Docket: 2012-5166(IT)G

BETWEEN:

TUNA TEMPLE INC.,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

Appeals heard on October 27 and 28, 2025, at Oakville, Ontario

Before: The Honourable Justice Jenna Clark

Appearances:

Counsel for the Appellant:	Mark Grossman
Counsel for the Respondent:	Allan Mason

JUDGMENT

UPON hearing the evidence and submissions of counsel for the Appellant and counsel for the Respondent;

IN ACCORDANCE with the attached Reasons for Judgment, the appeals with respect to the assessments of the Appellant's taxation years ending July 31 of 2005, 2006, 2007, 2008 and 2009 are dismissed.

The parties shall have 45 days from the date of this judgment to file any written representations as to costs. Written submissions are not to exceed 15 pages each.

Signed this 5th day of December 2025.

"Jenna Clark"

Clark J.

Citation: 2025 TCC 183
Date: 20251205
Docket: 2012-5166(IT)G

BETWEEN:

TUNA TEMPLE INC.,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

REASONS FOR JUDGMENT

Clark J.

I. INTRODUCTION

[1] There are two issues before this Court. First, do any of the 13 projects undertaken by the Appellant during the taxation years ending July 31, 2005 through to July 31, 2009 meet the criteria of the definition of scientific research and experimental development (SR&ED) as set out in subsection 248(1) of the *Income Tax Act (ITA)*? Second, if any of the activities meet the criteria, what expenditures are deductible under section 37 of the *ITA*, and are there any qualified expenditures for the purposes of computing investment tax credits (ITCs)?

[2] The Appellant has not established that any of the projects meet the criteria to qualify as SR&ED activities. Therefore, none of the expenditures are deductible under section 37 of the *ITA* and none of the expenditures are qualified expenditures for the purposes of computing ITCs pursuant to subsection 127(9) of the *ITA*. In addition, the Appellant failed to adequately quantify wage expenditures claimed.

[3] The Minister of National Revenue disallowed expenditures in respect of SR&ED activities for the taxation years ending July 31 of 2005, 2006, 2007, 2008 and 2009 in the amounts of $378,843, $706,131, $173,516, $459,183 and $126,557 respectively. Disallowed ITCs were $141,633, $267,609, $71,130, $184,889 and $49,883, respectively, for those same taxation years.

II. BACKGROUND

[4] Stavros Tripis is the president, chief executive officer and 45% shareholder of the Appellant, and was the only witness at the hearing. Mr. Tripis gave enthusiastic and detailed testimony and was credible when testifying within his area of immediate experience.

[5] Mr. Tripis testified that he had been involved in the tuna processing industry since 1999, although he has no formal education related to food processing, having earned his bachelor's degree in history. His family was involved in the food industry, and over the years he developed experience in grading and selling of fresh tuna.

[6] Mr. Tripis expanded the Appellant's business in the early 2000s to what he called "super frozen" fish. Super frozen fish is frozen in a blast freezer on the fishing boat shortly after capture. The fish is then transported using super freezers that keeps the fish at -64 degrees Celsius (regular frozen fish is generally stored at -18 to -25 degrees Celsius). Mr. Tripis testified that this method of freezing reduces the degradation of the fish during the catch and transportation process. According to Mr. Tripis, the super freeze process was used extensively in Japan before he brought the process to North America.

[7] Initially, the Appellant had difficulty introducing the concept of super frozen fish to North America. Early attempts at butchering super frozen fish proved difficult, and Mr. Tripis discovered that the fish, normally a bright red colour, would turn brown or black if it was not cut correctly. Eventually Mr. Tripis learned how to cut the fish and sell it in quarters, or "loins", to on-sellers.

[8] Mr. Tripis decided to learn how to cut the fish in-house in order to sell products directly to fish mongers and restaurants. The Appellant engaged in several experimental projects to learn how to best cut fish and how to maximize use of the super frozen fish supply.

[9] Some of the projects involved cutting techniques to maximize the number of usable portions of fish. Some projects sought to develop ways to produce uniform

fish products. Other projects investigated ways to use waste product from the fish to create fish burgers or sausages. Still others involved determining if the Appellant could make use of specialized equipment. Each of the projects is described and considered below in my analysis.

