POLICY ON THE ELIGIBILITY OF WORK FOR SR&ED INVESTMENT TAX CREDITS - DRAFT

This is a draft document. As part of the Scientific Research and Experimental Development (SR&ED) Policy Review Project, the CRA is currently conducting public consultations and is seeking feedback on this document.

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1.0 Introduction

1.1 Purpose and structure of this document

The purpose of this document is to provide technical guidelines to clarify what constitutes scientific research and experimental development (SR&ED) according to its definition in subsection 248(1) of the *Income Tax Act*. This document explains only the technical aspects involved when determining if work is scientific research and experimental development.

In particular, it explains:

- how to determine if basic research, applied research, or experimental development work was carried out,
- how to identify the scope of the work that is claimable, and
- certain considerations related to SR&ED in a business context.

This document is divided into three parts:

- Part 1 – Introduction
- Part 2 – What does SR&ED mean?
- Part 3 – Considerations related to SR&ED in a business context

1.2 What is the SR&ED program?

The government of Canada provides tax incentives to encourage Canadian businesses to conduct work in Canada leading either to the advancement of scientific knowledge or to the advancement of technology. Canadian businesses that perform work that satisfies the definition of SR&ED may be entitled to receive these tax incentives. The Canada Revenue Agency (CRA) is responsible for administering the SR&ED program, while the Department of Finance is responsible for writing the legislation that governs it. The SR&ED program is the largest single source of federal government support for industrial research and development in Canada.

1.3 Statutory definition of SR&ED

SR&ED is defined for income tax purposes in subsection 248(1) of the *Income Tax Act* as follows:

"scientific research and experimental development" means systematic investigation or search that is carried out in a field of science or technology by means of experiment or analysis and that is

(a) basic research, namely, work undertaken for the advancement of scientific knowledge without a specific practical application in view,

(b) applied research, namely, work undertaken for the advancement of scientific knowledge with a specific practical application in view, or

(c) experimental development, namely, work undertaken for the purpose of achieving technological advancement for the purpose of creating new, or improving existing, materials, devices, products or processes, including incremental improvements thereto,

and, in applying this definition in respect of a taxpayer, includes

(d) work undertaken by or on behalf of the taxpayer with respect to engineering, design, operations research, mathematical analysis, computer programming, data collection, testing or psychological research, where the work is commensurate with the needs, and directly in support, of work described in paragraph (a), (b), or (c) that is undertaken in Canada by or on behalf of the taxpayer,

but does not include work with respect to

(e) market research or sales promotion,

(f) quality control or routine testing of materials, devices, products or processes,

(g) research in the social sciences or the humanities,

(h) prospecting, exploring or drilling for, or producing, minerals, petroleum or natural gas,

(i) the commercial production of a new or improved material, device or product or the commercial use of a new or improved process,

(j) style changes, or

(k) routine data collection;

The history of the definition of SR&ED in the *Income Tax Act* is given in Appendix A.1. A brief history of the guidance on eligibility is given in Appendix A.2.

1.4 Terminology

In this document, "Act" means the *Income Tax Act* (Canada), R.S.C. 1985, c.1 (5th Supp.), and its amendments. Unless stated otherwise, every reference to a statutory provision in this document is a reference to the relevant provision of the Act.

The words "taxpayer" and "company" are used interchangeably in this document since most SR&ED claimants are corporations. Taxpayer has the meaning defined in the Act and does not imply a liability to pay tax.

"Eligible" and "ineligible" (including the forms "eligibility" and "ineligibility") are widely used in the SR&ED program, although the Act does not define these terms. For the purposes of this document, "eligible/ineligible," without any other qualifier, means work that meets/does not meet the definition of SR&ED in subsection 248(1) of the Act.

Within the context of the SR&ED program, the term "experimental development" has a very specific meaning in paragraph (c) of the definition of SR&ED in the Act.

Also, the term "support work" is used to refer to the work identified in paragraph (d) of the definition of SR&ED in the Act. It is important to keep in mind that the reference in this document to any term, unless specifically mentioned, has a meaning that is limited to the context of SR&ED.

2.0 What does SR&ED mean?

Five types of work are identified in the definition of SR&ED:

1. basic research work [paragraph (a)];
2. applied research work [paragraph (b)];
3. experimental development work [paragraph (c)];
4. support work [paragraph (d)]; and

5. excluded work [paragraphs (e) to (k)].

Basic research, applied research, and experimental development are conducted through a systematic investigation or search carried out in a field of science or technology by means of experiment or analysis for specific purposes. The purpose of basic and applied research is for the advancement of scientific knowledge, whereas the purpose of experimental development is achieving technological advancement.

The work identified in paragraph (d) of the definition of SR&ED is typically referred to as support work. Work with respect to the eight categories listed in paragraph (d) does not constitute SR&ED on its own. However, if it is commensurate with the needs and directly in support of basic research, applied research or experimental development undertaken in Canada, it falls within the meaning of SR&ED.

The work identified in paragraphs (e) to (k) is typically referred to as excluded work and, collectively, these paragraphs are referred to as the exclusions. This is work that is not included within the meaning of SR&ED.

It is important to understand these five types of work and their characteristics to determine what work meets the definition of SR&ED. This determination is carried out in two steps.

It must first be established that there is a systematic investigation or search carried out in a field of science or technology by means of experiment or analysis; and that the purpose of the work is to advance scientific knowledge (basic research or applied research) or to achieve technological advancement (experimental development). In other words, it must first be determined that there is basic research, applied research, or experimental development. If so, there is SR&ED. This is discussed in section 2.1.

The next step is to determine the scope of work within the definition. This is discussed insection 2.2.

2.1 Step 1: Determining if basic research, applied research, or experimental development work was carried out

The definition of SR&ED in the *Income Tax Act* describes how SR&ED is performed as well as its purpose.

How is SR&ED performed?

By a systematic investigation or search that is carried out in a field of science or technology by means of experiment or analysis.

Why is SR&ED performed?

For the advancement of scientific knowledge, or for the purpose of achieving technological advancement aimed at creating new, or improving existing, materials, devices, products, or processes.

An approach, to establish if the work done meets the manner and purpose described above, is the application and demonstration of the following three criteria:

- scientific and technical content,
- scientific or technological advancement, and
- scientific or technological uncertainty.

The criterion of scientific and technical content addresses how the work is carried out.

The criterion of scientific or technological advancement addresses why the work is carried out. That is, it identifies the advancement of scientific knowledge or the technological advancement being sought in the work.

Similarly, the criterion of scientific or technological uncertainty is also linked to why the work is carried out; it identifies a specific gap in knowledge or a problem that the SR&ED work seeks to fill or resolve.

