

The restored capital and lease rules and the Budget 2026 commercialization proposals have different legislative statuses. The capital rules apply to qualifying property acquired and lease costs incurred after December 15, 2024. The proposed commercialization expansion would apply to taxation years beginning on or after November 5, 2026.

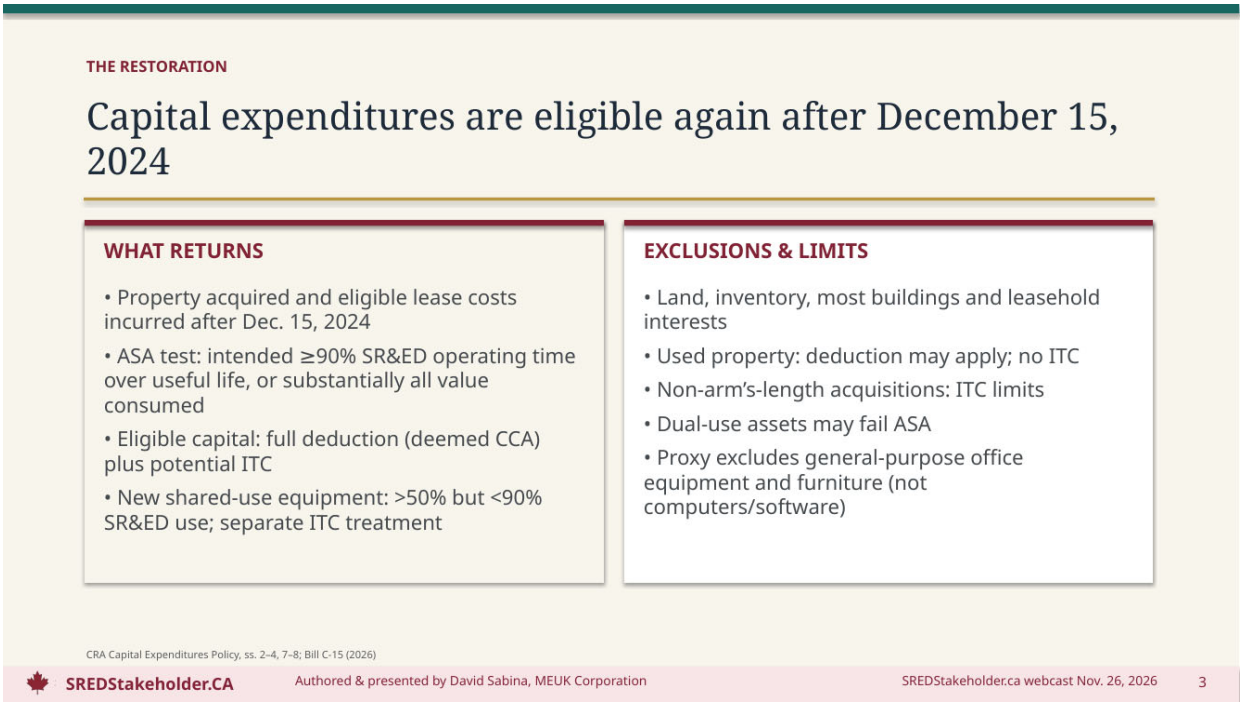
Sources: Bill C-15, S.C. 2026, c. 3; CRA Capital Expenditures Policy; Budget 2026 Tax Measures Supplementary Information: https://budget.canada.ca/2026/report-rapport/tm-mf-en.html.

Capital section contribution: Elizabeth Lance, The InGenuity Group.



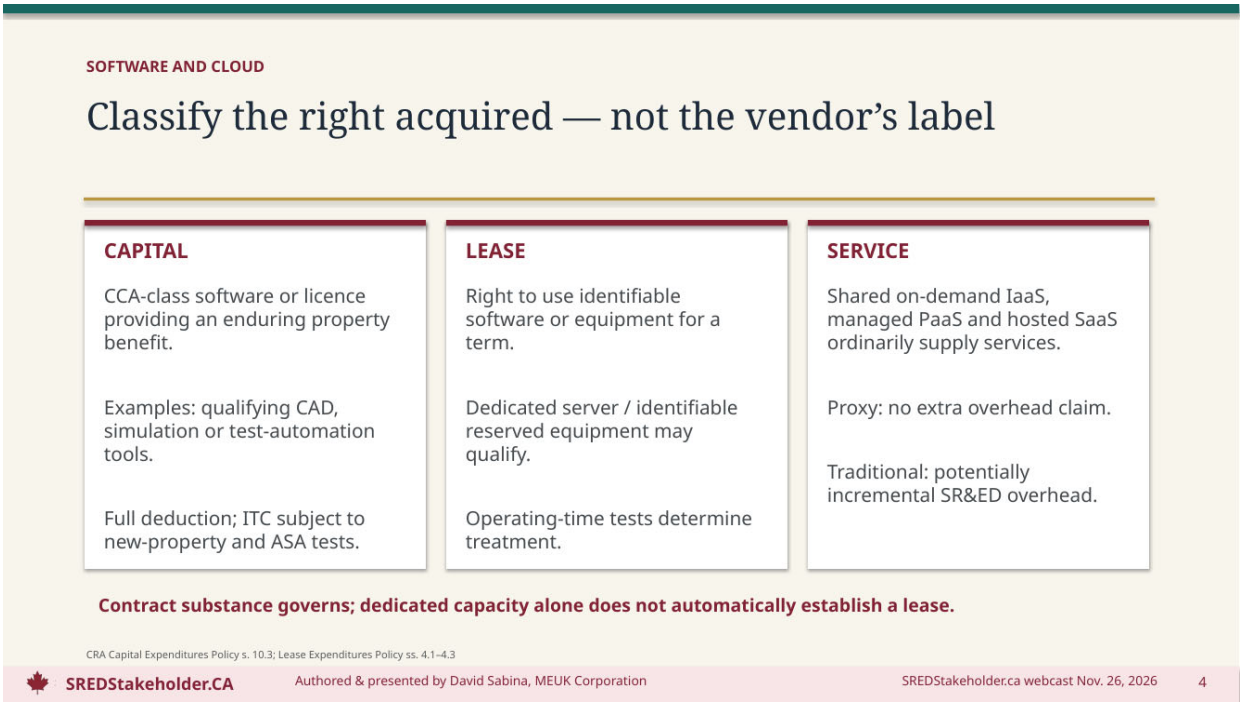
Bill C-15 restores qualifying capital and lease expenditures. CRA policies distinguish depreciable property, rights to use property and services; the proxy versus traditional method affects the treatment of actual overhead.

