

# Developments

Information and updates on the scientific research and experimental development program

*Clarifies recent changes to Alberta's SR&ED program.*

November 19, 2012

Discussions between PricewaterhouseCoopers LLP (PwC) and Alberta Tax and Revenue Administration (ATRA) officials clarify recent changes to Alberta's scientific research and experimental development (SR&ED) tax credit. These changes not only affect future SR&ED claims in Alberta, but also mean that previous SR&ED claims will have to be amended. This could trigger a tax refund or tax liability for previous years.

## Background

A welcome proposal in Alberta's February 9, 2012 budget eliminated the SR&ED "grind." Specifically, for taxation years ending after March 31, 2012, taxpayers are no longer required to deduct the federal SR&ED tax credit when calculating Alberta's SR&ED tax credit. Subsequently, Alberta announced in "Special notice" dated June 2012, that additional technical changes would be effective retroactive to January 1, 2009 (i.e., the start of Alberta's SR&ED program).

The implications of these announcements were uncertain. PwC's discussions with ATRA officials clarify the application of the new rules and are summarized below.

## What the changes mean

The following table provides a snapshot of the changes.

	Taxation years ending	
	After March 31, 2012	Before April 1, 2012
Forms claimants file	AT1 Schedule 9, + AT1 Schedule 9 Listing	AT1 Schedule 9 + AT1 Schedule 9 Supplemental + AT1 Schedule 9 Listing
Comments	None	Must be filed for each taxation year for which Alberta SR&ED tax credits have been previously claimed.
Filing deadline	Within 21 months of the taxation year end in which the Alberta SR&ED expenditures were incurred.	Not clear. ATRA suggests filing with the Alberta SR&ED claim for the current year. AT1 Schedule 9 Supplemental states that it must be received by ATRA within 21 months of the taxation year end in which the Alberta SR&ED expenditures were incurred. However, this deadline is achievable only for taxation years ending after February 27, 2011 (assuming a month-end year end).

## AT1 Schedule 9

Although the legislation<sup>1</sup> implementing these changes has not yet become law, ATRA's administrative position is that the new AT1 Schedule 9 must be filed for all claims submitted after November 2, 2012. The old AT1 Schedule 9 may not be accepted and processed.

## AT1 Schedule 9 Supplemental

The AT1 Schedule 9 Supplemental recalculates the grind in prior years. ATRA commented that the recalculation addresses a technical deficiency that, in some cases, caused an incorrect calculation of the grind. The form corrects this error by amending both the formula for determining eligible expenditures of a qualified corporation and the calculation of the SR&ED tax credit itself.

Taxpayers that reached Alberta's \$4 million expenditure limit in previous years are expected to have a reduction in Alberta SR&ED tax credits, resulting in a tax liability.

## Anti-avoidance rules

The timing of the grind elimination creates an opportunity to avoid the application of the grind. Because of this possibility, two anti-avoidance rules will be introduced to cause the deemed application of federal investment tax credits (ITCs):

- A corporation that:
  - had federal taxes payable at its year-end; or
  - paid federal taxes for the year or for any of the three previous taxation years,
 and
  - has federal ITCs available to apply against those taxes,
 will be deemed to:
  - have applied the federal ITCs to reduce the federal taxes payable; or
  - obtain a refund of the federal taxes paid in those years to the fullest extent possible, starting with the earliest taxation year to which they could have been applied.
- If, in the Provincial Minister's opinion:
  - a corporation deducted amounts for federal income tax purposes for a taxation year, rather

than using federal ITCs to reduce the federal taxes that would otherwise have been payable in the year; and

- one of the main reasons for doing so was to reduce the grind for purposes of calculating Alberta's SR&ED tax credit,

the corporation is deemed to have applied its federal ITCs against any federal taxes that would have been payable had the corporation computed its income or loss for that year without making those deductions, and the Provincial Minister may calculate the Alberta SR&ED tax credit as if those federal ITCs had been applied.

