

Ontario Tax Exemption for  
Commercialization

***Certificate of Eligibility  
Application***



Ministry of Research & Innovation

# ONTARIO TAX EXEMPTION FOR COMMERCIALIZATION APPLICATION INSTRUCTIONS

For taxation years ending prior to 2009, the rules for the Ontario Tax Exemption for Commercialization (“OTEC”) can be found in the *Corporations Tax Act* (Ontario) and any applicable regulations. For taxation years ending after 2008, the rules for the OTEC can be found in the *Taxation Act, 2007* (Ontario) and any applicable regulations. Capitalized terms in this Application are, unless otherwise defined in this Application, references to terms defined in Part II.2 of the *Corporations Tax Act* (Ontario) or Part V.2 of the *Taxation Act, 2007* (Ontario), whichever applies.

To obtain a tax refund under the OTEC program, the Applicant must: (i) meet the requirements of the OTEC program under the legislation; (ii) apply to the Minister of Research and Innovation (the “Minister”) for a Certificate of Eligibility for each year in which a tax refund is sought; and (iii) apply to the Minister of Revenue for a tax refund. The application to the Minister of Revenue must be made in accordance with the legislation.

This Application is for applying to the Minister for a Certificate of Eligibility for each year in which a tax refund under the OTEC program is sought by the Applicant. This Application (and any additional information required) is to provide the Minister with sufficient information to allow the Minister to make a determination as to whether the Applicant carried on an Eligible Commercialization Business during the year and, based on such determination, conclude whether to issue a Certificate of Eligibility.

The Applicant must submit the completed Application together with any other supporting information to the Minister, which would assist the Minister to make a determination as to whether the Applicant carried on an Eligible Commercialization Business during the year. Such determination by the Minister is based on the information provided by the Applicant in this Application and any supporting information. The Minister may require that an Applicant provide additional information in order to make such determination and to conclude whether to issue a Certificate of Eligibility.

The Minister will review the completed Application, including the supporting information and respond to the Applicant, in writing, as to whether a Certificate of Eligibility will be issued.

It is the sole responsibility of the Applicant to provide complete, correct and accurate information to the Minister for review and determination. All information provided for the issuance of the Certificate of Eligibility is subject to an audit by the Ministry of Research and Innovation (the “Ministry”). In the event that a Certificate of Eligibility is issued and it is later determined that the Applicant failed to satisfy the applicable legislation governing the OTEC program, the Minister may revoke the Certificate of Eligibility and notify the Applicant and the Minister of Revenue of such revocation and the corresponding reason.

Please refer to the attached Guidance Notes for assistance in completing this Application.

To reduce the possibility of delay in the Minister’s determination of whether to issue the Certificate of Eligibility, please ensure that all of the following have been enclosed:

- A business plan or similar documentation that covers the matters described in this Application.
- Information about the Eligible Intellectual Property and the related Qualifying Institute.
  - For patent applications, provide a copy of the filing certificate issued by the Canadian Intellectual Property Office (“CIPO”).
  - For issued patents, provide a copy of the patent issued by CIPO.
  - For copyrights, provide a copy of the registration certificate issued by CIPO.

Send the completed Application and supporting information, by mail or courier, to:

Ministry of Research and Innovation  
Outreach, Promotion and Business Development Branch  
Ontario Tax Exemption for Commercialization Program  
56 Wellesley Street West, 18<sup>th</sup> Floor  
Toronto ON M7A 2E7

### Questions about this Application or the OTEC Program?

Tel: 416 327-6629

Email: [otec\\_admin@ontario.ca](mailto:otec_admin@ontario.ca)

Web Site: [www.ontario.ca/innovation](http://www.ontario.ca/innovation)

### Notice:

- This Application and any supporting documents and information may be shared with the Ministry of Revenue for the purpose of administering the OTEC program.
- The Minister issues Certificates of Eligibility under the OTEC program. A refund of income tax can only be obtained by filing a Certificate of Eligibility, along with any other required documentation under the OTEC program, with the Minister of Revenue.
- Documents submitted to the Minister may be subject to disclosure pursuant to the *Freedom of Information and Protection of Privacy Act* (Ontario).

