

Saskatchewan Commercial Innovation Incentive (SCII)

Program Overview and Application Instructions

PROGRAM OVERVIEW

The Saskatchewan Commercial Innovation Incentive (SCII) “patent box” is a new-growth tax incentive program available to qualifying companies operating in any sector. Introduced in March 2017, the SCII is open to a wide variety of intellectual property (IP) types, including patents, trade secrets, plant breeders’ rights, and copyright (computer programs and algorithms). The SCII is the first patent box style incentive in North America to cover an extensive variety of IP. Effective as of January 1, 2017, the program is scheduled to sunset on June 30, 2024.

The goal of the SCII is to encourage companies that have developed or licensed exceptional IP to commercialize the associated goods, services and processes in Saskatchewan. Applicants may either directly own the IP or have a recognized licence to the IP and/or the related good, service or process. Eligible corporations that successfully complete the SCII scientific and economic eligibility qualifying process will receive a reduced provincial corporate income tax rate of six per cent for a period of either 10 or 15 consecutive years, if it can be demonstrated that 50 per cent or more of the relevant research and development (R&D) occurred in Saskatchewan. Additionally, once it has successfully completed the qualifying process, the SCII eligible corporation will be entitled to:

- Choose the taxation year to begin claiming the 10 or 15 consecutive year tax rebate (the sunset date of the program will in no way impact when an SCII eligible corporation can begin to claim its SCII tax rebate);
- Claim other eligible tax incentives or grants the Government of Saskatchewan may offer without impacting SCII eligibility or impairing the ability to claim the SCII tax rebate; and,
- Extend the existing SCII tax rebate term to qualifying “eligible cascading” or “eligible forking” good, service or process (see definitions for “cascading” and “forking,” in the *Definitions* section).

QUALIFYING PROCESS OVERVIEW

Before making a submission of any kind to the SCII, the applicant should thoroughly review the SCII section (64.6) of Saskatchewan’s [The Income Tax Act, 2000](#), as well as [The Saskatchewan Commercial Innovation Incentive \(Patent Box\) Act](#) and the accompanying [regulations](#), available at www.saskatchewan.ca/innovation-incentive. **Note, all information and forms pertaining to the SCII can be accessed at this web link.**

To qualify for the SCII, an applicant must submit an application form to the Saskatchewan Ministry of Trade and Export Development (the Ministry) and successfully complete the three-step qualifying process:

1. **The SCII Scientific Eligibility Evaluation:** Confirm the IP/proposed innovation meets the SCII scientific eligibility criteria by submitting the [SCII - Application Form](#) (for details see SCII Scientific Eligibility Evaluation – Qualifying Step 1 in the Eligibility Criteria section.)

The technical assessment will be conducted by the Industrial Research Assistance Program (IRAP), a division of the National Research Council. IRAP has a network of sector-specific industry technology advisors who are able to evaluate the scientific, technical and Canadian marketplace dynamics of an SCII application.

After successfully completing this step, the applicant will be issued a Letter of SCII Scientific Eligibility Approval by the Ministry. Once granted, SCII scientific eligibility approval does not have an expiration date.

2. **SCII Eligible Corporation:** Identify/establish an SCII eligible corporation that will undertake commercialization activities in Saskatchewan directly related to the IP approved in the scientific eligibility evaluation.

In general, an SCII eligible corporation is defined as a corporation that would file a T2 tax return with full schedules with Canada Revenue Agency as per the Canadian federal *Income Tax Act*, AND is solely engaged in commercialization activities

related to the IP that was approved in the SCII scientific eligibility evaluation (note: an SCII eligible corporation can be engaged in R&D activities of any kind as well as eligible cascading and forking).

All specific requirements to be recognized as an SCII eligible corporation are defined in the SCII section (64.6) of Saskatchewan's [The Income Tax Act, 2000](#) and [The Saskatchewan Commercial Innovation Incentive \(Patent Box\) Act](#) and the accompanying [regulations](#).

3. **The SCII Economic Eligibility Evaluation:** Confirm that the required "new economic benefits to Saskatchewan" criteria have been met (for criteria details see [SCII - New Economic Benefit Evaluation Form](#) – Qualifying Step 3 in the Eligibility Criteria section.)

When a corporation believes that it has satisfied the economic eligibility requirements, it must download and complete the [SCII - New Economic Benefit Evaluation Form](#) and submit it to the Ministry for an assessment of eligibility.

