

Update on 2024 SR&ED Consultation



SREDStakeholder.CA

Presented by

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The InGenuity Group

2024 Consultation on the Scientific Research and Experimental Development Program

Modernizing the SR&ED Tax Incentive Program

- **Consultation Goals:**

- Improve the effectiveness of SR&ED in encouraging R&D that benefits Canada.
- Explore cost-neutral opportunities to modernize and simplify the program.

- **Key Timelines:**

- **Phase 1 Consultation:** January 31 to April 15, 2024. (~45 days)
- **Phase 2 Consultation:** April 25 to May 27, 2024. (~30 days)

- **Budget 2024 Commitment:**

- \$600 million over four years (starting 2025-26).
- \$150 million per year ongoing for future enhancements.

CPA Canada Interview w/CRA

*"Well, we've been working very closely with our colleagues at the Department of Finance on this consultation for the last number of months. We're also very pleased to see that it's been launched now just a few days ago and are looking forward to the feedback that we get through the consultation. One point to note, of course, is that the Department of Finance is characterizing it **as a cost neutral modernization**. So I think from our perspective, you know, we've worked for a number of years to improve the administration of this program. We've taken several steps. We've made tremendous changes internally within, you know, how we manage the program, but also externally, a number of steps that I spoke about in the presentation. So now we're very keen to see what kind of feedback we will get through these consultations around other areas where the program might be adjusted and changed and how might it evolve over the course of time too, to better serve businesses that are conducting R&D. So we're excited."*

Lorraine Redekop, Director General
Scientific Research and Experimental Development (SR&ED)
Canada Revenue Agency

Phase I: Questions

- How can the SR&ED program remain effective in supporting R&D investment by businesses of all types in Canada? How can the SR&ED program better support the growth and success of R&D-intensive Canadian businesses going forward?
- What improvements to the definition of SR&ED, the program's eligibility criteria, and/or overall architecture should be considered?
- How does the SR&ED program complement the existing suite of support programs for R&D in Canada? How could this complementarity be improved?
- Are there more effective ways in which the overall level of assistance provided within the SR&ED program could be targeted? If so, what changes could be made to the SR&ED program to offset the costs of any proposed enhancements?
- How can the SR&ED program effectively ensure the retention of intellectual property (IP) within Canada, particularly to support innovative Canadian businesses to remain Canadian-owned and operated?
- How can the SR&ED program be improved and streamlined to make it easier for entrepreneurs to access support?
- How can your suggested enhancements be funded by existing support available through the SR&ED program? What potential changes could best focus support to benefit Canada, including creating economic opportunities for Canadians?

Phase II: Questions

- What are some of the challenges faced by research-and-development-performing small- and medium-sized Canadian public corporations when it comes to financing?
- To avoid potential disincentives to growth, would entrepreneurs favour a program with one single rate accessible to all, even if it means somewhat lower support for small Canadian-controlled private corporations?
- How should the concept of “Canadian” public corporations be defined, should the government proceed with measures to improve access to the SR&ED program’s enhanced credit for Canadian public corporations?
- The SR&ED program currently has rules to prevent the multiplication of the expenditure limit by Canadian-controlled private corporations with common control. If enhanced support were extended to public corporations, how should relationships among legal entities be delineated?
- Current global initiatives rely on relationship and control accounting concepts to determine whether entities are included in a large business corporate group. Should existing international practices of this sort be adapted to determine relations between public corporations in the context of the SR&ED program?
- What is the optimal size-based metric (e.g., taxable capital employed in Canada, revenue) to phase out enhanced support for public corporations, including those in a corporate group?

Phase II: Questions

- How does refundability under the SR&ED program influence investment decisions and planning? To what degree would Canada become a more competitive location to undertake research and development (R&D), compared to other jurisdictions, if credits earned at the general rate were partially or fully refundable?
- Would it be preferable that the government make the general rate refundable but at a reduced rate? What would be an acceptable trade-off in this regard?
- In your view, should SR&ED-eligible activity be broadened from the existing OECD definition of SR&ED, generally used by Canada and other countries offering R&D tax credits? If so, how would you propose to amend the current definition? Why would any additional activities warrant government support?
- Can you provide specific examples of activities you think should be eligible for the SR&ED program that are not currently eligible? Would such a change bring additional predictability to claimants?
- How could the SR&ED program be enhanced to support businesses conducting R&D in the digital age, particularly with respect to software development and the emergence of artificial intelligence?
- To what extent do businesses face financial challenges and trade-offs in protecting their intellectual property (IP) in Canada and abroad? Would it be appropriate for the government to provide additional support to these activities under the SR&ED program? If so, what would be a cost-effective approach?