Sources: Bill C-15, S.C. 2026, c. 3; CRA Capital Expenditures Policy (June 29, 2026); Lease Expenditures Policy (June 8, 2026); Shared-Use Equipment Policy (May 22, 2026); Traditional and Proxy Methods Policy.



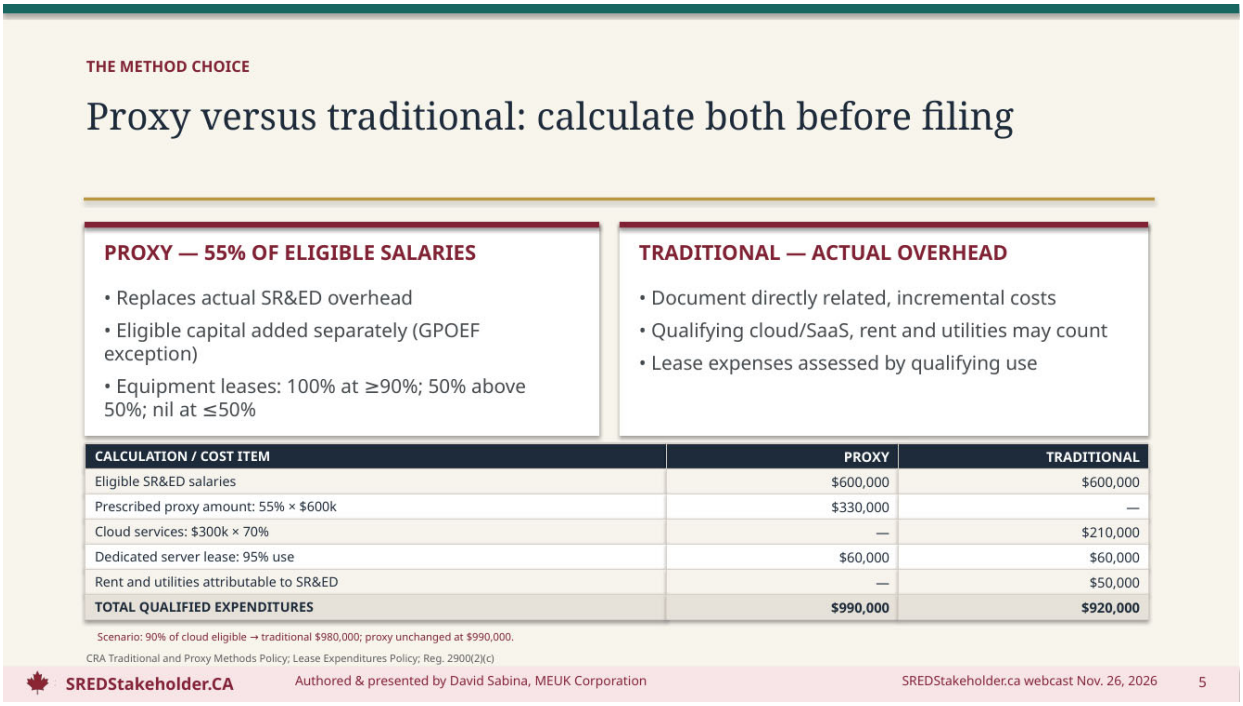
CRA Capital Expenditures Policy describes the all-or-substantially-all (ASA) test as an acquisition-date assessment of intended SR&ED operating time over the useful life, or substantial consumption of value. Actual use supports that assessment. Qualifying used equipment may be deductible but its acquisition cost is excluded from ITCs under Regulation 2902(b)(iii). New shared-use equipment has a separate ITC regime when used primarily, but not substantially all, for SR&ED. Related-party and excluded-property restrictions also apply.

Sources: CRA Capital Expenditures Policy, ss. 2–4, 7–8; Shared-Use Equipment Policy; Bill C-15.



CRA capital and lease policies distinguish ownership of depreciable software from a temporary right to use identifiable property. Vendor-hosted services ordinarily fall outside those property categories. Dedicated capacity alone does not establish a lease. Under the traditional method, service costs may qualify if directly related and incremental under Regulation 2900(2)(c); the proxy method substitutes the prescribed proxy amount for actual overhead. Shell Canada and Data Kinetics are contextual authorities, not blanket rulings on cloud services.