These three criteria also help to organize, evaluate, and present work that meets the definition of SR&ED.

It is important to note that the three criteria establish if the work is basic research, applied research, or experimental development. They do not determine the entire scope of work within the meaning of SR&ED because support work and excluded work must also be considered.

2.1.1 How basic research, applied research, and experimental development work is carried out

Scientific and technical content

To satisfy the criterion of scientific and technical content, the scientific method must be demonstrated. This entails the following steps:

- defining and documenting the scientific or technological uncertainty;
- formulating one or more hypotheses designed to reduce or eliminate the uncertainties;
- planning, executing, and documenting the testing of the hypotheses by experiment or analysis; and
- developing and documenting logical conclusions based on the results or findings of the experiments or analysis.

The formulation of a hypothesis designed to resolve the scientific or technological uncertainty is an essential step in the process described above. The hypothesis must be clearly articulated and tested by experiment or analysis.

Experimentation and analysis are methodologies used to investigate hypotheses. Experimentation involves structured and organized tests and studies to obtain particular information to address the hypotheses. The terms "studies" and "testing" are often used interchangeably with experiments. In the context of science and technology, an experiment is more comprehensive than a test or a study. Within the context of SR&ED, it is considered that testing follows a procedure to assess or determine a particular attribute or characteristic. A study follows defined procedures as well, but generally involves analyzing the test results using established or known procedures. An experiment involves not only

testing and analysing, but also exploring the relationships between tests, explaining the results as they pertain to the hypothesis, drawing conclusions, or proposing a new hypothesis or conducting additional tests.

Analysis is the detailed examination of data and other evidence by discerning the various parts of a whole, determining their attributes, or explaining their relationships. It is performed against the background of available knowledge and experience and involves the use of tools such as models, graphs, statistics, tables, diagrams, mathematical formulas, or computer programs to express this knowledge or experience. Analysis is an integral part of the scientific method and can be used to generate or test a hypothesis.

Basic research, applied research, or experimental development work is performed or directed by qualified individuals who are knowledgeable in the field and have relevant experience in science, technology, or engineering. Qualification is not limited to formal training but includes skills and knowledge gained through experience.

Documentation is inherent to the scientific method

Documentation is naturally produced during SR&ED. In adopting the scientific method, the progression of work is built on analyzing results from step to step. It is expected that the indicators or measures to be used to determine if the scientific or technological objectives of the work are met will be identified and documented at an early stage of the work. The scientific method requires a detailed record of the scientific or technological uncertainty, the hypotheses for its resolution, tests, and results. These records must be kept as the work progresses. In order to systematically build on the results of work undertaken during the experimentation and analysis, the work must be documented. This is a basis for being able to capture, communicate, and, if necessary, repeat the work leading to the advancement of scientific knowledge or the technological advancement.

For information on documentation and other evidence to support an SR&ED claim, refer to the T4088 Guide to Form T661.

2.1.2 The purpose of basic research, applied research, and experimental development

Basic research and applied research are performed to advance scientific knowledge. Experimental development is performed to achieve technological advancement.

Science is a branch of study in which phenomena are observed and classified and, usually, quantitative and qualitative relations are formulated and verified. In basic or applied research, advancement in scientific knowledge (or scientific advancement) is attempted.

Technology is the practical application of scientific knowledge and principles. Experimental development seeks to advance how scientific knowledge and principles are applied to industrial processes or products.

Work for the purpose of scientific or technological advancement implies an attempt to resolve scientific or technological uncertainty. The scientific or technological advancement is the targeted outcome of the work while the scientific or technological uncertainty is the

driver for the work. Therefore, attempts to achieve scientific and technological advancements and to resolve scientific and technological uncertainties occur simultaneously.

Companies conducting basic or applied research typically set out to advance scientific knowledge, whereas companies undertaking experimental development typically set out to resolve technological uncertainty. Regardless, companies making claims for SR&ED must be able to identify both the scientific or technological uncertainty addressed and the scientific or technological advancement sought or resulting from the work.

Scientific or technological advancement

Scientific or technological advancement is the generation of information or the discovery of knowledge that advances the understanding of scientific relations or technologies. Therefore, to satisfy the criterion of scientific or technological advancement, the work must seek to generate information or lead to the discovery of knowledge that advances this understanding.

An advancement in the understanding of scientific relations or technologies means that the new knowledge must be applicable in a broader sense. That is, the new knowledge is applicable to other situations or circumstances beyond the current project.

In experimental development, the purpose of the work is to achieve technological advancement. This purpose must be distinguished from the purpose of creating new, or improving existing, materials, devices, products, or processes. Also, the advances in technology that are being sought should be distinguished from the benefits of the new or improved material, device, product, or process.

It is important to note that creating new or improvement of existing, materials, devices, products, or processes can be achieved without conducting experimental development. For example, the use or implementation of existing technology that may result in product or business benefits is not evidence of technological advancement. Also, novelty, innovation, uniqueness, feature enhancement, or increased functionality of a product or process does not represent technological advancement. Instead, it is how these features arise (that is, whether they arise through basic research, applied research, or experimental development) that is important.

An advance in science or technology can come from success or failure to reach the scientific or technological goals or objectives. Success or failure to reach the scientific or technological goals or objectives should not be confused with the success or failure to create a new or improved material, device, product, or process, which can occur for any number of reasons that may not be related to technology or science (for example, market conditions, business decisions, and financial reasons).

By showing why a particular approach will not succeed or will not meet the desired objectives, advancement in science or technology is still possible. In some instances, the project's technological objectives might not have been achieved but, in the process, SR&ED was carried out to learn the reasons for the failure.

In experimental development, technological advancement moves the technology base or level of a company to a higher level through an increase in the overall knowledge of technology. In other words, it is a discovery or gain in technical capabilities (principles,

techniques, and concepts as applied to design, manufacture, production, or use) beyond the existing technology base or level.

Scientific or technological uncertainty

Scientific or technological uncertainty means that the solution to the scientific question or technological problem is not known based on common knowledge or through methods normally used to solve the problem. Specifically, there is scientific uncertainty when referring to basic or applied research, and technological uncertainty when referring to experimental development. Recognition of the scientific or technological uncertainty is an integral step in the systematic investigation or search and implies recognizing the need for scientific or technological advancement.

Technological uncertainties arise from shortcomings or limitations of the current state of technology that prevent the development of a new or improved capability. In other words, the current state of technology is insufficient to resolve a problem that is faced during development. This implies that if, after exhausting available experience, scientific knowledge, and technology, one still cannot know whether the technological objectives can be achieved at all or the route by which they can be achieved, then a technological uncertainty exists. A hypothesis, designed to reduce or eliminate that technological uncertainty, is then developed.

