.

Article 13

The cost in the year of application.

For the year of operation when an innovation company receives confirmation from Rannís to the effect that the conditions of Article 5 have been fulfilled, the expenses as defined under this Act may be counted as research and development costs that are directly related to the project in question and have been paid out during the year. The cost incurred due to the application to Rannís cannot be included in this context.

Article 14

Tax credit due to a share capital increase.

A taxpayer who purchases shares in an innovation company that has received the confirmation of Rannís according to Article 6 of this Act can deduct the purchase price of such shares from his taxable income of the income year within the limits set out in Sub-paragraph 3, Paragraph 1, Article 30 B and Sub-paragraph 12, Article 31 of the Income Tax Act no. 90/2003. The same applies to innovation companies cf. Clause 1 with a venue within the Member States of the European Economic Area or the Member States of the Charter of the European Free Trade Association or in the Faroe Islands, as applicable, that have received a confirmation of an agency comparable to Rannís.

The tax deduction cf. Paragraph 1 is subject to the condition that a share capital increase is taking place in the innovation company in question, cf. Chapter V of the Limited Company Act no. 2/1995 and the Private Limited Company Act no. 138/1994.

Article 15

Limits to the total amount of public grants.

The total amount of public support for innovation companies according to this Act is limited by the commitments of Iceland according to the Agreement for the European Economic Area.

If a legal party, having received a confirmation according to Article 5 and/or Article 6, has at the same time received other public support for the same research and development project, the deduction according to Paragraph 1, Article 10 plus other state support, can never exceed the allowable maximum ratio of support-qualified expenses for the relevant project as further stipulated in guidelines regarding state support for projects in the area of innovation or research and development.

Chapter IV

Sundry provisions.

Article 16

The Minister may by Regulation set further rules regarding the implementation of this Act.

Article 17

Entry into force

This Act enters into force on January 1st 2010 and shall be implemented in the assessment of public imposts in 2011 on account of the income year 2010. The Act shall come up for review within two years from its entry into force.