III. LAW

[10] SR&ED legislation is in place to encourage scientific research in Canada (*Northwest Hydraulic Consultants Ltd v R*, [1998] 3 C.T.C. 2520). For a taxpayer to benefit from the legislation, they must first establish that the activity meets the definition of SR&ED set out in the subsection 248(1) *ITA*.

[11] The portion of the definition relevant to this case deals with experimental development, which is work undertaken for the purpose of achieving technological advancement for the purpose of creating new, or improving existing, materials, devices, products or processes, including incremental improvements thereto.

[12] The definition of SR&ED set out in subsection 248(1) of the *ITA* also excludes certain work, such as (f) quality control or routine testing of materials, devices, products or processes, and (i) the commercial production of a new or improved material, device or product or the commercial use of a new or improved process.

[13] The test to be applied when determining if an activity qualifies as SR&ED is territory that has been well-trodden by this Court and the Federal Court of Appeal. Experimental development involves a new or improved product or process, involving something more than the application of routine engineering principles. Although the SR&ED need not result in a new or improved product or process, the objective of the research must be realistic and there must be meaningful technological advancement (*RIS-Christie Ltd v R*, 1998 CarswellNat 2485 at para 13).

[14] Justice Bowman, as he then was, set out the oft-cited criteria to be used when considering if activity is SR&ED in *Northwest Hydraulic* at para 16. These criteria were approved by the Federal Court of Appeal in *RIS-Christie* at para 10 and *CW Agencies Inc v Canada*, 2001 FCA 393 at para 17. These criteria are:

> 1. Was there a technological risk or uncertainty which could not be removed by routine engineering or standard procedures?
>
> 2. Did the person claiming to be doing SRED formulate hypotheses specifically aimed at reducing or eliminating that technological uncertainty?

> 3. Did the procedure adopted accord with the total discipline of the scientific method including the formulation[,] testing and modification of hypotheses?
>
> 4. Did the process result in a technological advancement?
>
> 5. Was a detailed record of the hypotheses tested, and results kept as the work progressed?

A. Technological Uncertainty

[15] I must consider if any of the projects address technological risk and uncertainty that could not be removed by routine engineering or standard procedures. If the resolution of the problem is reasonably predictable using standard procedure or routine engineering, there is no technological uncertainty. Routine engineering means techniques, procedures and data generally accessible to competent professionals in the field (*Northwest Hydraulic* para 16).

[16] To determine if there was technological uncertainty, I must consider the knowledge in the industry at the time. I must conclude that knowledgeable competent professionals in the field would agree with the Appellant that it had identified uncertainties (*Logix Data Products Inc v The Queen*, 2021 TCC 36 at para 68).

[17] Technological uncertainty is to be determined not by considering what the Appellant knew or did not know, but rather what a competent professional in the field would have known. Justice Spiro described this notion clearly in *Dave's Diesel v The Queen*, 2022 TCC 62 at 28, "[i]f it were subjective, a grade school student trying to build a simple electric motor would meet the test" (see also *Formadrain Inc v The Queen*, 2017 TCC 42 at para 93; *Vortex Energy Services Ltd v The King*, 2025 TCC 63 at para 30). I must consider if the problems articulated in each project represented a search for information unknown to the industry, or unknown only to the Appellant.

[18] The following activities have been found to constitute routine engineering, or techniques, procedures and data that are generally accessible to competent professionals in the field: use of trial and error, making variations in the design of components for a new or novel product, using objects within the scope of their standard usages. (*Clevor Technologies Inc v The Queen*, 2019 TCC 166 at para 17; *Kam-Press Metal Products Ltd v The Queen*, 2019 TCC 246 at para 26; *WRD Borger Construction Ltd v The Queen*, 2021 TCC 40 at para 20).

[19] The mere fact that a product does not exist does not necessarily make it possible to claim that developing it involves technological uncertainty (see *Laforest Marketing Internationals Inc v The Queen*, 2019 TCC 45 at para 45).