TMX Group Response to CRA Consultation

TMX Group: TMX Group (TSE:X) is the owner and operator of Canada's premier equities and derivatives exchanges, the Toronto Stock Exchange and Montreal Exchange, and Canada's public venture growth platform, TSX Venture Exchange.

The position of the TXM Group is that the existing eligibility requirements for SR&ED created an artificial disparity between privately and publicly listed SMEs. The current tax rules provide incentives to CCPCs that are not equally available to their publicly listed counterparts – thus presenting a potential growth barrier in the Canadian SR&ED market.

Proposed changes included:

- TMX is advocating expansion of eligibility for refundable credit from “Canadian-controlled private corporations” to: “Canadian corporations” OR “Canadian-controlled private corporations and junior exchange-listed public corporations domiciled in Canada.”
- Introduce a “size test” as was adopted for taxation of employees’ stock options tax exemption in 2021: e.g. “Canadian controlled private corporations and Canadian-domiciled public corporations with annual revenues below \$500 million.”

More information can be found on [TMX Lobbies for Small Public Companies Accessing SR&ED – CRA Consultation March 2024](#)

CCI Response to CRA Consultation

The Canadian Council of Innovators (CCI) is a member-based organization that supports and represents over 150 Canadian member companies through networking opportunities, special events, education and advocacy.

CCI's main position is that the program is too complicated and needs to be simplified. They are concerned that research and development (R&D) dollars need to stay in Canada, and IP needs to be incentivized to stay in Canada. As Bergen points out, it is difficult to know where exactly SR&ED dollars are flowing after they are distributed to the companies.

- Move to a default approval model where all submissions by eligible firms are approved, provided the base documentation is present, similar to the income tax model, with a subset spot-checked for compliance annually.
- Simplify the SR&ED credit calculation to be a fixed percentage of the salary of employees conducting R&D, eliminate the direct method of SR&ED claims, and integrate SR&ED claims with the payroll tax submission system to reduce the management overhead for applicant firms and administrators. Payout credits monthly following the payroll tax submission to ensure that small companies are not limited by cash flow in their ability to conduct R&D.
- Require that firms that have received SR&ED credits submit annual reports on the use of IP developed with the tax credit, including any downstream assignments, and that this requirement be inherited by any acquirer, assignee, or licensee of that IP for a period of no less than 10 years.

More information can be found on [CCI Response to CRA Consultation March, 2024 - "SR&ED is a value statement of where we want to go as a country."](#)

The InGenuity Group Response

2. (a) What improvements to the definition of SR&ED [...] should be considered?

We recommend that the CRA:

- **does not** modify the definition of the SR&ED program, as this will negatively impact predictability and deviate from internationally recognized definitions;
- **does** consider clarifying the distinction between innovation and R&D; and
- **does** consider any changes completed in a parallel program, such as the patent box.

The InGenuity Group Response

7. How can your suggested enhancements be funded by existing support available through the SR&ED program? What potential changes could best focus support to benefit Canada, including by creating economic opportunities for Canadians?

First, **there is no need to incur new costs and re-learn existing lessons.** Many of these lessons have been documented repeatedly since 1986, with the CRA committing to addressing them each time.

Second, research suggests that **minor strategic changes and guardrails can generate** spillover benefits and income to help sustain the program and justify its existence.

Finally, we strongly urge caution with major changes but encourage continuous improvement.

Continuous improvement will enable the enhancements through existing support; however, the reliability and stability of the SR&ED program is the simplest way to focus support that benefits Canada and creates economic opportunities for Canadians.

More information can be found on [“There is no need to re-learn existing lessons.” - Our Response to CRA SR&ED Consultation March, 2024](#)