Whenever a problem in creating new or improving existing materials, devices, products, or processes is identified, there may be some doubt concerning the way in which it will be solved. This doubt can arise from a technical problem or from a technological uncertainty, so it is important to make a clear distinction between the two. A technical problem is resolved by applying practice, techniques, or methodologies that are known or available to the company. In other words, the existing technology base or level is sufficient to resolve technical problems. Overcoming a technical problem will not lead to a technological advancement.

A company must be able to differentiate between using known tools and techniques to solve, or attempt to solve, a technical problem and performing experimental development to resolve a technological uncertainty. One way to differentiate is to describe the work performed before the experimental development that led to identifying the technological uncertainty; this will also help establish the technology base or level.

Frequently there is a need to meet specific targets (cost, performance, size, etc.) imposed by the market. Although the imposition of such targets, on its own, does not create scientific or technological uncertainty, attempts to meet them might.

Uncertainty about the business or commercial success of the material, device, product, or process being developed is not a technological uncertainty.

Complexity is not a scientific or technological uncertainty. The size and complexity of a project by itself cannot justify that the work performed in that project falls within the definition of SR&ED. Likewise, the fact that a large and complex system was developed cannot support the inference that a technological uncertainty existed. System uncertainty refers to the specific case where scientific or technological uncertainty arises in the integration of known technologies due to unpredictable interactions among the individual technologies. Any scientific or technological uncertainty must be clearly articulated.

2.2 Step 2: Identifying the scope of the work

Basic research, applied research, and experimental development work, as described in section 2.1, meet the definition of SR&ED and are therefore eligible. Once it has been established that there is basic research, applied research, or experimental development work, the Act identifies additional work (referred to as "support work") that is included in the meaning of SR&ED and other work (referred to as "excluded work") that is specifically excluded from the meaning of SR&ED. In addition to the basic research, applied research, or experimental development work, identifying support work and excluded work will determine the scope of the work that can be claimed.

2.2.1 Support work

Support work must be:

1. Commensurate with the needs of the basic research, applied research, or experimental development work. In other words, it must be corresponding or proportionate in the amount, size, extent, or duration of work that is necessary to carry out basic research, applied research, or experimental development.
2. Directly in support of the basic research, applied research, or experimental development work. That is to say, the activity was carried out specifically to perform the related basic research, applied research, or experimental development.
3. With respect to one of the eight categories of work listed below:
    - engineering;
    - design;
    - operations research;
    - mathematical analysis;
    - computer programming;
    - data collection;
    - testing; or
    - psychological research.

It is important to note that support work can be in a field of science or technology that is different from that of the basic research, applied research, or experimental development work.

2.2.2 Excluded work

According to the definition of scientific research and experimental development in subsection 248(1) of the *Income Tax Act*, SR&ED "does not include work with respect to:

- (e) market research or sales promotion,
- (f) quality control or routine testing of materials, devices, products or processes,
- (g) research in the social sciences or the humanities,
- (h) prospecting, exploring or drilling for, or producing, minerals, petroleum or natural gas,
- (i) the commercial production of a new or improved material, device or product or the commercial use of a new or improved process,
- (j) style changes, or
- (k) routine data collection."

Paragraphs (e) to (k) are usually referred to as "excluded work" or the "exclusions" in general. These exclusions identify work that, although potentially contributing to SR&ED in some manner, represents work that cannot be claimed for SR&ED tax credits.

Therefore, any work for purposes described in (e) to (k) is excluded from the meaning of SR&ED.

3.0 Considerations related to SR&ED in a business context

This section provides guidelines in applying the definition of SR&ED in a business context.

3.1 Business environment

Scientific research and experimental development varies in content and complexity in any given field of science or technology. The scientific or technological uncertainties encountered by one company may well be looked upon as facts easily obtained by another since the technology base or level varies from company to company. Therefore, the determination of whether basic research, applied research, or experimental development work was carried out must take into account the context and environment of a single company and its field of business. In all cases, the work must still meet thedefinition of SR&ED in the Act and the requirements described in section 2.

The context and environment for a company's scientific research or experimental development will be determined by many factors including:

- its technological resources;
- the technical knowledge, technical capabilities, and experience of its personnel;
- its products and services;
- the industry sector in which it operates;
- the size and scale of its operation; and
- its relationships with suppliers, customers, and competitors.

3.2 SR&ED project

3.2.1 Characteristics of an SR&ED project

Form T661, Scientific Research and Experimental Development (SR&ED) Expenditures Claim, requires work to be claimed as SR&ED projects. As a result, the company should be aware of the meaning of "project" in the context of SR&ED. Every claimed project must fall within the definition of SR&ED contained in subsection 248(1) of the Act. When a company describes the work claimed, the CRA recommends that the company follow the SR&ED project definition, cited below.

An SR&ED project is defined as a project comprising a set of interrelated activities that:

- collectively are necessary in attempting to achieve the specific scientific and/or technological advancement defined for the project by overcoming scientific and/or technological uncertainty, and

- are pursued through a systematic investigation or search in a field of science or technology by means of experiment or analysis performed by qualified individuals.

Whether the work claimed meets the definition of SR&ED in subsection 248(1) of the Act is determined solely by examining the nature and characteristics of the work itself. In other words, it is not the overall commercial objective but rather what is actually occurring at a technical level that is relevant. The key point relating to the Act is whether the work has the characteristics to meet the definition of SR&ED, and not the overall goals in a commercial sense. Therefore, the objectives of the SR&ED project must be defined in scientific or technological terms that clearly state the advancement sought. The company must show that all of the work claimed as SR&ED satisfies the definition of SR&ED in subsection 248(1) of the Act. The SR&ED project's success or failure in terms of meeting its overall commercial goals is not a factor in determining its eligibility for investment tax credits.

Essentially, there are two parts to determining eligibility under the definition of SR&ED. First, it must be determined whether the project meets the requirements set out in subsection 248(1) of the Act, as explained in section 2.1. If it does not, then there is no need to go any further. If the project does meet the requirements, the next step is to assess the scope of the work, as explained in section 2.2, and the associated expenditures against the objectives of the project.

The SR&ED project definition is not intended to support the subdividing of a correctly-identified SR&ED project into smaller and possibly ineligible activities. Projects should be identified at a level where all the effort captured by the project falls within the definition of SR&ED. This requires that appropriate internal procedures and accounting methods be in place and sufficient to explain the allocation of work and link the associated costs to the project.

