

Driving Innovation in Canada

Issue

As the federal government embarks on the development of an “Intellectual Property Strategy” and building a nation of innovators, there should be a focus on ensuring a two pronged approach, through programs and tax based mechanisms, to encourage business investment in intellectual property and innovation to improve productivity, economic growth, and incomes for Canadians.

Background

Canada currently sits 6th in the world for innovation quality and 16th in innovation overall in the Global IP Rankings. Another report, The Taylor Wessing 2016 Global Intellectual Property Index, ranks Canada as 4th overall in 2016 and at the top of Tier 2.

A number of countries (the U.K., Belgium, Luxembourg, France, Spain, Hungary, Ireland, Switzerland and China) have adopted a “patent box” tax approach which sharply reduced the normal corporate tax rate on income derived from the exploitation of patents. The Netherlands widened the policy to an “innovation box” to encompass a broader class of intellectual property.

Many of the countries with a patent box tax regime rank above Canada on the world rankings. The various programs have even caught the eye of several provinces. British Columbia has had such tax policy in place since 2006, Quebec included patent box policy in its 2016 budget, and Saskatchewan announced patent box tax policy in its 2017 budget.

The reference to “box” comes from having to tick a box on the tax form that indicates this type of revenue is being claimed.

The types of profits that qualify for the lower tax rate, and how acquired intellectual property is treated, differ significantly among countries and provinces. Additionally, the “patent box” rate varies considerably among nations and provinces. Finally, some countries put caps on the total tax relief companies can receive from patent boxes. In the case of Saskatchewan, the provincial government has installed time limits on the number of years of tax relief that can be attached to a patent.

Given the tax advantage provided in some countries for holding intellectual property, the question arises whether Canada should adopt similar incentives and, if so, how should they be designed?

For a number of years, the Canadian Chamber of Commerce and its network have been advocating for the implementation of an “innovation box” approach in Canada that would reduce the normal corporate tax rate for income derived from developing and commercially exploiting patented inventions and other intellectual property connected to new or improved products, services and related innovative processes to the benefit of Canada. These types of tax approaches support business investment in research and help bridge the commercialization gap.

An “innovation box” approach would encourage companies to locate intellectual property activity and the new high value jobs associated with the development, manufacture and exploitation of innovation inside Canada. If properly designed, it would promote and enhance the innovation capacity of sectors that leverage science and technology innovations throughout Canada. Firms in all sectors across Canada will have a greater incentive to adopt, commercialize or otherwise exploit the output of the R&D process here in Canada.

This would drive new and sufficient economic activity and government tax revenue to more than offset the immediate revenue costs of the proposal. The government could also apply the savings that will be realized from streamlining the SR&ED tax incentive program to offset all the immediate revenue cost of this proposal.

Finally, an “innovation box” approach would complement the existing SR&ED Investment Tax Credit program— firms would have an incentive to base their R&D activities in Canada AND to commercialize them in Canada.

Quebec also funds a “My First Patent Program”. Quebec SMEs with 250 or fewer employees that are able to demonstrate research and development efforts completed or in part can apply for a non-repayable contribution of up to 50% of eligible expenses, to a maximum of \$25,000 for patent application project, industrial design registration or integrated circuit topography.

Recommendations

That the federal government:

1. Implement for 2018-2019 an “innovation box” approach to encourage more business investment in innovation processes in Canada.
2. Consult with senior business leaders/technologists to define what intellectual property would qualify, e.g. patents, copyright, industrial design
3. Ensure that any such regime adopted in Canada delivers the clarity and simplicity that encourages participation in innovation from both SMEs and large companies.

<http://crtc.gc.ca/eng/archive/2016/2016-496.htm>