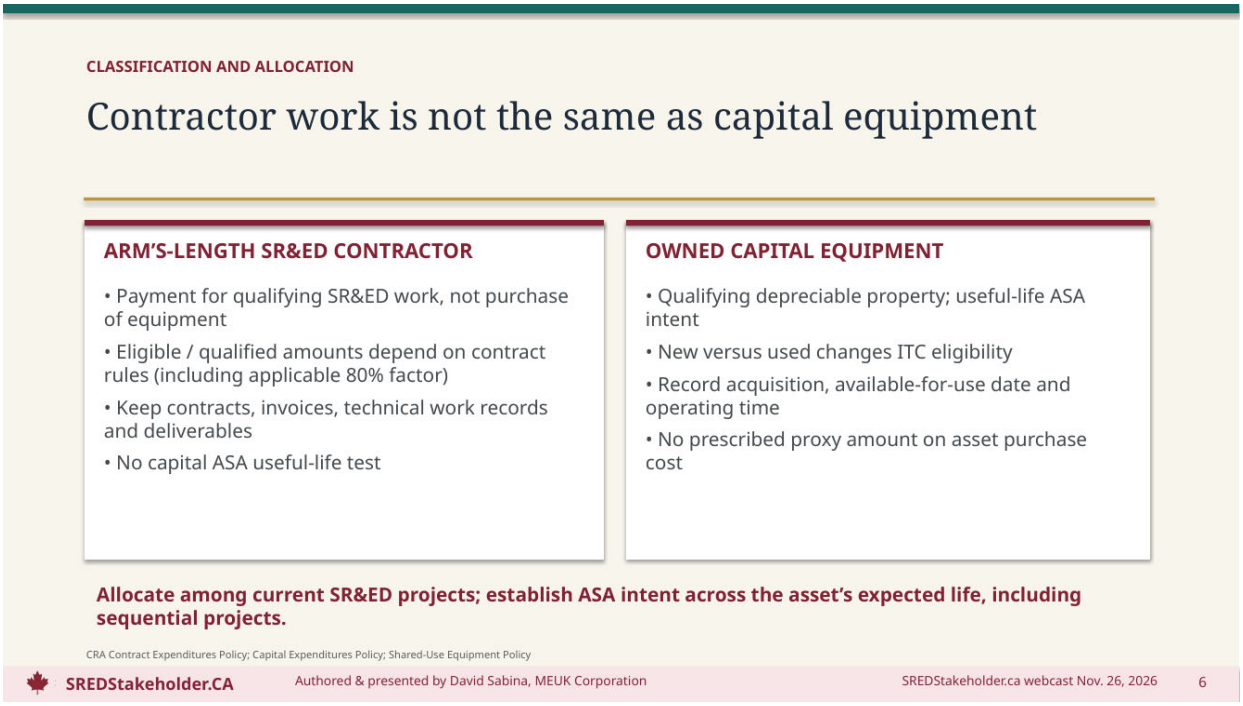
Sources: CRA Capital Expenditures Policy s. 10.3; Lease Expenditures Policy ss. 4.1–4.3; Overhead and Other Expenditures Policy; Income Tax Regulations 2900(2)(c).



CRA's Traditional and Proxy Methods Policy distinguishes the prescribed proxy amount (PPA) from actual qualifying overhead. The slide assumes a 55% PPA and a fully qualifying $60,000 dedicated-server lease.

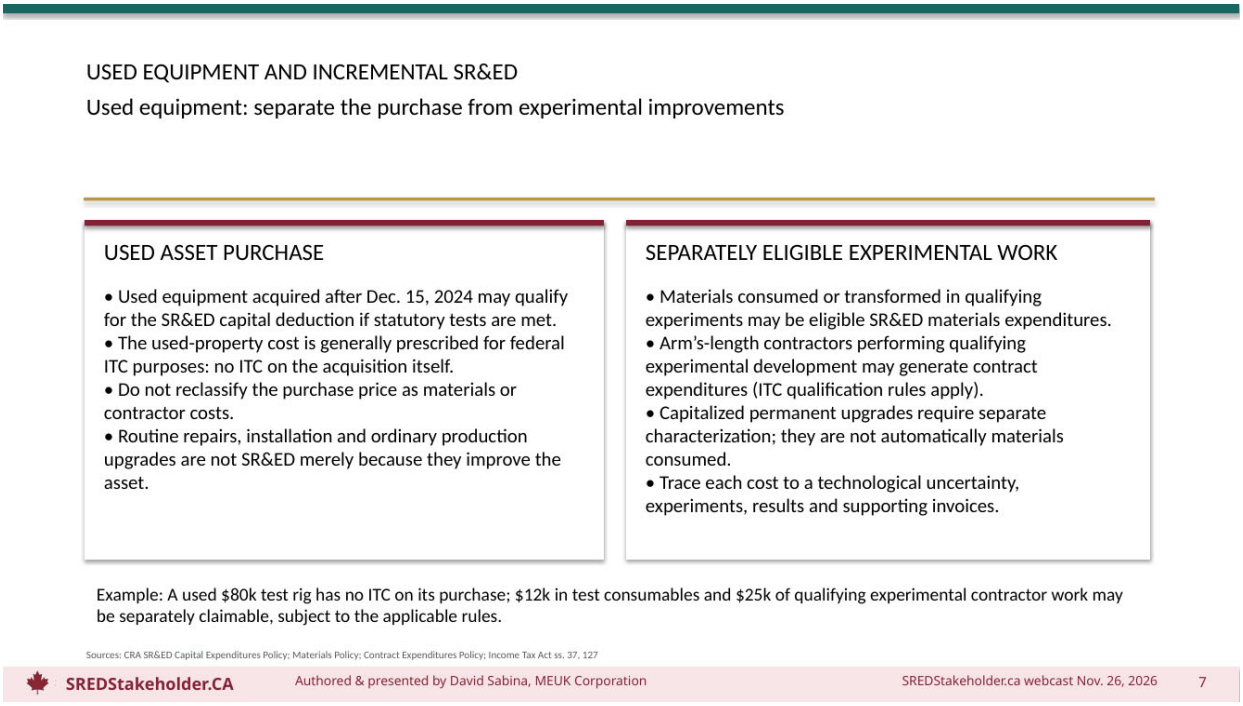
Illustration (not a CRA example): Proxy = $600,000 + $330,000 + $60,000 = $990,000. Traditional = $600,000 + $210,000 cloud + $60,000 lease + $50,000 rent/utilities = $920,000. At 90% eligible cloud use, traditional rises to $980,000. Break-even cloud eligibility is ($330,000 − $50,000) / $300,000 = 93.33%. These are qualified-expenditure comparisons, not actual ITCs.