As scientific research or experimental development work can span a number of years, a snapshot of the work in a given year may not reflect the overall effort to achieve the advancement in scientific knowledge or technology. Once it is determined that a project is SR&ED, work in any year that is commensurate with the needs of and directly supports the attempt to achieve a scientific or technological advancement is considered part of the SR&ED project.

Contribution from a Canadian company in a multi-national project will qualify only if it meets the definition of SR&ED in the Act on its own.

3.2.2 Company project versus SR&ED project

A distinction must be drawn between a company project and an SR&ED project. "Company project" is a generic term referring to an undertaking by a company to have an impact on its business, for example, building new facilities or expanding facilities, developing new products and product lines, changing business practices, upgrading processes and facilities, and engineering projects. A company project is a project with a commercial purpose, whereas the purpose of an SR&ED project is scientific or technological advancement. Paragraph (c) of the definition of SR&ED recognizes, and in fact requires, that the experimental development be done in the context of creating new or improved materials, devices, products or processes, but at the same time defines technological advancement as the immediate purpose of experimental development.

An SR&ED project typically occurs as a subset of a company project. Therefore, not all of the work within a company project will necessarily fall within the scope of the SR&ED project. Also, it is possible that the same company project contains a number of sub-projects, some of which may involve experimental development and some of which may involve scientific research. For the purpose of making a claim for SR&ED investment tax credits, however, each SR&ED project claimed must be submitted as either an experimental development or a scientific research project but not as both. It is therefore important for the company to identify the SR&ED project at the appropriate level.

3.2.3 Duration of an SR&ED project

In determining the duration of an SR&ED project, the start of an SR&ED project is defined as the point at which the scientific or technological uncertainties are identified, resulting in the definition of scientific or technological objectives, as opposed to the business or commercial objectives. The resolution of the scientific or technological uncertainties is sought through a systematic investigation or search. Therefore, work that is conducted as part of standard business practice and is not needed to define the scientific or technological objectives is not part of the SR&ED project. It is recognized that once a technological uncertainty is identified, some work may be required before testing the hypothesis (that is, before experimentation begins).

The duration of an SR&ED project is not a factor in determining whether the work performed meets the definition of SR&ED. Some projects may be short—fully executed within the tax year—while other projects can extend over several tax years.

The SR&ED project is complete when either the scientific or technological advancement has been achieved and the associated uncertainty resolved, or when it is determined that the scientific or technological uncertainty is un-resolvable within the business context of the company. Neither financial indicators (such as first sale) nor issuing warranties alone are adequate to mark where experimental development separates from commercial production. Commercialization or certification may not necessarily mean that the SR&ED project is complete.

3.3 Standard practice

A key distinction between work that meets the definition of SR&ED and work that does not is the difference between experimental development and development based on standard practice in established fields of engineering or technology (routine development or routine engineering). Standard practice refers to directly adapting a known engineering or technological practice to a new situation when there is a high degree of certainty that the known technology or practice will achieve the desired objective. When standard practice is used to support experimental development work, some of the associated activities may be eligible as support work under paragraph (d) of the SR&ED definition. Conversely, not every departure from standard practice constitutes SR&ED; it must also meet the definition of SR&ED in the Act. So even though work can be scientific or technological in nature, it may not necessarily be SR&ED.

Adapting known technologies or practices to new situations is not SR&ED when the routes for the progression of work that will lead to successful solutions to a technical or engineering problem can be identified, since there is no scientific or technological uncertainty in such cases. In other words, if the project involves directly adapting known

technology to a new situation, when it is reasonably certain that the approach will work, this is not experimental development. If there is technological uncertainty, however, then experimental development may occur and experimentation or analysis that goes beyond standard practice will be required.

It is recognized that routine engineering or routine development usually involves work carried out in a systematic manner. However, what distinguishes SR&ED from routine engineering or routine development is the adoption of the entire scientific method, as described in section 2.1.1, with a view to removing technological uncertainty. Routine engineering and routine development are therefore standard practice in engineering or technology that does not involve technological uncertainty.

Sometimes problems are solved by trial and error rather than by experiment or analysis. Trial and error involves executing a series of tests not sequenced in a systematic pre-plan. The objective in such a case is to resolve a functional problem (that is, a problem in how something operates or works) rather than to address a problem in the underlying technology that may have caused this functional problem. The lesson, learned in each iteration of trial and error, is simply that "an option did not work," which is not applicable in a broader sense. The test conditions that are judged to be the most efficient in resolving the immediate problem are chosen for the subsequent iteration. The process simply moves from iteration to iteration. Solving problems by trial and error is not experiment or analysis within the framework of a systematic investigation or search.

Trouble-shooting is routinely correcting equipment, software, or processes by identifying technical problems. The goals may be to resolve software problems, optimize a process in both the technical or economic sense, adjust equipment performance, evaluate it during breakdowns, improve working conditions, minimize production losses, or control the generation and/or disposal of wastes. Trouble-shooting occasionally brings out the need for scientific research and experimental development, but more frequently it involves detecting faults in equipment or processes, and results in minor modifications to standard equipment and/or processes. This type of detection and modification is not scientific research and experimental development, even though it is carried out systematically, because it does not seek to resolve scientific or technological uncertainty.

Process optimization and cost reduction are examples of process development efforts that have as their objective improved efficiencies, better output quality, or financial or strategic advantages. These developments are represented, for example, by the functions of industrial engineering, time and motion analysis, methods engineering, value analysis and engineering, or tool and machine design, etc. When standard practice in these fields is used in any situation that requires an improvement, a trend towards optimal conditions will usually result, and the law of diminishing returns will be the only limitation to attaining the degree of improvement. Competent management of a commercial operation usually reflects the skills and knowledge necessary for greater efficiency, and lowers the unit costs of production. Such process improvements are not indicative of scientific or technological advancement.

Glossary

Analysis

The detailed examination of data and other evidence by means of discerning the various parts of a whole, or determining their attributes, or explaining their relationships.

Analysis is an integral part of a systematic investigation or search and can be used to generate or test a hypothesis.

Commensurate with the needs

Work that is commensurate with the needs is work that is corresponding, or proportionate to the amount, size, extent, or duration of work that is necessary to carry out basic research, applied research, or experimental development.

Commercial production

The set of activities associated with producing materials, devices, and products, intended for sale or business operations.

Commercial use of a new or improved process

The use of a new or improved process in business operations.

Computer programming

Preparing and coding detailed operating instructions for a computer.

Data collection / Routine Data Collection

Gathering of information using pre-determined procedures or protocols.

