



INTERNAL REGULATIONS

Recognition of R&D Suitability

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Version	Date	Author	Update description
Version 1	08/05/2023	ANI	Internal Regulations - Recognition of R&D Suitability
Version 2	11/03/2024	ANI	Review of procedures for simplification purposes
Version 3	05/03/2025	ANI	Revision of procedures for effectiveness improvement and instrument simplification

FRAMEWORK:

Pursuant to the provisions of Article 37-A(1) of the Investment Tax Code (CFI), approved by Decree-Law no. 162/2014, of 31 October, in its current wording, *'The National Innovation Agency, S. A. is responsible for recognising the entity's research and development suitability, as referred to in Article 37(1)(e) and (f).'*”.

Therefore, in view of the need to explain the legal requirements, namely access criteria, as well as other conditions associated with the procedure for awarding the recognition of research and development suitability, the Internal Regulations- Recognition of R&D Suitability were drawn up and approved on 08/05/2023 by the Board of Directors of ANI- Agência Nacional de Inovação, S.A..

Given the need for some adjustments, the aforementioned Regulations were reviewed and approved on 11/03/2024.

On 05/03/2025, the Regulation was again reviewed, adapting the procedures contained therein to make the instrument more effective.

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GLOSSARY:

ANI- ANI Agência Nacional de Inovação, S.A. (National Innovation Agency)

CFI- Código Fiscal do Investimento (Investment Tax Code)

ENEI- Estratégia Nacional de Especialização Inteligente (National Strategy for Smart Specialisation)

R&D- Research and Development

IPCTN- Inquérito ao Potencial Científico e Tecnológico Nacional (National Scientific and Technological Potential Survey)

Article 1 - Purpose

These regulations define the process for awarding the Recognition of Research and Development (R&D) Suitability of national organisations, as referred to in Article 37(1)(e) and (f) of the Investment Tax Code.

Article 2 - Access criteria

Recognition of Research and Development suitability is awarded by ANI pursuant to the provisions of Article 37-A(1) of the Investment Tax Code. Eligible companies shall comply with the following requirements:

- a) Reside in Portuguese territory or, when otherwise, have permanent establishment in that territory;
- b) Comply with one of the following conditions:
 - i) R&D investment equivalent to at least 7.5% of its turnover in the year prior to the recognition request, upon:
 - Provision by the company of the relevant data provided within the scope of the National Scientific and Technological Potential Survey (IPCTN); or
 - In the case of companies not covered by the IPCTN, submission of accounting data proving turnover and R&D investment, namely through a statement from the Chartered Accountant/Certified Accountant certifying the amounts declared.
 - ii) Have been in business for up to three years and are incubated in an incubator certified or recognised by IAPMEI (or by an entity to which this competence may be attributed) for the purpose of being included in incubation programmes, by submitting a reasoned proposal from the incubator, describing the scope of the activities developed since the company was created.

Article 3 - Submission of recognition request

1. The recognition request is submitted using the electronic form available at the *SIFIDE* website.
2. In the request, the applicant must expressly state the legal regulation under which they are requesting recognition, namely Article 37(1)(e) and/or (f) of the Investment Tax Code.

3. When filling in the form referred to in paragraph 1, the following documents shall mandatorily be submitted as attachments in electronic format under the 'Documents' tab:
 - a) Permanent Certificate;
 - b) Detailed description of R&D activities, using the template available at the *SIFIDE* website;
 - c) Organisational chart, highlighting the employees working for the organisation and developing R&D activities, highlighting the main fields and activity areas aligned with the National Strategy for Smart Specialisation (ENEI), as well as the documents proving their employment, namely the respective employment agreements or proof of human resources' registration with Social Security;
 - d) Plan for hiring human resources for the following 9 months, where it is not possible, when submitting the application, to demonstrate compliance with the provisions of the preceding paragraph;
 - e) For companies falling under point (b)(i) of the preceding article:
 - i) Model 22/Report and Accounts for the preceding year;
 - ii) Response to the National Scientific and Technological Potential Survey (IPCTN), in the case of companies covered by the IPCTN;
 - iii) In the case of companies not covered by the IPCTN and/or where it is not possible, when submitting the application, to demonstrate compliance with the provisions of point (i) of this paragraph, a statement from the Chartered Accountant/Certified Accountant, signed by the company's management, certifying the turnover and R&D investment amounts declared for the preceding year;
 - iv) In the case of foreign organisations established in Portuguese territory for less than 1 (one) year, duly certified accounting evidence of turnover and R&D investment for the financial year prior to the application, reported by the entity that controls the establishment in Portuguese territory, in the country of origin;
 - f) For companies falling under point (b)(ii) of the preceding Article:
 - i) Reasoned statement from the incubator organisation describing the scope of the activities developed since the company was created;
4. The documents referred to in paragraph 3 shall be submitted in the 'Documents' tab. Several documents can be submitted for each line referring to a type of document, in a zipped folder.
5. Should the documents provided for in paragraph 3 not be written in Portuguese or English, they shall be accompanied by a corresponding translation, which may be made by a Portuguese notary, by the Portuguese consulate in the country where the document was drawn up, by the consulate of that country in Portugal or by a suitable translator who, under oath or on their honour, shall affirm to the notary that the translation is accurate.