After meeting these eligibility requirements, the corporation will be issued a SCII Certificate by the Ministry, which will indicate whether the tax rebate term is 10 or 15 years.

At a time of its choosing, the corporation may present its SCII Certificate to the Saskatchewan Ministry of Finance (Finance) to begin claiming its SCII tax rebate period.

An applicant can apply to qualify for the SCII 15 year stream tax rebate if they believe 50 per cent or greater of the related R&D was conducted in Saskatchewan. In that case, they must submit the required documentation to the Ministry as part of the [SCII - New Economic Benefit Evaluation Form](#) submission.

If an applicant wants the Ministry to consider qualifying an economic benefit not captured in the economic benefits to Saskatchewan benchmarks 1-4, they must complete the [SCII - Proposed New Economic Benefit Benchmark Form](#) and submit it at the same time as the [SCII - Application Form](#).

ELIGIBILITY CRITERIA

SCII Scientific Eligibility Evaluation – Qualifying Step 1

The SCII's scientific eligibility evaluation is intended to determine if the applicant's IP/proposed innovation meets two key qualifying criteria:

1. The technological readiness level of the proposed innovation is confirmed to be, at least, a model or prototype that represents a near desired configuration. Activities include testing in a simulated operational environment or laboratory.
Note: The [SCII - Application Form](#) and the [SCII - Technical Assessor Application Evaluation Form](#) contain a table of 1-8 technical readiness level definitions with a description of each level. An applicant's proposed innovation must have a technological readiness level assessed as a level six or higher.
2. The proposed innovation is "exceptional," according to definition A or B below:
 - A) The proposed innovation has no equivalent in the Canadian marketplace or is an exceptional advance on the current state of the art in Canada;

OR,

- B) The proposed innovation has unique features and benefits that offer exceptional differentiation from current competitive offerings in the Canadian marketplace and are sufficiently unique that the potential exists to create a competitive advantage and/or create a new market niche.

As it relates to the evaluation of the proposed innovation as per definitions A or B (directly above), the date of January 1, 2017, will apply as the chronological starting point for any relevant evaluations pertaining to possible commercialization activities of the applicant's IP/proposed innovation in the Canadian marketplace.

As it pertains to the date of development/creation, registering, and/or licensing, SCII is open to any qualifying IP/proposed innovation regardless of the associated dates. For example, the development and/or registration of the IP/proposed innovation could have been approved 10 years ago, but as long as it hasn't been commercialized in Canada, it would be eligible for the SCII.

The [SCII - Technical Assessor Application Evaluation Form](#) used by IRAP's technical assessors for the scientific eligibility evaluation is available at www.saskatchewan.ca/innovation-incentive.

At no time whatsoever will any request for an informal or pre-submission application review or opinion of any aspect of an application's merit be granted by either the Ministry, the scientific eligibility evaluation technical assessor, or any other program partner.

SCII Eligible Corporation – Qualifying Step 2

Once an applicant has successfully completed the scientific eligibility evaluation, they must identify/establish a SCII eligible corporation BEFORE beginning commercialization in Saskatchewan. An SCII eligible corporation is defined as:

- (a) The corporation's only activities are the development and commercialization of the intellectual property that is the subject of an application pursuant to this Act;
- (b) The corporation is not a corporation all or part of whose income is exempt from tax pursuant to Part I of the federal *Income Tax Act*; and,
- (c) The corporation meets any other prescribed requirements.

All specific requirements to be recognized as an SCII eligible corporation are defined in the SCII section (64.6) of Saskatchewan's [The Income Tax Act, 2000](#) and [The Saskatchewan Commercial Innovation Incentive \(Patent Box\) Act](#) and the accompanying [regulations](#).

SCII Economic Eligibility Evaluation – Qualifying Step 3

SCII's economic eligibility test requires that the eligible corporation meets two of five new economic benefits to Saskatchewan benchmarks.

SCII eligible corporations can take as many months, or years, as required to reach two economic benchmarks, which are assessed on a total cumulative basis over any length of time necessary.

New economic benefits to Saskatchewan benchmarks:

1. The creation and maintenance of 10 net new full-time, or full-time equivalent, positions in Saskatchewan;
2. \$10 million in net new capital expenditures in Saskatchewan;
3. \$3.5 million in new provincial corporate income tax paid;
4. \$3 million in R&D expenditures defined as one of the following:
 - i. \$3 million in new R&D expenditures made in Saskatchewan by the eligible corporation;
 - ii. \$3 million in R&D expenditures made in Saskatchewan that can be directly attributed to the proposed innovation; and,
 - iii. \$3 million in combined R&D expenditures as described in (i) and (ii).
5. Optional: A new economic growth benchmark proposed by the applicant and pre-approved by the Ministry. The applicant must complete the [SCII - Proposed New Economic Benefit Benchmark Form](#) and submit the form at the same time as the [SCII - Application Form](#).

