

Program Overview and Application Instructions

This document is for use under the Saskatchewan Commercial Innovation Incentive (SCII) program, also known as the “Patent Box” program.

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PROGRAM OVERVIEW

The Saskatchewan Commercial Innovation Incentive (SCII) “patent box” is a new-growth tax incentive program available to qualifying companies operating in any sector. Introduced in March 2017, the SCII is open to a wide variety of intellectual property (IP) types, including patents, trade secrets, plant breeders’ rights, and copyrights (computer programs and algorithms). The SCII is the first patent box style incentive in North America to cover an extensive variety of IP. Effective as of January 1, 2017, the program is scheduled to sunset on June 30, 2024.

The SCII program is open to any qualifying IP/innovation regardless of the associated dates. For example, the development, registration or licensing of the IP/innovation could have occurred 10 years earlier as long as the IP had not been commercialized in Canada prior to January 1, 2017.

The goal of the SCII is to encourage companies that have developed or licensed exceptional IP to commercialize the associated goods, services and processes in Saskatchewan. Applicants may either directly own the IP or have a recognized license to the IP and/or the related good, service or process. Eligible corporations that successfully complete the SCII scientific and economic eligibility qualifying process will be eligible to claim a reduced provincial Corporate Income Tax (CIT) rate of six per cent for a period 10 years, or extended to 15 consecutive years where it can be demonstrated that 50 per cent or more of the relevant research and development (R&D) occurred in Saskatchewan. Additionally, once it has successfully completed the qualifying process, the SCII eligible corporation will be entitled to:

- Choose the taxation year to begin claiming the 10 or 15 consecutive year tax rebate (the sunset date of the program will in no way impact when an SCII eligible corporation can begin to claim its SCII tax rebate);
- Claim other eligible tax incentives or grants the Government of Saskatchewan may offer without impacting SCII eligibility or impairing the ability to claim the SCII tax rebate; and,
- Extend the existing SCII tax rebate term to qualifying “eligible cascading” or “eligible forking” goods, services or processes (see the *Definitions* section for “cascading” and “forking”).

QUALIFYING PROCESS OVERVIEW

Before making a submission of any kind to the SCII, the applicant should thoroughly review

- [The Income Tax Act, 2000](#), section 64.6,
- [The Saskatchewan Commercial Innovation Incentive \(Patent Box\) Act](#) and [Regulations](#), and
- The program [webpage](#).

All related documents and forms that are referenced throughout this document can be found, as follows:

- [Application for Scientific Eligibility](#)
- [Proposed New Economic Benefit Benchmark](#)
- [Technical Assessor Application Evaluation](#)
- [New Economic Benefit Evaluation Form](#)
- [Notice of Cascading and Forking Form](#)
- [SCII Claim Form](#)

To qualify for the SCII program, an applicant must submit a complete application form to the Ministry of Trade and Export Development and successfully complete the following qualifying process.

1. Confidential Submission of a Complete SCII Scientific Eligibility Application Form

Download the *Application for Scientific Eligibility* form from the webpage, and complete the form entirely, including all relevant attachments. Once the application is ready to be submitted, email SCII@gov.sk.ca and request a unique login to access the secure confidential electronic file transfer platform, "MOVEit". With the login information, upload the fully completed *Application for Scientific Eligibility* form and all attachments.

Under section 3 of the *Application for Scientific Eligibility* form, if proposing a new economic benefit benchmark, also submit the *Proposed New Economic Benefit Benchmark* form at this time.

Under section 4 of the *Application for Scientific Eligibility* form, an applicant may apply to qualify for the SCII 15-year stream tax rebate if 50 per cent or greater of the related R&D was conducted in Saskatchewan. In that case, they must submit the required documentation with the *Application for Scientific Eligibility* form.

Complete applications that meet the initial eligibility requirements will be forwarded for Scientific Eligibility Evaluation.

2. The SCII Scientific Eligibility Evaluation:

The scientific assessment will be conducted by the Industrial Research Assistance Program (IRAP), a division of the National Research Council. IRAP has a network of sector-specific industry technology advisors who are able to evaluate the scientific, technical and Canadian marketplace dynamics of an SCII application.

The submitted application form will be reviewed by program administrators for completeness.

Complete *Application for Scientific Eligibility* forms will then be forwarded to one of IRAP's Industrial Technical Advisors (ITA) who will assess the IP/proposed innovation, which must meet the definition of "exceptional innovation" (see *Definitions*). The IP/proposed innovation must:

- have no equivalent in the Canadian marketplace and is a substantial advance on the current state of the art, or have unique features or benefits that materially distinguish it from the current competitive offerings; and,
- be at a technological readiness level of six or higher. The proposed innovation must be at least a model or prototype that represents a near desired configuration. Activities may include testing in a simulated operational environment or laboratory.

