

248(1) C OF THE INCOME TAX ACT

...(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**

NORTHWEST HYDRAULICS VS HMQ

“I should not have thought it was necessary to say so. Most scientific research involves gradual, indeed *infinitesimal*, progress. Spectacular breakthroughs are rare and make up a very small part of the results of SRED in Canada.”

Chief Justice Bowman

NORTHWEST HYDRAULICS VS HMQ

“ If the resolution of the problem is reasonably predictable using standard procedure or routine engineering there is no technological uncertainty as used in this context.”

Chief Justice Bowman

NORTHWEST HYDRAULICS VS HMQ

(how a third party may look at uncertainties)

“...What may appear routine and obvious after the event may not have been before the work was undertaken.”

Chief Justice Bowman

ROUTINE ENGINEERING DEFINED

What is "routine engineering"?

...“It is the question (as well as that relating to technological advancement) that appears to have divided the experts more than any other.”

Chief Justice Bowman

Routine Engineering Defined

What is "routine engineering"?

...“Briefly it describes *techniques, procedures and data* that are generally accessible to competent professionals in the field.”

Chief Justice Bowman

NORTHWEST HYDRAULICS VS HMQ

“Did the process result in a technological advance, that is to say an advancement in the general understanding?”

Chief Justice Bowman

NORTHWEST HYDRAULICS VS HMQ

“ A technological advance in Canada does not cease to be one merely because there is a theoretical possibility that a researcher in, say, China, may have made the same advance but his or her work is not generally known.”

Chief Justice Bowman

COURT PROCEDURE

Notice of Appeal

Reply From Respondent

Examination For Discovery (General Procedure)

Opening Remarks

Examination in Chief

Cross Examination Redirect

Voire Dire

Closing Remarks

COURT PROCEDURE

Preparation of evidence

preparation of witnesses for hearing or Discovery

Prepare witnesses

BOWMAN'S STANDARD APPROACH TO A CASE

- What are the facts?
- What is the issue?
- What is common sense and fair result?
- Then find the law to support the result.