When distinguishing potentially eligible data collection as support work to an SR&ED project from routine data collection, it is important to determine the purpose of the data collection. Routine data collection is performed during the course of normal business activity, and thus not eligible, whereas data collection that is commensurate with the needs and directly in support of SR&ED is eligible.

Design

Activities to transform concepts and ideas into a plan.

Directly in support

Work that is directly in support is work that is required to carry out basic research, applied research, or experimental development and that it was carried out for that reason.

Engineering / Routine Engineering

The practice of designing, composing, evaluating, advising, reporting, directing, or supervising the construction or manufacturing of tangible products, assemblies, systems, or processes that requires in-depth knowledge of engineering science and the proper, safe, and economic application of engineering principles.

By definition, and according to sound professional practice, engineering practice does not involve appreciable scientific or technological uncertainty and is thus not eligible on its own. Whereas engineering that is commensurate with the needs and directly in support of SR&ED is eligible.

Experiment

The test of a hypothesis under controlled conditions.

Humanities

Branches of knowledge that concern themselves with human beings and their culture or on analytic and critical methods of inquiry derived from an appreciation of human values and the unique ability of the human spirit to express itself.

Academicians generally categorize knowledge into four main areas: physical sciences, biological sciences (or natural sciences), humanities, and social sciences, although others recognize only two categories: natural sciences and social sciences. As a group of educational disciplines, the humanities are distinct in content and method from the physical and biological sciences and, somewhat less decisively, from the social sciences. The humanities include the study of all languages and literatures, the arts, history, and philosophy.

Hypothesis

A tentative supposition with regard to an unknown state of affairs, the truth of which is thereupon subject to investigation by any available method, either by logical deduction of consequences that may be checked against what is known, or by direct experimental investigation or discovery of facts not hitherto known and suggested by the hypothesis.

Market research

The process of gathering and analyzing information for the purpose of marketing a specific product, especially a new or proposed product.

Market research is a major discipline of marketing whose main function is intelligence gathering and analysis on a particular market, industry, geography, customer group, competitors, or specific product or service area.

The main uses of market research are: to position a business or strategic program; to assist in new product or service launches; to evaluate a product or service's strengths and weaknesses to help determine how to improve a product or service; to determine customer wants, needs, and desires; and to analyze competition.

Market research includes activities such as:

- examining such factors as buying habits, use of leisure time, consumer needs or wants, and attitudes toward existing products and new products being test-marketed;
- market development and market verification;
- general market identification;
- market demonstration;
- identifying market preference;
- developing customer acceptance;
- gathering and evaluating data about consumers' preferences for products and services; and
- studying the requirements of specific markets, the acceptability of products, and methods of developing and exploiting new markets.

Material

The physical substance from which a thing is made.

Mathematical analysis

The examination of a set of observations by means of mathematical tools, principles, methods, or techniques for the purpose of extracting or synthesizing information.

Operations research

An approach involving the mathematical treatment of a process, problem, or operation to determine its purpose and effectiveness, and to gain maximum efficiency.

Process

A system or series of continuous or regularly occurring actions taking place in a predetermined or planned manner to produce a desired result.

Prospecting, exploring or drilling for, or producing, minerals, petroleum or natural gas

The field activities carried out as part of the business operations in the oil and gas and mining industries.

Psychological research

Research into the functions of the mind and the behaviour of humans or animals in relation to their environment.

Subsection 248(1), paragraph (g) of the definition of scientific research and experimental development in the *Income Tax Act* specifically excludes work with respect to research in the social sciences or the humanities. Psychology is a social

science; however, paragraph (d) of the definition of SR&ED in the Act lists psychological research work as eligible work when it is undertaken directly in support of an eligible SR&ED project in a field of science other than the social sciences or humanities. Only the amount of psychological research that is commensurate with the needs and directly in support of an eligible SR&ED project can be claimed.

Quality control

The operational techniques and the activities that sustain the quality of a product or service to satisfy given requirements.

Quality control consists of quality planning, data collection, data analysis, and implementation, and applies to all phases of the product life cycle: design, development, manufacturing, delivery and installation, and operation and maintenance.

In a business context, quality control is usually more concerned with the functional merits of a material, device, product (for example, conformity to design specifications, including defining testing procedures, minimum quality standards), or process (for example, determining what changes must be made to achieve or maintain the required level of quality), rather than the technology.

Sales promotion

A set of activities that supplements advertising and personal selling; coordinating them, and making them effective.

Sales promotion work generally includes stimulating sales through options such as:

- special offers;
- demonstrations;
- contests;
- samples;
- discounts;
- exhibitions or trade shows;
- games;
- giveaways;
- public relations; and
- point-of-sale displays and merchandising.

Science

A branch of study in which phenomena are observed and classified and, usually, in which quantitative and qualitative relations are formulated and verified.

Scientific and technical content – (criterion)

One of the three criteria that means that the scientific research and experimental development activity must incorporate a systematic investigation or search carried out by qualified personnel. For additional details refer to section 2.1.1.

Scientific or technological advancement – (criterion)

One of the three criteria that means that the work must generate information or lead to the discovery of knowledge that advances the understanding of scientific relations or technologies. For additional details refer to section 2.1.2.

Scientific or technological uncertainty/obstacle – (criterion)

One of the three criteria that means that the solution to the scientific question or technological problem is not known based on common knowledge or through methods normally used to solve the problem. For additional details refer to section 2.1.2.

Social sciences

In general, the specialized teaching and research conducted in disciplines characterized by their concern with human beings, their culture, and their economic, political, and social relationships with the environment.

Academicians generally categorize knowledge into four main areas: physical sciences, biological sciences (or natural sciences), humanities, and social sciences, although others recognize only two categories: natural sciences and social sciences. Generally, the social sciences include anthropology, economics, political science, psychology, sociology, criminology, education, geography, law, psychiatry, philosophy, religion, and history. Management is also considered a social science.

Psychology is a social science; however, subsection 248(1), paragraph (d) of the definition of scientific research and experimental development in the *Income Tax Act* lists psychological research work as eligible work when it is undertaken directly in support of an eligible SR&ED project in a field of science other than the social sciences or the humanities. Only the amount of psychological research that is commensurate with the needs and directly in support of an SR&ED project can be claimed.

Style change

Change in the physical appearance or arrangement of an article without altering its utility, efficiency, function, or operating characteristics.

Systematic investigation or search

The use of a method that usually includes scientific or technological problem definition, hypothesis formulation, experimentation and analysis of the hypothesis, and deduction and conclusion to arrive at new or improved products or processes, or expanded knowledge.

System uncertainty

The specific case where scientific or technological uncertainty arises in integrating known technologies due to unpredictable interactions among the individual technologies.