Sources: CRA Traditional and Proxy Methods Policy; Lease Expenditures Policy ss. 2.2, 3.4; Overhead and Other Expenditures Policy; Regulation 2900(2)(c).



CRA Contract Expenditures Policy distinguishes payments for qualifying SR&ED performed on behalf of a claimant from acquisition of property. The applicable 80% factor concerns qualified ITC expenditures rather than automatically limiting the deduction. Owned capital is assessed under the useful-life intended-use rules; sequential SR&ED projects may support that assessment. Acquisition records, usage logs, project identifiers and contracts support classification and allocation.

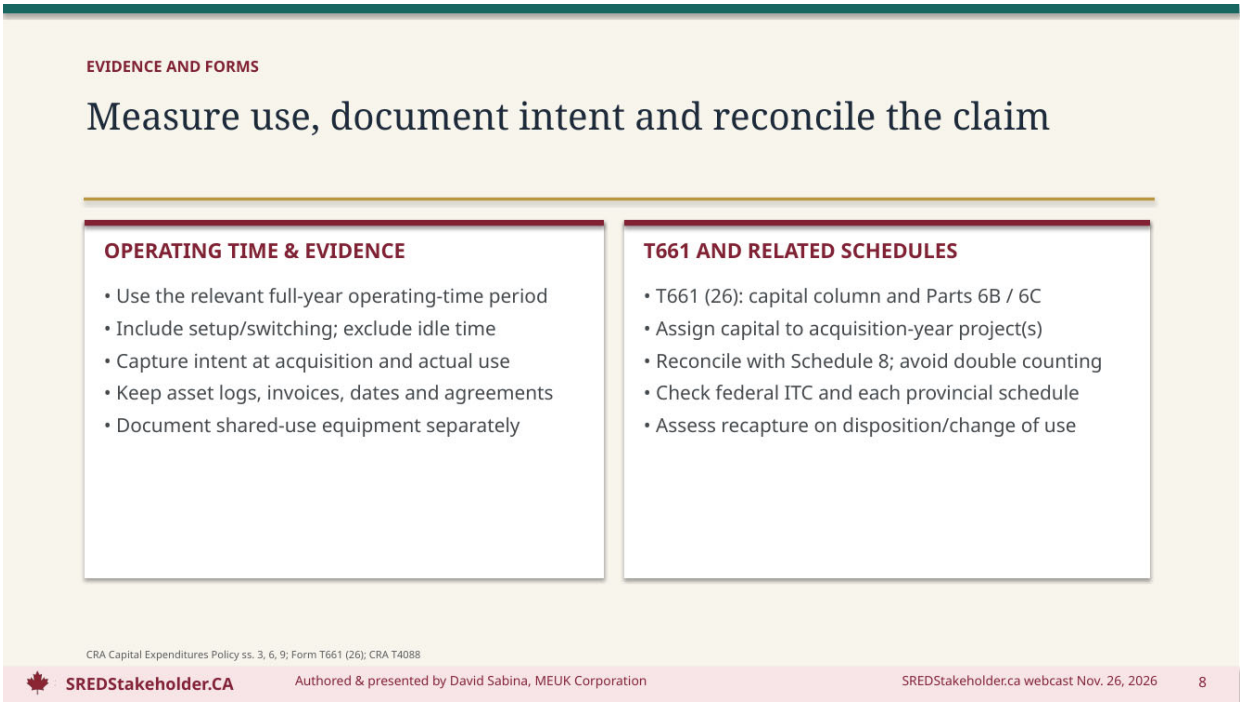
Sources: CRA Contract Expenditures Policy; Capital Expenditures Policy ss. 3–4, 10; Shared-Use Equipment Policy.



The CRA capital policy distinguishes deductibility of eligible used property from the exclusion of its acquisition cost for ITCs. Separately qualifying experimental materials and contract expenditures are not automatically excluded by the used-property rule. Permanent capital improvements require separate characterization; routine repairs and production upgrades are not necessarily SR&ED.