B. Formulation, Testing and Observation of a Hypothesis

[20] The second, third and fifth criteria discussed in *Northwest Hydraulics* concern experimentation and testing. I must consider if the Appellant formulated a hypothesis specifically aimed at reducing or eliminating a technological uncertainty, if experiments or tests were conducted with the total discipline of the scientific method, and whether there was a detailed record of the hypothesis tested, and results kept as work progressed. An important part of this process is keeping a record of the hypothesis and of the conclusions drawn from prior versions of a test (*Logix Data Products* at paras 61 and 106).

[21] Trial-and-error falls outside of the scientific method if it is haphazard rather than systemic. For example, a systemic approach would require selection of ingredients with a clear rationale, rather than through random selection (see *Joel Theatrical Rigging Contractors (1980) Ltd v The Queen*, 2017 TCC 6 at para 40 and *FlavorT2 Net Inc v The Queen*, 2017 TCC 179 at para 53).

C. Technological Advancement

[22] The analytical approach set out in *Northwest Hydraulic* causes me to consider if the experiments resulted in a technological advancement. I understand this to be an advancement in the general understanding of persons knowledgeable in the field. The experimental development could lead to the creation of a new process or method, or the improvement of an existing process or method, or establish that a process or method does not work (*Laforest Marketing Internationals Inc* at para 47).

IV. ANALYSIS

A. Issue 1: Were the 13 Projects SR&ED Activities?

(1) Project 1 – 2005

[23] The first project involved a process to create tuna products for use in high end "white tablecloth" restaurants. The goal was to sell cut portions of super frozen tuna to restaurants, minimizing the waste from each fish.

[24] Mr. Tripis presented a bundle of handwritten logs that he kept during the trial-and-error process. The logs included detailed hand drawn diagrams that established that various cuts and butchering techniques were used before settling on the most efficient method of cutting for sale (Exhibit A-1, Tab 8 – Log for Project 1-2005).

[25] Mr. Tripis testified that he had to acquire specialized equipment from Japan, as regular mitre saws could not cut through the super frozen product. After 32 tries, he had his "Eureka" moment (as he described it) and declared success after determining how to cut the fish with 32% yield. He testified that the technological uncertainty addressed by the project was determining how to cut super frozen fish.

[26] Determining how to most efficiently cut super frozen tuna products, using existing equipment purchased from Japan, does not amount to identification of a technological uncertainty. From a subjective perspective, the Appellant had a genuine problem and engaged in a systematic process to determine how to best solve that problem. However, there is no evidence before me that this problem represented an objective technological uncertainty, and indeed Mr. Tripis' testified that the specialized equipment the Appellant purchased was already in use in Japan.

[27] The batch records indicated that trial-and-error testing was documented, but I was not presented with a hypothesis nor with an indication that the Appellant considered how to reformulate testing to better address a hypothesis. The problem to be solved was how to best cut fish to maximize usable product. This is not dissimilar from the exercise a home baker engages in when determining where to place cookie cutters on a sheet of dough to maximize yield. I cannot conclude that the Appellant identified in this project a technological uncertainty that could not be resolved through existing technologies.

[28] The Appellant produced no evidence of technological advancement. I cannot conclude that specialists in the field would not have already had access to the knowledge obtained by the Appellant through this project.

(2) Project 2 – 2005

[29] The second project involved cutting super frozen tuna in uniform weight steaks. A major supermarket chain asked the Appellant for uniform steaks that could be sold per piece rather than by weight. The Appellant embarked on a trial-and-error process that would result in cut tuna pieces that weighed between 150 to 175 grams. Thirty-two tries later, the result was described in the Appellant's notes as "Great", with 37% yield. In Mr. Tripis' words, the project was "done". (Exhibit A-1, Tab 9 – Log for Project 2-2005)

[30] Cutting super frozen tuna into uniform steaks was not a technological uncertainty, rather it was a problem that the Appellant needed to solve using existing technology. No discernable scientific hypothesis was identified. The evidence before me was that the resolution to this problem was predictable, using standard procedures and routine engineering.