Once a company has completed the qualification process, it is granted an SCII Certificate by the Ministry that is submitted to Finance at a time of its choosing to begin the tax rebate period.

Any company that has been granted an SCII Certificate can apply to have eligible cascading and forking added to the existing term of its SCII Certificate without re-applying to the program. Please see the Definitions section for cascading and forking definitions. Additionally, for more information on eligible cascading and forking please review [The Saskatchewan Commercial Innovation Incentive \(Patent Box\) Act](#) and the accompanying [regulations](#).

DEFINITIONS

Proposed Innovation

A term used in the SCII program to define the combination of IP and the resulting goods, services or processes that the applicant is seeking to have approved for admission to the SCII program.

Intellectual Property

The following types of IP are eligible for the SCII:

- patents;
- plant breeders' rights;
- trade secrets;
- copyright (computer programs and algorithms); and,
- licences pertaining to any type of IP listed above.

The use of trademarks and/or industrial design rights can be included to assist in establishing the overall strength of the IP's position in the Canadian marketplace but will not be accepted as a stand-alone type of IP within the context of the SCII scientific eligibility evaluation.

Exceptional Innovation

- A) The proposed innovation has as no equivalent in the Canadian marketplace or is an exceptional advance on the current state of the art in Canada;

AND/OR,

- B) The proposed innovation has unique features and benefits that offer exceptional differentiation from current competitive offerings in the Canadian marketplace and is sufficiently unique that the potential exists to create a competitive advantage or create a new market niche.

Cascading

A series of goods, services or processes with incremental innovations/changes that are developed from the same IP sources, in whole or part, as approved during the applicant's SCII scientific eligibility evaluation.

Forking

A new good, service or process that is more than incrementally different from its preceding version due to a significant change in the features and benefits. To qualify, a forking good, service or process must be based on same IP sources, in whole or part, as approved during the applicant's SCII scientific eligibility evaluation.

SCII APPLICATION PROCESS

1. The applicant downloads the [SCII - Application Form](#) from www.saskatchewan.ca/innovation-incentive. Once the applicant is prepared to submit the completed application form, they email the Ministry at scii@gov.sk.ca to request their unique login identification to access the secure electronic file transfer platform MoveIt.
2. After logging into MoveIt, the applicant uploads the fully completed Application Form, with the declaration page at the end signed by the appropriate official. As well, the applicant could choose to submit the optional [SCII - Proposed New Economic Benefit Benchmark Form](#) at this same time.
3. The Ministry confirms receipt of the completed application information by emailing the address provided in the Application Form Section 1: Contact Person Information.
4. Once the Ministry processes the application form, IRAP's designated technical assessor accesses the application documents on MoveIt for the scientific eligibility evaluation technical assessment.
5. Once the technical assessor has reviewed the application package and has completed the [SCII - Technical Assessor Application Evaluation Form](#), this form is shared with the Ministry via MoveIt. After the technical assessor has shared their findings, they will no longer have access to the company's SCII application information on MoveIt and will not be allowed to store or retain any related information for any reason.

6. The Ministry provides the applicant with either a SCII Letter of Scientific Eligibility Approval or a SCII Letter of Scientific Eligibility Rejection. A successful applicant that has submitted a [SCII - Proposed New Economic Benefit Benchmark Form](#) will also be informed of the Ministry's approval or rejection of their proposal at this time.

Advice on Applying

Prior to completing and submitting the [SCII - Application Form](#), it is highly recommended that **all applicants review the program information and related documents** available at www.saskatchewan.ca/innovation-incentive. For additional information during the application submission process, applicants can contact the Ministry at scii@gov.sk.ca.

- Applications will be accepted year-round; however applications that are received during the months of March, April and May could take longer to process due to government fiscal year-end processes.
- High standards have been defined for the SCII scientific eligibility evaluation, as the intent of the SCII program is to stimulate the commercialization of new and exceptional innovations in the Canadian marketplace which result in notable benefits to the Saskatchewan economy. Therefore, ensure that your company has thoroughly reviewed the Eligibility Criteria section prior to beginning the SCII qualification process.
- The SCII Application Form is common to all types of companies and industries. Therefore, as each question is answered, ensure that your company is describing **how** your IP (whether owned or licensed) has resulted in a good, service, or process which is new in the Canadian marketplace and/or exceptionally different than the current competitive offerings in your industry(s) in the Canadian marketplace.