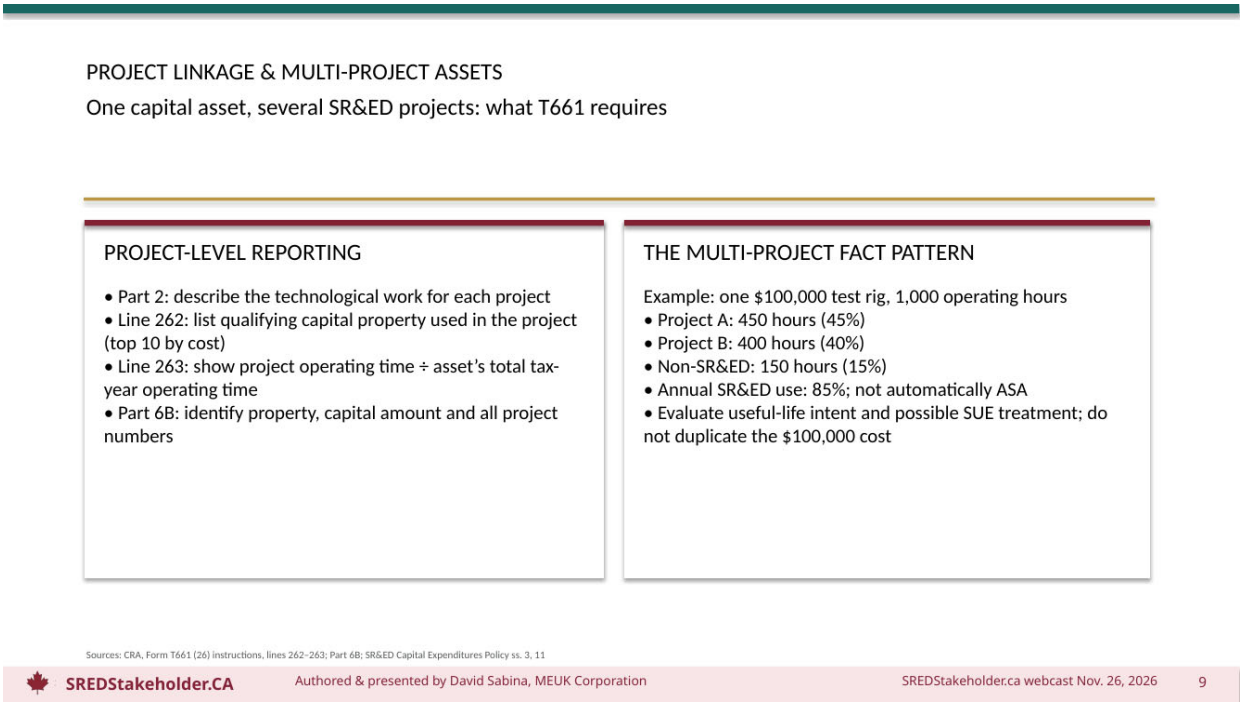
Illustration: $80,000 used rig acquisition generates no ITC; $12,000 qualifying consumables and $25,000 arm's-length experimental contract costs could produce a $32,000 qualified base if the 80% contract factor applies and all other conditions are met.

Sources: CRA Capital Expenditures Policy; Materials Policy; Contract Expenditures Policy; Income Tax Act ss. 37, 127.



CRA Capital Expenditures Policy identifies operating-time measurement, acquisition-date intent and supporting records as relevant to capital eligibility. Setup and switching time are distinguished from idle time. Form T661 (26) includes capital reporting in Parts 6B/6C. Capital deductions must be reconciled with Schedule 8 to prevent double counting. Disposition or change of use may trigger ITC recapture; provincial credit bases may differ.

Sources: CRA Capital Expenditures Policy ss. 3.3, 6, 9; T661 (26); T4088; Recapture of SR&ED Investment Tax Credit Policy.



CRA Form T661 (26), lines 262–263, links project-level reporting to the top ten claimed capital properties by cost and each project's share of the property's total tax-year operating time. Part 6B records the property, amount and project numbers.

Illustration: 450 + 400 SR&ED hours out of 1,000 total hours = 85% annual use. Project shares are 45% and 40%; non-SR&ED use is 15%. This annual measure does not itself determine useful-life ASA intent or the value-consumed test. Shared-use equipment treatment may be relevant. The same $100,000 acquisition is not duplicated across projects.

Sources: CRA T661 (26), lines 262–263 and Part 6B; Capital Expenditures Policy ss. 3, 11; Filing Requirements Policy; https://www.canada.ca/en/revenue-agency/services/scientific-research-experimental-development-tax-incentive-program/sred-updates.html

INTERNATIONAL CASE STUDY — UNITED STATES

Meta's AI data centres: a U.S. R&D tax credit case study

REPORTED FINANCIAL DATA (USD)

$57.37B — total 2025 accounting R&D expense; up 31% year over year.

U.S. research tax credits:

- 2023: $0.7B | 2024: $2.0B
- 2025: approximately $4.0B
- 2023–25 total: $6.6B (rounded)

Data-centre share not publicly established.

IMPLICATIONS FOR CANADIAN SR&ED

- U.S. senators questioned reported treatment of AI data centres as experimental pilot models.
- Meta argues novel AI infrastructure requires extensive testing.
- Canada: distinguish experimental design from routine deployment; assess equipment separately from buildings.
- Document uncertainty, experiments and asset use across projects.

