



TAX BREAKS FOR INNOVATIVE COMPANIES!

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The Québec government announced in its budget tabled March 17, 2016 tax measures for innovative companies. These measures are in addition to other measures in place to promote research and development, and the commercialization of this research.

R&D Tax Credits

Québec, like many other jurisdictions, provides a tax credit for R&D activities. Although the government has set an eligibility threshold of \$ 50,000 non-repayable in 2015, this measure aims to encourage businesses to conduct R&D, and promotes a more dynamic environment.

First Patent Program

Last year, the government also launched the first patent program. This program is designed to reimburse the costs associated with filing and obtaining a patent for Québec companies that have not previously filed patent applications. The allocated monies for the 2015-2016 year are now exhausted, but this program, according to all expectations will be renewed in 2016-2017 and 2017-2018. The government did not disclose the exact number of companies able to qualify, so it is difficult to measure the real impact of this program.

Tax Reduction for Innovative Companies

The government continues to build on these incentives, and announced a tax reduction for innovative companies, to offer support to the commercialization of intellectual property in Québec. This measure, sometimes called "patent box" is designed to tax income from the exploitation of a patented technology differently from other income. Thus, as of 1 January 2017, this deduction will allow manufacturing companies marketing a product that incorporates a patented technology to benefit from a tax rate of 4% instead of 11.8%.

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The government's avowed goal is to encourage investment in innovative manufacturing companies, retain intellectual property in Québec, and to increase the competitiveness of Québec companies. It also tries to encourage the production and marketing of goods resulting from patents for inventions made in Québec. In documents accompanying the provincial budget, it also states that it wants encourage innovative companies to choose Québec for their activities with high value added manufacturing and R & D.

Specific details regarding eligibility have not yet been disclosed. However, we know that qualifying companies are companies carrying on business in Québec whose capital exceeds \$ 15M and whose activities in Quebec are mainly manufacturing and processing activities.

Revenues must be generated from a product manufactured in Québec incorporating technology covered by a qualifying patent. One may think that not only patents on objects as such will qualify, but also the method of patents for manufacturing the object in question. The question arises with respect to biotechnology and ICT industries - will the government take a generous interpretation of the word "object", or is the government targeting traditional manufacturing companies? We are closely monitoring this issue, and as soon as more information becomes available, we will provide updates.

For a patent to be admissible, it must be held by a corporation with an establishment in Québec. It must also protect an invention whose development was supported with R&D tax credits claimed in Québec. This requirement articulates the intention of the government to provide a closed loop package – for the company to benefit, it must have previously been active in Québec and claimed R&D tax credits in Québec. It is therefore not intended to encourage companies who do not already have such activities in Québec from immediately benefiting from the deduction.

Another important condition in order to qualify in the program is that the patent is the result of an application that was filed the day after the budget speech. An application must therefore bear a filing date after March 17, 2016. The question arises whether a priority application filed less than a year ago could allow a company to benefit from the deduction.

The introduction of this measure in Québec taxation makes it possible to crystallize the vision of the government's fiscal and budgetary support measures for innovation, which now form a whole from R&D to commercialization and production of the object in question.

A discussion with your IP professional and with your taxation professional is required to put in place the processes to prepare and file patent applications that are the result of R&D efforts in Québec and identify income from the exploitation of IP for the benefit of the reduced tax rate.

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