## Proxy amount

Retroactive to January 1, 2009, Alberta's proxy amount is no longer fixed at 65%. Instead, it will parallel the federal proxy amount and therefore will decline concurrent with federal changes. For more information, see our August 23, 2012, *Developments* "Legislative proposals confirm SR&ED changes" at [www.pwc.com/ca/sred/developments](http://www.pwc.com/ca/sred/developments).

## Eligible expenditures

For SR&ED carried out in Alberta after 2008, the calculation of Alberta eligible expenditures can now include amounts transferred to the claimant under an agreement filed for federal income tax purposes.

## Filing deadline

The deadline for filing prescribed SR&ED forms has been extended to 15 months (from 12 months) after the due date for the corporation's income tax return. Effectively this gives corporations 21 months from the end of a taxation year to file a SR&ED claim. Because the extended deadline is retroactive to 2009, there may be an opportunity for taxpayers who missed an 18 month Alberta filing deadline to resubmit their claims and receive the Alberta SR&ED credit.

However, to earn Alberta SR&ED tax credits, the federal SR&ED ITC form must still be filed on time (i.e., within 18 month after the taxation year end in which the expenditures were incurred).

## Implications for federal filings

The change to Alberta SR&ED tax credit for previous years will affect federal Schedules 31 and 32 for those

1. Bill 9, *Alberta Corporate Tax Amendment Act, 2012*, received first reading October 23, 2012.

years. This will not affect the first taxation year ending after January 1, 2009, in which the Alberta SR&ED tax credit is claimed, but will affect subsequent years.

According to the Canada Revenue Agency (CRA), revised federal SR&ED tax forms along with a cover letter, explaining the reason for the changes, should be submitted once the Alberta SR&ED tax credit claim is revised.

## We can help

Please contact any of the PwC professionals listed below for more information on the effect of Alberta's SR&ED changes on your organization.

<b>Alberta</b>	Calgary and Edmonton	Shawn Reain	403 509 6373	shawn.d.reain@ca.pwc.com
		David Van Den Beld	403 509 6643	d.vandenbeld@ca.pwc.com
<b>Atlantic</b>	Halifax	Dean Landry	902 491 7437	dean.landry@ca.pwc.com
	Saint John	Tim Ellis	506 653 9461	tim.w.ellis@ca.pwc.com
<b>British Columbia</b>	Vancouver	Ted Bell	604 806 7705	ted.bell@ca.pwc.com
<b>Manitoba</b>	Winnipeg	Kevin Koziey	204 926 2431	kevin.s.koziey@ca.pwc.com
<b>Ontario</b>	GTA and National	Vik Sachdev	416 869 2424	vik.sachdev@ca.pwc.com
		Cathy Wraggett	416 869 2446	cathy.a.wraggett@ca.pwc.com
		Greg Garland	905 949 7440	greg.garland@ca.pwc.com
		Bob Singh	905 897 4519	prabh.singh@ca.pwc.com
		Chris Bodnar	905 949 7311	christopher.a.bodnar@ca.pwc.com
	Hamilton	Doug Boyce	905 777 7020	doug.boyce@ca.pwc.com
<b>Quebec</b>	London	Kevin Robertson	519 640 7915	kevin.c.robertson@ca.pwc.com
	Ottawa	Kent Smith	613 755 8742	kent.b.smith@ca.pwc.com
		Mel Machado	613 755 5664	mel.machado@ca.pwc.com
	Waterloo	Jay McLean	519 570 5759	jay.mclean@ca.pwc.com
<b>Saskatchewan</b>	Windsor	Loris Macor	519 985 8913	loris.macor@ca.pwc.com
	Montreal	Lucie Bélanger	514 205 5439	lucie.belanger@ca.pwc.com
	Quebec City	Rémi Tremblay	418 691 2488	remi.tremblay@ca.pwc.com
<b>Saskatchewan</b>	Saskatoon	David Van Den Beld	403 509 6643	d.vandenbeld@ca.pwc.com

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