

Department of Finance Projects Decrease In SR&ED Payouts

Public- and foreign-owned likely to suffer most

The Canadian Department of Finance has made a 15% downward revision in the total amount by which it expects SR&ED investment tax credits will reduce federal revenue from income tax in 2016 and 2017. Even more striking is that the projection for non-refundable ITCs – the kind earned by public- and foreign-owned corporations – was revised downward by 37%.

The obvious question is why the decrease? Is it that industry is spending less on R&D? Is spending the same but industry not bothering to claim SR&ED ITC for that spend. Or is the CRA tightening the assessments enough to account for the change? Based on the recent spike in the Tax Court of Canada's inventory of SR&ED-related cases, the latter seems likely.

The 2016 edition of the *Report of Federal Tax Expenditures* (formerly *Tax Expenditures and Evaluations*) projected that the total "tax expenditures" for the SR&ED program would be \$3.2B for 2016 and \$3.3B for 2017.

The 2017 edition of this same report projects those figures to be \$2.7B for 2016 and \$2.8B for 2017.

Two other comparisons worth noting from within these two editions of the report are the changes arising from refundable vs. non-refundable ITCs:

		@ 2016	@ 2017	Δ
non-Refundable 2016	earned in current applied to current	\$0.610B	\$0.420B	31%
non-Refundable 2016	earned in current applied to prior	\$0.115B	\$0.040B	65%
	Total non-Refundable earned in 2016	\$0.725B	\$0.460B	37%
non-Refundable 2017	earned in current applied to current	\$0.640B	\$0.440B	31%
non-Refundable 2017	earned in current applied to prior	\$0.125B	\$0.040B	68%
	Total non-Refundable earned in 2017	\$0.765B	\$0.480B	37%
Refundable 2016		\$1.575B	\$1.305B	17%
Refundable 2017		\$1.645B	\$1.350B	18%

In broad terms, tax expenditures means the outflow or "loss" of taxation revenue excluding any costs of administration; in the context of SR&ED it can be taken as indicative of the total amount of benefit received by taxpayers. The reports were issued in February of 2016 and 2017 respectively.

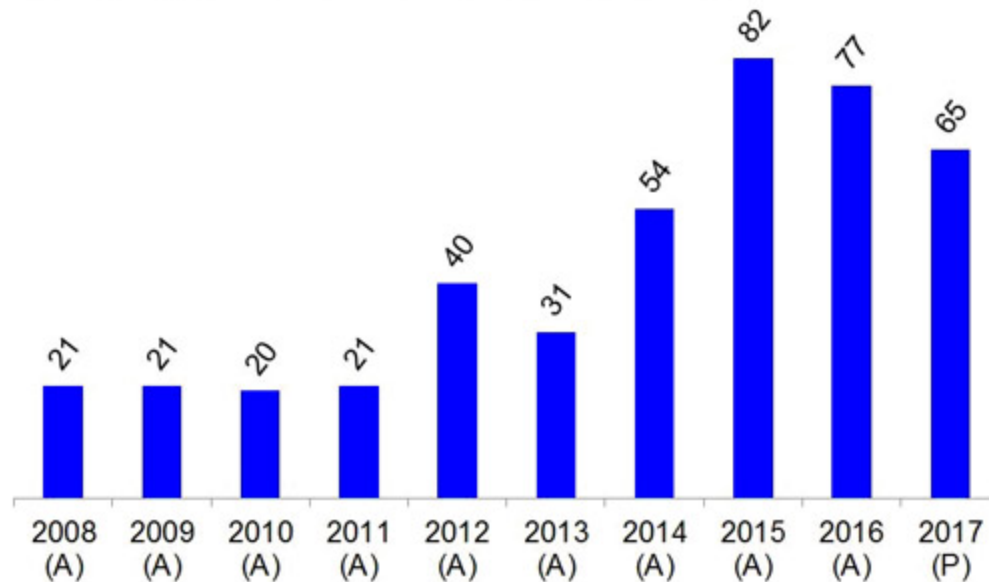
Finance's revisions to these figures are significant in that it suggests that the federal government might expect that :

- The CRA will continue to reduce the amount of claimed SR&ED that it allows as eligible.
- The Tax Court of Canada will support CRA's increasingly narrowed assessment positions (which unlikely without a change in legislation).
- Taxpayers whose SR&ED claims are now in line to be heard by the tax court will be unable to sustain their actions and will collapse through the sheer attrition of the process.
- The legislation will be amended to further reduce the ITC benefit rates and/or eligible expenditures especially for public- / foreign-owned corporations.

It should also be noted that any decreases in the availability of SR&ED ITCs at the federal level will have a knock-on effect at the provincial level since the entitlement for provincial R&D tax credits is predicated on federal eligibility .

The increasing friction between the CRA and taxpayers over denied SR&ED claims is evidenced by an almost four-fold increase in the number of SR&ED-related appeals lodged to the Tax Court of Canada since 2008.

SR&ED Appeals Filed to Tax Court Canada



References

In the 2016 edition of the report, SR&ED data is found on pages 249 and 250 of the PDF which is found here:

<https://www.fin.gc.ca/taxexp-depfisc/2016/taxexp-depfisc16-eng.pdf>

In the 2017 edition of the report, SR&ED data is found on pages 248 and 249 of the PDF which is found here:

<https://www.fin.gc.ca/taxexp-depfisc/2017/taxexp-depfisc17-eng.pdf>

About Scitax

Scitax Advisory Partners LP is a Canadian professional services firm with specialist expertise in all aspects of planning, preparing and defending Scientific Research and Experimental Development (SR&ED) tax credit claims.

We offer a multi-discipline team of engineers, chartered accountants and tax lawyers to ensure that your SR&ED issues are covered from every angle.

While we normally work in concert with our client's existing accountants, our affiliated tax-dedicated chartered accounting firm - Cadesky Tax - is an expert resource for advice on any taxation matter such as may arise either during the planning and preparation of your claim or while dealing with CRA afterwards.

In addition to planning and preparing new claims, we also engage on claims that have been challenged by CRA auditors or that have received negative assessments for either scientific or expenditure eligibility. If a satisfactory settlement cannot be achieved with CRA at the local office level, we will appeal your assessment through either Notice of Objection or Tax Court of Canada procedures with the assistance of our affiliated firm of tax lawyers.



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