Sources: Meta 2025 Form 10-K; U.S. Senate Finance Committee letter, Oct. 3, 2026; NYT, Sept. 30, 2026

Meta's 2025 Form 10-K reports US$57.372 billion in consolidated accounting R&D expense, up 31% from 2024, driven mainly by compensation and research infrastructure including AI. This is not a disclosed data-centre tax claim.

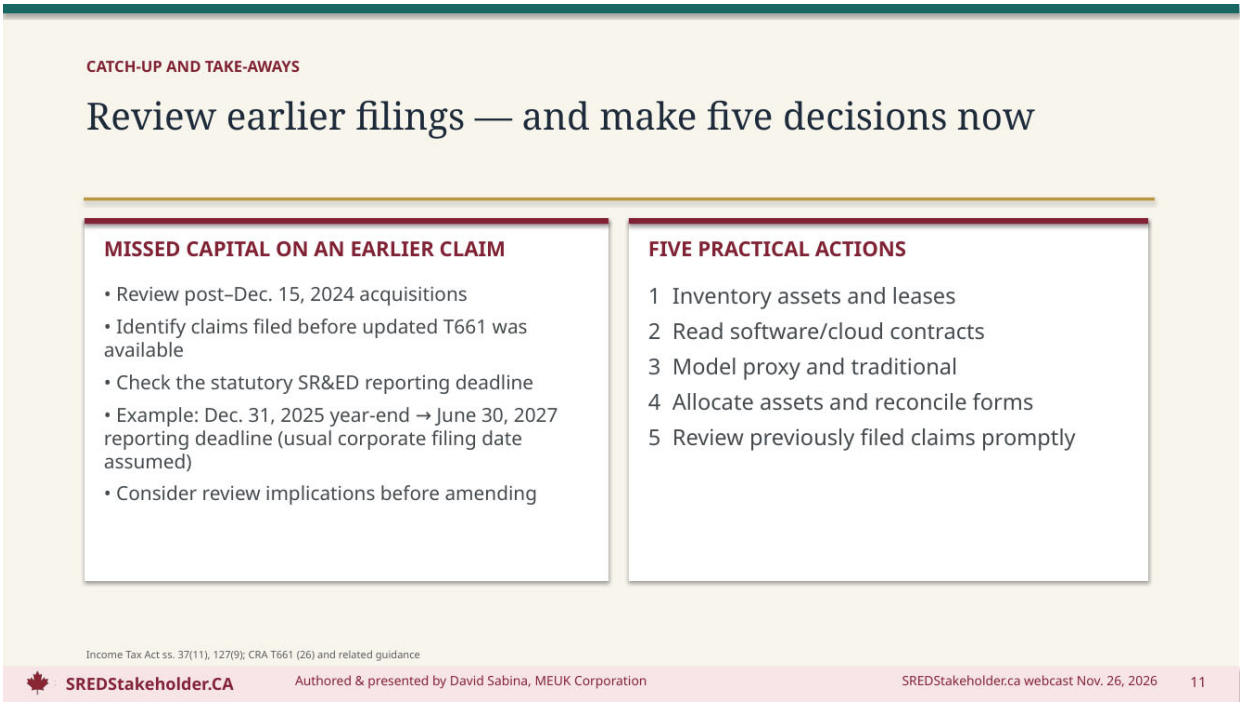
The October 3, 2026 Senate Finance Committee letter cites US$6.6 billion of federal research credits for 2023–25 and reports of AI data centres treated as pilot models under IRC section 41. The letter seeks the allocation to data centres; it is an inquiry, not a tax determination. Meta maintains that AI-optimized facilities require extensive experimental testing (Fortune, Oct. 23, 2026).

Canadian comparison: apply ITA ss. 37, 127 and 248(1) and CRA Capital Expenditures and Shared-Use Equipment policies. Examples of potential uncertainties include cooling, power distribution and cluster reliability; these are illustrative, not verified Meta projects. Routine construction and commercial operation are not automatically SR&ED.

Sources: Meta 2025 Form 10-K, Items 7–8: https://www.sec.gov/Archives/edgar/data/1326801/000162828026003942/meta-20251231.htm

Senate letter: https://www.finance.senate.gov/wp-content/uploads/media/doc/10032026wydenandsfcdemslettertometaontaxcreditissues.pdf

Original video: https://www.youtube.com/shorts/5BttlepScS0



Income Tax Act ss. 37(11) and 127(9) establish SR&ED reporting deadlines, generally 12 months after the return filing-due date. For a corporation with a December 31, 2025 year-end and June 30, 2026 filing-due date, the illustrative reporting deadline is June 30, 2027. Earlier claims may have omitted qualifying restored capital expenditures. An amendment does not guarantee acceptance or permit every change to a previously filed method election.

Sources: Income Tax Act ss. 37(11), 127(9); CRA Form T661 (26); Capital Expenditures Policy.



Overview of the proposed expansion of the Scientific Research and Experimental Development (SR&ED) tax incentive program in Budget 2026. Primary source: Tax measures: Supplementary information annex.

https://budget.canada.ca/2026/report-rapport/tm-mf-en.html

Policy context also appears in Chapter 1: https://budget.canada.ca/2026/report-rapport/chap1-en.html

Overview of the Expansion

- $930 million over five years ($235 million ongoing)
- Expands eligible activities and expenditures under the existing SR&ED program
- Covers certain commercialization costs related to eligible SR&ED projects
- Applies to taxation years beginning on or after Budget Day (5 November 2026)
- Existing investment tax credit rates continue to apply

“Budget 2026 proposes to further expand the SR&ED tax incentive program to include certain commercialisation expenses.”