### CONFIDENTIALITY

The Ministry is subject to the *Freedom of Information and Protection of Privacy Act* (Ontario) ("FIPPA"). FIPPA provides every person with a right of access to information in the custody or under the control of the Ministry, subject to a limited set of exemptions. Section 17 of FIPPA provides a limited exemption for third party information that reveals a trade secret or commercial, technical, financial or labour relations information supplied in confidence where disclosure of the information could reasonably be expected to result in certain harms. Any trade secret or any scientific, technical, commercial, financial or labour relations information submitted to the Ministry in confidence should be clearly marked. The Ministry will notify you before granting access to a record that might contain information referred to in Section 17 of FIPPA so that you may make representations to the Ministry concerning any disclosure.

# FORM 1 – To be completed by the Applicant



Ontario

Ministry of  
Research & Innovation  
Outreach, Promotion and Business  
Development Branch

## Ontario Tax Exemption for Commercialization (OTEC) Application Form

Applicant's Full Legal Name	
Business Number	Date of Incorporation (yyyy/mm/dd)
Jurisdiction of Incorporation	
Date of Applicant's first taxation year end (yyyy/mm/dd)	
Trading/Operating Name (if applicable)	

<b>Applicant Address</b>			
Unit/Suite/Floor	Street Number	Street Name	
City/Town/Municipality		Province	Postal Code

<b>Mailing Address</b> (if different from above)			
Unit/Suite/Floor	Street Number	Street Name	
City/Town/Municipality		Province	Postal Code

<b>Contact Person</b>		
First Name	Last Name	
Title	Telephone No.	Fax
E-mail	Web Site	

### Section A – Whether a particular institute is a Qualifying Institute

Please refer to [Guidance Note 1](#), and attach a separate sheet if more space is required.

#### 1. Name of the Institute:

Please provide the name of the institute involved in the development of the intellectual property, including the faculty or department in which the intellectual property was developed.

#### 2. Nature of the Institute:

Please check the applicable box that describes the entity where the intellectual property was developed.

- A university in Ontario.
- A college of applied arts and technology in Ontario.
- A Canadian college or university outside of Ontario.

## Section B – Whether intellectual property owned or used by the Applicant would qualify as Eligible Intellectual Property

Please refer to Guidance Notes 1 and 2, and attach a separate sheet if more space is required.

### 1. Description of the intellectual property:

Describe each intellectual property for which the Applicant is seeking a determination. Please include all application and registration numbers. If the intellectual property is a copyright in a computer program, please indicate how the computer program constitutes a technological advancement at the time such program was completed.

If the Applicant is seeking a determination concerning more than one intellectual property, please list each intellectual property as Property #1, Property #2, etc., consistently throughout this Application.

#### Property 1

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#### Property 2 (if applicable)

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#### Property 3 (if applicable)

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### 2. Creator of the intellectual property:

Using the format below, please provide the following information concerning each creator of each intellectual property. Attach a separate sheet if necessary.

#### Intellectual Property #

#### Name of individual(s):

Yes No

#### Patent issued under the *Patent Act* (Canada)

Was the Intellectual Property created by one or more individuals, each of whom was at the time the Intellectual Property was created, an Inventor for the purposes of the *Patent Act* (Canada)?

#### Patent Application filed under the *Patent Act* (Canada)

Was the Intellectual Property created by one or more individuals, each of whom was at the time the Intellectual Property was created, an Inventor for the purposes of the *Patent Act* (Canada)?

#### Copyright in a Computer Program

Was the Intellectual Property created by one or more individuals, each of whom was at the time the Intellectual Property was created, an Author for the purposes of the *Copyright Act* (Canada)?