[31] There was no evidence that the project resulted in access to knowledge that was not readily available before the commencement of the project. I conclude that the Appellant produced no evidence of technological advancement.

(3) Project 3 - 2005

[32] This project was recognized by the Minister as SR&ED and therefore was not in issue.

(4) Project 4 – 2005

[33] The Appellant embarked on a process to determine if adding an ingredient to cut super frozen swordfish would ensure retained a marketable red colour. This process was described by Mr. Tripis as difficult, because swordfish, unlike tuna, has a bloodline that runs through the fish that cannot be cut away. The trial-and-error process involved coating the swordfish fish in oil or exposing it to herbs such as rosemary or oregano. Ultimately, Mr. Tripis determined that adding the ingredients left the swordfish with an aftertaste, and the project was deemed unsuccessful. (Exhibit A-1, Tab 10 – Log for Project 4-2005)

[34] I do not find that the Appellant identified a technological uncertainty to be resolved through this project. The identified problem to be solved was to determine if an additive would make swordfish more marketable. This problem, as presented, was subjective. I cannot conclude that the process of adding herbs or oil to super frozen swordfish fish to prevent discoloration involved technology not known in the industry. It did not appear that consideration of the additives to be used was based in scientific analysis. Additionally, there was no scientifically framed hypothesis, although there was a detailed record of the various ingredients added to the fish through the trial-and-error process.

[35] The Appellant produced no evidence of technological advancement. I cannot conclude that the industry was not aware of the use of oil or herbs to prevent discoloration in swordfish.

(5) Project 1 - 2006

[36] The "shelf life" project focused on treating defrosted tuna loin with antioxidants to determine if shelf life could be increased. The tuna was, at this point, defrosted in 102-degree Fahrenheit water with a 3% salt content, meant to mimic ocean water. The hope was to use additives in different mixtures to see if antioxidants could slow the oxidization process. The uncertainty identified was whether the use of antioxidants affected taste and texture. Combinations tested included: vegetable oil, rosemary, oregano and vitamin E. Ultimately, after 21 batches Mr. Tripis determined that the oxidation processes tested were not superior to those already in use, for example using carbon monoxide gas (Exhibit A-1, Tab 12 – Log for Project 1-2006).

[37] There was no evidence before me that the problem to be solved, using ingredients to extend shelf life of tuna, presented an objective technological uncertainty. The evidence I did have from Mr. Tripis was that super frozen tuna were widely and successfully processed and sold in Japan. There was no evidence before me that a reasonably competent professional in this field would consider shelf life of super frozen tuna to be a technological uncertainty. This was not a problem that could not be solved using routine processes. Further, there was not a clear hypothesis stated in the batch records. The batches represented trial and error, and did not consider scientific causes and solutions to oxidation of fish. The Appellant produced no evidence that the experiments would contribute to general knowledge in the field, and therefore did not establish that there was technological advancement.

(6) Project 2 – 2006

[38] This project involved cutting super frozen tuna into sushi-sized portions. The challenge was to cut super frozen loins into 5mm thick "neta sushi" slices. The trial-and-error experimentation involved determining which portions of the fish had to be removed, such as the bottom portion of the loin, while maximizing the number of slices yielded from each fish. As cuts got closer to the top of the cylindrical shape of the fish body, the direction of the cuts needed to change to maximize the standardized size of the neta slices. The result after 20 batches was a 24.8% yield of usable sashimi grade neta slices available to the consumer (Exhibit A-1, Tab 13 – Log for Project 2-2006).

[39] This project did not involve formulation of a hypothesis, which would look to a proposed explanation for the problem. The Appellant's problem was how to best cut the super frozen tuna to maximize usable flesh in the required neta slice size. The Appellant entered a trial-and-error process to best solve that problem. There was no evidence adduced that leads me to conclude that the problem amounted to a technological uncertainty in the field or industry. I have no reason to believe that a competent professional would find that patterns used to efficiently cut fish presented technological uncertainty. The experiment batch notes did not state a hypothesis and indicate how testing would recalibrate to better address the hypothesis, rather they contained diagrams of the various ways that the fish was cut to maximize usable neta slices.