See either of the *Application for Scientific Eligibility* form or the *Technical Assessor Application Evaluation* form for the table of 1-8 technical readiness levels and descriptions of each level.

IRAP will provide an assessment to TED program administrators who will review the IRAP assessment and approve or deny the Scientific Eligibility criteria. Successful applicants will be issued a Letter of Scientific Eligibility, which does not have an expiration date.

3. Establish an SCII-Eligible Corporation

After receiving the Letter of Scientific Eligibility, the applicant corporation must identify/establish an SCII-eligible corporation (see *Definitions*) before beginning commercialization of the approved IP.

4. SCII Economic Eligibility Evaluation

When an applicant corporation that has passed all of the previous criteria believes that it has satisfied the economic eligibility requirements, the *New Economic Benefit Evaluation Form* must be completed. The completed form may be uploaded to program administration through the applicant's confidential MOVEit account previously established in Step 1.

SCII's economic eligibility test requires that the applicant corporation meets two of five new economic benefits to Saskatchewan benchmarks. An applicant corporation can take as many months, or years, as required to reach two economic benefit benchmarks, which may be assessed on a total cumulative basis over any length of time necessary.

New economic benefit benchmarks to Saskatchewan must include two of the following:

1. The creation and maintenance of 10 net new full-time, or full-time equivalent, positions in Saskatchewan;
2. \$10 million in net new capital expenditures in Saskatchewan;
3. \$3.5 million in new provincial corporate income tax paid;
4. \$3 million in R&D expenditures defined as one of the following:
 - i. \$3 million in new R&D expenditures made in Saskatchewan by the applicant corporation;
 - ii. \$3 million in R&D expenditures made in Saskatchewan that can be directly attributed to the proposed innovation; and,
 - iii. \$3 million in combined R&D expenditures as described in (i) and (ii).
5. A new economic growth benchmark proposed by the applicant and pre-approved by program administrators at the time of the *Application for Scientific Eligibility* form. If an applicant wants program administrators to consider qualifying an economic benefit not captured in the economic benefits to Saskatchewan benchmarks 1-4, they must complete the *Proposed New Economic Benefit Benchmark* form and submit it at the same time as the *Application for Scientific Eligibility* form.

An applicant that achieves two of the economic growth benchmarks will be issued an SCII Certificate of Eligibility, which will indicate either a 10 or 15 year claim period.

5. Claiming the Incentive

At a time of its choosing, the corporation may submit its SCII Certificate of Eligibility and *SCII Claim Form* to the Ministry of Finance, along with applicable T2/taxation information to begin claiming the 10 or 15 year CIT benefit period.

6. Cascading and Forking (see *Definitions*)

Any company that has been granted an SCII Certificate of Eligibility can apply to have eligible cascading and forking added to the existing term of its SCII Certificate without re-applying to the program. Additionally, for more information on eligible cascading and forking please review *The Saskatchewan Commercial Innovation Incentive (Patent Box) Regulations*.

DEFINITIONS

Cascading - A series of goods, services or processes with incremental innovations/changes that are developed from the same IP, in whole or part, as approved during the applicant's SCII scientific eligibility evaluation.

Forking - A new good, service or process that is more than incrementally different from its preceding version due to a significant change in the features and benefits. To qualify, a forking good, service or process must be based on same IP, in whole or part, as approved during the applicant's SCII scientific eligibility evaluation.

Eligible Corporation – A corporation whose only activities are the development and commercialization of the IP/innovation that is subject to the SCII application, and whose income is not exempt from tax pursuant to Part I of the Canadian *Income Tax Act*.

Exceptional Innovation

- A) The proposed innovation has as no equivalent in the Canadian marketplace and is a substantial advance on the current state of the art in Canada; and
- B) The proposed innovation has unique features and benefits that offer exceptional differentiation from current competitive offerings in the Canadian marketplace and is sufficiently unique that the potential exists to create a competitive advantage or create a new market niche.

Intellectual Property - The following types of IP are eligible for the SCII:

- patents;
- plant breeders' rights;
- trade secrets;
- copyright (computer programs and algorithms); and,
- licenses pertaining to any type of IP listed above.

The use of trademarks and/or industrial design rights can be included to assist in establishing the overall strength of the IP's position in the Canadian marketplace but will not be accepted as a stand-alone type of IP within the context of the SCII scientific eligibility evaluation.

Proposed Innovation - A term used in the SCII program to define the combination of IP and the resulting goods, services or processes that the applicant is seeking to have approved for admission to the SCII program.

Technological Readiness Level – A measure used to assess the maturity of the IP/proposed innovation. To be eligible for the SCII, a corporation must have a model or prototype that represents a near-desired configuration in order to be assessed as a technological readiness level of six or higher. Refer to the *Application for Scientific Eligibility* form for details.