Was the Intellectual Property developed by one or more individuals, each of whom was at the time the Intellectual Property was created, in the course of employment or academic study at a qualifying institute?

### 3. Disclosure of the intellectual property to the Qualifying Institute:

Was the development of the intellectual property disclosed to the Qualifying Institute within the timeframe set out in the institute's official intellectual property disclosure policy, if such institute had such a policy?

Yes  No (please explain):

#### 4. Ownership of the intellectual property:

The intellectual property being commercialized by the Applicant has been legally or beneficiary owned by (please check all that apply):

- the Qualifying Institute (solely or jointly with another Qualifying Institute);
- the individuals who created the property (each of whom was an employee or a student of the Qualifying Institute where the research was conducted at the time the intellectual property was created);
- the Applicant; and
- other (please explain):

### Section C – Whether the Applicant’s business would qualify as an Eligible Commercialization Business

Please refer to Guidance Note 3, and attach a separate sheet if more space is required.

#### 1. Business Description:

Please describe the Applicant’s business(es) for which a determination is sought. If the Applicant carries on more than one potential eligible commercialization business, please list each business as Business #1, Business #2, etc., consistently throughout this Application. Please attach a business plan for each business.

##### Business 1

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##### Business 2 (if applicable)

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##### Business 3 (if applicable)

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#### 2. Economic Sector:

Identify the sector of primary business focus for each business listed above.

	Business 1	Business 2 (if applicable)	Business 3 (if applicable)
Advanced health technology	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bioeconomy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Telecommunications, computer or digital technologies production	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please describe below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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#### 3. Business Purpose:

To help the Minister understand how each business meets the OTEC program requirements, please provide a description of each business (identify as Business #1, Business #2, etc.) and how it involves:

- the sale of property that derives more than 50% of its value from Eligible Intellectual Property;
- the sale of property an essential element of which is Eligible Intellectual Property; or
- the licensing of computer programs that are Eligible Intellectual Property.

**Business 1****Business 2 (if applicable)****Business 3 (if applicable)**

Does any business listed above have any purpose other than as described?

No  Yes (please describe): \_\_\_\_\_

**4. Use of Eligible Intellectual Property:**

Please explain how each business (identify as Business #1, Business #2, etc.) uses Eligible Intellectual Property.

**Business 1****Business 2 (if applicable)****Business 3 (if applicable)****Declaration and Certification**

**In submitting this Application under the OTEC program, I certify and confirm that:**

- I am a director or an officer of the Applicant;
- I am an authorized signing officer in respect of this Application; and
- In my capacity as a director or officer of the Applicant, I have made inquiries and have verified that all information contained in this Application is, to the best of my knowledge and belief, correct and complete in all respects.

**I acknowledge and agree that:**

- The Applicant shall provide any additional information as may reasonably be required for the purpose of assessing this application and administering the OTEC program;
- The information and documentation provided to the Minister of Research and Innovation and the Ministry of Research and Innovation and its authorized agents may be shared with other ministries of government, experts and/or authorized agents for the purposes of assessing this application and administering the OTEC program and satisfying government accountability and reporting obligations; and
- The Ministry of Research and Innovation shall be notified in writing immediately should the Applicant become aware of any misstatement in this Application or the documents or the information supplied in support of this Application or if there is a material change in the circumstances.

Name (please print)	Title
Telephone Number	E-mail Address
Signature	Date (yyyy/mm/dd)

# FORM 2 – To be completed by the Qualifying Institute



Ontario

Ministry of  
Research & Innovation  
Outreach, Promotion and Business  
Development Branch

## Ontario Tax Exemption for Commercialization (OTEC) Application Form

### Instructions for the Applicant:

Send this Form 2 to the Qualifying Institute for completion and request the Qualifying Institute to return this Form 2 to the Applicant. The Applicant should include this Form 2, after it has been completed by the Qualifying Institute, with its Application.

### Instructions for the Qualifying Institute:

Complete this Form 2 and return it to the Applicant.