Explanation of Application Questions

- Section 1: Contact Person Information and Section 2: Organization Information pertain to basic information that is required to identify your company, legal status, and the market(s) and sector(s) the company operates in.
- Section 3: New Economic Benefit Benchmark Proposed By the Applicant is a 'yes' or 'no' question intended to simply indicate if an applicant will make a submission as per new economic benefits to Saskatchewan benchmark 5 as described in the Eligibility Criteria section. If the applicant answers 'yes,' they must also submit the Proposed New Economic Benefit Benchmark Form with their [SCII - Application Form](#).
- Section 4: SCII 10 Year Stream or 15 Year Stream Information is a 'yes' or 'no' question intended to simply determine if an applicant is planning to make a submission to apply to qualify for the SCII 15 year tax rebate stream because 50 per cent or greater of the related R&D was conducted in Saskatchewan (as defined and prescribed in [The Saskatchewan Commercial Innovation Incentive \(Patent Box\) Act](#) and the accompanying [regulations](#)).
- Section 5: Scientific Eligibility Information Questions 1-3: Create an application title, a short non-technical description of the proposed innovation, and provide a description of why the proposed innovation advances the current state of the art in your sector(s) in Canada.
- Section 5 Questions 4-5: Clearly define the IP that will be included in this application, and, where appropriate, provide copies of the IP, as well as approval by issuing entities or legal assignment of the IP, as appropriate. Ensure that the date that your company has created or obtained an approved licence, or obtained ownership of the IP, is identified in each relevant answer.
- Section 5 Question 6 pertains only to trade secrets, patents pending or copyright. If the applicant's IP has **not** been identified in one of these categories as per Question 4, Question 6 is to be responded to as "not applicable."

- Section 5 Question 7: Describe your company's IP strategy, specifically which countries you have, or will, apply to for IP protection, as well as if your company's strategy involves more than one type of IP to protect your goods, services, or processes. If you are not the entity that has created the IP, you must have acquired full ownership of the IP or a legally recognized licence prior to applying to the SCII.
- Section 5 Question 8: If your company has generated revenues from the proposed innovation in Canada (not including any licensing fees) please describe here. Additionally, if these revenues were derived in a manner related to beta or market validation testing, please describe the context and how this led to subsequent improvements in the proposed innovation.
- Section 5 Question 9: If your company anticipates that you may be developing more than one good, service, or process from your IP, describe your potential for cascading or forking (as per the *Definitions* section) to the best of your ability.
- Section 5 Question 10: The SCII scientific eligibility test considers an applicant's supporting IP – such as trademarks and industrial design rights – as a mechanism for supporting the overall intellectual and marketplace strength of the primary IP/proposed innovation. This question allows an applicant to present supporting types of IP and discuss the value this brings to the company, the primary IP, and the proposed innovation.
- Section 5 Question 11: If your company has any issues with regard to the IP or proposed innovation that could create a barrier in the Canadian marketplace, legal or otherwise, this question is intended to provide an opportunity to disclose that information and how your company plans to successfully address the barrier.
- Section 5 Question 12: Describe the key features of your company's IP and how these relate to the good, service, or process that will be commercialized in Saskatchewan under the SCII.
- Section 5 Questions 13: Please provide an overview of relevant information on the key members of your project team. Resumes/CVs of all project team members identified should be attached.
- Section 5 Questions 14-16: Identify the technological readiness level of the proposed innovation using the table provided and offer a detailed rationale for the level. Further, if the proposed innovation is not currently ready to bring to market in Canada, describe the remaining activities required to reach that level of development.
- Section 5 Questions 17-21: Describe why your company's proposed innovation is exceptional in the context of the Canadian marketplace. If applicable, describe your competitors in the Canadian marketplace and detail how your company's proposed innovation compares. Additionally, if applicable, describe why a prospective customer would identify your company's proposed innovation as superior or more desirable than the current competitive offerings in the Canadian marketplace.
- Section 5 Question 22: Please provide a brief summary and attachment of any independent third party endorsement of your company's proposed innovation.
- Complete the [SCII - Application Form](#) by having the appropriate person within your company complete and sign the declaration section, indicating that all information submitted is accurate and your company has completed the application to the best of its abilities.