Article 4 - Evaluation components

1. The assessment of recognition of Research and Development suitability requests shall be carried out by ANI in compliance with the provisions of Article 37-A of the CFI, in accordance with the following components:
 - a) R&D activities already carried out by the applying organisation;
 - b) Employees' ties to the organisation;
 - c) Organisation's history;
 - d) Significant prior experience in the areas/fields requested, in accordance with ENEI;
 - e) Curriculum of the R&D team;
 - f) R&D activities supporting infrastructure/facilities/equipment;
2. With the exception of the components provided for in points (a) and (b) above, which shall be attached to the recognition request form, all other may be presented at a technical meeting to be held pursuant to Article 5(3).

Article 5 - Recognition process and deadlines

1. The recognition request may be submitted at any time.
2. ANI receives recognition requests and checks compliance with the access criteria referred to in Article 2, and may request any clarifications and additional information it deems necessary for a proper request assessment.
3. All recognition requests shall be rejected when they:
 - a) Do not comply with the access criteria set out in Article 2;
 - b) Contain false information;
 - c) Fail to respond to the request for clarification and additional information within the time limit set by ANI for such purpose;
4. Recognition that the organisation is suitable for Research and Development activities in certain technical-scientific fields/areas of activity, pursuant to the ENEI, is granted by means of a statement issued by ANI within 60 (sixty) working days of receipt of the respective request, and notified to the interested party.

5. The time limit referred to in the preceding paragraph shall be suspended when clarifications and additional information are requested, as provided for in paragraph 2, and shall resume once these have been provided or, in the absence of a response, once the time limit granted for the provision of clarifications has expired.
6. Recognition of suitability of the companies referred to in Article 37(1)(f) of the CFI may be obtained up to the date of submission to ANI, by the investment fund managing organisations, with the submission of the latest audited annual report, as well as a document, either a portfolio or other, proving the investments actually made by the fund in the preceding period, as stated in Article 40(12) of the CFI.
7. The option for investment fund managing organisations to invest in companies whose recognition is obtained pursuant to the preceding paragraph, is their sole responsibility, since failure to obtain recognition pursuant to paragraph 4 shall result in the non-deductibility of expenditure incurred under Article 37(1)(f) of the CFI.
8. Where it is not possible, when the application is submitted, to demonstrate compliance with the provisions of Article 3(3)(c) and/or, where applicable, Article 3(3)(e)(i), the decision to recognise suitability is conditional on this being proven within a maximum period of 9 (nine) months from the date of the recognition decision.

Article 6 - Disclosure and use of the ID Seal

1. Recognition of the organisation's Research and Development suitability awards the recognised entity the right to refer to that quality in the exercise of its activity, namely in contracts, correspondence, publications, advertisements and websites, by referring to the ID Seal: Recognition of Suitability'.
2. The ID Seal is the graphic support for the recognition awarded, and the certified organisation must request the publicity materials and the communication guide by sending an email to sifide@ani.pt.
3. The use of the 'ID Seal: Recognition of Suitability' mention shall be deemed abusive when used by non-recognised organisations, and ANI may take the necessary legal or other steps necessary to ensure that the abusive use ceases and that any damage caused is compensated.

Article 7 - Recognition's duration

1. The organisation's recognition is valid until the twelfth fiscal year following the one in which it was requested, as provided for in Article 37-A(2) of the CFI.

2. Organisations whose suitability has been recognised for more than eight years are subject to an unofficial reassessment by ANI, aimed at verifying that the assumptions set out in Article 2 that led to the recognition have been maintained, pursuant to the provisions of Article 37-A(3) of the CFI.
3. Pursuant to Article 37-A(4) of the CFI, the provisions of paragraph 1 shall apply to maintaining the recognition of suitability after the reassessment referred to in the preceding paragraph.

Article 8 - Recognition's termination

1. Recognition of the organisation's suitability shall be terminated in the following cases:
 - a) When, as a result of the reassessment referred to in paragraph 2 of the preceding article, after hearing the organisation whose suitability is being assessed, it is found not to fulfil the conditions for recognition, pursuant to Article 37-A(5) of the CFI;
 - b) In case of insolvency and/or closure of the organisation;
2. The termination of the recognition of suitability referred to in point a) of the preceding paragraph does not prevent the organisation from submitting a new application, with the consideration of expenditure falling into the category provided for in Article 37(1)(e) of the CFI depending on the new recognition, pursuant to Article 37-A(6) of the CFI.

Article 9 - Subsidiary rules

The Administrative Procedure Code and the Investment Tax Code shall apply in all matters not covered by these regulations.

Article 10 - Doubts or omissions

Any omissions, exceptional cases, loopholes and doubts of interpretation arising from the application of these Regulations that cannot be resolved by resorting to the Administrative Procedure Code, the Investment Tax Code or the legal criteria of interpretation and integration, shall be decided by ANI's Board of Directors.

Article 11 - Entry into force

These regulations shall enter into force on 06 March 2025.



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