The Ontario Tax Exemption for Commercialization (“OTEC”) program provides a tax refund for new corporations that commercialize intellectual property in certain growth areas developed in conjunction with a Qualifying Institute, as defined in the *Corporations Tax Act* (Ontario), the *Taxation Act, 2007* (Ontario) and all applicable regulations (collectively, the “Act”).

**This should only be completed by the Qualifying Institute, as defined in the Act.**

### Part 1 – Name and Address of Applicant

Name of Applicant

#### Applicant Address

Unit/Suite/Floor

Street Number

Street Name

City/Town/Municipality

Province

Postal Code

### Part 2 – Name and Address of Qualifying Institute

Name of Qualifying Institute

#### Qualifying Institute Address

Unit/Suite/Floor

Street Number

Street Name

City/Town/Municipality

Province

Postal Code

#### Mailing Address (if different from above)

Unit/Suite/Floor

Street Number

Street Name

City/Town/Municipality

Province

Postal Code

#### Contact Person

First Name

Last Name

Title

Telephone No.

Fax

E-mail

### Part 3 – Confirmation of Intellectual Property Details

Please describe the intellectual property being commercialized by the Applicant:

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**Please confirm that the intellectual property described above satisfies the following criteria:**

- It was developed in the course of employment or academic study at this Qualifying Institute.
- It has never been legally or beneficially owned by anyone other than:
- this Qualifying Institute (solely or jointly with another Qualifying Institute);
  - the individuals who created the intellectual property; or
  - the Applicant.
- The intellectual property was created by the individuals named below, who were either employees of or enrolled as students of this Qualifying Institute (please indicate which) at the time the intellectual property was created:

Name	Employee	Student
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

- The individuals who created the intellectual property disclosed such creation to this Qualifying Institute where the research was conducted, in a timely manner and not later than required in accordance with the official intellectual property disclosure policy then in effect at this Qualifying Institute, if such a policy then existed.

#### Declaration and Certification by this Qualifying Institute

**I certify and confirm that:**

- I am a director or an officer of this Qualifying Institute;
- I am an authorized signing officer of this Qualifying Institute with respect to this Form 2; and
- In my capacity as a director or an officer of this Qualifying Institute, I have made inquiries and have verified that all information contained in this Form 2 is, to the best of my knowledge and belief, correct and complete in all respects.

**I acknowledge and agree that:**

- The information and any related documentation provided to the Minister of Research and Innovation and the Ministry of Research and Innovation and its authorized agents may be shared with other ministries of government, experts and/or authorized agents for the purposes of assessing the Applicant and administering the OTEC program and satisfying government accountability and reporting obligations; and
- The Ministry of Research and Innovation shall be notified, in writing, immediately should this Qualifying Institute become aware of any misstatement in this Form 2 or any supporting documents or information or if there is a material change in the circumstances.

Name (please print)	Title	
Telephone Number	E-mail Address	
Signature	Date (yyyy/mm/dd)	

## Guidance Notes for the Ontario Tax Exemption for Commercialization (“OTEC”) Program Certificate of Eligibility Application

The Guidance Notes for the OTEC Program Certificate of Eligibility Application (the “Guidance Notes”) are provided for information purposes only and are not intended to be a replacement for the relevant provisions of the *Corporations Tax Act* (Ontario), *Taxation Act, 2007* (Ontario) and any applicable regulations. Corporations applying under the Ontario Tax Exemption for Commercialization program should consult the relevant provisions of the *Corporations Tax Act* (Ontario) and the *Taxation Act, 2007* (Ontario), and any applicable regulations. In case of conflict between the Guidance Notes and the legislation, the provisions of the legislation shall prevail.

### NOTE 1 – What is a Qualifying Institute?

Qualifying Institutes generally include most tax-exempt publicly-funded colleges and universities in Canada.