Technology

The practical application of scientific knowledge and principles.

While technology can be represented in physical form (patents, procedures, design documents, manuals, etc.), it is not a "physical entity"; rather, it is the knowledge of how scientifically determined facts and principles are embodied in the material, device, product, or process that is represented.

Technology base or level

The technology base refers to the existing level of technology and consists of the knowledge of the technological resources within the company and sources available publicly.

The technological resources within the company include:

- technical knowledge, education, training, and experience of its personnel; and
- its technical capabilities typified by its current products, techniques, practices, and methodologies (for example, trade secrets and intellectual property).

Publicly available sources generally include scientific papers, publications, journals, textbooks, and internet-based information sources as well as expertise accessible to the company (for example, through recruiting employees or hiring contractors). The company is expected to have information that is common knowledge at the time the work is performed. Common knowledge is knowledge available to professionals familiar with the specific areas of science or technology in question.

It is recognized that the technology base will vary from company to company because the internal resources vary from company to company, even though the knowledge available publicly remains the same.

Testing / Routine Testing

The application of procedures designed to observe, measure, or verify attributes, properties, or performance.

When distinguishing potentially eligible testing as support work to an SR&ED project from routine testing, it is important to determine the purpose of the tests. Routine testing is performed during the course of normal business activity, for example, testing carried out primarily to determine user acceptance, suitability, marketability, or competitive assessment does not qualify. Testing that is commensurate with the needs and directly in support of SR&ED is eligible.

Appendix A – History and Background

A.1 History of the legislation

The federal government has been using the *Income Tax Act* to stimulate research and development activities for many years. As early as 1944, companies could deduct immediately from their taxable income an amount equivalent to 100% of current expenditures related to scientific research [1].

In 1963, section 2900 of the *Income Tax Regulations*, which included the definition of "scientific research," was introduced. This definition did not contain the terms basic research, applied research, or experimental development specifically, though it referred to "acquire new knowledge," "devise and develop new products or processes," or "apply newly acquired knowledge in making improvements to existing products or processes." Scientific research was defined as follows [2]:

(1) For the purposes of paragraph (b) and subsection (4) of section 72 of the Act and subject to subsections (2) and (3) of this section, "scientific research" means a systematic investigation or search by means of experimentation or analysis carried out in the field of science

(a) to acquire new knowledge,
(b) to devise and develop new products or processes, or
(c) to apply newly acquired knowledge in making improvements to existing products or processes.

(2) Where a taxpayer has devised a new product or a new process to which paragraph (b) of subsection (1) is applicable, or where a taxpayer has devised an improvement to an existing product or process to which paragraph (c) of subsection (1) is applicable, "scientific research" in respect thereof shall include development, testing and evaluation of a prototype.

(3) "Scientific research" does not include:

(a) market research,
(b) sales promotion,
(c) quality control of products or materials or routine product testing,
(d) research in social sciences,
(e) prospecting, exploring or drilling for minerals, petroleum or natural gas, including geological, geophysical or related studies,
(f) preparation of specifications and other engineering information required to enable construction of facilities for commercial production, or
(g) preparation, prior to commencement of commercial production, of instructions for the operation of facilities referred to in paragraph (f).

In 1967, section 2900 of the *Income Tax Regulations* was amended to modify the definition by including the specific reference to basic research, applied research, and development. The definition of scientific research then read as follows [3]:

For the purposes of paragraph (b) of subsection (4) of section 72 of the Act, "scientific research" means systematic investigation or search carried out in a field of science or technology by means of experiment or analysis, that is to say;,

(a) basic research, namely, work undertaken for the advancement of scientific knowledge without a specific practical application in view;

(b) applied research, namely, work undertaken for the advancement of scientific knowledge with a specific practical application in view; and

(c) development, namely, use of the results of basic or applied research for the purpose of creating new, or improving existing, materials, devices, products or processes;

and, where such activities are undertaken directly in support of activities described in paragraph (a), (b) or (c), includes activities with respect to engineering or design, operations research, mathematical analysis or computer programming and psychological research, but does not include activities with respect to

(d) market research or sales promotion,

(e) quality control or routine testing of materials, devices or products,

(f) research in the social sciences or the humanities,

(g) prospecting, exploring or drilling for or producing minerals, petroleum or natural gas,

(h) the commercial production of a new or improved material, device or product or the commercial use of a new or improved process,

(i) style changes, or

(j) routine data collection.

Tax reform in the 1970's brought a new renumbering and section 72 became section 37. The definition of SR&ED was found in paragraph 37(7)(b). In 1978, section 2900 of the*Income Tax Regulations* was amended by adding reference to paragraph 37.1(5)(e), effective for the period beginning with a tax year ending after 1977 [4]. There was no other change in the wording.

Before 1985, guidance on eligibility of work was provided in the form of Interpretation Bulletin IT-439. The Department of Finance recognized that the guidance provided in IT-439 was insufficient to explain the meaning of eligible "research" and "development." The May 1985 Budget Papers issued by the Department of Finance stated that the Department would amend the existing definition of "scientific research" in the Regulations and the Act to include the term "experimental development." The introduction of the phrase "experimental development" was meant to confirm that "projects involving only routine engineering or routine development" would be excluded [5]. Experimental development was thus set out as an aspect of the more general concept of "development." Only development activities associated with experimental development would be eligible.

In 1986, the term "scientific research and experimental development" (SR&ED) was introduced as a new title in section 2900 of the *Income Tax Regulations* to clearly distinguish between eligible development and simply routine engineering and routine development. Section 2900 of the *Income Tax Regulations* was renumbered as subsection 2900(1) effective May 23, 1985 [6]. The term "experimental development" was not introduced into the body of the Regulation which still used the term "development." The definition, in subsection 2900(1) of the *Income Tax Regulations*, read as follows:

For the purposes of this Part and paragraphs 37(7)(b) and 37.1(5)(e) of the Act, "scientific research and experimental development" means systematic investigation or search carried out in a field of science or technology by means of experiment or analysis, that is to say,

(a) basic research, namely, work undertaken for the advancement of scientific knowledge without a specific practical application in view,

(b) applied research, namely, work undertaken for the advancement of scientific knowledge with a specific practical application in view, or

(c) development, namely, use of the results of basic or applied research for the purpose of creating new, or improving existing, materials, devices, products or processes,

and, where such activities are undertaken directly in support of activities described in paragraph (a), (b) or (c), includes activities with respect to engineering or design, operations research, mathematical analysis or computer programming and psychological research, but does not include activities with respect to

(d) market research or sales promotion,

(e) quality control or routine testing of materials, devices or products,

(f) research in the social sciences or the humanities,

(g) prospecting, exploring or drilling for or producing minerals, petroleum or natural gas,

(h) the commercial production of a new or improved material, device or product or the commercial use of a new or improved process,

(i) style changes, or

(j) routine data collection.

