

Fact Sheet

Ontario Tax Exemption for Commercialization (“OTEC”) Program

Qualifying corporations can claim a refund for provincial income tax and corporate minimum tax paid for each of their first ten taxation years after incorporation. This initiative was announced in the 2008 Ontario budget and was enacted on December 10, 2008.

The purpose of the refund is to encourage new entrepreneurs to develop and commercialize research that takes place in qualifying institutes and transfer this research to the marketplace.

In addition to other requirements described in the legislation governing the OTEC program, to qualify for the refund:

1. the applicant must be a qualifying corporation, as described in the legislation, that was incorporated after March 24, 2008 and before March 25, 2012 and not formed as a result of an amalgamation or merger of two or more corporations;
2. all or substantially all of the qualifying corporation’s gross revenue for the year must be from one or more Eligible Commercialization Businesses each of which were engaged in one of the following:
 - a. an advanced health technology business;
 - b. a bioeconomy business; or
 - c. certain telecommunications, computer or digital technologies production businesses;
3. the sole purpose of the qualifying corporation’s Eligible Commercialization Business must be, in the opinion of the Minister of Research and Innovation:
 - a. the sale of property that derives more than fifty 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; and
4. the Eligible Intellectual Property:
 - a. must have been developed at a Qualifying Institute, which in general includes certain universities in Ontario, certain colleges of applied arts and technology in Ontario, and certain Canadian universities and colleges located outside of Ontario;
 - b. must have never been legally or beneficially owned by anyone other than:
 - i. the Qualifying Institute where the research was carried out to develop the intellectual property;
 - ii. the individuals who created the property provided that, at the time the intellectual property was created, these individuals were employed by or were students of the Qualifying Institute where the research to develop the property was conducted;
 - iii. the qualifying corporation; or
 - iv. one or more of the persons and entities referred to in the above 4(b)(i), (ii) or (iii);

- c. must have been 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 such institute had such a policy; and
- d. must be:
 - i. the subject of a patent issued under the *Patent Act* (Canada);
 - ii. the subject of a patent application by the persons described in 4(b) above, and a patent is issued pursuant to that application by the last day of the qualifying corporation's tenth taxation year; 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.

The OTEC program is jointly administered by the Ministry of Research and Innovation and the Ministry of Revenue. To obtain the tax refund for a particular taxation year, corporations must first apply to the Minister of Research and Innovation to determine: (i) whether the corporation's business is an Eligible Commercialization Business; (ii) whether the property that the corporation owns or uses in its business is Eligible Intellectual Property; and (iii) whether a particular institution is a Qualifying Institute. If these eligibility requirements have been met, the Minister of Research and Innovation will issue a Certificate of Eligibility.

Once a Certificate of Eligibility has been issued by the Minister of Research and Innovation, the qualifying corporation may apply to the Minister of Revenue for a tax refund for the particular taxation year in respect of which a Certificate of Eligibility was obtained.

This fact sheet is only intended to provide general information about the OTEC program and may not be relied upon in order to determine eligibility or the amount of an anticipated tax refund. For a program guide, application and other material related to the OTEC program, please visit the program area of the Ministry of Research and Innovation's website at: www.ontario.ca/innovation

Applicants for the OTEC program should also become familiar with the applicable legislation and regulations, and in particular, the specific eligibility requirements, procedures and substantive provisions that govern the OTEC program. The applicable legislation and regulations may be accessed at Ontario's e-Laws website www.e-laws.gov.on.ca.

Corporations Tax Act (Ontario):

www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90c40_e.htm#BK141

Taxation Act, 2007 (Ontario):

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_07t11_e.htm#BK144

Contact Information:

Ontario Ministry of Research and Innovation
OTEC Program

Tel: 416-327-6629

E-mail: otec_admin@ontario.ca

Web Site: www.ontario.ca/innovation