Source: Chapter 1, Canada’s Investment Supercycle

https://budget.canada.ca/2026/report-rapport/chap1-en.html

Fiscal impact table appears in the Tax Measures annex.

Why the Expansion?

- Historically, work beyond the experimental development stage has generally been excluded from SR&ED.
- Budget 2026 proposes to bring certain commercialization activities and related IP protection costs into the program when they are directly connected to an eligible SR&ED project.

“Work undertaken beyond the experimental development stage is generally excluded from eligibility for SR&ED tax incentives. Budget 2026 proposes to expand the activities and expenditures eligible under the SR&ED program.”

Source: Tax measures: Supplementary information

https://budget.canada.ca/2026/report-rapport/tm-mf-en.html

Eligible Intellectual Property

- Eligible forms of IP:
- Patents
- Certificates of supplementary protection
- Plant breeders' rights
- Copyrighted software
- Protected under Canadian legislation or equivalent legislation in another jurisdiction
- IP must have been developed in the course of a project that is eligible under the existing SR&ED rules

"Eligible IP would include IP registered or protected as patents, certificates of supplementary protection, plant breeders' rights, or copyrighted software, under the relevant Canadian legislation or equivalent legislation in another jurisdiction."

Source: Tax measures annex – Intellectual Property Protection section

https://budget.canada.ca/2026/report-rapport/tm-mf-en.html

Eligible IP Costs

Included:

- Costs to prepare and file an application for an eligible form of IP protection
- Periodic maintenance fees to keep IP rights in force

Excluded:

- Costs to enforce IP rights (including litigation)
- Costs not directly connected to securing and maintaining IP rights

Administrative fees paid to foreign IP offices are eligible. Supporting activities (such as preparing the application) are eligible only if performed in Canada.

Exact wording from the Tax Measures annex: “Eligible expenditures would include costs reasonably incurred to obtain and, where applicable, maintain protection for eligible IP. In general, this would include expenses incurred to prepare and file an application… as well as maintenance costs… Eligible expenditures would not include those incurred to enforce IP rights…”

https://budget.canada.ca/2026/report-rapport/tm-mf-en.html

Regulatory & Certification Activities

Expanded eligible activities include:

- Tests
- Technological validations
- Studies

Conducted to meet regulatory requirements for obtaining the initial approval or certification necessary to commercialize a product or process.

These activities must directly relate to a project that is eligible under the existing SR&ED rules.

“The expanded scope of eligible activities would include tests, technological validations, and studies conducted to meet regulatory requirements for obtaining the initial approval or certification necessary to commercialize a product or process. To be eligible, these activities would need to directly relate to a project that is eligible under the SR&ED program’s existing rules.”

Source: Tax measures annex – Regulatory and Certification Requirements

https://budget.canada.ca/2026/report-rapport/tm-mf-en.html

Eligible Expenditures for New Activities

Eligible expenditures for regulatory and certification activities are the same categories already used for SR&ED:

- Wages and salaries
- Materials
- Contract payments
- Overhead
- Machinery and equipment

The five existing expenditure categories are identified for regulatory and certification activities. IP protection is addressed separately; its final expenditure classification is unresolved. Recapture on IP disposition is proposed. Source: https://budget.canada.ca/2026/report-rapport/tm-mf-en.html

Effective Date & CRA Guidance

- Applies to expenditures incurred in taxation years that begin on or after Budget Day (5 November 2026)
- The Canada Revenue Agency will provide sector-specific guidance to clarify SR&ED eligibility as it pertains to commercialization expenses

Coming into force language: “This measure would apply to taxation years that begin on or after Budget Day.”

CRA guidance commitment appears in Chapter 1.

Sources:

Tax measures annex – https://budget.canada.ca/2026/report-rapport/tm-mf-en.html

Chapter 1 – https://budget.canada.ca/2026/report-rapport/chap1-en.html

Interaction with Existing SR&ED Rules

- The core definition of SR&ED is unchanged
- New costs must still be connected to a project that meets the existing technological advancement and systematic investigation tests
- Enhanced 35% rate (up to the $6 million expenditure limit for qualifying corporations) and 15% rate continue to apply to the expanded expenditures

The expansion builds on the existing SR&ED framework rather than creating a separate credit. Prior enhancements (including the $6 million limit) are referenced in Chapter 1.

https://budget.canada.ca/2026/report-rapport/chap1-en.html

Related IP Measures in Budget 2026

Budget 2026 also announces:

- Amendments to the *Patent Act* to require registration of changes in patent ownership with the Canadian Intellectual Property Office
- A broader Federal Intellectual Property Review (further measures planned for spring 2027)

These measures appear in Chapter 1 alongside the SR&ED expansion as part of the government's approach to strengthening Canada's intellectual property ecosystem.

https://budget.canada.ca/2026/report-rapport/chap1-en.html

SECTION 2 · POLICY ALTERNATIVES

IP protection: three possible treatments

Hypothetical treatment	ITC base	Proxy	Traditional
A · Arm's-length contract	80%	Yes	Yes
B · Actual overhead	Up to 100%	No separate claim	Yes
C · Separate IP category	Potentially 100%	Potentially	Potentially

Foreign filing fees do not fit neatly into the existing Canadian contractor framework. IP maintenance is not ordinarily a lease.