In 1994, the term "recherches scientifiques et développement experimental" was replaced by "activités de recherche scientifique et de développement expérimental" in the French version of the Regulations in the *Income Tax Act* [7].

In 1995, subsection 2900(1) of the *Income Tax Regulations* was amended as follows, applicable to tax years ending after December 2, 1992 [8]:

- "For the purposes of this Part and paragraphs 37(7)(b) and 37.1(5)(e) of the Act….." was changed to "For the purposes of this Part and sections 37 and 37.1 of the Act, ….".
- The term "experimental development" replaced "development" in paragraph (c). Experimental development was defined as "work undertaken for the purpose of achieving technological advancement for the purpose of..." whereas development was defined as "the use of the results of basic or applied research for the purpose of...".
- The term "work" replaced "activities" and the support work was grouped in paragraph (d). More importantly, the support work now required two tests, namely "commensurate with" and "directly in support," instead of only "directly in support".
- Support work was expanded to include eight specific categories: engineering, design, operations research, mathematical analysis, computer programming, data collection, testing, and psychological research.

The definition of scientific research and experimental development read:

For the purposes of this Part and sections 37 and 37.1 of the Act, "scientific research and experimental development" means systematic investigation or search carried out in a field of science or technology by means of experiment or analysis, that is to say,

(a) basic research, namely, work undertaken for the advancement of scientific knowledge without a specific practical application in view,

(b) applied research, namely, work undertaken for the advancement of scientific knowledge with a specific practical application in view,

(c) experimental development, namely, work undertaken for the purposes of achieving technological advancement for the purposes of creating new, or improving existing, materials, devices, products or processes, including incremental improvements thereto, or

(d) work with respect to engineering, design, operations research, mathematical analysis, computer programming, data collection, testing and psychological research where that work is commensurate with the needs, and directly in support, of the work described in paragraph (a), (b) or (c),

but does not include work with respect to

(e) market research or sales promotion,

(f) quality control or routine testing of materials, devices, products or processes,

(g) research in the social sciences or the humanities,

(h) prospecting, exploring or drilling for, or producing, minerals, petroleum or natural gas,

(i) the commercial production of a new or improved material, device or product or the commercial use of a new or improved process,

(j) style changes, or

(k) routine data collection.

In 1996, the definition "*scientific research and experimental development"* was added to subsection 248(1) of the Act; applicable to work performed after February 27, 1995 [9]. It read *"scientific research and experimental development" has the meaning assigned by regulation* [10].

In 1998, the definition of SR&ED was moved substantively to subsection 248(1) of the Act. The following changes were also made at that time [11]:

- the conjunction "or" between paragraphs (c) and (d) was replaced by "and, in applying this definition in respect of a taxpayer, includes";
- the wording "that is undertaken in Canada by or on behalf of the taxpayer" was added to the end to paragraph (d); and
- the term "travaux relatifs à l'ingénierie" was replaced by "travaux techniques" in the French version of the definition.

The definition now reads as follows:

"scientific research and experimental development" means systematic investigation or search that is carried out in a field of science or technology by means of experiment or analysis and that is

(a) basic research, namely, work undertaken for the advancement of scientific knowledge without a specific practical application in view,

(b) applied research, namely, work undertaken for the advancement of scientific knowledge with a specific practical application in view, or

(c) experimental development, namely, work undertaken for the purpose of achieving technological advancement for the purpose of creating new, or improving existing, materials, devices, products or processes, including incremental improvements thereto,

and, in applying this definition in respect of a taxpayer, includes

(d) work undertaken by or on behalf of the taxpayer with respect to engineering, design, operations research, mathematical analysis, computer programming, data collection, testing or psychological research, where the work is commensurate with the needs, and directly in support, of work described in paragraph (a), (b), or (c) that is undertaken in Canada by or on behalf of the taxpayer,

but does not include work with respect to

(e) market research or sales promotion,

(f) quality control or routine testing of materials, devices, products or processes,

(g) research in the social sciences or the humanities,

(h) prospecting, exploring or drilling for, or producing, minerals, petroleum or natural gas,

(i) the commercial production of a new or improved material, device or product or the commercial use of a new or improved process,

(j) style changes, or

(k) routine data collection;

On July 27, 2000, subsection 2900(1) of the *Income Tax Regulations* was amended, applicable to the 1995 and subsequent tax years, to change the definition of scientific research and experimental development from "For the purposes of this Part and sections 37 and 37.1 of the Act..." to "For the purposes of this Part and section 37 of the Act..." [12]. In addition, the amended subsection 2900(1) of the *Income Tax Regulations* was repealed [12].

A proposed legislative amendment to the French version of the *Income Tax Act* will replace « travaux techniques », currently in paragraph (d) of the definition of SR&ED, with « travaux de génie » to be consistent with the English version [13]. The intention of the Department of Finance Canada was never to have a difference between English and French versions of the Act. The CRA administers this proposed amendment as if it were law.

A.2 Background of the guidelines and criteria

This section provides historical and background information related to the guidelines and criteria used to determine whether the work carried out by a taxpayer meets the definition of SR&ED in the Act. For a history of the definition of SR&ED in the Act and how it has changed over time, see Appendix A.1.

Before 1985, guidance on eligibility of work, in terms of whether it met the definition of "applied or basic research" or "development" according to the Regulation that existed at that time was provided in the form of Interpretation Bulletin IT-439. Based on the feedback received from taxpayers, the Department of Finance recognized that the guidance provided in IT-439 was insufficient to explain the meaning of eligible "research" and "development." The May 1985 Budget Papers issued by the Department of Finance stated that the Department would amend the definition of "scientific research," that existed at that time in the Regulations and the Act to include the term "experimental development." The introduction of the phrase "experimental development" was meant to confirm that "projects involving only routine engineering or routine development" would be excluded [5]. "Experimental development" was thus set out as an aspect of the more general concept of "development." Only development activities associated with "experimental development" would be eligible.

On March 4, 1986, responding to Revenue Canada's request for clarification of the meaning of the term "experimental development" (ED), the Department of Finance confirmed that:

"With respect to the general guidelines, this department is in basic agreement with the approach being taken, namely that to qualify for the research and development tax incentives, an activity must embody some scientific or technological advancement, have some elements of scientific or technological uncertainty, and be carried out in a systematic and organized fashion. In other words, the research or development activity will advance our understanding of scientific or technological relationships. In our view, these criteria capture the spirit and intent of the legislation."

