

TOPICAL AREA	APPELLANT	PRIMARY ISSUE	WIN - LOSE - DRAW?	RULING & RATIONALE	IMPLICATIONS: UNRESOLVED ISSUES AND OPPORTUNITIES	LONG-TERM SIGNIFICANCE
SR&ED cases regarding "technological eligibility"						
1A) TECHNOLOGICAL ADVANCEMENT	Northwest Hydraulic	"system uncertainties" basis for eligibility?	Win	4 of 5 projects eligible due to "system uncertainties"	Landmark case on technological eligibility	High
1B)	Rainbow Pipeline	definition of "technological advancement"	Win	rejection of an hypothesis is an advance	Significant precedent on definition of "technological advancement"	Moderate
2) BUSINESS VS.	Nashen	software development - business vs. technology?	Draw	2 of 4 projects eligible - technology vs. business	business vs. technology software issues - eg. Patents U.S. vs. Japan	Low
3) SYSTEMATIC	Hun-Medipharma	eligibility of analysis without "clinical trials"	Win	SR&ED work can be "experimentation OR analysis"	"systematic investigation" envisions contemplation of technological	Moderate
4A) TECHNICAL RECORDS	RIS Christie	"lack of documentation"	Lose - round 1	ineligible - lack of any experimentation or analysis	sSuccessful result &/or patent NOT proof of experimentation	Moderate
			Win - round 2	engineer died prior to trial - court sympathetic	courts may be sympathetic for CCPC's in extreme circumstances	Moderate
4B)	R.J. Miller	lack of technical documentation	Lose	claimant must provide evidence	need evidence of experimentation	Low
4C)	Blue wave Seafoods	challenging science officer's analysis	Lose	insufficient evidence to refute CRA recommendations	challenge auditor qualifications before opinion rendered	Low
4D)	Maritime-Ontario	adequacy of technical documentation	Lose	must illustrate methods utilized & results	need evidence of experimentation	Low
SR&ED cases regarding Financial issues						
5A) WAGES	Alcatel	stock options - whether SR&ED "cost" incurred	Win - round 1	SR&ED "cost" is dilution of shareholder interest	Courts contemplate "costs" not in taxable income	High
			Draw - round 2	legislation to disallow > Nov. 14, 2005	2 year window to amend 2004 - 2005 taxation years	High
5B)	CDD-REM	payments to "specified employees"	Win - round 1	eligible based on "evidence"	courts allow reasonable estimate of costs incurred	Low
			Draw - round 2	Subsequent events: "non-arm's length" payments	post 1996 - only "salary & wages" allowed "NAL parties"	
5C)	Synchrosat	allocating salary to only SR&ED activities	Lose	only SR&ED percentage claimable	need system to document employee experimentation time	Low
5D)	Ergorecherche	time allocation - SR&ED vs. non-SR&ED projects	Lose	"reasonable" basis for allocation required	could structure "non-SR&ED" done during unpaid time	Moderate
6) MATERIALS	Consoltex	materials used in SR&ED then sold	Win - round 1	eligible if required for SR&ED	short-lived precedent to include "commercial materials"	Low
			Draw - round 2	Subsequent legislation repayment of ITC's on sale	Clarification: labour eligible - materials "sold" excluded	High
7A) CAPITAL	Dew Engineering	building vs. "other structure"	Win	temporary lab not a "building" - no fixed foundation	courts take literal interpretation of "building"	Moderate
7B)	Waxman	whether cattle eligible SR&ED capital	Win	eligible if ASA (>90%) SR&ED intent	short-lived precedent to include "commercial materials"	Low
			Draw - round 2	Subsequent events: repayment of ITC's on sale	eligible if SR&ED intent - repayment if sold	High
8A) ASSISTANCE/ GRANTS	Com Dev Ltd.	government fees - "assistance" or "revenue"	Win	fixed price contract not purchase of SR&ED	Structure SR&ED contracts-"taxpayer" to bear "risks"	High
8B)	Les Cultures Laflamme	sale of experimental production	Win	subsequent sale irrelevant if SR&ED performed	clarifies SR&ED labour eligible despite subequent sale	High
9) UNPAID AMOUNTS	Chartwell	eligibility of unpaid amounts	Win	need to claim costs during the year incurred	opportunity to claim unpaid wages	High
10A) FOREIGN EXPENSES	Data Kinetics Ltd.	foreign "mainframe" costs Canadian SR&ED?	Win	attributable to SR&ED if researcher "in Canada"	definition of "in Canada" issue of contention .	Moderate
			Draw - round 2	Subsequent events: only payments to "taxable suppliers"	subcontractor BN# now required to claim payment	High
10B)	LGL	data collection outside Canada SR&ED?	Lose	ineligible if physically outside Canada	courts took literal interpretation of "in Canada"	Moderate
			Draw - round 2	Subsequent events: eligible if within "EEZ"	marine work eligible to 200 nauts - still "unclear" travel abroad	Low
11) OVERHEAD	Aurora Marine	eligibility of Yacht expenses for SR&ED	Win	SR&ED eligible even if not otherwise tax deductible	courts took liberal interpretation of "SR&ED costs incurred"	Low
12) "ASA"	Quantetics	"costs" or "revenues" basis for ASA SR&ED	Lose	SR&ED costs basis for eligibility	Preferential ITC's "sole purpose performers" gone 1992	Low
13A) FILING EXTENSIONS	Datacale Research	extension of 18 month filing deadline	Lose	qualified expenditures - identified by filing due date	object under proper sections of ITA - see Alex Parallel	Low
13B)	Alex Parallel Computers	basis for extension of filing deadline	Win	CRA cannot restrict Minister's power to extend deadlines	extension for reasons other than CRA IC (illness/disasters)	High
			Draw - round 2	Legislation - Nov. 17, 2005 restriction of SR&ED extension	must file within 18 months of year end - preferably 15	High
14A) QUALIFIED CCPC STATUS	Mimetex	if US director with 50% of shares has control?	Lose	actions of US director w/o consent of Canadian director(s)	consent from 1 of 2 Canadian directors to solve problem	High
14B)	HSC Research	Factors in evaluating defacto control	Win	separate directors - no control evidenced	Landmark case on definition of "defacto control"	High
15) ITC USE	Ainsworth Lumber	ordering of ITC use	Win	Act clarifies that taxpayer "may" deduct [credits] indicates that	right to order affairs to minimize taxes	Moderate