The Budget annex addresses IP protection separately from the five existing expenditure categories identified for regulatory and certification activities. Foreign IP office fees are expressly contemplated, but the annex does not establish their contractor, overhead or separate-category treatment.

Policy scenarios (not government determinations): A assumes the existing 80% arm's-length contractor ITC factor; B assumes actual eligible overhead under traditional only; C assumes a separate fully qualifying IP category under both methods.

Sources: Budget 2026 Tax Measures Supplementary Information, IP Protection: https://budget.canada.ca/2026/report-rapport/tm-mf-en.html; CRA Contract, Lease, Traditional and Proxy Methods, and Overhead policies (existing-rule analogies).

SECTION 2 · CLASSIFICATION SCENARIOS

How might commercialization costs be claimed?

Cost	Potential category	Proxy	Traditional
External regulatory testing	Contract (80% factor if applicable)	Potential	Potential
Internal testing	Salary / materials	Potential	Potential
Test equipment / lease	Capital / lease	Potential	Potential
Indirect test support	Overhead	PPA only	Actual eligible
IP agent / filing fees	Contract, overhead or new IP line	Unresolved	Unresolved

All proposed treatments depend on enactment and expenditure-specific conditions.

The Budget annex expressly lists wages and salaries, materials, contract payments, overhead, and machinery and equipment for regulatory and certification activities. Application of existing category-specific tests to the expanded activities is an assumption pending implementation. IP agent and filing fees are separately described; their classification and proxy treatment remain unresolved.

Sources: Budget 2026 Tax Measures Supplementary Information: https://budget.canada.ca/2026/report-rapport/tm-mf-en.html; CRA Contract, Lease, Traditional and Proxy Methods, and Overhead policies (existing-rule analogies).

SECTION 2 · ILLUSTRATIVE FINANCIAL COMPARISON

$50,000 of IP protection costs: effect on federal ITC

Scenario	Proxy ITC	Traditional ITC
A · Contractor at 80%	$14,000	$14,000
B · Overhead at 100%	$0 incremental	$17,500
C · New IP category at 100%	$17,500	$17,500

At 70% eligible cloud costs, the capital example favours proxy by $70,000 of ITC base. Adding $50,000 solely to traditional narrows that gap to $20,000.

Illustration based on alternative classifications, not a government calculation. Assumptions: $50,000 qualifying IP costs, 35% federal ITC, sufficient expenditure limit, no assistance or other adjustments. Contractor analogy: $50,000 × 80% × 35% = $14,000. Traditional overhead: $50,000 × 35% = $17,500; no separate proxy increment. Separate IP category: $17,500 under either method if fully eligible. In the earlier example, a traditional-only $50,000 increment reduces the proxy advantage from $70,000 to $20,000 of qualified expenditures. Provincial credits and deduction effects are excluded.

Sources: Budget 2026 Tax Measures Supplementary Information: https://budget.canada.ca/2026/report-rapport/tm-mf-en.html; CRA Contract and Traditional and Proxy Methods policies (analogies).

SECTION 2 · OPEN ISSUES

Questions requiring legislative or CRA clarification

- Will IP protection have a separate expenditure category?
- Will IP agents' fees face the 80% contractor adjustment?
- Can internal IP work generate proxy salary base?
- Will regulatory application fees be eligible, apart from testing?
- How will IP disposition recapture and project linkage be reported?
- Will provincial credit bases accommodate the new expenditures?

The Budget annex does not settle whether IP protection costs will be a separate expenditure category, whether the contractor reduction will apply, or whether internal IP work will generate PPA salary base. Regulatory application fees, IP recapture mechanics, T661 reporting and provincial credit interactions also remain unresolved. Relevant implementation provisions include ITA ss. 37, 127 and 248 and related regulations.

Source: Budget 2026 Tax Measures Supplementary Information: https://budget.canada.ca/2026/report-rapport/tm-mf-en.html; existing CRA expenditure policies provide analogies, not confirmed new filing rules.

Key Caveats

- These are Budget proposals; draft legislation and final rules are still required
- Recapture provisions will apply on disposition of the IP
- Sector-specific CRA guidance is forthcoming
- Professional advice should be obtained before relying on these measures

Budget 2026 proposes recapture on disposition of eligible IP and anticipates sector-specific CRA guidance on commercialization eligibility. The precise expenditure classifications, implementation details and filing requirements depend on final legislation and CRA publications.

Sources: Budget 2026 Tax Measures Supplementary Information: https://budget.canada.ca/2026/report-rapport/tm-mf-en.html; Chapter 1: https://budget.canada.ca/2026/report-rapport/chap1-en.html

Primary Government Sources

• Tax measures: Supplementary information https://budget.canada.ca/2026/report-rapport/tm-mf-en.html

• Chapter 1: Canada's Investment Supercycle https://budget.canada.ca/2026/report-rapport/chap1-en.html

• Budget 2026: Key Measures backgrounder https://www.canada.ca/en/department-finance/news/2026/11/budget-2026-key-measures.html

Primary Department of Finance sources for the proposed expansion:

Tax Measures: Supplementary Information — eligible IP, costs, regulatory activities, effective date and fiscal estimates: https://budget.canada.ca/2026/report-rapport/tm-mf-en.html

Chapter 1, Canada's Investment Supercycle — policy context and CRA guidance commitment: https://budget.canada.ca/2026/report-rapport/chap1-en.html

Budget 2026 Key Measures backgrounder: https://www.canada.ca/en/department-finance/news/2026/11/budget-2026-key-measures.html