[40] The Appellant produced no evidence of technological advancement such that there was an addition to knowledge to competent persons in the field.

(7) Project 3 – 2006

[41] This project involved the manufacture of a custom designed machine that could cut sushi pieces. The machine used 32 blades to create 34 uniform slices of sushi. A Japanese company created the machine according to custom specifications provided by the Appellant. While I saw photographs of the machine, I saw no details as to how the machine was designed or created, nor any experimentation logs, nor any statement of a hypothesis. All I saw were shafts from the machine that apparently bent and flipped the bricks over. The Appellant brought in Quebec firms to try to fix the bent shafts, unfortunately to no avail. Ultimately, the Appellant determined that the equipment would not work. (Exhibit A-1, Tab 14 – Log for Project 2-2006)

[42] Purchase and use of machinery equipment is not indicative of a technological uncertainty. I was not presented with a hypothesis that the Appellant wished to test, nor was I presented with evidence that the scientific method was followed while

testing. The Appellant's problem was determining if the equipment would work. The equipment was not designed or made by the Appellant. The Appellant produced no evidence of technological advancement in the field as a result of the project.

[43] The notes kept for this project stated, "In order to comply and exceed the expectations of our clients, we had to learn/develop trade skills that we did not have". This indicates that the uncertainty was subjective to the Appellant but does not establish that there was an objective technological uncertainty.

(8) Project 4-2006

[44] This project involved cutting tuna ribs, a product consisting of meat left on the tuna's spine and ribs and sold for consumption. Mr. Tripis testified that spine and ribs were waste products, and the Appellant wanted to find a way to cut tuna in a way that would enable it to sell those parts of the fish as a marketable product (Exhibit A-1, Tab 15 – Log for Project 4-2006).

[45] The challenge was to determine how to cut the meat to maximize both the rib product and the remaining meat. There was no statement of a hypothesis to be tested. The trial-and-error cutting process included leaving varying amounts of meat on the bones. Cutting blades would break if there was too little margin of meat to bone. Ultimately at batch 17, Mr. Tipas determined the project was not viable.

[46] While the idea to market tuna meat in a new way was novel to the Appellant, I had no objective evidence that rib-in tuna was not already on the market. There was no indication that the tuna rib idea presented a technological uncertainty to be solved. Further, rather than formulation of a hypothesis, the project turned on a problem characterized as "how to butcher fish in order to maximize usable product". The Appellant produced no evidence of technological advancement in the form of new knowledge that would not have been available to a competent person in the field.

(9) Project 5 – 2006

[47] This project involved to cutting tuna into “butter stick” sized pieces. Those pieces could then be sold to restaurants in uniform sizes. The shape of the stick would allow a line chef to sear the tuna and serve and plate the tuna in an elevated manner. The trial-and-error method was employed (Exhibit A-1, Tab 16 – Log for Project 5-2006).

[48] No technological uncertainty was identified by the Appellant. There was a problem to be solved, namely how to butcher tuna to get the maximum amount of “butter stick” size pieces from a fish. There was no evidence to suggest a competent professional would find that routine processes could not resolve the problem. Batch notes were kept, but there was no discernable hypothesis. Testing did not indicate that each batch was approached in a different way to better address that hypothesis. The Appellant produced no evidence of technological advancement in the form of a contribution to knowledge that was not already in the possession of a professional in the field.

(10) Project 1 – 2007

[49] The Appellant purchased an electrostatic defrosting machine. The machine was tested to see if it worked for super frozen tuna. On first use, Mr. Tripis testified that he found that the defrosted tuna had a frozen, brown spot in the middle. The Appellant used a trial-and-error process, recorded in handwritten logs, to determine precisely how to use the machine for best results (Exhibit A-1, Tab 18 – Log for Project 1-2007).

[50] The defrosting machine was not designed or built by the Appellant. The best use of that machine does not equate with a technological uncertainty. Mr. Tripis testified that the Appellant needed to determine how to best use the machine, however there was no evidence that a competent professional would find use of the defrosting machine presented an uncertainty that could not be overcome with routine engineering and methods. The batch notes did not identify a hypothesis, and the trial-and-error logs did not indicate that the approach was altered in order to better address a hypothesis. The Appellant produced no evidence of technological advancement in the field.

