



Tax Court Confirms Innovation Tax Incentives Can Be Claimed Even for Developing New Meat Pies

September 2023 Tax Alert

During a period of economic uncertainty, businesses often become even more hungry to beat the competition. One of the paths to success is to prioritize innovation and the development of new science and technology. Not only is this innovation and development competitively beneficial, it can also be rewarded through tax incentives. In particular, pursuant to the *Income Tax Act*, there are two Scientific Research and Experimental Development (SR&ED) tax incentives. These tax incentives are: i) the ability to claim a deduction against income; and ii) the ability to earn an investment tax credit. To properly claim SR&ED tax incentives the business must be seeking to advance science or technology and must do so through a scientifically based systematic investigation.

In the recent Tax Court of Canada decision of *Canafric Inc. v. The King*, the Court dealt with what must be established to claim SR&ED tax incentives. In that case, a food manufacturing business had made SR&ED claims in regards to frozen pies. The business had engaged in scientific innovation to address shelf life, taste, etc. The plant conducted trials and development, which were methodologically handled by their team. After the business claimed SR&ED tax incentives, the CRA attended at their office to review the claim. The business shared detailed documentation confirming the testing and development. In review, the CRA

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disagreed that they were eligible for SR&ED claims and denied the credit. The business appealed the decision to the Tax Court of Canada. The Tax Court of Court held that the business' evidence was compelling and forthright, and that the Minister never addressed the detailed technical documentation produced by the business. The Court confirmed that the business had satisfied the five conditions for SR&ED claims established by the Court decision of *Northwest Hydraulics*. In particular, the business had established that:

- i. there was technological risk or uncertainty which could not be removed by routine engineering or standard procedures;
- ii. they formulated hypotheses specifically aimed at reducing or eliminating a technological uncertainty;
- iii. they had adopted a development procedure with a scientific method, including testing and modification of hypotheses;
- iv. the process resulted in a technological advancement; and
- v. there was a detailed records of the hypotheses tested and results.

In review of the above, if your business intends to pursue SR&ED tax incentives, it is important that you comprehensively document the testing and development. In the decision of *Canafric*, the taxpayer was successful because of the comprehensive records of the technological uncertainties, the formulation of hypotheses, the modification of hypotheses, the testing, and the results. It is also important to be mindful that a SR&ED claim can be made in regards to a broad scope of scientific or technological development – including in regards to food manufacturing, farming, equipment, tools, etc.

For more information or for assistance with a denial of a SR&ED claim, please speak with one of [our tax litigators](#).

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