A Qualifying Institute means, in general, an entity that is not required to pay tax under Part I of the *Income Tax Act* (Canada) by reason of section 149 of that Act, and that is:

- (a) a university in Ontario whose enrolment is counted for the purposes of calculating annual operating grants entitlements from the Government of Ontario;
- (b) a college of applied arts and technology in Ontario whose enrolment is counted for the purposes of calculating annual operating grants entitlements from the Government of Ontario; or
- (c) a college or university in Canada but outside Ontario whose enrolment is counted for the purposes of calculating annual operating grants entitlements from the government of a province, other than an elementary or secondary school.

### NOTE 2 – What is Eligible Intellectual Property?

Eligible Intellectual Property means intellectual property that:

- (a) was developed in the course of employment or academic study at a qualifying institute by one or more individuals, each of whom is an inventor for the purposes of the *Patent Act* (Canada), or an author for the purposes of the *Copyright Act* (Canada);
- (b) has never been legally or beneficially owned by anyone other than:
  - (i) the qualifying institute where the research to develop the property was conducted;
  - (ii) one or more individuals who created the property, each of whom was an employee or a student of the qualifying institute where the research was conducted at the time the intellectual property was created;
  - (iii) the qualifying corporation; or
  - (iv) one or more of the persons and entities referred to above;
- (c) was disclosed to the qualifying institute where the research was conducted in a timely manner and not later than the required time in accordance with the qualifying institute’s official intellectual property disclosure policy, if the institute had such a policy; and
- (d) is:
  - (i) a patent issued under the *Patent Act* (Canada);
  - (ii) intellectual property in respect of which,
    - 1) an application for a patent was filed under the *Patent Act* (Canada) by a person described in (b)(i) to (iv) above, and
    - 2) a patent is issued pursuant to the application no later than the last day of the qualifying corporation’s tenth taxation year ending after incorporation; or
  - (iii) the copyright in a computer program that in the opinion of the Minister of Research and Innovation constitutes a technological advancement at the time the computer program is completed.

### NOTE 3 – What is an Eligible Commercialization Business?

An Eligible Commercialization Business is an active business that is:

- (a) **an advanced health technology business** that is primarily engaged in using technology in the development of assistive medical devices, pharmaceutical drugs, regenerative medicine, biologics, medical procedures or surgical procedures, or in human tissue engineering;
- (b) **a bioeconomy business** that is primarily engaged in:
  - (i) the production of biofuel<sup>1</sup>, biogas<sup>2</sup> or bioplastics<sup>3</sup>; or
  - (ii) the development of technology or processes that enable the use of wind, water, a biomass resource<sup>4</sup>, hydrogen, biofuel, biogas, landfill gas, solar energy, geothermal energy, tidal forces or thermal waste as a source of energy; or
- (c) **a telecommunications, computer or digital technologies production business** that is primarily engaged in:
  - (i) computer and peripheral equipment manufacturing;
  - (ii) communications equipment manufacturing;
  - (iii) semiconductor and other electronic component manufacturing; or
  - (iv) software publishing.

In addition, in order for a business described above to qualify as an Eligible Commercialization Business, the sole purpose of the business must be:

- (a) the sale of property that derives more than 50 per cent of its value from eligible intellectual property;
- (b) the sale of property an essential element of which is eligible intellectual property; or
- (c) the licensing of computer programs that are eligible intellectual property.

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<sup>1</sup> Biofuel means a liquid fuel made from a biomass resource and includes the liquid fuels ethanol, methanol and biodiesel.

<sup>2</sup> Biogas means gaseous fuel made from a biomass resource.

<sup>3</sup> Bioplastic means a plastic made from a biomass resource.

<sup>4</sup> Biomass resources means (i) organic matter that is derived from a plant and available on a renewable basis, including organic matter derived from dedicated energy crops, dedicated trees, agricultural food and feed crops, or (ii) waste organic material from harvesting or processing agricultural products, including animal waste and rendered animal fat, forestry products, including wood waste, and sewage.