(11) Project 1 – 2008

[51] This project revisited the Appellant's idea to create tuna ribs, this time using tail meat. The plan was to tenderize the sinewy and tough tuna tail for consumption. The trial-and-error process involved using various cooking methods (such as using a Dutch oven) and tenderizing ingredients (such as papaya and pineapple) to see if the meat could be made tender. Ultimately, after batch 20, Mr. Tripis decided that the meat was not tender enough and had too much of an aftertaste (Exhibit A-1, Tab 20 – Log for Project 1-2008).

[52] The technological uncertainty, according to the Appellant, was how to use tail meat, ordinarily a waste product, in a profitable manner. This is better characterized as a problem, rather than an identification of a technological uncertainty that a competent professional in the field would determine could not be resolved using routine processes. Trial-and-error records did not identify a hypothesis, and batch records did not indicate a change in approach to better serve a hypothesis. The Appellant produced no evidence of technological advancement as a result of experimenting with cooking methods to determine if tail meat could be palatable.

(12) Projects 2 and 3 - 2008

[53] These projects focussed on making tuna sausage and tuna burgers, using waste product from tuna carcasses. The goal of the project was to use discarded parts of the tuna in a new, healthy product that could be marketed to consumers. The development process was detailed by Mr. Tripis, whereby he contacted various service providers to use the Appellant's waste products to present him with sample tuna burgers and sausages (Exhibit A-1, Tab 21– Log for Project 2-2008).

[54] Mr. Tripis was unhappy with the taste of the products presented to him by service providers and decided that the Appellant would develop its own tuna burgers and sausages. The Appellant used a trial-and-error process, changing the combination of tuna parts used in order to maximize inclusion of previously unused parts including the nerve and belly. Each bath also experimented with various recipe ingredients and combinations, including spices and binding agents. Mr. Tripis and his staff tasted the products to determine if they had achieved success (Exhibit A-1, Tab 22– Log for Project 3-2008).

[55] Development of a recipe for tuna sausage and burgers, even one that required determining how much waste product could be used, did not represent the search for a solution to a technological uncertainty. There was no evidence to suggest that the

production of a product that Mr. Tripis and his staff found palatable represented a challenge that a competent professional in the industry would determine could not be resolved using routine engineering and existing technology. In fact, Mr. Tripis' own testimony was that the ability to make tuna sausage and burgers existed in the hands of the service providers the Appellant hired. Mr. Tripis did not approve of the taste and texture of the products that were presented to him. The project sought to find a recipe that would improve the taste and texture of existing products.

[56] There was no identification of a discernable hypothesis. Instead, various recipes were taste-tested by the Appellant's employees until they were happy with the result. This methodology falls below the scientific process as described in the jurisprudence. The Appellant produced no evidence of technological advancement.

(13) Project 1 - 2009

[57] This project again revisited the idea to create a tuna rib product, this time cutting along the bone and leaving meat on only one side. Trial-and-error notes demonstrated that various cutting and butchering techniques were used to try to maximize meat left on the bone. As with the other projects, crew and working hours were recorded as was the amount of tuna product used in each batch. Ultimately, the trials were successful and the Appellant determined it could sell a cut from the collar bone using previously unsalable belly meat (Exhibit A-1, Tab 24 – Log for Project 1-2009).

[58] I heard no evidence indicating that there was an objective technological uncertainty. The Appellant wished to butcher tuna carcases to maximize use of unusable bone. This is a sensible goal; however, it does not represent a technological uncertainty that could not be resolved using existing technologies. No hypothesis was identified, and therefore the batch records did not indicate how subsequent testing would be adjusted to better address the hypothesis. There was no evidence that determining how best to cut the tuna to make use of unsalable portions amounted to technological advancement.