In 1986, Information Circular 86-4 *Scientific Research and Experimental Development* was issued. It was a guideline developed by industry leaders and Revenue Canada on how to apply the term Experimental Development and Scientific Research. This document described essential tests (namely the criteria of scientific or technological advancement, scientific or technological uncertainty, and scientific and technical content) that had to be met before work could be considered scientific research and experimental development. The three criteria became a tool on how to apply the term Experimental Development, especially in an industrial context, and a cornerstone for identifying whether work met the definition of SR&ED in the Act. Although revisions of Information Circular 86-4 have been issued (the latest being IC 86-4R3 in 1994), the three criteria have remained intact.

Although there have been numerous changes to the legislation, the clarification of the definition of experimental development that was made in 1992 is of particular importance to the application of eligibility requirements. This clarification was intended to focus on the purpose of experimental development. It confirmed that "[...] development work that is experimental in nature and that is undertaken for the purpose of achieving technological advancement for the purpose of creating or improving existing materials, qualifies, but development work that is routine in nature does not qualify..." [14].

In 1998, Judge Bowman issued a decision in *Northwest Hydraulic Consultants Limited v. The Queen* based on his understanding of the concepts laid out in IC 86-4R3 [15]. He set out an approach to determine whether the claimed work met the definition of SR&ED. His approach provided an understanding of the relationship between the three criteria and the legislative definition of SR&ED. Subsequent jurisprudence has reinforced the approach set out by Judge Bowman.

Appendix B – References

B.1 Legislative references

Income Tax Act

Descriptions

Subsection 248(1)

Definition of "scientific research and experimental development"

B.2 CRA publications

Type

Title

Application policy

SR&ED 94-03, *Testing activities on new substances required by the Canadian Environmental Protection Act (CEPA)*

Application policy

SR&ED 95-01R*, Linked Activities - Regulations 2900(1)(d)*

Application policy

SR&ED 95-02, *Science Eligibility Guidelines for the Oil & Gas and Mining Industries*

Application policy

SR&ED 95-03, *Claims for ISO 9000 Registration*

Application policy

SR&ED 1996–02, *Tests and studies required to meet in regulated industries*

Application policy

SRED 98-01, *Eligibility of Activities Performed to Establish User Requirements in the Area of Technical Aids for People with Disabilities under Subsection 248(1) of the Income Tax Act*

Application policy

SR&ED 2000-04R2, *Recapture of Investment Tax Credit*

Application policy

SR&ED 2002-02R2, *Experimental Production and Commercial Production with Experimental Development Work - Allowable SR&ED Expenditures*

Application policy

SR&ED 2004-03, *Prototypes, Pilot Plants/Commercial Plants, Custom Products and Commercial Assets*

Brochure

RC4472, *Overview of the Scientific Research and Experimental Development (SR&ED) Tax Incentive Program*

Information circular

IC 86-4R3, *Scientific Research and Experimental Development*

Information circular

IC 94-1, *Plastics Industry Application Paper*

Information circular

IC 94-2, *Machinery and Equipment Industry Application Paper*

Information circular

IC 97-1, *Scientific Research and Experimental Development - Administrative Guidelines for Software Development*

Guide

Recognizing Experimental Development

Guide

Guide to Supporting Technical Aspects of a Scientific Research and Experimental Development (SR&ED) Claim

Guide

SR&ED Project Definition - Principles and Q and A sheet for Project Definition Paper

Guide

Cross-Sector Shop Floor Guidance Document

Guide

T4088*, Guide to Form T661 – Scientific Research and Experimental Development (SR&ED) Expenditures Claim*

Sector-specific guide

Chemicals Guidance Document #1 - Shop floor SR&ED

Sector-specific guide

Chemicals Guidance Document #2 - Qualifying Work

Sector-specific guide

Chemicals Guidance Document #3 - Part 1 - Chemical Processes

Sector-specific guide

Food and Consumer Packaged Goods Sector - SR&ED Guidance Document

Sector-specific guide

In-Situ Heavy Oil and Bitumen R&D Guidance Document

Sector-specific guide

Plastics Materials, Processing, Equipment & Tool Making Guidance Document

Sector-specific guide

Pulp and Paper Sector Guidance Document

Sector-specific guide

Guidance on Eligibility of Software Projects for the SR&ED Tax Credits and Developing and Documenting Claims

Sector-specific guide

Textile Industry Guidance Document

Sector-specific guide

Controlled Environment Crop Production SR&ED Guidance Document (Draft)

B.3 Other references

Reference Number

Title

[1] Canada. Library of Parliament, Parliamentary Information and Research Services. *Scientific Research & Experimental Development: Tax Policy* by Odette Madore (Current Issue Review: 89-9E, Revised 27 July 2006), online:http://www2.parl.gc.ca/Content/LOP/ResearchPublications/899-e.htm

[2] SOR/63-78, *Canada Gazette Part II*, Vol. 97, No. 5 (March 13, 1963)

[3] SOR/67-441, *Canada Gazette Part II*, Vol. 101, No. 17 (September 13, 1967)

[4] SOR/78-749, *Canada Gazette Part II*, Vol. 112, No. 19 (October 11, 1978)

[5] *Securing Economic Renewal* Budget Papers tabled in the House of Commons by the Honourable Michael H. Wilson, Minister of Finance, May 23, 1985

[6] SOR/86-1136, *Canada Gazette Part II*, Vol. 120, No. 26 (December 24, 1986)

[7] SOR/94-686, Supplement to the *Canada Gazette Part II*, Vol. 128, No. 24 (November 30, 1994)

[8] SOR/95-63, *Canada Gazette Part II*, Vol. 129, No. 2 (January 25, 1995)

[9] *Income Tax Budget Amendment Act*, SC 1996, c. 21, s. 60(7)

[10] *Income Tax Budget Amendment Act*, SC 1996, c. 21, s. 60(2)

[11] *Income Tax Amendments Act*, SC 1998, c. 19, s. 239(1)

[12] SOR/2000-296, *Canada Gazette Part II*, Vol. 134, No. 17 (August 16, 2000)

[13] *Legislative Proposals and Explanatory Notes Relating to Income Tax*, Published by The Honourable James M. Flaherty, P.C., M.P., Minister of Finance, July 2010

[14] Government of Canada News Release 92-088, December 2, 1992

[15] *Northwest Hydraulic Consultants Ltd. v. The Queen*, 98 D.T.C. 1839, [1998] 3 C.T.C. 2520 (Tax Court of Canada)