(14) SR&ED Summary and Conclusion

[59] The Appellant's work in all 13 projects in issue in these appeals employed existing technology and processes. In every case, the Appellant identified a problem to be solved, but in every case there was no evidence before me to establish that the problem was an objective one. There is a distinction between information unknown to the Appellant, and information unknown in the field. Resolution of the identified problems was reasonably predictable using standard procedures and routine engineering.

[60] The evidence before me did not establish that a new technology was involved in mapping out how to carve fish to maximize salable product. There was no new technology or process used to mix ingredients to extend shelf life or make a palatable fish sausage or burger. No new technology was used to defrost super frozen fish. All the projects employed pre-existing technology and trial-and-error methods used to grow the Appellant's knowledge.

[61] Mr. Tripis' evidence was that the super frozen fish product was well known in the Japanese market. The Appellant had to learn how to market and sell super frozen fish products in North America, however this was information not known to the Appellant. These projects are better characterized as a learning curve. Technological uncertainty pertains to the relevant industry, rather than a single participant in that industry (see *Mold Leaders Inc v The King*, 2023 TCC 127). I was not presented with evidence that would support a conclusion that any of the 13 problems identified by the Appellant represented technological uncertainty.

[62] The Appellant kept hand-written records of trial-and-error experimentation for all of the projects except for 3-2006. The "batch" testing records were generally limited to one page per batch. The record generally recorded the result of each experiment. Each record listed an estimate of worker time attributed to each batch. Some batch testing records contained diagrams, for example in the case of trials to determine how best to butcher the fish. The records did not include a clearly formulated hypothesis aimed at reducing or eliminating technological uncertainty. There were few notes of conclusions drawn from each batch, other than notes such as "try again".

[63] In projects: 1-2005, 2-2005, 4-2005, 1-2006, 2-2006, 4-2006, 5-2006, 1-2008, 2-2008, and 1-2009 it is apparent that the Appellant's trial-and-error testing approach was haphazard rather than systemic. Mr. Tripis' testimony indicated that the Appellant determined if an approach or ingredient worked, and if it did not, a

new one was tried. There was no clearly articulated rationale for the changes in approaches.

[64] There was no evidence before me to suggest that specialists in the field would not have had the knowledge that the Appellant obtained as result of its experimental development. All I can conclude from Mr. Tripis' testimony is that the Appellant did not have had that knowledge.

[65] The Appellant would have been entitled to the expenses related to these projects as business expenses. This is appropriate, as they were projects entered into to maximize productivity and profit. The Appellant is not entitled to deduct these expenditures as SR&ED and is not entitled to the associated ITCs.

B. Issue 2: Quantification of Expenditures

[66] Eligibility for expenditures related to SR&ED activity is determined by section 37 of the *ITA*. In this case, the Appellant elected the proxy method for calculation of expenditures and corresponding ITCs. This method is set out in clause 37(8)(a)(ii)(B) of the *ITA*. Qualified expenditures are set out in subsection 127(9) of the *ITA*. The prescribed proxy for salary is set out in subsection 2900(4) of the *Income Tax Regulations*, as 65% of the salary or wages paid to an employee directly engaged in SR&ED. Section 127.1 governs refund of ITCs.

[67] I am not satisfied based on Mr. Tripis' evidence that the time estimate for hours worked was accurate. Mr. Tripis admitted that he estimated the amount of time generally spent on a project and divided that time evenly among batches. Although I saw no documentation substantiating materials, subcontracting payments or capital expenditures. Mr. Tripis did give credible testimony as to the material expenses incurred. Had I concluded that any of the projects qualified as SR&ED activities as defined by the *ITA*, I would have concluded that the Appellant established that materials expenses were incurred. I would not find that the Appellant discharged its burden to establish the accuracy of wage expenses in respect of the taxation years ending July 31 of 2005, 2006, 2007, 2008 and 2009.

V. CONCLUSION

[68] The appeals are dismissed. The parties have 45 days from the date of this judgment to file any written representations as to costs. Written submissions are not to exceed 15 pages each.

Signed this 5th day of December 2025.

"Jenna Clark"

Clark J.

CITATION:	2025 TCC 183
COURT FILE NO.:	2012-5166(IT)G
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